



No Place to Call Home

EXPERIENCES OF APOSTATES FROM ISLAM
FAILURES OF THE INTERNATIONAL COMMUNITY

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Christian Solidarity Worldwide (CSW) is a human rights organisation which specialises in religious freedom, works on behalf of those persecuted for their Christian beliefs and promotes religious liberty for all.

No place to call home

Experiences of Apostates from Islam
Failures of the International Community

IN MEMORY OF

NECATI AYDIN
AND
UGUR YUKSEL

About the Author

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Foreword

The issue of religious conversion is both deeply sensitive and hotly debated. It arouses strong emotions in both proponents and antagonists for a number of reasons, not least because it is inseparable from questions of individual and community identity.

The right to change religion or belief lies at the very heart of the right to freedom of religion or belief. During the formulation of Article 18 of the International Covenant on Civil and Political Rights, a lengthy discussion on the question of religious conversion resulted in the wording “the right to have or to adopt a religion or belief of his choice”, which was eventually adopted without dissent from any State. The right to adopt a religion of one’s choice, the right to change religion and the right to maintain a religion are unequivocally protected according to universally accepted international standards and are not subject to any limitation. It is discouraging and unacceptable that violations and limitations of this aspect of the right to freedom of religion still occur on a regular basis.

In the year marking the 60th Anniversary of the Universal Declaration on Human Rights, it is fitting that this report should be made available, addressing as it does such a core human right, which has received disappointingly little prominence over the last 60 years from the international community.

I welcome this report on the human rights abuses suffered by apostates from Islam as a much-needed addition to the relatively scarce literature concerning the right to change religion or belief. It is my hope that this report will encourage further writings and debate in this field, in order to contribute to the universal establishment of a climate where States meet their obligations to ensure the freedom of religion or belief for all.

Jonathan Aitken
President
Christian Solidarity Worldwide

Table of contents

Acknowledgements	ii
Foreword	1
Contents	2
1 Executive Summary	4
2 Introduction	5
3 The Right to Choose a Religion	8
3.1 Provisions in UN Human Rights Instruments	8
3.2 Provisions in European Human Rights Instruments	12
3.3 Provisions in Islamic Human Rights Texts	13
4 Apostasy in Islamic Theology and Shari'a Law	20
4.1 The Qur'an	20
4.2 The Hadith	22
4.3 Traditional and Modern Interpretations	23
4.3.1 Literalist readings	23
4.3.2 Contextual readings	27
4.2.3 Tensions between literalist and contextual readings	30
4.4 Shari'a	31
4.4.1 Historical context	32
4.4.2 The punishment of an apostate	33
5 Apostasy Laws Today	37
5.1 The Implementation of Shari'a Law	37
5.1.1 Shari'a as a source of legislation	40
5.1.2 Contemporary calls for shari'a	42
5.2 Codified Laws on Apostasy	43
5.2.1 Direct laws	43
5.2.2 Implied laws	45
5.2.3 Other laws	47
6 State Responses to Apostasy	50
6.1 Official Policies against Apostasy	50
6.1.1 Employment and equal opportunities	50
6.1.2 Religious affiliation records	51
6.1.3 Use of propaganda in influencing public opinion	53
6.2 The Abuse of Power by Local Authorities	56
6.3 State Security Apparatus	56

7	Social Reactions to Apostasy	61
7.1	Community and the Apostate	61
7.2	Family and the Apostate	64
7.2.1	Honour, shame and choosing a religion	64
7.2.2	Saving the family's honour	64
8	Life as a Muslim-background Christian	68
8.1	Conversion, Anomy and Alienation	68
8.2	Marriage and Forming a Family	69
9	Conclusion	71
10	Recommendations	74
	Glossary	76
	The Story Behind the Cover Photo	77
	Appendices	78
	Appendix I: Selected Reports of Recent Apostasy Cases	78
	Appendix II: Selected UN Human Rights Texts on Religious Freedom	83
	Universal Declaration of Human Rights, 1948	83
	International Covenant on Civil and Political Rights, 1966	83
	Convention on the Rights of the Child, 1989	83
	Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief, 1981	84
	UN Human Rights Committee General Comment 22, Article 18	87
	Appendix III: Islamic Human Rights Texts	90
	Universal Islamic Declaration of Human Rights	90
	The Cairo Declaration on Human Rights in Islam	97
	Arab Charter on Human Rights, 1994	101
	Appendix IV: Islam and Shari'a in Islamic Constitutions	106
	Appendix V: Full Listing of Qur'an Verses on Religious Freedom	113
	Bibliography	115

1 Executive Summary

Apostasy is the renunciation of religious faith, and apostasy from Islam in particular has always been a contentious issue. Although the Qur'an does not prescribe a temporal punishment for apostasy, the vast majority of traditional Islamic theology and jurisprudence has advocated the death penalty for a mentally sane male apostate and life-long imprisonment or harsh treatment for a female apostate. Proponents of the death penalty have legitimised their stance from the sayings and deeds attributed to the Prophet Muhammad, his companions and subsequent caliphs.

An increasing number of contemporary Muslim thinkers, particularly those residing in the West, have called for a re-evaluation of the shari'a position on the death penalty for apostasy and a return to a more faithful interpretation based on the Qur'an. Although the views of these reforming scholars are encouraging, traditional views on apostasy continue to dominate popular Muslim opinion.

Today's Muslim nations often refrain from official executions of apostates. Two countries, Sudan and Malaysia, have codified laws prescribing the death penalty for apostasy, and one country, Egypt, has legislation on apostasy which allows for the marriage of an apostate to be annulled and can result in the loss of inheritance and custody rights.

In Saudi Arabia, Mauritania and Iran, where the death penalty for apostasy is not codified, death remains a real possibility for the apostate on the basis of their application of shari'a. In other countries where shari'a is used to govern personal status matters, such as in Bahrain, Jordan, Kuwait, Oman, Qatar and Yemen, apostates face serious penalties, such as the annulment of marriage, termination of citizenship, confiscation of identity papers and the loss of further social and economic rights. Apostates are also penalised under other laws, such as 'insulting Turkishness' in Turkey, the blasphemy laws in Pakistan, contempt of religion in Egypt and treason in Iran.

Apostates are subject to gross and wide-ranging human rights abuses including extra-judicial killings by state-related agents or mobs; honour killings by family members; detention, imprisonment, torture, physical and psychological intimidation by security forces; the denial of access to judicial services and social services; the denial of equal employment or education opportunities; social pressure resulting in loss of housing and employment; and day-to-day discrimination and ostracism in education, finance and social activities. The affect of all this on the personal lives of apostates and their families can be significant and far-reaching. As the number of apostate communities has significantly increased in the Middle East, North Africa and Asia over the past twenty years, human rights abuses have been more regularly reported.

The experiences of apostates in Muslim countries are blatantly at odds with their rights as guaranteed under international law. Most Muslim nations are members of the UN and have ratified international human rights treaties. However, these nations and the international community have failed in their duty to uphold the rights of apostates by neglecting to guarantee their personal safety and their full and fair participation in society.

This report calls on Muslim nations, the international community, the UN and the international media to resolutely address the serious violations of human rights suffered by apostates.

Introduction

2

“I know that I am completely alone. Anyone can attack or arrest me. Anything can happen and nobody will run to help me.”

An Iranian apostate

A person's religion and beliefs are an integral element of that individual's identity. Religious beliefs can affect every aspect of human life, including food, dress, marriage, education, housing, finance, career goals and political aspirations. Often these beliefs are influenced by family and society. They become norms which play an important role in forming communal and national identities. For these reasons, renouncing a socially accepted religion or belief for another can have serious social consequences and can generate strong reactions.

This apostasy, the renunciation of religious faith, is the subject of this report. While the consequences of apostasy can affect people from many different religious backgrounds, this report focuses on apostasy from Islam.¹

In March 2006, the issue was widely debated in the international media, following the arrest and trial of Muslim-background Christian, Abdul Rahman, in Afghanistan. Mr Rahman faced the death penalty for apostasy and his case caused particular controversy as it took place in a country which was undergoing democratisation and modernisation processes following the intervention of the international community. Mr Rahman was eventually acquitted as a result of international pressure and his family's claims concerning his mental state. However, he subsequently received death threats from various groups in Afghanistan, forcing him to seek asylum in Italy.²

In contrast to the publicity and high level diplomatic tensions surrounding Abdul Rahman's case, three further cases of apostasy in Afghanistan in 2006 went largely unnoticed. Two families who left Islam for Christianity were forced to leave the country after facing harassment. A third man, who was serving a prison sentence for murder, was killed by a fellow inmate as a result of his religious conversion.³

Apostasy is a worldwide problem. Appendix I lists recent cases of persecution of apostates in a number of countries, which were reported by international media and respected international groups. These cases reflect a small proportion of the problem, as the majority of instances of religious persecution are not reported by the victims owing to fears of repercussions.

Even though there were hardly any known Muslim converts to Christianity in Islamic countries twenty years ago, there are now open communities of apostates in almost every dominantly Muslim country. For example, conservative estimates suggest that there are at least 50,000 Muslim-background Christians in Algeria alone. Therefore, as the number of Muslim-background Christians grow, apostasy is fast becoming a large scale global problem. As Ann Elizabeth Mayer notes in her book, *Islam and Human Rights*:

Since Islam is the world's fastest growing religion and attempts to convert from Islam are uncommon, one might object that the issue of whether Muslims are free to convert to other religions in the Middle East would be an academic rather than a practical one. In these circumstances, one would expect that the number of persons whose freedom of religion might be affected by the imposition of *shari'a* ban on apostasy would be minimal. However, the ban on conversion from Islam has broader ramifications and potentially limits the rights of a much larger segment of the populations of Muslim countries than one might initially think.⁴

Apostasy has been largely an abstract debate in academic arenas. It has also been used as a rhetorical tool to criticise Islam in the public arena by a host of different interest groups. It has been brought to the table as a fundamental problem in ongoing Western debates on immigration, social cohesion and terrorism amongst other issues. In the Middle East, apostasy has been used by secular or liberal thinkers and activists to challenge the ruling Islamic elites in Iran or ultra-conservative expressions of Islamic faith across the region.

1 For an analysis of conversion from Hinduism to another religion in India, see CSW Briefing; Anti-conversion Legislation in India, November 2006; For tensions caused by conversion in Sri Lanka, see CSW Briefing; Sri Lanka, Religious Freedom Threatened by Anti-conversion Legislation, September 2004

2 See BBC News; *Mood hardens against Afghan convert*; 24/03/2006; http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/south_asia/4841334.stm.

3 See "Afghanistan, International Religious Freedom Report 2007", the Bureau of Democracy, Human Rights, and Labour; U.S. State Department; <http://www.state.gov/g/drl/rls/irf/2007/90225.htm>.

4 Mayer, 1999: 151

In response, Muslim organisations, scholars and public thinkers have sought to defend Islam's reputation. They have argued that the 'true message' of Islam on apostasy does not legitimise the death penalty. A common thread in their argument is that apostasy has been used as part of an Islamophobic campaign to portray a negative image of Islam and Islamic societies.

Both the rhetorical attacks on Islam and the explanations given by Muslims have exclusively focused on the issue of the death penalty. Consequently, the issue has seemed to reach a premature conclusion. It is now clear that the death penalty is rarely applied by today's Islamic governments and an increasing number of modern Islamic scholars question the legitimacy of traditional views that promote the death penalty.

“By limiting the debate on apostasy to the death penalty, the international community has failed to address the gross human rights violations suffered by apostates.”

By limiting the debate on apostasy to the death penalty, the international community has failed to address the gross human rights violations suffered by apostates. Apostates are subject to wide-ranging human rights abuses including extra-judicial killings by state-related agents or mobs; honour killings by family members; detention, imprisonment, torture, physical and psychological intimidation by security forces; the denial of access to judicial services and social services; the denial of equal employment or education opportunities; social pressure resulting in loss of housing and employment; and day-to-day discrimination and ostracism in education, finance and social activities. Concrete steps to end these serious human rights abuses have yet to be included in a full conversation on apostasy.

Raising awareness of apostasy is laden with political implications. It often draws criticism from the Islamic community as promoting an agenda which goes beyond asking for protection and tolerance for apostates. Indeed, particularly since the 11 September 2001 attacks on the United States' World Trade Centre, Western nations have made every effort to avoid being seen as attacking Islam. To this end, governments and official bodies, activists and intellectuals are reticent to comment on any problem that might be construed as such.

This report is not about Islam. It is an analysis of a contemporary human rights problem. It addresses all the variables leading to the persecution of apostates, including Islamic theology and jurisprudence, the cultural dynamics of shame and honour, the construction and maintenance of communal identities as well as the resurgence of the politics of religion. It is designed to constructively raise these controversial issues for the protection of individuals who are persecuted on the basis of their decision to choose another religion.

The Scope of the Report

The Arabic words *irtidāḍ* and *riddah* are both used interchangeably to denote apostasy. The term is used in three ways.

Firstly, it is used for Muslims who are declared heretical for doctrinal or political reasons, despite retaining Islam as their religion. They can be accused of committing *kufr*, unbelief, because they hold beliefs that contradict or differ from the theological convictions of their particular societies. For example, the founder of the Hanafi school of shari'a law, Abu Hanifa (699–767 CE), was accused of unbelief and imprisoned and tortured for his different views. Muhammad Isma'il al-Bukhari (810–870 CE), the compiler of the most respected Hadith collection, was declared an apostate during his lifetime, even though his work is today referred to as one of the most important sources of Islamic theology. Abu Hamid al-Ghazali (1058–1111 CE), an influential philosopher and Sufi, was declared an apostate and his books burnt. In Pakistan, membership of the Ahmadiya sect is officially banned and declared as apostasy. Radical or extremist groups regularly brand rulers of Muslim societies, and Muslims who do not follow their extremist views, as apostates.

Muslims can retain their faith but still be accused of apostasy because of their critical views of the established Islamic authority or leaders of their countries. For example, in Sudan, the theologian Mahmud Muhammad Taha was declared an apostate and publicly hanged at the age of seventy-six because he called for modernisation in Islam. Since the Islamic revolution in Iran, many Shi'ite clerics and scholars have been accused of apostasy and of betraying Islam, when their views challenged or contradicted that of the ruling elite. In 2005, the cleric and respected scholar Hojjatoleslam Hasan Yusefi-Eshkevari, was accused of apostasy for criticising the regime. Similarly, one of the most senior Shi'ite figures of the century, Grand Ayatollah Hoseinali Montazeri, was accused of apostasy and put under house arrest for challenging Ayatollah Khamenei.

The second use of the term denotes those who follow a religion or belief that was established after the birth of Islam, since they do not acknowledge the supremacy and finality of the Prophet Muhammad. Therefore, Baha'is are considered apostates and are often persecuted in the Islamic world.

Thirdly, apostasy refers to those who leave Islam for another religion. Individuals who do so are called *murtadd*; apostates. It is this final group which is the focus of this report.

Owing to the religious demography of the Middle East and North Africa, most religious conversions are between Christianity and Islam. An extremely small number of Muslims have converted to the Baha'i faith or have become Jehovah's Witnesses, and there are hardly any known converts to Judaism, Hinduism or Buddhism.

Ethnic and historical Christian communities in the Middle East and North Africa enjoy relative freedom and protection. Yet Christians who were born as Muslims but converted to Christianity later in life are subjected to a wide range of abuses on the basis of their apostasy alone. Therefore, any survey of apostasy in the Middle East and North Africa will inevitably focus on apostates from Islam to Christianity. However, official and social attitudes towards apostates also apply to those who convert from Islam to any other religion.

Research Methodology

In order to analyse the multiple factors that shape attitudes towards apostasy and demonstrate how these lead to human rights abuses, the research for this report involved investigations into the contemporary experiences of apostates. It also analyses relevant Islamic theology and jurisprudence, contemporary Islamic thought, international law, the politics of religion, social policy formulation and the construction of identity. These analyses help to set the context for what it means to be an apostate today.

Interviews with twenty-eight apostates in Egypt, Iran, Jordan, Kuwait, Nigeria, Turkey and the United Kingdom were conducted for the purposes of this report. In addition, interviews were held with religious minority leaders who regularly deal with apostasy cases.

Due to the difficulties of finding interviewees from a relatively small research base, the 'snow ball' method was used to locate suitable individuals. A small number of local contacts in each location were approached to help identify suitable interviewees. The presence of these contacts during the interviews served to reassure the apostate, helping to establish trust between the interviewee and the interviewer. An interview structure was developed to ensure uniformity and comprehensive coverage of the issues.

As a male interviewer, it has not been possible to interview single female apostates, except in Turkey, due to cultural constraints. Even in interviews with apostate families, the wives were either absent or remained silent.

As the researcher was a Turkish Muslim-background Christian, this served as great reassurance for the interviewees. They felt able to be honest and open about their struggles, fears and details of their ordeals.

In order to ensure the accuracy of the contents of the report and minimise personal bias, the researcher has approached a number of scholars, diplomats, activists, lawyers and journalists for feedback on the report. In addition he has refrained from drawing on examples from his own life.

The nature of investigating human rights abuses is, in itself, sensitive and controversial. Governments do not generally welcome researchers documenting human rights abuses within their borders. It can also be very difficult to locate and gain the trust of a persecuted community and the research has the potential to cause further problems for those who agree to be interviewed even if extreme caution is taken.

For the sake of the security of some of the interviewees, some interviews have not been cited in this report, even though they provided valuable insights. Almost all interviewees requested that any identifying details in their stories, including biographical details, be omitted from the report for fear of reprisals against them. Where a pseudonym has been used, this is indicated with an asterisk (*).

Transliteration and Spelling

Arabic words that are used commonly in English, such as Qur'an, Shari'a, Sunna and Hadith are not italicised. Words which are not in common use in English are denoted with italics.

Different transliterations of Arabic words used in quotes cited from other texts are not edited, in order to be faithful to the original source. For example, even though this report uses the spelling 'Muslim', quotes which use the spelling 'Moslem' are not changed.

English meanings of foreign or technical terms are explained on first use in the text. A glossary is provided at the end of the report.

3 The Right to Choose a Religion

3.1 Provisions in UN Human Rights Instruments

The right to choose a religion is enshrined in the 1948 Universal Declaration of Human Rights (UDHR). Article 18 of the UDHR states that

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion, or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

In many ways, the creation of the UDHR was a remarkable milestone in human history. Although the declaration has suffered many criticisms over the years on its cultural limitations, it has provided a basis for international law and played a major role in the globalisation of human rights.

The most direct challenge to the religious freedom provisions of the UDHR during the drafting process came from the Saudi delegate Mr Jamil Baroody, a Christian married to an American. He argued that the concept of freedom to change religion was contradictory to Islam and Eastern cultures, and that it opened the door for missionary activities, which were dangerous political interventionist tools used by foreign governments.⁵ His reaction was backed by Afghanistan.

Unlike Mr Baroody, Mr Zafurullah Khan, the Pakistani representative, stated at the Plenary session of the General Assembly that Article 18 was consistent with Islam. He said that “the Moslem religion was a missionary religion; it strove to persuade men to change their faith and alter their way of living, so as to follow the faith and way of living it preached, but it recognised the same right of conversion for other religions as for itself.”⁶ While all other Muslim states voted in favour of the UDHR, Saudi Arabia abstained.

The principles that were formulated in the UDHR gained legally enforceable status with the creation and ratification of the International Covenant on Civil and Political Rights (ICCPR) of 1966. Article 18 of the Covenant states:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to 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.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Similar contentions surrounding the drafting of the UDHR continued during the negotiation of the ICCPR provisions on religious freedom. Saudi Arabia continued to challenge the right to choose a religion, saying that it “might be interpreted as giving missionaries and proselytizers a free rein”, and that missionaries who were supported financially by foreign governments would undermine Islamic nations. The Afghan representative stated that the “Moslems permitted non-Moslems to become Moslems but did not allow Moslems to leave Islam.”⁷ Other Muslim countries such as Yemen, Iraq and Egypt also voiced their concerns on this issue.

⁵ Taylor, 2005:43-54

⁶ Rehman, 2000:134

⁷ Taylor, 2005:31

Even though the Saudi delegate proposed that the words “to maintain or to change his religion or belief and freedom” should be altogether removed from Article 18, the discussions resulted in a compromise in the final text of Article 18, which states that “everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom *to have or to adopt* a religion or belief of his choice” (italics added for emphasis).

The issue of religious freedom was addressed further by the UN through the Declaration on the Elimination of all forms of Intolerance and of Discrimination based on Religion or Belief, which is often referred to as the 1981 Declaration. Since it is not a convention, the 1981 Declaration is not binding or enforceable, but it has declaratory value as a matter of international law. As with the formulation of Article 18 of each of the UDHR and ICCPR, the drafting of Article 1 of the 1981 Declaration was a topic of contention. The final text of Article 1 is the result of a similar compromise reached by the delegates while debating the ICCPR. Article 1 of the 1981 Declaration therefore states:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom *to have a religion or whatever 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. (Italics added for emphasis)
2. No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice.
3. Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

From ‘freedom to change religion’ to ‘freedom to have a religion’

The terminology expressing the right to change religion in the text of each of the UDHR, ICCPR and 1981 Declaration reflects increasing pressure by Muslim countries to avoid a clear statement on the subject and to include the idea of being ‘kept’ to a religion. In the UDHR, this right is explicit: “everyone has the right to freedom of thought, conscience and religion; this right includes *freedom to change his religion*, or belief” (italics added for emphasis). In the ICCPR, the formulation of the same right was compromised with the wording “everyone shall have the right to freedom of thought, conscience and religion. This right shall include *freedom to have or to adopt a religion or belief of his choice*” (italics added for emphasis). The 1981 Declaration moved one step further than the ICCPR by dropping the phrase ‘to adopt’; “Everyone shall have the right to freedom of thought, conscience and religion. This right shall include *freedom to have a religion or whatever belief of his choice*” (italics added for emphasis).

However, this gradual ‘softening’ of the language must not be seen as a progressive denial of the right to choose religion in international law. The 1981 Declaration (Article 8) makes it clear that none of its contents is to be interpreted in contradiction to the UDHR or the ICCPR. Even with the removal of the phrases ‘to change’ or ‘to adopt’, the texts of the ICCPR and the 1981 Declaration clearly assume and embrace the freedom to choose a religion. The phrases “to adopt a religion or belief of his choice” and “freedom to have a religion or whatever belief of his choice” would not make sense if adopting or having a religion did not involve an act of choice on behalf of the individual. Even the most vocal Muslim countries in opposing language that speaks of a right to change religion would admit the individual’s freedom to choose to become a Muslim and renounce other religions.

On whether the ICCPR includes the right to change religion, the UN Human Rights Committee is the most authoritative source of interpretation. In paragraph 5 of General Comment 22⁸ on Article 18 of the ICCPR, the Human Rights Committee is perfectly clear that Article 18 is incapable of excluding the right to change religion: “the freedom to ‘have or to adopt’ a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one’s current religion or belief with another”. In precisely the same way, the UN Special Rapporteur on Religious Intolerance, who is responsible for overseeing government action that is incompatible with the 1981 Declaration, interprets Article 1 of the 1981

8 The full text of the General Comment 22 can be found in Appendix II

Declaration in a way that also includes the right to change religion: “The variety of formulations used to refer to the acknowledgment and development of religious freedom do not amount to a denial of the right to change religion... religious freedom cannot be dissociated from the freedom to change religion.”⁹

The Human Rights Committee also confirmed in paragraph 3 of General Comment 22 that the “freedom of thought, conscience, religion or belief” is so fundamental a right that it is “protected unconditionally” and “Article 18 does not permit any limitations whatsoever on the freedom to adopt a religion of one’s choice”. By this the Human Rights Committee is emphasising that some aspects of the right to freedom of religion may not be restricted by the state at all. The right to choose a religion is one of them. This is in contrast to certain other aspects of the freedom which are enjoyed subject to what are known as “limitation provisions”. For example, Article 18 of the ICCPR guarantees the right to “manifest one’s religion or beliefs” subject to restrictions that “are prescribed by law and are necessary to protect public safety, order, health, morals or the fundamental rights and freedoms of others”.¹⁰ The right to choose a religion is not amenable to any such restriction.

“Freedom of thought, conscience, religion or belief is so fundamental a right that it is protected unconditionally.”

Coercion

In addition, Article 18(2) of the ICCPR provides protection against coercion. It prevents anyone being subject to coercion that would impair a person’s freedom to have a religion or belief of their choice. This would include precisely the form of coercion that is the subject of this report, namely coercion, by means of apostasy laws or practices, to remain a Muslim against a choice to belong to another religion. The right not to be subjected to coercion, as with the right to choose a religion, is not qualified by any limitation provision that would justify restriction on any basis.

The Committee explains coercion in Paragraph 5 as impairing one’s right to have or adopt a religion, through pressure,

including the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. Policies or practices having the same intention or effect, such as, for example, those restricting access to education, medical care, employment or the rights guaranteed by article 25 and other provisions of the Covenant, are similarly inconsistent with article 18.2.

Attempts to limit the scope of the ICCPR

Some Muslim countries have sought to limit the provisions of the covenant with various reservations.¹¹ This was not done at the time the ICCPR opened for signature. Rather, it is a recent phenomenon with reservations entered since 2003.

For example, in November 2004, Mauritania accepted the ICCPR with the following reservation: “the Mauritanian Government, while accepting the provisions set out in article 18 concerning freedom of thought, conscience and religion, declares that their application shall be without prejudice to the Islamic Shariah.” On ratification in September 2006 Bahrain stated that “the Government of the Kingdom of Bahrain interprets the Provisions of Article 3, 18 and 23 as not affecting in any way the prescriptions of the Islamic Shariah.”

9 UN Special Rapporteur on Religious Intolerance, 1987 report to the UN Commission on Human Rights

10 Paragraph 8 of the UN Human Rights Committee’s General Comment 22 notes that such limitations “must not be applied in a manner that would vitiate the rights guaranteed in article 18” and that “restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner”. Paragraphs 1, 3 and 8 make it clear that no argument for social good, public morals or national security can be used to deny an individual the right to adopt and live accordingly to a religion of choice. Paragraph 8 also points out that “that the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations on the freedom to manifest a religion or belief for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition.” This is an important statement in the context of claims for a moral basis for restrictions justified by Islam. However, no restrictions can be justified which limit freedom to change religion.

11 See Table I

TABLE I: Muslim-majority countries that are party to the ICCPR

Country	ICCPR	Date	Religious Freedom Reservations and Declarations
Afghanistan	●	24 Jan 1983	
Albania	●	4 Oct 1991	
Algeria	●	12 Sep 1989	
Azerbaijan	●	13 Aug 1992	
Bahrain	●	20 Sep 2006	Article 18 not to affect prescriptions of Islamic Shari'a
Bangladesh	●	6 Sep 2000	
Brunei	—		
Burkina Faso	●	4 Jan 1999	
Chad	●	9 Jun 1995	
Comoros	—		
Djibouti	●	5 Nov 2002	
Egypt	●	14 Jan 1982	Declaration stating that provisions of Islamic Shari'a do not clash, thus it is supported
Gambia	●	22 Mar 1979	
Guinea	●	24 Jan 1978	
Indonesia	●	23 Feb 2006	
Iran	●	24 Jun 1975	
Iraq	●	25 Jan 1971	
Jordan	●	28 May 1975	
Kuwait	●	21 May 1996	Article 2.1 limited by Kuwaiti law
Kyrgyzstan	●	7 Oct 1994	
Lebanon	●	3 Nov 1972	
Libya	●	15 May 1970	
Malaysia	—		
Maldives	●	19 Sep 2006	Application of Article 18 without prejudice to the constitution
Mali	●	16 Jul 1974	
Mauritania	●	17 Nov 2004	Application of Article 18 without prejudice to Islamic Shari'a
Morocco	●	3 May 1979	
Niger	●	7 Mar 1986	
Oman	—		
Pakistan	—		
Qatar	—		
Saudi Arabia	—		
Senegal	●	13 Feb 1978	
Sierra Leone	●	23 Aug 1996	
Somalia	●	24 Jan 1990	
Sudan	●	18 Mar 1986	
Syria	●	21 Apr 1969	
Tajikistan	●	4 Jan 1999	
Tunisia	●	18 Mar 1969	
Turkey	●	23 Sep 2003	Article 27 to be limited by the Turkish constitution
Turkmenistan	●	1 May 1997	
U.A.E	—		
Uzbekistan	●	28 Sep 1995	
Yemen	●	9 Feb 1987	

ICCPR: 36/44

Note:

- Above data covers ratification and accession.
- Not all reservations have been accepted due to objections by other countries.

Source: <http://www.unhchr.ch/pdf/report.pdf> <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterIV/treaty6.asp>

The Maldives noted on ratification at the same time in 2006 that "the application of the principles set out in Article 18 of the Covenant shall be without prejudice to the Constitution of the Republic of Maldives." Article 7 of the constitution declares Islam as the state religion and Article 1 declares the Maldives to be based on "the principles of Islam", which, along with other allusions in the constitution, grants shari'a a legislative role.¹²

These reservations are in direct contradiction to the spirit and purpose of the covenant, particularly with the right to adopt a religion of choice. However, these reservations and declarations do not affect the interpretation of the ICCPR in any way. The text of the ICCPR was finalised before it was opened for signature and so the effect of a reservation at best in these circumstances is confined to the particular country making the reservation. The obligations of other countries which apply shari'a and acceded without reservation are unaffected.

The reservations do not particularise areas of conflict with shari'a and their intention in the face of obvious conflict with the obligations in Article 18 is debatable. In any event, the Human Rights Committee's interpretation was plainly given well before the reservations were entered. The reservations do nothing to alter the fundamental and absolute character of the treaty obligations in Article 18 concerning the right to change religion or the authoritative interpretation of the ICCPR provided by the Human Rights Committee.

When the UDHR, ICCPR and the 1981 Declaration are considered alongside General Comment 22 by the UN Human Rights Committee, it becomes clear that the right to choose a religion and to live accordingly is a fundamental right that cannot be denied. Any state that has ratified the ICCPR is legally obligated to meet its provisions. As can be seen in Table I, the majority of Muslim states have ratified the ICCPR, and in so doing are bound to guarantee the right to choose a religion or belief and to ensure the unhindered exercise of that right.

The findings of this report will show that apostates are not only denied the fundamental right to adopt a religion of their choice, but that they are coerced to return to Islam through pressure of penal sanctions, physical abuse and the denial of social and civil rights guaranteed by the ICCPR.

3.2 Provisions in European Human Rights Instruments

In addition to the UN documents on religious freedom, the European Convention on Human Rights and Fundamental Freedoms (ECHR) provides for the right to change religion. However, this is only ratified by member states of the Council of Europe, including Turkey, and it is enforced by the European Court of Human Rights (ECtHR). Article 9 of the Convention states that:

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

¹² Egypt did not enter a reservation as such when acceding in 1982 but stated that "taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it." This applies a particular interpretation of 'Islamic Sharia' or simply ignores the reality that there is a direct conflict.

3.3 Provisions in Islamic Human Rights Texts

Despite the support given to the UDHR and ratification of the ICCPR by a majority of Muslim states, Muslim scholars and radical groups across the Islamic world have raised objections. Although Muslim diplomats were present during the negotiations of both documents, they were criticized as a Western colonial imposition of non-Islamic values on the Islamic world. Unlike the statements of Muslim diplomats, such as Mr Zafurullah Khan, who regarded the principles of human rights to be in harmony with Islam, both the UDHR and the ICCPR were accused of being Judeo-Christian and contradictory to Islam.

For example, *A Muslim Commentary on the Universal Declaration of Human Rights* written in Persian in 1966 by Sultanhusein Tabandeh, reflects an influential Shi'a reaction to the principles spelled out in the UDHR. The book provides a commentary on every article of the UDHR. In relation to Article 18, Tabandeh argues that no Muslim would want to convert to another religion, and those who do convert do so out of greed, bribery or lust and that conversion must not be encouraged. Tabandeh argues further that there is no freedom to leave Islam and male apostates should be punished with death, whereas female apostates should be sentenced "only to life imprisonment with hard labour".¹³ Eliz Sanasarian asserts that Tabandeh's statements on non-Muslims have been "put into practice, almost verbatim, in the Islamic Republic of Iran,"¹⁴ and that Tabandeh's writing served as "the core ideological work upon which the Iranian government had based its non-Muslim policy".¹⁵ As Ayatollah Khamenei put it rather bluntly: "when we want to find out what is right and what is wrong, we do not go to the United Nations; we go to the Holy Koran. For us the Universal Declaration of Human Rights is nothing but a collection of mumbo jumbo by disciples of Satan".¹⁶

Universal Islamic Declaration of Human Rights

Since the 1980s onwards, there have been various attempts to provide Islamic alternatives to the UN human rights instruments. The first international attempt to do so was in 1981 with the Universal Islamic Declaration of Human Rights (UIDHR), which was prepared by delegates from across the Islamic world at the initiative of the Islamic Council in the UK.¹⁷ The UIDHR uses a similar language to the UDHR, yet when its provision on religious freedom are read closely, they are in substance quite different from those in the UDHR.

In paragraph g.i. of the preamble, the declaration states that Muslims believe in their obligation to establish an Islamic order "wherein all human beings shall be equal and none shall enjoy a privilege or suffer disadvantage or discrimination by reason of race, colour, sex, origin or language". While omitting the issue of religion completely in the preamble, the declaration addresses religious freedom in two different sections - XII *Right to Freedom of Belief, Thought and Speech* and XIII *Right to Freedom of Religion*. In Article XII.a., it states that:

Every person has the right to express his thoughts and beliefs so long as he remains within the limits prescribed by the Law. No one, however, is entitled to disseminate falsehood or to circulate reports which may outrage public decency, or to indulge in slander, innuendo or to cast defamatory aspersions on other persons.

This article does not grant the individual a right to choose their own belief, but only to the ambiguous right of expressing their thoughts and beliefs. What is more important in this article, besides an extensive limitation on the right of expression in line with public order and morality, is the phrase "so long as he remains within the limits prescribed by the *Law*" (italics added for emphasis). The "Law" referred to in the text with a capital letter, also serves as the basis for equality, as III.a. states that "all persons are equal before the Law and are entitled to equal opportunities and protection of the Law".

This 'Law' should not be confused with the language of 'the rule of law' or understood to refer to international law. As the Explanatory Notes at the end of the declaration states "the term 'Law' denotes the *Shari'ah*, i.e. the totality of ordinances derived from the Qur'an and the Sunnah and any other laws that are deduced from these two sources by methods considered valid in Islamic jurisprudence". When religious freedom is determined by reference to traditional Islamic jurisprudence, it refers to the right of a non-Muslim to become Muslim and allows punishment of Muslims who decide to leave Islam for another religion.

“When we want to find out what is right and what is wrong, we do not go to the United Nations; we go to the Holy Koran. For us the Universal Declaration of Human Rights is nothing but a collection of mumbo jumbo by disciples of Satan.”
Ayatollah Khamenei

13 Mayer, 1999:159

14 Sanasarian, 2000:25

15 Ibid., pp 172, n77

16 As quoted by Mayer, 1999: 27

17 The full text is provided in Appendix III

A similar problem emerges in Article XIX, *Right to Found a Family and Related Matters*, which states that “every person is entitled to marry, to found a family and to bring up children in conformity with his religion, traditions and culture. Every spouse is entitled to such rights and carries such obligations as are *stipulated by the Law*” (italics added for emphasis). The stipulations of traditional Islamic jurisprudence on apostasy include severe limitations, which punish the apostate by the annulment of his marriage, loss of custody and inheritance rights and does not allow an apostate woman to marry a non-Muslim man. In this regard, the UIDHR contradicts the UDHR and the ICCPR, which regard the right to choose a religion or disbelief as a fundamental right that can not be hindered under any circumstances, let alone punished.

In addition to this, there is a much more serious problem with Article XII, which is not apparent in the official English edition of the declaration. The UIDHR states that “the Arabic text of this *Declaration* is the original”, thus it must be taken as the authoritative version. The English edition is not a literal or full translation of the Arabic text, which has additional sections and clauses omitted from the English edition. Article XII in the Arabic edition states that

Everyone may think, believe and express his ideas and beliefs without interference or opposition from anyone as long as he obeys the limits [*hudud*] set by the shari’a. It is not permitted to spread falsehood or disseminate that which involves encouraging abomination or *forsaking the Islamic community* [*takhdil li’l-umma*].¹⁸ (Italics added for emphasis)

The Arabic edition is not only less clear on whether or not to “think, believe and express ...ideas and belief”, including the right to choose a religion or belief, but it also forbids “forsaking the Islamic community” making it clear that the UIDHR does not grant a Muslim the right to choose a religion other than Islam, in accordance with traditional Islamic jurisprudence.

Article XIII, *Right to Freedom of Religion*, in no way resolves this problem, even though the article in the English edition begins by stating that “every person has the right to freedom of conscience and worship in accordance with his religious belief”. The Arabic edition hints at a broader understanding of the provisions of this article. Ann Mayer points out that the Arabic version “says that everyone has freedom of belief and freedom of worship according to the principle; ‘you have your religion, I have mine.’”¹⁹ The principle mentioned here refers to the sura *Kafirun* in the Qur’an, which states;

Say: ‘O you who deny the truth! I do not worship that which you worship, and neither do you worship that which I worship. And I will not worship that which you have [ever] worshipped, and neither will you [ever] worship that which I worship. Unto you, your moral law, and unto me, mine!’ (109:1-6)

Kafirun can be translated as infidels, or those who reject the truth. Similarly, various English translations of the Qur’an use the word ‘religion’ or ‘way’ instead of ‘moral law’ used in this translation. The agreement in this verse for Muslims and non-Muslims to respect each others beliefs has been the basis of shari’a formulations of the right of Christian and Jewish communities to apply their religious laws to their own members living in Muslim societies under the *dhimmi* or the Ottoman *millet* status.

This explains why the provisions of Article XII (a) and (b) refer to the rights of communities and their members to establish and participate in institutions in line with their religion. Thus the initial statement at the start of the Article XII, that “every person has the right to freedom of conscience and worship in accordance with his religious belief”, only refers to the rights of non-Muslim communities and in no way can be understood as granting a Muslim the right to leave Islam for a religion of his or her own choice.

Consequently, there are two additional problems with the compatibility of the UIDHR with the UN human rights documents. Firstly, since the declaration is based on a single religious tradition, its assumptions are not shared by those who do not adhere to it and it subsequently only applies to the Muslim community. Secondly, the UIDHR places an individual’s obligation to abide by the religious rules higher than an

¹⁸ As quoted by Mayer, 1999:161

¹⁹ Ibid, p.161

individual's freedom to choose whether or not to believe in that religion. The declaration lays out this assumption in paragraph (f) of the preamble, by stating

that by the terms of our primeval covenant with God our duties and obligations have priority over our rights, and that each one of us is under a bounden duty to spread the teachings of Islam by word, deed, and indeed in all gentle ways, and to make them effective not only in our individual lives but also in the society around us.

With this statement, the declaration enforces the idea that, since apostasy is not allowed in Islam, apostasy can not be seen as a right that has to be protected. On the contrary, the apostate is obliged to obey Islam and society is asked to make sure that an act of apostasy does not occur.²⁰ The dissimilarities between the Arabic and the English editions, as well as the subtle ways by which the declaration addresses the issue of religious freedom, point to the significant difference between the UDHR and UIDHR. Whereas the UDHR's primary concern is to ensure the freedoms of the individual, the UIDHR's primary concern is to limit those freedoms in order to protect the Islamic tradition and Islamic countries from the exercise of such freedoms.

Cairo Declaration on Human Rights in Islam

In August 1990, the Cairo Declaration on Human Rights in Islam was adopted by the Foreign Ministers of the member states of the Organization of the Islamic Conference (OIC).²¹ The OIC defines itself as "the second largest inter-governmental organization after the United Nations which has a membership of fifty-seven states spread over four continents" and as "the collective voice of the Muslim world and ensuring to safeguard and project the interests of the Muslim world in the spirit of promoting international peace and harmony among various people of the world".²² The charter of the OIC reaffirms the commitment of its members "to the United Nations Charter and fundamental Human Rights, the purposes and principles of which provide the basis for fruitful cooperation among all people".²³

The Cairo Declaration enjoys official credibility because of its formulation and endorsement by the OIC in comparison to the grass roots formulation of and limited state involvement in the UIDHR. However, the Cairo Declaration is also prone to the same criticisms as the UIDHR. In its preamble the declaration states that the members of the OIC wish "to contribute to the efforts of mankind to assert human rights, to protect man from exploitation and persecution, and to affirm his freedom and right to a dignified life *in accordance with the Islamic Shari'ah*" (italics added for emphasis). This assumption is also stated in Article 24: "all the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'ah". Therefore, all the provisions on freedoms must be interpreted as freedoms allowed by shari'a law.

Article 1(a) states that: "all men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the grounds of race, colour, language, sex, religious belief, political affiliation, social status or other considerations". This declaration of equality omits a reference to discrimination based on religion, as is also the case with the UIDHR. Furthermore, in no part of the declaration is the individual granted the right to choose his or her own beliefs, either explicitly or implicitly.

Two articles, 22 and 18, relate to religious freedom. Article 22(a) states that "everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of the Shari'ah". Therefore, the right to express opinion is not a right to choose or reject a religion or belief. Even if this ambiguity can be stretched to include the right to choose a religion, given that the principles of shari'a do not include a right to leave Islam, Article 22 cannot be construed as a basis for full freedom of conscience. Article 22 is simply equivalent to the freedom of expression found in UN documents but is read subject to principles of shari'a which in essence would prohibit blasphemy and similar forms of expression.

Article 18 includes religion in its provision for the right to live in security. It states that "Everyone shall have the right to live in security for himself, his religion, his dependents, his honour and his property." Although the Article could superficially be seen as a guarantee for the protection of apostates in their societies, when read in conjunction with Article 24, which subjects this right to shari'a law, it becomes

²⁰ This social accountability is called *hisba* in Islam, which will be addressed in Section 5.

²¹ The full text is provided in Appendix III

²² From the official website of the OIC; http://www.oic-oci.org/oicnew/page_detail.asp?p_id=52

²³ Charter of the OIC can be seen at : http://www.oic-oci.org/oicnew/page_detail.asp?p_id=53

impossible to accept Article 18 as a guarantor of religious freedom. Further more, when Article 18 is read together with Article 2, a potentially dangerous interpretation emerges. Article 2 states that:

life is a God-given gift and the right to life is guaranteed to every human being. It is the duty of individuals, societies and states to protect this right from any violation, and it is prohibited to take away life *except for a Shari'ah-prescribed reason*. (italics added for emphasis)

If shari'a is understood as traditional Islamic jurisprudence based on the Qur'an and Sunna as defined by the UIDHR, then apostasy is not a right to be protected. On the contrary under Article 2 an apostate can be punished with the death penalty.

Arab Charter on Human Rights

The same problem of interpreting religious freedom by reference to shari'a law exists in the Arab Charter on Human Rights (ACHR)²⁴ which was adopted by the League of Arab States in 1994. ACHR starts by "reaffirming the principles of the Charter of the United Nations and the Universal Declaration of Human Rights, as well as the provisions of the United Nations International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights and the Cairo Declaration on Human Rights in Islam".

Article 5 states that "Every individual has the right to life, liberty and security of person. These rights shall be protected by law". The article is a broad provision which does not include religious freedom. The most direct provision on religious freedom is found in Article 26, which states that "Everyone has a guaranteed right to freedom of belief, thought and opinion". Article 27 elaborates this further by stating

Adherents of every religion have the right to practice their religious observances and to manifest their views through expression, practice or teaching, without prejudice to the rights of others. No restrictions shall be imposed on the exercise of freedom of belief, thought and opinion *except provided by law*. (italics added for emphasis)

Although both Article 26 and 27 do not directly speak of the right to choose a religion, the phrase "freedom of belief" assumes an element of being free to adhere to or reject a belief. However, the additional clause in Article 27, which allows restrictions on freedom of belief if provided by the 'law' is a serious departure from the provisions of the UN documents. The ACHR does not define what the 'law' is although its text distinguishes between 'ordinary law' when referring to the right to seeking asylum in Article 23, and 'law' in Articles 4 and 27, when permitting restrictions on freedom of belief. Given the context of the ACHR and the legal and religious framework in countries that are members of the Arab League,²⁵ it is safe to assume that the ambiguous expression 'law' here refers to shari'a law as in the UIDHR. This completely denies the right of a Muslim to choose a religion other than Islam, since shari'a law does not permit a person the 'right' to leave Islam for another religion, thereby contradicting the UDHR, which the ACHR, in its preamble, claims to be reaffirming.

Criticisms of the ACHR have led to a revision process and the production of a new edition, which was adopted by the 16th Arab Summit in May 2004. It has been ratified by seven Arab states to date: Algeria, Bahrain, Jordan, Libya, Palestine, Syria and the United Arab Emirates, and came into force on 15 March 2008.

Indeed, the 2004 edition brings about important improvements on some of the weaknesses of the 1994 text, particularly on stating the equality of men and women (Article 3) and the rights of handicapped persons (Article 40). However, Article 2 restates Article 1 of the 1994 text which declares:

racism, *zionism*, occupation and foreign domination pose a challenge to human dignity and constitute a fundamental obstacle to the realization of the basic rights of peoples (italics added for emphasis).

The use of Zionism in this article signifies the political nature of the ACHR, questioning its credibility as a human rights treaty. The 2004 edition also deteriorates significantly from the earlier version regarding the capital punishment of a minor. Although Article 12 of the 1994 text does not allow a person under 18 years

²⁴ The full text is provided in Appendix III

²⁵ The League of Arab States is formed by: Jordan, United Arab Emirates, Bahrain, Tunisia, Algeria, Djibouti, Saudi Arabia, Sudan, Syrian Arab Republic, Somalia, Iraq, Oman, Palestine, Qatar, Comoros, Kuwait, Lebanon, Libyan Arab Jamahiriya, Egypt, Morocco, Mauritania, Yemen.

of age to be punished by death, Article 7 of the 2004 text allows capital punishment if it is “provided by the law in force at the time of the commission of the crime.”

In terms of religious freedom, Article 30 of the 2004 edition combines Articles 26 and 27 of the 1994 edition. Article 30.1 states that “every person shall have the right to freedom of thought, belief and religion, which may be subject only to such limitation as are prescribed by law.” This article in no way improves on the weaknesses of Articles 26 and 27 of the 1994 edition, as argued above. Furthermore, Article 4.2 of the 2004 text provides a list of articles which grants rights that cannot be suspended even in time of public emergency. However, Article 30, which provides for the right to freedom of religion, is not included in this list. Article 3, which grants equal rights for women and men, is also excluded. This means that a signatory state can deny equal rights for women as well as freedom of religion under the pretext of ‘public emergency’. Although Article 43 of the 2004 text states that nothing in the ACHR shall be interpreted as impairing the rights and freedoms “as set out in international or regional instruments of human rights that the State Parties have signed or ratified”, the ACHR fails to comply with UN human rights instruments on religious freedom.

In many ways, these Islamic human rights declarations have been limited to the political arena and have largely been undertaken as a reaction to the UN documents and their ability to hold Muslim states accountable for human rights abuses. Even though a large majority of Muslims are familiar with the UDHR, Islamic human rights declarations are known to a small circle of Muslim statesmen, activists and scholars and are almost never referred to by Muslims in discussions over human rights abuses in the Islamic world. This should not be surprising, since these documents have been primarily written for the non-Islamic world. Most significantly, these declarations read more like moral exhortations, rather than judicially enforceable legal provisions. They lack any mechanisms to keep signatory countries accountable for improving their human rights records.

Views on human rights in the contemporary Islamic world

An increasing number of books have been written by Muslim scholars in recent years on Islam and human rights in an attempt to demonstrate that Islam and shari’a are not at odds with international human rights law. A significant proportion of these books are apologetic arguing that Islamic tradition protected the rights of non-Muslims living in Islamic countries at a time when the West was still unable to tolerate Jews. These books are vital contributions to efforts within the Islamic world to provide an ‘Islamic’ framework for human rights. However, the issue of apostasy is often ignored or introduced as an example of ‘colonial’ attacks to discredit Islam.

For example, the 160-page book, *Freedom, Equality and Justice in Islam*, written by Mohammad Hashim Kamali primarily for a Western audience, does not address the issue of apostasy at all. Kamali uses the word ‘apostasy’ only once in a passing comment about the credibility of the testimonies heard in the shari’a courts, when arguing that the only time a Muslim’s testimony is deemed more important than a non-Muslim’s is for religious offences “such as wine-drinking and apostasy, which only apply to Muslims and preclude non-Muslim citizens all together.”²⁶

Similarly, the subject of apostasy is absent in Dr Osman Sekerci’s *Basic Rights of non-Muslims in Islamic Countries*. The Turkish scholar states that “Islam, whose sole purpose is to end persecution in this world, has no struggle (dava) other than defending the elemental rights of the human being and trying to enshrine these rights in human consciousness”.²⁷ The book argues that Islam had guaranteed rights for non-Muslims, long before contemporary international human rights formulations. Dr Sekerci makes no mention of the freedom of a Muslim to choose a religion and does not discuss Islamic views on apostasy. Likewise, Abdul Mawdudi, a proponent of the death penalty for apostates, completely ignores the subject in his book *Human Rights in Islam*.²⁸

In many ways Muslim states, scholars and citizens across the world have demonstrated great willingness to incorporate and provide an Islamic version of human rights principles as defined by the UDHR. Although there have been significant changes in attitudes towards slavery, women’s rights and due legal process, apostasy continues to be an issue of contention between international law and mainstream Islam, due to a fundamental difference in the assumption of whether or not a human being has the right to choose or leave Islam.

²⁶ Kamali, 2002:89

²⁷ Sekerci, *Islam Ülkelerinde Gayri Müslimlerin Temel Hakları* 1996:2

²⁸ Mawdudi (1980) *Human Rights in Islam*, Leicester: The Islamic Foundation

Theological objections versus political and social reality

From a purist theological point of view, no man-made law can override the principles given by Allah. This assumption remains the dominant discourse and a logical outcome of a belief system that regulates not only individual piety but society as well. Although the teachings of the Qur'an do not necessarily conflict with modern principles of freedom and a growing number of Muslim scholars are calling for a critical re-evaluation of Islamic tradition. Nevertheless, any evocation of international law to address human rights abuses in Islamic countries inevitably provokes strong theological criticism and accusations of neo-colonialism.

However, there is a significant gap between such a theological reaction and political reality, which can be seen at both state and individual levels. Given the inter-dependent nature of the world, economically and politically, isolationist policies are no longer feasible. Even the conservative Kingdom of Saudi Arabia is not immune from this effect. King Ibn Saud, the founder of Saudi Arabia, believed that his "kingdom will survive only insofar as it remains a country difficult of access [sic], where the foreigner will have no other aim, with his task fulfilled, but to get out."²⁹ However, in an official Saudi government statement made in May 2004, King Fahd declared that "we are part of this world and cannot be disconnected from it. We cannot be mere spectators while the rest of the world is progressing toward a new global system."³⁰

While the conceptual difficulty of adhering to international law and adjusting to the secular and non-Islamic international structures continues to occupy Muslim theologians, politicians have already developed a sophisticated framework by which efforts to appease both domestic and international scenes hang in the balance. In the sphere of human rights, the majority of Muslim countries have signed, or ratified, international treaties that grant the individual the right to choose his or her religion, although some have chosen to enter reservations based on shari'a against this and other rights.³¹

However, any allusions to shari'a should be treated with caution. Ruling elites regularly appeal to Islam and use shari'a as a discourse for their own political legitimisation. The theological rhetoric for defending Islam, therefore, provides a convenient escape from international and domestic reaction to the treatment of citizens. Nevertheless, the legal obligations these countries are under and the conditions they accept in receiving foreign aid, together with the presence of international NGOs and the media, challenge the strong and often unaccountable power they exercise.

Use of human rights law by Muslims

This political reality, in contrast to purist theological conclusions, is having a profound effect on the way today's Muslim population view human rights. Most of the world's Muslims live under oppressive regimes that assert excessive force and deny civil rights in sustaining their sovereignty. As people have become more aware of the rights they have under international law, the popularity of human rights among Muslims has increased. Many Muslims have begun using international law to defend their rights.

Perhaps the clearest example of Muslim accommodation of international law is the use of the European Convention and Court of Human Rights by Muslims living in Turkey. Several individuals, including the wife of the President of the Republic, Abdullah Gul, have lodged complaints at the ECtHR against the ban on headscarves in Turkey. The arguments made by religious groups, include the use of the Turkish constitution, human rights and principles of democracy in order to assert their right to wear what they wish. Similarly, Turkish Muslim groups have welcomed recent EU negotiations and legislative alignment with EU criteria, which has affected the strict interpretation of secularism and the strong military presence in domestic politics and has provided further freedom for practising Muslims in Turkey.

The Muslim Brotherhood in Egypt, one of the most influential Islamist movements in the world, has adopted a language of 'freedom', 'democracy' and 'equality' in its political struggle to maintain influence and survival under the reign of President Mubarak. Similarly, moderate and radical Muslim groups in Europe constantly appeal to human rights in a wide range of activities, from opening mosques and wearing headscarves to demanding the implementation of shari'a laws within Muslim communities.

In many ways, Muslim states, scholars and citizens across the world have demonstrated a willingness to incorporate and provide an Islamic version of human rights principles as defined by the UDHR. The

²⁹ As quoted by Albright, 2006:201

³⁰ Ibid, pp 201

³¹ See Table I

modernisation of the Islamic world has resulted in improvement in key areas, such as the development of women's rights and the increasing political, social and economic participation of women, thus demonstrating how modern Muslim societies are willing to adopt contemporary attitudes, even though the pace of adaptation and implementation may seem slow or non-existent to the outsider. In economics, the break from Islamic tradition in economics has been the fastest. Recent developments in 'Islamic banking' by Western and Islamic finance groups is clear evidence of how creatively Islamic principles can be actualised today. Similar modernising efforts can be seen in the increasing theological support for democracy and in the integration of Muslim communities into the more secular societies of Europe and North America.

The disparity between traditional theological reasoning and modern socio-political life provides an open door, not only for reform, but also for advocacy on behalf of those who are persecuted on the basis of their beliefs. However, the issue of whether a Muslim has the right to choose his religion continues to be the one key area where contemporary values and traditional Islamic teaching clash, and where there appears to be minimal possibility of imminent change.

4 Apostasy in Islamic Theology and Shari'a Law

Attitudes among Muslims towards the conversion of a Muslim to another religion are shaped by a complex process of reasoning that ranges from the dynamics of group identity, imagined notions of 'us' versus 'them', a 'shame and honour' based worldview, domestic politics and powerful theological convictions. To better understand the factors that contribute to the persecution of apostates, we must start with an analysis of the teachings of Islamic theology and law.

There are two primary sources of Islamic theology - the Qur'an and Sunna. The Qur'an is regarded as infallible, as dictated from God word by word to the Prophet Muhammad. Its teachings are final, and since they are the direct words of God, are indisputable. Sunna is the example of the Prophet elaborating on and living out the teachings of the Qur'an. For Shiite Muslims, Sunna includes the lives and teaching of the twelve Imams, who are seen as being the rightful successors of the Prophet. The Sunna of the Prophet is recorded within the Hadith, the collection of sayings or events transmitted by the contemporaries of the Prophet and the first four caliphs- the leaders of the Islamic community after the death of the Prophet Muhammad.

4.1 The Qur'an

The Qur'an does not present the reader with a systematic theology on apostasy. Its teachings on the seriousness of apostasy, and on non-Muslims became more severe in the verses revealed later in the Medina period. These verses differ from the earlier, Meccan period, which are more tolerant towards non-Muslims. It is widely believed that these later verses have abrogated the earlier ones.

For example the following verse is from the early days of the prophetic role of Muhammad in Mecca and it demonstrates a more tolerant attitude:

Say: 'O you who deny the truth! I do not worship that which you worship, and neither do you worship that which I worship. And I will not worship that which you have [ever] worshipped, and neither will you [ever] worship that which I worship. Unto you, your moral law, and unto me, mine! (109:1-6)

However, even in the later Medina verses, the Qur'an exhorts Muslims to respect the choice of people to believe or disbelieve in Islam:

And if they surrender themselves unto Him, they are on the right path; but if they turn away - behold, your duty is no more than to deliver the message (3:20)

The following verses are most commonly used when discussing apostasy and the individual's freedom to believe. A more comprehensive list of Qur'an passages on apostasy and religious freedom is given in Appendix V.

Qur'an verses on apostasy

[Your enemies] will not cease to fight against you till they have turned you away from your faith, if they can. But if any of you should turn away from his faith and die as a denier of truth- these it is whose works will go for nought in this world and in the life to come; and these it is who are destined for the fire, therein to abide. (2:217)

How would God bestow His guidance upon people who have resolved to deny truth after having attained to faith, and having borne witness that this Apostle is true, and [after]

all evidence of the truth has come unto them? For God does not guide such evildoing folk. Their requital shall be rejections by God, and by the angels, and by all [righteous] people. (3:86-87)

Truly, as for those who are bent on denying the truth after having attained to faith, and then grow [ever more stubborn] in their refusal to acknowledge the truth, their repentance [of other sins] shall not be accepted: for it is they who have truly gone astray. (3:90)

But as for him who, after guidance has been given to him, cuts himself off from the Apostle and follows a path other than that of the believers- him shall We leave unto that which he himself has chosen, and shall cause him to endure hell... (4:115)

They swear by God that they said nothing (evil), but indeed they uttered blasphemy, and they did it after accepting Islam; and they meditated a plot which they were unable to carry out: this revenge of theirs was (their) only return for the bounty with which God and His Apostle had enriched them! If they repent, it will be best for them; but if they turn back (to their evil ways), God will punish them with a grievous penalty in this life and in the Hereafter: they shall have none on earth to protect or help them. (9:74)

Qur'an verses that are used in support of the death penalty

They would have you disbelieve as they themselves have disbelieved, so that you may be all like alike. Do not befriend them until they have fled their homes for the cause of God. If they desert you seize them and put them to death wherever you find them. Look for neither friends not helpers among them... (4:89)

The recompense of those who make war on God and His apostle and spread corruption on earth shall but be that they shall be slain, or crucified, or that their hands and feet be cut off on opposite sides, or that they shall be banished from the land: such shall be banished from the land: such shall be their ignominy in this world. (5:33)

Yet if they repent, and take to prayer, and render the purifying dues, they become your brethren in faith: clearly do We spell out these messages unto people of [innate] knowledge. But if they break their solemn pledges after having concluded a covenant, and relive your religion, then fight against these archetypes of faithlessness who, behold, have no [regard for their own] pledges, so that thy might desist [from aggression]. (9:11-12)

Qur'an verses that promote religious freedom

Let there be no compulsion in religion: Truth stands out Clear from Error: whoever rejects Evil and believes in God hath grasped the most trustworthy hand-hold, that never breaks. And God heareth and knoweth all things. (2:256)

And if they surrender themselves unto Him, they are on the right path; but if they turn away- behold, your duty is no more than to deliver the message. (3:20)

Means of insight have now come unto you from your Sustainer [through his divine writ]. Whoever, therefore, chooses to see, does so for his own good; and whoever chooses to remain blind, does so his own hurt. And [say unto the blind of heart]: 'I am not your keeper'. (6:104)

it rests with God alone to show you the right path: yet there is [many a one] who swerves from it. However, had He so willed, He would have guided you all aright. (16:9)

4.2 The Hadith

In principle, the actions and teachings of the Prophet are binding applications of the Qur'an. Yet the human involvement in the transmission and compilation of Sunna make the hadith texts open to criticism. There are only ten of what is called verbal *mutawatir* hadiths - hadiths that are word by word records of what the Prophet has stated. The rest are transmissions of the Prophet's actions as well as those of his companions and rightful caliphs, through eye witness accounts or hearsay.

There are two primary compilations of the hadith - Bukhari's (870 CE) and Muslim's (875 CE). Both of these have been largely accepted as credible. There are also three other compilations by Abu Dawud (888 CE), al-Tirmidhi (892 CE) and Al-Nasa'i (915 CE). In addition to the question of credibility, Islamic theologians have also developed conceptual tools for evaluating their content. One of these tests is how close, or how far, the citation is from the original source, which is called *isnad* - the fewer people transmitting it the more trustworthy it is. Scholars have also pursued historical studies - *ilm al-rijal* - in establishing the credibility of the people involved in the chain of transmission.

The most respected and trusted compilation of hadith is *Sahih Bukhari*, compiled by Isma'il al-Bukhari. The compilation cites various accounts on apostasy that have been used as a basis for shari'a laws:

Sahih Bukhari, Volume 4, Book 52, Number 260:

Ali burnt some people and this news reached Ibn 'Abbas, who said, "Had I been in his place I would not have burnt them, as the Prophet said, 'Don't punish (anybody) with Allah's Punishment.' No doubt, I would have killed them, for the Prophet said, 'If somebody (a Muslim) discards his religion, kill him.'"³²

Sahih Bukhari, Volume 5, Book 59, Number 632:

That the Prophet sent his (i.e. Abu Burda's) grandfather, Abu Musa and Mu'adh to Yemen and said to both of them "Facilitate things for the people (Be kind and lenient) and do not make things difficult (for people), and give them good tidings, and do not repulse them and both of you should obey each other." Abu Musa said, "O Allah's Prophet! In our land there is an alcoholic drink (prepared) from barley called Al-Mizr, and another (prepared) from honey, called Al-Bit." The Prophet said, "All intoxicants are prohibited." Then both of them proceeded and Mu'adh asked Abu Musa, "How do you recite the Quran?" Abu Musa replied, "I recite it while I am standing, sitting or riding my riding animals, at intervals and piecemeal." Muadh said, "But I sleep and then get up. I sleep and hope for Allah's Reward for my sleep as I seek His Reward for my night prayer." Then he (i.e. Muadh) pitched a tent and they started visiting each other. Once Muadh paid a visit to Abu Musa and saw a chained man. Muadh asked, "What is this?" Abu Musa said, "(He was) a Jew who embraced Islam and has now turned apostate." Muadh said, "I will surely chop off his neck!"³³

Sahih Bukhari, Volume 9, Book 83, Number 17:

Allah's Apostle said, "The blood of a Muslim who confesses that none has the right to be worshipped but Allah and that I am His Apostle, cannot be shed except in three cases: In Qisas for murder, a married person who commits illegal sexual intercourse and the one who reverts from Islam (apostate) and leaves the Muslims."³⁴

Sahih Bukhari, Volume 9, Book 84, Number 64:

Whenever I tell you a narration from Allah's Apostle, by Allah, I would rather fall down from the sky than ascribe a false statement to him, but if I tell you something between me and you (not a Hadith) then it was indeed a trick (i.e., I may say things just to cheat my

³² See <http://www.usc.edu/dept/MSA/fundamentals/hadithsunnah/bukhari/052.sbt.html>

³³ See <http://www.usc.edu/dept/MSA/fundamentals/hadithsunnah/bukhari/059.sbt.html>

³⁴ www.usc.edu/dept/MSA/fundamentals/hadithsunnah/bukhari/083.sbt.html#009.083.017

enemy). No doubt I heard Allah's Apostle saying, "During the last days there will appear some young foolish people who will say the best words but their faith will not go beyond their throats (i.e. they will have no faith) and will go out from (leave) their religion as an arrow goes out of the game. So, where-ever you find them, kill them, for who-ever kills them shall have reward on the Day of Resurrection." ³⁵

Sahih Bukhari, Volume 9, Book 89, Number 316:

A bedouin gave the Pledge of allegiance to Allah's Apostle for Islam and the bedouin got a fever where upon he said to the Prophet "Cancel my Pledge." But the Prophet refused. He came to him (again) saying, "Cancel my Pledge." But the Prophet refused. Then (the bedouin) left (Medina). Allah's Apostle said: "Medina is like a pair of bellows (furnace): It expels its impurities and brightens and clears its good." ³⁶

Sahih Bukhari, Volume 9, Book 92, Number 388:

When Allah's Apostle died and Abu Bakr was elected as a Caliph after him, some of the Arabs reverted to disbelief, 'Umar said to Abu Bakr, "How dare you fight the people while Allah's Apostle said, I have been ordered to fight the people till they say 'None has the right to be worshipped but Allah' And whoever says: None has the right to be worshipped but Allah.' waves his wealth and his life from me unless he deserves a legal punishment lusty, and his account will be with Allah! Abu Bakr said, "By Allah, I will fight him who discriminates between Zakat and prayers, for Zakat is the Compulsory right to be taken from the wealth By Allah, if they refuse to give me even a tying rope which they use to give to Allah's Apostle, I would fight them for withholding it." 'Umar said, 'By Allah, It was nothing, except I saw that Allah had opened the chest of Abu Bakr to the fight, and I came to know for certain that was the truth." ³⁷

4.3 Traditional and Modern Interpretations

There are two major interpretive strands within Islamic thinking that can be grouped under the categories of 'literalist' and 'contextual' readings. Both these approaches to the Qur'an and Sunna have been simultaneously present within Islamic communities over the centuries.

4.3.1 Literalist readings

The majority of Islamic scholars have interpreted these Qur'anic verses and hadiths as a basis for supporting the death penalty as a punishment for the apostate. For example, al-Shafi'i (767- 820 CE) regards Qur'an 2:217; "whoever of you recants and dies an unbeliever, his works shall come to nothing in this world and the next, and they are the companions of the fire for ever", as a basis for the death penalty, even though the verse itself speaks of an eschatological judgement following natural death. ³⁸ Literalist readings of these passages are still common and remain popular among less hermeneutically sophisticated lay readers and radical groups.

Abdul Ala Mawdudi (1903-1979), one of the founders of the *Jamat-i Islami* and an influential modern radical Muslim thinker, in his book *The Punishment of the Apostate according to the Islamic Law* promotes the death penalty for apostasy. He interprets Qur'an 9:11-12 as a direct statement on capital punishment and argues that the " 'covenant breaking' in no way can be construed to mean 'breaking of political covenants'. Rather, the context clearly determines its meaning to be 'confessing Islam and then renouncing it'. Thereafter the meaning of 'fight the heads of disbelief' (9:11,12) can only mean that war should be waged against the leaders instigating apostasy". ³⁹

35 www.usc.edu/dept/MSA/fundamentals/hadithsunnah/bukhari/084.sbt.html#009.084.064

36 www.usc.edu/dept/MSA/fundamentals/hadithsunnah/bukhari/089.sbt.html

37 www.usc.edu/dept/MSA/fundamentals/hadithsunnah/bukhari/092.sbt.html#009.092.388

38 *The Encyclopaedia of Islam*, New Edition; Volume VII, pp. 634

39 Mawdudi, 1994:14 <http://www.answering-islam.org/Hahn/Mawdudi/index.htm#I>

Others, such as modern scholar Muhammad Hamidullah (1908-2002), use what is called the "indirect verses" of the Qur'an, which support the death penalty. He cites Qur'an 5:54 as an example of this: "O you who have attained to faith! If you ever abandon your faith God will in time bring forth [in your stead] people whom He loves and who love Him- humble towards the believers, proud toward all who deny the truth..."⁴⁰

Mawdudi also undermines the interpretation of the Qur'anic exhortation at 2:256, that there is "no compulsion in religion" by noting:

Qur'an 2:256 obviously forbids compulsion in religion. The Hadith obviously state that the apostate from Islam should be executed. Since the Qur'an also states that Muslims are to obey the Prophet as well as the Book; Qur'an 2:256 can have application only for non-Muslims. Muslims must be compelled to remain Muslims.⁴¹

Mawdudi points to the possible interpretation of the verse as referring to conversion to or from any religion, but concludes that the verse is only about converting to Islam and that conversion *from* Islam cannot be allowed. He further comments:

"There is no compulsion in religion" (*la ikraha fī'd din*: Qur'an 2:256) means that we do not compel anyone to come into our religion. And this is truly our practice. But we initially warn whoever would come and go back that this door is not open to come and go.⁴²

Mawdudi's use of the Qur'an in support of the death penalty is questionable at best, nevertheless his views are widely disseminated and continue to influence large sections of the Islamic community. His conclusion, that although there is no compulsion to be a Muslim, but "once a Muslim, there is no leaving Islam" is a reflection of the most dominant opinion throughout the history of Islam.

Zwemmer, in his classic book, *The Law of Apostasy in Islam*, published in the early 1920s, quotes Dr James Barton who recalls a conversation he had with a Turkish politician:

"A high official once told me," writes Dr Barton, "that Turkey gives to all her subjects the widest religious liberty. He said, 'There is the fullest liberty for the Armenian to become a Catholic, for the Greek to become an Armenian, for the Catholic and the Armenian to become Greeks, for any one of them to become Protestants, or for all to become Mohammedans. There is the fullest and completest religious liberty for all the subjects of this empire.'"

"In response to the question, 'How about liberty for the Mohammedan to become a Christian?' he replied, 'That impossibility in the nature of the case [sic]. When one has once accepted Islam and become a follower of the Prophet, he cannot change. There is no power on earth that can change him. Whatever he may say or claim cannot alter the fact that he is a Moslem still and must always be such. It is, therefore, an absurdity to say that a Moslem has the privilege of changing his religion, for to do so is beyond his power.' For the last forty years the actions of the official and influential Turks have borne out this theory of religious liberty in the Ottoman Empire. Every Moslem showing interest in Christian things takes his life in his hands. No protection can be afforded him against the false charges that begin at once to multiply. His only safety lies in flight."⁴³

“Even though a significant number of modern day Muslims would reject and despise the murder of an apostate, the dominant view is that there is no compulsion to become a Muslim, but that a Muslim cannot leave Islam.”

40 As quoted by Saeed & Saeed, 2004:57

41 Mawdudi, 1994:81 The full English text can be seen at <http://www.answering-islam.org/Hahn/Mawdudi/index.htm#appe>

42 Mawdudi, 1994:36 The full English text can be seen at <http://www.answering-islam.org/Hahn/Mawdudi/index.htm#appe>

43 Zwemmer, 1924:45 The full English text can be seen at <http://www.answering-islam.de/Main/Books/Zwemer/Apostasy/chap2.htm>

Even though a significant number of modern day Muslims would reject and despise the murder of an apostate, the dominant view is that there is no compulsion to become a Muslim, but that a Muslim cannot leave Islam.⁴⁴

Dr Yusuf Al-Qaradawi is another contemporary influential figure who advocates the death penalty for apostates. His article "Apostasy: Major and Minor" is posted on the popular IslamOnline.net and he is described as a "a world-renowned scholar and head of the European Council for Fatwa and Research (ECFR) and president of the International Union for Muslim Scholars (IUMS). Many scholars consider him to be one of the most reputable mujtahids of the modern age. He has been active in the field of *da'wah* [propagation of Islam] and the Islamic movement for more than half a century."⁴⁵ Interestingly, Dr Al-Qaradawi was endorsed by the mayor of London, Ken Livingstone, as "a progressive figure who is moving that religion in the correct direction."⁴⁶

Dr Al-Qaradawi's reading strategy differs from Mawdudi in that he does not base his argument on the Qur'an, but juxtaposes the context of the traditional opinion on apostasy with dangers faced by Muslims today; thus he uses the tradition as directly relevant for contemporary society. He believes that "the greatest kind of danger that faces Muslims is that which threatens their moral aspect of existence, i.e. their belief. That is why apostasy from Islam is regarded as one of the most dangerous threats to the Muslim community."⁴⁷ He considers secularism, communism, colonialism and Christian mission to be invasions and plots to "uproot Muslim community altogether". He mourns the lack of zeal on behalf of Muslim leaders today to address this issue. In his essay on apostasy, Al-Qaradawi primarily uses the argument that punishment for apostasy is a necessity to protect the Islamic community.⁴⁸

Furthermore, Dr Al-Qaradawi openly acknowledges opposition to his views:

Some contemporary writers who are not versed in religious knowledge object to the penalty of proclaimed apostasy being death by saying that this penalty is not mentioned in the Qur'an. It is only mentioned in a hadith *ahad* -hadith that is narrated by people whose number does not reach that of the *mutawatir*, which is hadith that is narrated by such a large number of people that they cannot be expected to agree upon a lie, all of them together; and hadiths *ahad*, according to them, are not taken as evidences for the legal punishments prescribed by Shari'ah.

Al-Qaradawi defends himself by pointing out that the Qur'an teaches submission to Sunna, thus even if the Qur'an does not prescribe a punishment, Sunna teaching is authoritative. He also dismisses arguments that the hadith accounts on apostasy are weak. Firstly, he believes that these hadiths have been proven authentic and that they were put into effect by "the Companions in the era of the Rightly-Guided Caliphs". Secondly, he claims that to argue that an *ahad hadith* cannot serve as a basis for the death penalty is untenable. For example, the Islamic stand against alcohol consumption and its punishment has been based on an *ahad hadith*. He points out that even though there is consensus on the punishment of alcohol consumption on such a weak hadith, there are a greater number of authentic hadiths advocating the death penalty for apostasy. He declares that if one rejects the use of an *ahad hadith* as a legitimate basis for law, then he will be "disregarding 95 percent (if not 99 percent)" of shari'a. Thirdly, he notes that most jurists of Islam and all Shari'a schools agree on the death penalty for apostasy.

44 The writers of Islamtoday.com offer a statement on the issue, which is often replicated by other popular sources, in response to enquires by Muslims living in non-Muslim countries. Note that in line with similar statements, neither the quote nor the website explains what the punishment of an apostate should be: "Apostasy is a crime punishable by law. This ensures that a person is serious when embracing Islam, so that no one enters into Islam without first having a firm and complete conviction. Moreover, Allah does not accept anyone's faith unless it springs from conviction. If a person enters Islam, it must be a permanent decision taken on the basis of firm conviction. If he rejects faith thereafter, he is actually introducing to the public a measure of intellectual and political uncertainty that can disrupt society and destroy its desired level of intellectual and psychological stability." *The objectives of Islamic Law*, http://www.islamtoday.com/discover_islam.cfm?cat_id=6&sub_cat_id=47

45 <http://www.islamonline.net/English/contemporary/2006/04/article01c.shtml>

46 BBC News, *Mayor justifies cleric's welcome*, 11 January 2005 <http://news.bbc.co.uk/1/hi/england/london/4165691.stm>

47 <http://www.islamonline.net/English/contemporary/2006/04/article01c.shtml>

48 Al-Qaradawi notes that "negligence in punishing apostates who proclaim and call for their apostasy jeopardizes the whole community and exposes it to afflictions whose consequences Almighty Allah only knows. This may lead to apostates enticing other people, especially the gullible and those of weak faith, to join them. This, in turn, may lead to those apostates forming a group hostile to the Muslim nation and seeking the help of its enemies against it. In this way, the Muslim nation will fall into intellectual, social, and political disputes and disintegration, which may develop into bloody ones or even into a civil war that could destroy everything." *Ibid*.

For Al-Qaradawi, the fact that the Qur'an does not explicitly advocate the death penalty for apostasy changes nothing, as the Qur'an teaches a Muslim to be faithful to the Sunna of the Prophet. His framework of urgency for dealing harshly with apostasy in order to protect Islam from sinister attacks is a common belief among an increasing number of radical groups.

Use of literalist readings by Islamist groups

Unlike moderate and traditionalist Muslims, who comprise the majority of worldwide Muslims today, radical and militant Islamist groups regularly call for the implementation of the death penalty for apostates. These groups regularly claim that they are calling for a return to 'true Islam', and 'defending' and 'rescuing' Islam from decadence. Within such narratives apostates assume the role of dangerous viruses that affect the body internally. For this reason, Ismail al-Faruqi (1921-1986), one of the founders of the Islamization of Knowledge Movement, states:

To convert out of Islam means clearly to abandon its world order which is the Islamic state. That is why Islamic law has treated people who have converted out of Islam as political traitors. No state can look upon political treason directed to it with indifference. It must deal with the traitors, when convicted after due process of law, either with banishment, life imprisonment, or capital punishment.⁴⁹

Faruqi, therefore, sees two main options for protecting the Islamic community, the apostate will either move out of the Islamic world or be sentenced to death. A prime example of a contemporary global radical group, which claims to advance the cause of Islam in peaceful ways, is *Hizb ut-Tahrir*. The organisation defines itself as:

a political party whose ideology is Islam, so politics is its work and Islam is its ideology. It works within the Islamic Ummah and together with her, so that she adopts Islam as her cause and is led to restore the Khilafah [caliphate] and the ruling by what Allah revealed. Hizb ut-Tahrir is a political group and not a priestly one. Nor is it an academic, educational or a charity group. The Islamic thought is the soul of its body, its core and the secret of its life.⁵⁰

The organisation boasts a large global membership and active branches everywhere in the Western and Islamic worlds. Article 7c of the "Constitution of Hizb ut-Tahrir" declares that,

Those who are guilty of apostasy (*murtadd*) from Islam are to be executed according to the rule of apostasy, provided they have by themselves renounced Islam. If they are born as non-Muslims, i.e. if they are the sons of apostates, then they are treated as non-Muslims according to their status as being either polytheists (*mushriks*) or People of the Book.⁵¹

The official website of *Hizb ut-Tahrir* in the UK does not contain the constitution, which is a manifesto of their Islamist vision. Even though books written by such groups calling for the death penalty can easily be found in many Islamic bookshops across Europe, often such bold declarations are only available in less accessible languages to the Western audience, such as in Arabic or Urdu.

Given the increase in terror attacks by Islamist groups, the 'war on terror' and the appeal of conservative right-wing politics espousing anti-immigration policies, moderate and reforming Muslims living in Europe and North America often find themselves in a difficult position. They feel caught between their host countries and literalists who call for harsh penalties against apostates.

49 As quoted by Saeed & Saeed, 2004:92

50 See <http://www.hizb-ut-tahrir.info/english/about.htm>

51 *Draft Constitution by Hizb ut-Tahrir*, The Media Office of Hizb ut-Tahrir; <http://www.hizb-ut-tahrir.info/english/constitution.htm>

For example, on 10 May 2007, the Pittsburgh Tribune-Review reported that the Islamic Center of Johnstown had asked its director, Imam Fouad ElBayly, to resign from his duties following his public statements that apostates should be punished by death. Mr ElBayly had requested University of Pittsburgh-Johnstown officials cancel a talk that was to be delivered by the controversial Dutch ex-Muslim, Hirsi Ali. He declared that Hirsi Ali's 'lies' about Islam 'warrant a death sentence'.⁵²

4.3.2 Contextual readings

Literalist readings of the Qur'an and Sunna have always dominated pre-modern Islam, although they existed alongside reforming views that asked for a closer reading of these passages before drawing principles for contemporary situations. The emergence and later persecution of Mu'tazalis is an example of this dynamic, when literalists clashed with rationalist and reforming schools of thought.⁵³

Contextual reading of the Qur'an

Tariq Ramadan, the renowned European Muslim scholar, points to the presence of a small group of scholars throughout history who have held views contrary to the dominant schools of Shari'a concerning apostasy. He notes that Ibrahim al-Nakha'i (8th century), Sufyan at-Thawri (8th century) and the Hanafi jurist Shams as-Din as-Sarakshi (11th century) had questioned the authenticity of the hadith passages that have been used as a basis for the death penalty and had insisted that the Qur'an teaches no temporal punishment.⁵⁴

Reformist and liberal voices have increased significantly during recent years. Dr Ahmad Shafaat of Islamicperspectives.com, exhorts Muslims to take a fresh look at the Qur'an: "Let us not be overly influenced by the fact that the death penalty for apostasy has been held to be Islamic by a majority of people in many previous generations of Muslims. Let us examine the evidence of the Qur'an and the authentic *ahadith* [plural of hadith] and then reach a decision". Dr Shafaat admits that although previous generations of Muslims have claimed to build Islamic law upon the Qur'an and Sunna, Muslims can be wrong, just as others have been, such as Christians and Jews, who have misread God's word through the centuries.⁵⁵

Such a reforming attitude, which calls for a breakaway from tradition and a return to the actual meaning of the Qur'an, is finding more supporters in contemporary Islam, especially in European and democratic Muslim countries, such as Turkey. Mustafa Akyol is a liberal Turkish Muslim columnist, who attempts to give an honest appraisal of the problems in Islamic history. He recognises that unlike the Qur'anic view,

post-Qur'anic Islamic literature is not so friendly to religious freedom. The hadiths and the jurists' opinions based on them added a lot of extra rules and regulations due to the political needs of the early Islamic empire. The ban on apostasy was such a post-Qur'anic rule that I think we Muslims should abandon right away. People should have the right to leave Islam and choose other religions if they decide to do so.⁵⁶

Similarly, Tariq Ramadan argues that since there is no basis for the death penalty in the Qur'an, and since Islam teaches willing submission to Allah, "someone leaving Islam or converting to another religion must be free to do so and her/his choice must be respected".⁵⁷ The Turkish Directorate of Religious Affairs

52 See Pittsburg Tribune-Review, "Johnstown imam ousted over 'death' remarks", 10 May 2007 http://www.pittsburghlive.com/x/pittsburghtrib/s_506958.html

53 Mu'tazalis were followers of the 8th century rationalistic theological movement, mu'tazilah, which was deemed heretic and persecuted. See Seyyed Hossein Nasr, *Islam: Religion, History, and Civilization*, New York: HarperCollins Publishers, 2003, pp. 155-157

54 Tariq Ramadan, "Muslim Scholars Speak out: On Jihad, Apostasy and Women", 28 July 2007, http://www.tariqramadan.com/article.php3?id_article=1163&var_recherche=apostasy

55 Dr. Shafaat quotes 5:77 in support: "Say (O Prophet): "O people of the book! Exceed not the limits in your religion ignoring the truth, and do not follow the vain desires of people who went astray before and who misled many, straying from right path." *The Punishment of Apostasy in Islam*, February 2006, <http://www.islamicperspectives.com/Apostasy1.htm>

56 Akyol in Symposium "Convert or Die", 20 October 2006, <http://www.frontpagemag.com/Articles/Read.aspx?GUID={9BB10175-F9A6-42E1-B8E1-23F33AC1D274}>

57 Tariq Ramadan, "Muslim Scholars Speak out: On Jihad, Apostasy and Women", 28 July 2007 http://www.tariqramadan.com/article.php3?id_article=1163&var_recherche=apostasy

concludes that *irtidād* is turning away from a promise given to God and that it is a major sin. "However, the Qur'an has not provided a temporal, meaning a preventive punishment" and "faith cannot be born out of pressure and compulsion, therefore there is no possibility of forcing the person who left religion to return to religion".⁵⁸

At its most superficial level, the Qur'anic statement that 'there is no compulsion in religion' is often cited as a basis for tolerance towards converts from Islam to another religion. However, this verse is about persons converting to Islam and not vice versa. Citing this argument in no way undermines the literal reading on the issue, which builds on other Qur'an verses and Hadith. More sophisticated contextual arguments use modern hermeneutical tools of grammatico-historical analysis and the creative application of principles drawn from this in the light of contemporary realities. The methodology itself is a breakaway from medieval hermeneutics and theological formulations.

This contextual approach at first challenges the interpretation of the verse by pointing to its immediate context and wording. For example, Professor Abdullāh Saeed opposes Muhammad Hamidullah's notion of "indirect verses of the Qur'an" which support the death penalty. Saeed dismisses Hamidullah's use of 5:54; "O you who have attained to faith! If you ever abandon your faith God will in time bring forth [in your stead] people whom He loves and who love Him- humble towards the believers, proud toward all who deny the truth..." Saeed notes that "despite clearly mentioning those who 'abandon' their faith (=apostasy) the verse does not specify any temporal punishment."⁵⁹ Therefore, Hamidullah's reading is more of an *isegesis* (reading *into* the text) rather than an *exegesis* (reading *from* the text).

Another aspect of the contextual challenge to the literalist approach is the use of the historical context of the Qur'an verses. For example, Ahmaddiya scholar Mirza Tahir Ahmad argues that verses 9:11,12, which Mawdudi uses as a basis for the death penalty, were written after the migration to Medina when Muslims faced harsh persecution from the Quraish tribe. Ahmad states:

The advocates of capital punishment for Apostasy should remember that these verses refer to idolaters who have broken their pledges and ridiculed religion; there is no mention of people renouncing their faith. They have broken their pledge after their firm commitment to it. Those who have become hostile to your religion are the first to initiate hostilities against you. The permission for you to fight them is restricted to their leaders whose covenants are worthless and false. The permission is given in order to stop them from entering into hostile acts against you.⁶⁰

Contextual reading of the Hadith

Contextual reading strategies also present us with a different perspective on the Sunna. Dr Jamal Badawi, professor of Islamics at Saint Mary's University in Halifax, Canada, argues that the hadith regarding the bedouin who asked Muhammad to be relieved from his oath, (cited above: Sahih Bukhari, Volume 9, Book 89, Number 316) is in fact about apostasy and has a strong *isnad*. In his essay, "Is apostasy a capital crime in Islam?", he states that the oath in this hadith is the oath to follow Islam, thus the man was asking the Prophet for permission to leave Islam, which Muhammad denied. This hadith took place in the Medina period when the Prophet himself enforced Shari'a principles. Badawi notes:

If indeed the "revealed" prescribed punishment for apostasy is death, the Prophet (peace and blessings be upon him) would have been the first to carry out the punishment. In fact, he did not even prescribe any punishment at all against that Bedouin, nor did he send any one to arrest him as an "apostate," imprison, or ask him to recant or even reconsider his decision as later jurists prescribed.⁶¹

This leads Dr Badawi to conclude that neither the Qur'an nor Sunna supports the death penalty for apostasy, despite traditional affirmation to the contrary.

58 *Dini Kavramlar Sözlüğü*, 2006: 321

59 As quoted by Saeed & Saeed, 2004:57

60 Ahmad, Mirza Tahir *Murder in the Name of Islam*, Chapter 7 : Punishment for Apostasy; http://www.alislam.org/library/books/mna/chapter_7.html

61 Dr. Jamal A. Badawi, "Is Apostasy a Capital Crime in Islam?", 26 April 2006 <http://www.islamonline.net/English/contemporary/2006/04/article02.shtml#011>

Similarly, in the book *Islamda Din Hurriyetinin Temelleri* (the Foundations of Religious Freedom in Islam), the Turkish Directorate of Religious Affairs (the official governmental body regulating mosques and clerics in Turkey) provides a contextual reading of the Sahih Bukhari, Volume 9, Book 83, Number 17. The Directorate speaks of three conditions upon which a Muslim's blood can be spilled. According to the Directorate the Bukhari hadith must be understood in accordance with the version of the same hadith recorded by Abu-Dawud.⁶² The Sunan Abu-Dawud, Book 38, Number 4339 recounts that:

The Apostle of Allah (peace be upon him) said: The blood of a Muslim man who testifies that there is no god but Allah and that Muhammad is Allah's Apostle should not lawfully be shed except only for one of three reasons: a man who committed fornication after marriage, in which case he should be stoned; one who goes forth to fight with Allah and His Apostle, in which case he should be killed or crucified or exiled from the land; or one who commits murder for which he is killed.⁶³

The Directorate draws attention to the difference in wording on the second condition for killing a Muslim. Where Sahih Bukhari speaks of "the one who reverts from Islam (apostate) and leaves the Muslims", Abu-Dawud's version says "one who goes forth to fight with Allah and His Apostle". This difference in citation is presented as a signal to the legitimacy of the death penalty for Muslims only when the act of leaving Islam is combined with violence against Muslims, not just merely changing one's religion.

Tariq Ramadan argues that the 'firm measures' Muhammad took against the apostates were "only in time of war, against people who had falsely converted to Islam for the sole purpose of infiltrating the Islamic community to obtain information they then passed on to the enemy" and that these apostates "were in fact betrayers engaging in high treason who incurred the penalty of death because their actions were liable to bring about the destruction of the Muslim community".⁶⁴ Therefore, hadith passages cannot be used as a basis for the death penalty for people who only convert to another religion. His conclusion has been echoed by the views of the retired Chief Justice of Pakistan, S.A. Rahman, who rejects the death penalty for apostasy and concludes:

It has been seen that even the strongest bulwark of the orthodox view, viz. the Sunnah, when subjected to critical examination in the light of history, does not fortify the stand of those who seek to establish that a Muslim who commits apostasy must be condemned to death for his change of belief alone. In instances in which apparently such punishment was inflicted, other factors have been found to co-exist, which would have justified action in the interest of collective security.⁶⁵

Problems with modern interpretations

Modern interpretations, which argue that the Qur'an and Sunna only legitimise a temporal punishment when apostasy is combined with political treason or insulting Islam, are encouraging attempts at reform. Nevertheless, three significant problems arise.

The first problem is that there is no clear distinction in the Qur'an or Sunna between apostasy as a personal disbelief, and apostasy as a political betrayal of the community. To read back such a separation is to enforce a post-Enlightenment perception of religion and a individualistic formation of beliefs. Islam emerged as a religion with strong identification and allegiance to tribes and clans in the context of wars against non-Muslims or against those rejecting the rule of a caliph or a Muslim ruler. It was only much later that it was accepted by non-Arabic peoples as a religious belief. Therefore, the act of 'apostasy' has always been seen as an act of 'treason' against the Islamic community. For example, Dr Yusuf AL-Qaradawi notes that:

The Muslim community is based on belief and faith. Belief is the basic foundation of its identity, pivot, and spirit of its life. That is why it does not allow anyone to harm this

62 *Islam'da Din Hurriyetinin Temelleri*, Diyanet Isleri Baskanligi, 2000:16; <http://diyanet7.diyanet.gov.tr/turkish/weboku.asp?sayfa=16&yid=4>

63 See <http://www.usc.edu/dept/MSA/fundamentals/hadithsunnah/abudawud/038.sat.html>

64 Tariq Ramadan, "Muslim Scholars Speak out: On Jihad, Apostasy and Women", 28 July 2007, http://www.tariqramadan.com/article.php3?id_article=1163&var_recherche=apostasy

65 As quoted by Saeed & Saeed, 2004:94

identity. Hence, proclaiming apostasy is considered the most flagrant crime in the eyes of Islam as it poses a danger to the identity of the Muslim community and its moral being... The death penalty with regard to apostasy is to be applied only to those who proclaim their apostasy and call for others to do the same. Islam lays down this severe punishment in order to protect its unity and the identity of its community. Every community in this world has basic foundations that are to be kept inviolable, such as identity, loyalty, and allegiance. Accordingly, no community accepts that a member thereof changes its identity or turns his or her loyalty to its enemies. They consider betrayal of one's country a serious crime, and no one has ever called for giving people a right to change their loyalty from a country to another whenever they like.⁶⁶

Dr Qaradawi sees a direct link between personal belief, disbelief and allegiance to one's community to such an extent that a verbal or written declaration of disbelief is an act of treason, which needs to be punished. Therefore it is really no surprise that Moroccan sociologist, Fatima Merinissi, argues:

Shirk [which usually refers to sharing in the godhead, or paganism] is the most appropriate word for translating the word 'freedom' in Article 18 of the Universal Declaration of Human Rights, which is posed as an ideal to be attained: 'Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion...' This article is the very definition of the *jahiliyya*, the chaotic pagan world before Islam. What it proposes is regression to the zero time.⁶⁷

This leads to the second problem with contextual readings. Apostasy is still perceived as 'treason' by most Muslims, even though it is not an actual act of treason against the state. Bernard Lewis notes that contemporary "militant leaders have proclaimed a double jihad- against foreign infidels and against domestic apostates."⁶⁸ Within their narratives, a Muslim betrays the world and cause of Islam and joins the camp of the 'crusader' West. Therefore, in order to 'succeed' against the enemy, one must also deal with the enemy's links or supporters within the Islamic world. The presence of such a double jihad weakens the day-to-day applications of modern contextual readings, limiting their influence only to educated Muslims, intellectuals or clergy, mostly living in Europe or North America.

The third problem with the strategy of contextual readings is that, hermeneutically speaking, no community reads a text in complete isolation to its tradition and its contemporary context. The horizon of the reader, his or her location, community and history, influences both the creation of the idea of 'being only faithful to the text', and the outcome of its reading. For this reason, no matter what the 'true message of the Qur'an in its own context' is, Islamic tradition, which is claimed to have developed from the Qur'an and Sunna, continues to shape majority Muslim opinion today, with its strong antipathy towards apostasy.

4.3.3 Tensions between literalist and contextual readings

Even though contextual readings of the Qur'an and Sunna speak coherently against the death penalty and harsh treatment of apostates, reforming voices are still in the minority, especially in the largest section of the Islamic world, where apostates face serious human rights violations.

His Royal Highness the Prince of Wales has been a keen promoter of inter-religious dialogue; he has often expressed his concerns regarding the rights of Muslims in Europe and the sins committed against them throughout Church history. He has been awarded an honorary doctorate from the Al-Azhar University for his work. Prince Charles has increasingly called for reciprocity in protecting minorities, which is an echo of his earlier request made in 2004 to leaders of the Muslim community residing in the UK. He called on them to issue a public statement renouncing capital punishment and the persecution of apostates. To date no corporate statement as such has been made.⁶⁹

⁶⁶ Yusuf Ali Qaradawi, *Apostasy: Major and Minor*, 13 April 2006 <http://www.islamonline.net/English/contemporary/2006/04/article01c.shtml>

⁶⁷ Merinissi, 2002: 87

⁶⁸ Lewis, 2003:41

⁶⁹ Jamie Doward, "Bishop warns that Muslims who convert risk being killed", *The Observer*, 16 September 2007

The British Channel 4 television program *Dispatches* has addressed the experiences of apostates in the UK in an episode entitled “Unholy War” in September 2007. After various interviews with apostates who have been victims of physical assaults from their Muslim communities, the reporter asks Sheikh Mogra, a significant Muslim figure for inter-faith dialogue in the UK, to issue a statement against the persecution of apostates. Mr Mogra responded to this request by saying: “We live in a country where we respect people's choices. It is not right for any British Muslim to harm in any way whatsoever; to bully them, to intimidate them, to threaten them – is all against Muslim law”. While his comments are welcomed, his argument on why an apostate must not be persecuted appeals only to the demands of living in Britain, and not to Islamic theology. Therefore, it can easily be read as a diplomatic gesture, which in no way condemns the treatment of apostates globally.

One of the most credible promoters of a tolerant attitude towards apostasy has been Sheikh Muhhad Sayid Tantawi, the head of the most important theological centre for Sunni Islam, Al-Azhar University in Egypt. Dr Tantawi, who has previously served as the Grand Mufti of Egypt, argued that apostates should be left alone and not punished, unless they actively pose a threat against Islam.⁷⁰ Similarly, the progressive Grand Mufti of Egypt, Ali Gomaa, stated on a US Washington Post-Newsweek online forum, *Muslims Speak Out*, that Muslims were free to change their religion. He said it was a sin which does not have an earthly punishment but will be punished by God on the Day of Judgement.⁷¹ This statement, coming from a senior cleric, could have substantial influence on the world's Sunni population.

However, it didn't take long before *Dar al-Iftaa*, Egypt's highest body for delivering opinions on Islam, retracted the comments attributed to the Grand Mufti. The council alleged that the Grand Mufti had in fact said that “Islam forbids Muslims from renouncing their faith...and that if a Muslim did they would be committing a mortal sin” and that “apostasy is a kind of subversion and a sort [sic] of crime that requires punishment”.⁷² The fact that the Grand Mufti's comments were immediately retracted and ‘corrected’ is a clear indication of the continuing tension between a dominant literal reading of the Qur'an and the growing presence of Muslim intellectuals publicly challenging it. Any Muslim leader speaking out on this issue runs the risk of being deemed an apostate himself by fellow Muslims.

When the Qur'an verses are taken at their face value, it becomes clear that apostasy is a grave sin that will be punished in the life to come by Allah, who may also choose to curse or inflict suffering on the apostate during his or her earthly existence. The Qur'an does not condone the temporal punishment of an apostate. However, the Hadith, which plays a significant role in the interpretation of the Qur'an, has provided the basis for the persecution of apostates by fellow Muslims.

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4.4 Shari'a

Shari'a is the name given to the encompassing commentary on the principles of the Qur'an and Sunna. The word itself means ‘the right path’ and serves as guidance for Muslims in all aspects of life, from personal morality to religious observance and social and economic interactions. Therefore, Shari'a isn't merely a ‘law’ as understood in today's world, it is much closer to the Jewish Talmud than it is to a penal code.

The legal dimensions of Shari'a – *muamalat* – have been developed over the centuries by scholars and practitioners in relation to their contexts. Since the Qur'an is not a legal book and just like the Sunna contains very little legal teaching, Islamic scholars have developed what is called *fiqh*, or Islamic jurisprudence. In this report, ‘Shari'a’ with a capital ‘S’ refers to the Muslim way of life promoted by the Qur'an and the Sunna, whereas ‘shari'a’ with a lower case ‘s’ refers to the legal formulations developed by Muslim scholar. The focus of this report is on the latter.

In *fiqh*, the divinely revealed basis of shari'a, the Qur'an and Sunna, is supplemented with human legal reasoning, *ijtihad*, in order to apply it to a given context. Islamic legal reasoning consists of *qiyas*; analogical reasoning, *ijma*; the consensus among the learned jurists, *istihsan*; the preference of the

70 See http://www.sunnah.org/history/Scholars/mashaykh_azhar.htm

71 For the detailed text see http://newsweek.washingtonpost.com/onfaith/muslims_speak_out/2007/07/sheikh_ali_gomah.html

72 See AFP, “Egypt Mufti denies saying Muslims can choose own religion”, 24 July 2007; http://news.yahoo.com/s/afp/20070724/wl_mideast_afp/egyptreligionislam_070724185303

judges when faced with unique cases, and *maslaha*; the consideration of public good. Different shari'a schools have ascribed a greater or lesser emphasis to the significance of these elements. For example, Shiites have rejected the use of *qiyas*, though they place great weight on the independent reasoning, *aql*. A modern addition to these elements is *shura*, consultation, which brings a more communal dimension to the *ijtihad* process.

The principles of shari'a are fixed and final, as they are based on divinely revealed truths in the Qur'an and Sunna. However, the presence of human agency in the formulation of *fiqh* through *ijtihad*, signals the importance of understanding the elements that shape its legal formulations. Therefore, in order to understand why apostasy has been dealt with more harshly within the Islamic tradition than it has in the Qur'an, it is necessary to examine the socio-political context that has influenced its conclusions.

4.4.1 Historical context

Mohammad Hashim Kamali notes that there are six periods in the development of *fiqh*.⁷³ During the first period (610–32), the Qur'an was being revealed, and the Prophet himself was present, enforcing regulations on theological and practical matters. In the second period (632–61), *fiqh* started to emerge as the companions of the Prophet began to interpret and apply the teachings of the Qur'an and Sunna. The interpretations of the *rashidun*, the first four Caliphs, also known as the 'rightly guided caliphs', Abu Bakr (572–634), Umar (581–644), Uthman (580–656) and Ali ibn Abi Talib (599–661), are seen as authoritative.

The third phase (661–750) started and ended with the Umayyad dynasty. Within this period, the Shiite school of law began to emerge in opposition to Sunnis, who were developing traditionalist and rationalist approaches in their *fiqh*. The fourth phase (750–950) saw the formation of different legal schools, four of which continue to influence Islamic thinking today; the Hanafi, Maliki, Shafi and Hanbali schools named after their founders, Abu Hanifah (699–767); Malik ibn Anas al-Asbahi (715–95); Muhammad ibn Idris al-Shafii (767–820), and Ahmad ibn Hanbal (780–855).

The fifth phase started from 950 and lasted until the end of the 19th century. Within this phase, shari'a law began to be institutionalised and its main activity focused on the precedents, *taqlid*, set by the previous generations. This led to the so-called 'closure of *ijtihad*' as the scholars promoted strict faithfulness to the formulations already developed. The political context of the demise of the power of Muslim rulers, alongside colonial domination, increasingly isolated *fiqh* into scholarly speculation. The sixth phase of *fiqh* began at the start of the 20th century, with the aspirations and eventual formation of Muslim nations and Islamism, which sought to return to the shari'a principles that were deemed to have been lost.

The development of the corpus of *fiqh*, from the third phase onward, was limited to a scholarly exercise by professional experts. They claimed to expand on the Qur'an and Sunna, by drawing on non-revealed sources of human reasoning and culture and by practising law in their particular contexts, often in close relationship with the power structures of their day.⁷⁴ The relationship of a *madhahib* (school of shari'a) to the governing powers established their authority, implementation and superiority over other schools. For example, the Hanafi school owes its authority and longevity to its official enforcement by the Ottoman Empire.

Following the death of the Prophet in 632 CE, the Muslim community entered a period of war against non-Muslims and amongst each other. The first caliph, Abu Bakr, launched military campaigns against Muslim tribes who had decided to break off from the rule of Mecca following the prophet's death and had rejected Abu Bakr's authority. The military campaigns were also against false prophets and those who had returned to their pre-Islamic traditions. Although these campaigns became known as *ridda* (apostasy) wars, they were primarily political wars waged to assert authority and power, and not religious wars against apostates. Close links between religion, political allegiance and conflict continued under subsequent caliphs and Muslim dynasties, until relative stability and unity was brought to the Muslim world by the Ottoman Empire.

⁷³ The six periods are summarized from Mohammad Hashim Kamali's essay, "Law and Society", in *The Oxford History of Islam*, 1999: 110–118

⁷⁴ For a detailed study of how the development of shari'a has been influenced by political reality, see Zubaida, 2003: 74–120

Islamic jurisprudence, therefore, emerged out of those turbulent times, and was based on issues that were either confronted or anticipated, just as has been the case with other nations' legal formulations.

According to Professor Abdullah Saeed, as *fiqh* was being formed:

People were divided into three major groups: believers and unbelievers who were at peace with Muslims, and unbelievers who were at war with Muslims. Believers, by definition, supported Islam and were actively engaged in it. The unbelievers (who were not at peace with believers) were actively engaged against Islam. Anyone who became a Muslim joined the believers, and anyone who rejected Islam usually joined the side of the unbelievers who were not at peace with Muslims.⁷⁵

In such a framework, the act of converting to another religion automatically had political implications in the Muslim world, which had struggled for its existence during the initial ministry of the Prophet and chaotic power struggles following his death. The harsh stance adopted by the Prophet and the *rashidun* against non-Muslims, especially towards those who left Islam and shifted their allegiance, was in response to this historical context.

This also explains why different shari'a schools have unanimously agreed on the death penalty, for a mentally sane male apostate after he has been given three days to reconsider his decision, even though they have varied from each other on many other legal issues in relation to their own theological, cultural, social and political contexts. Throughout the history of *fiqh*, including the eras of the so-called closure of *ijtihad* and the following era of *taqlid*, the close following of previous scholars, the act of apostasy has been classed as political treason which had to be punished severely. The Islamic scholars were reacting to the political reality of their day, following the examples of the Sunna and caliphs.

Historical consistency and consensus on the issue casts doubt on contemporary readings of Islamic law, which sees a post-enlightenment concept of personal faith and disbelief as distinct from ethnic, religious and political allegiance. Islamic law makes no such distinction and its conceptualisation of *irtidād* regards leaving Islam as an act of treason.

4.4.2 The punishment of an apostate

In Islamic law, there are three kinds of punishments: *hudud*, which are fixed; *tazir*, which are discretionary punishments granted by judges; and *qisas*, which are retaliatory. *Hudud* punishments are not open to deliberation and change, since they are prescribed in the Qur'an and Sunna, such as punishments for theft, adultery, slander and wine drinking. For *hudud* crimes, the punishment must be applied regardless of personal repentance.

Throughout Islamic history, the *ulama*, Islamic scholars, have held different views on whether or not the punishment for apostasy is a *hudud* or a *tazir* punishment. For example, Ibn Taymiyyah (1263 – 1328 CE) held the view that the punishment for apostasy is a *tazir* punishment. His view is shared with Hanbalis, whereas Shafi'is believe that it is a *hudud* punishment. In the modern period, the contextual readings, which argue that there is no temporal punishment for apostasy prescribed in the Qur'an and Sunna, have challenged the view that apostasy fits under the category of *hudud* punishments. Nevertheless, the death penalty, whether it is regarded as a *hudud* or a *tazir* punishment, has been the unanimous interpretation of Islamic law up to modern period.

Validity of apostasy

All schools agree that a person must be mentally sane in order for his or her apostasy to be valid. There are different views regarding a Muslim turning apostate under duress, or while drunk. While Hanafis maintain that the apostasy of a drunken person is not valid, since the person is not fully aware of his actions, Malikis, Safi'is and Hanbalis regard it as valid.⁷⁶

⁷⁵ Saeed & Saeed, 2004:86

⁷⁶ Saeed & Saeed, 2004:51

Religious background of apostates

There are few scholars who recognise any difference between the apostasy of a person who was born a Muslim and that of a non-Muslim who converted to Islam and then denounced their faith. Malik ibn Anas viewed the apostasy of a person who was born a Muslim to be more serious. Similarly, Ibn Hanbal rejected the offer of repentance to those who were born Muslims.⁷⁷

Ensuring a fair trial

Since the punishment for apostasy is an extremely serious one, Muslim jurists have sought ways to ensure that individuals are not accused of apostasy because of a personal grudge or interest. For this reason, in order to reach a verdict, judges either need to have the full confession of the apostate, or testimonies of two righteous Muslim men. False accusations on any *hudud* punishment have brought *tazir* punishments on the accuser in the forms of imprisonment or flogging. Islamic law also limits the implementation of punishment to rulers. Only a Muslim prince, sultan or caliph can give permission for the execution of an apostate. However, this measure is automatically undermined by the belief that the murder of an apostate is not a crime or a sin, and no punishment or recompense is prescribed for those who take the law into their own hands.⁷⁸

Chance for repentance

Malikis, Shafis and Hanbalis regard the opportunity for repentance as compulsory before the apostate can be put to death. These schools agree on a three-day period for the apostate to consider repentance before facing the death penalty.⁷⁹ However, if the apostate is murdered before he was given a chance to repent, the murderer is not held accountable for the killing. No punishment has ever been prescribed for the murderer in Islamic tradition. For this reason, Abu Hanifa argues that if the offer for repentance was mandatory, there would be a penalty stipulated for those who failed to provide an opportunity.⁸⁰ Hanafis agree with other schools on a chance to repent, but they do not see it as compulsory as the apostate already knows Islam and has taken his decision consciously. Ahmad b. Hanbal and Al-Sahafi'i allude to the presence of other traditions, which reject the chance for repentance completely and demand for the immediate punishment of an apostate who was born a Muslim.⁸¹

Punishment of female apostates

Although there is hardly any disagreement on the punishment of a sane male apostate, shari'a schools have held different views on the punishment of women and minor apostates. Abu Hanifa argued that a female apostate should not be killed but imprisoned. Abu Hanifa recommended that during her imprisonment she should be given thirty-nine lashes 'every now and then' until she repents or dies in prison.⁸² The apostasy of a slave-girl can be dispensed with completely. Her owner is obliged to force her back to Islam, but he can still keep her for work even though she may refuse to become a Muslim.⁸³

Abu Hanifa's arguments had been based on the Prophetic tradition of not killing women and children, including during war, as well as the minimum socio-political risk a female apostate poses, since she cannot take up arms to fight against Muslims. Burhan al-Din Ali al-Marghinani (1135-1197), in his *Hidaya*, one of the most respected references for Hanafi law, argues that "this compulsion [to become a Muslim] is to be executed by her master, because in this a regard is had to the right both of God and of the master. It is elsewhere mentioned that a female apostate must be daily beaten with severity until she return to faith" (sic).⁸⁴

Al-Shafi, Malik b. Anas, Ibn Abi Layla and Ibn Hanbal disagree with Abu Hanifa's view and see no difference between the apostasy and punishment of a male or a female Muslim. The *hudud* punishments are applied to both sexes. Ibn Hanbal even rejects the offer of repentance granted to female apostates.⁸⁵ Malikis hold that the death penalty may be postponed due to pregnancy or breastfeeding.⁸⁶

⁷⁷ Friedmann, 2003:135

⁷⁸ Saeed & Saeed, 2004:56

⁷⁹ Saeed & Saeed, 2004:54

⁸⁰ Friedmann, 2003:127

⁸¹ Ibid., pp 130

⁸² Friedmann, 2003:136

⁸³ Friedmann, 2003:158

⁸⁴ Warraq, 2003:23

⁸⁵ Friedmann, 2003:139

⁸⁶ Saeed & Saeed, 2004:52

Punishment of minors

In terms of the punishment of a minor, all schools agree that if a minor is young enough not to comprehend what it means to be a Muslim and an apostate, his or her apostasy cannot be valid. However, there are two dominant views for minors who are conscious of religious beliefs but who have not reached the age of puberty (*baligh*). Prof Abdullah Saeed points out that Shafi'is believe that even if a minor can understand the issue, he or she still needs to have reached puberty to be culpable for apostasy. Malikis, Hanbalis and Hanafis argue that minors are responsible for their apostasy if they are at a stage of understanding right and wrong, even before puberty.⁸⁷

Methods of physical punishment

The Encyclopaedia of Islam comments that the execution of an apostate "should be by the sword" and according to some traditions "the apostates must sometimes have been tortured to death".⁸⁸ As an example, the Encyclopaedia's entry on *murtadd* cites the caliph Umar II who had apostates "tied to a post and a lance thrust into their hearts".⁸⁹ Yohannan Friedmann draws attention to the Shafi'i jurist, Ibn Surayj, who thought that "the apostate should not be dispatched with the sword, but rather beaten to death with a stick: such a slow method might provide him with an additional opportunity to repent".⁹⁰

Civil death

Besides physical death, Islamic law prescribes 'civil death' for the apostate. Until the death penalty is applied or when the apostate is imprisoned or escapes from the world of Islam, shari'a laws carry severe consequences for the marital status and property of the apostate. There is a consensus that the marriage of an apostate is annulled following conversion, and he or she must be separated from the Muslim spouse. However there are differing opinions regarding the marital status of apostates if both spouses convert.

Property rights

For Maliki, Shafi'i and Hanbali jurists, the property of an apostate becomes a "spoils of war" if the apostate dies in disbelief. For the Hanafi school, the property of the apostate is distributed among the Muslims heirs, if the apostate does not repent and is killed.⁹¹ There are differing views regarding the property rights of an apostate who has been charged with apostasy but has not yet repented or been executed. Most schools agree on the 'freezing' of an apostate's assets until his or her fate is certain. Al-Nawawi, in his manual on Shafi'i law, *Minhaj al-talibin*, records the following:

All authorities, however, are agreed that an apostate's property may in no case be left at this disposition, but must be deposited in charge of some person of irreproachable character. But a female slave may not be so entrusted to a man; she must be entrusted to some trustworthy woman. An apostate's property must be leased out, and it is to the court that his case under going enfranchisement by contract should make his periodical payments.⁹²

Coercion in shari'a

The implications of converting from Islam ranges from the loss of basic socio-economic rights, indefinite imprisonment, severe physical punishment, or the death penalty or in apostates fleeing their communities to escape such punishments. As will be seen, although the death penalty is not often applied by Islamic states today, civil death continues to be practised and apostates are often forced to flee.

Even though the Qur'an clearly states that there should be no coercion in religion (2:256), meaning that non-Muslims should not be forced to accept Islam, Islamic law clearly teaches coercion when it comes to dealing with apostates. The tolerance and protection granted to non-Muslims under the *dhimmi* status⁹³ does not apply to apostates. As Bernard Lewis states:

the apostate of renege, in Muslim eyes, is far worse than the unbeliever. The unbeliever has not seen the light, and there is always hope that he may eventually see it. In the

“Even though the Qur'an clearly states that there should be no coercion in religion (2:256) meaning that non-Muslims should not be forced to accept Islam, Islamic law clearly teaches coercion when it comes to dealing with apostates.”

87 Saeed & Saeed, 2004:52

88 Encyclopaedia of Islam, New edition; Volume VII, pp. 635

89 Ibid., pp.635

90 Friedmann, 2003:131

91 Saeed & Saeed, 2004:53

92 As quoted by Warraq, 2003:25

93 *Dhimmi* refers to the protection offered to non-Muslims, particularly Jews and Christians, living under an Islamic rule. In return for paying a hefty tax and accepting a secondary social and political status, *dhimmis* are allowed to preserve their faith and traditions and engage in economic activities.

meantime, provided he meets the necessary conditions, he may be accorded the tolerance of the Muslim state and allowed to continue in the practice of his own religion, even the enforcement of his own religious laws. The renegade is one who has known the true faith, however briefly, and abandoned it. For this offence there is no human forgiveness and according to the overwhelming majority of the jurists, the renegade must be put to death - that is, if male.⁹⁴

As can be seen by the imprisonment of women until they re-convert to Islam, although a non-Muslim should not be 'coerced' to become Muslim, apostates are coerced to *remain* Muslims by threat of punishment. A strong notion of coercion is also present even in the repentance opportunity offered to the sane male apostate, by threatening him with the death penalty.

94 Lewis, 2003:41

Apostasy Laws Today

5

5.1 The Implementation of Shari'a Law

For most modern day Muslims, the language of shari'a means faithfulness to Islam and Islamic values in the face of increasingly aggressive cultural and economic globalisation. It also symbolises a longing for a fair, just and godly society in the face of high levels of corruption in Muslim countries as well as a perceived moral decay among the younger Muslim generations. Only a small number of Muslims demand a strict re-application of *fiqh* formulations, which were perhaps helpful in previous centuries, but are now unable to accommodate modern world realities.

From the Ottomans to the present

The pressure of modernity on the implementation of traditional Islamic jurisprudence began with clear limitations under the reformation process of the Ottoman Empire, including the development of a codified, unified, consistent and dependable legal system. As early as 1839, Sultan Abdul Mejid had issued a decree, *Hatt-i Sherif*, which challenged traditional *dhimmi* attitudes against non-Muslims and asked for the equal treatment of all Ottoman citizens, regardless of their religion. This had also ruled out the use of the death penalty for apostasy.

However, Zwemmer notes that in August 1843, "an Armenian youth, some twenty years of age, was beheaded in Constantinople for apostasy. He had once accepted Islam, then left the country; later on he returned to the practices of Christianity. In spite of threats and promises he adhered to his ancestral faith, with the above results".⁹⁵ According to Zwemmer, England, France, Russia and Prussia formally demanded that the Sultan abolish the death penalty for apostasy. The *Hatt-i Humayun* decree of 1856 further developed the *Hatt-i Sherif*. Sami Zubaida states that "a note annexed to the edict addressed the touchy question of apostasy from Islam: this was not to be punished by death - presumably not punished at all".⁹⁶

With the fall of the Ottoman Empire, Islam entered an entirely new era. The Turkish Republic abolished the caliphate system and adopted secular law in its aspiration to be a modern nation-state modelled on France and Germany.

A similar modern breakaway from Islamic tradition occurred among the Arabic and non-Arabic Muslims of the Middle East and Asia, as the Ottoman Empire and Western colonialism came to an end. What followed the colonial era was not a return to the previous political frameworks of Islamic governance, but experiments in modern nation-state building and Arab nationalism with socialist and secular leanings and close links to the West and Russia.

From 1960 onwards, however, this secularising trend faced severe challenges, often from the grassroots up, as the economic situation and self-serving governance of the ruling elites created widespread disillusionment amongst the masses. With the failures of Arab nationalism and socialism, Islamist groups and movements emerged throughout the Islamic world and were able to provide narratives of Islamic glory, independence and authenticity to their followers.

In response to this, a new wave of political appropriation of shari'a laws began. Muhammad Zia-ul-Haq (1924-1988) in Pakistan, Anwar al Sadaat (1918-1981) in Egypt and Jaafar Nimeiri in Sudan all used and sought to implement shari'a as a response to Islamic opponents who fomented unrest.⁹⁷

These macro re-emergences of *siyasa shar'iya* - political rule centred on shari'a law- in the modern world, imposed shari'a only to a limited extent, even in the most extreme cases. This limited application has been designed to appease the masses by demonstrating the state's faithfulness to Islam, but not gone so far as to endanger international relations and invite serious domestic shortcomings in the judiciary and economy, which we will address further in the next section.

“For most modern day Muslims, the language of shari'a means faithfulness to Islam and Islamic values in the face of increasingly aggressive cultural and economic globalisation.”

⁹⁵ Zwemmer, 1924:44

⁹⁶ Zubaida, 2003:129

⁹⁷ The Saudi kingdom is an exception to the post-1960s discourses of shari'a. Although, the Saudi ruling family, Al Sa'ud, has been legitimised for two hundred years through their relationship with the promoters of Wahhabi Islam, even this is becoming increasingly jeopardised.

This is not to say that traditional shari'a laws do not exist today. Historical shari'a schools continue to influence Islamic thinking, albeit in a limited sphere often divorced from political reality. The Hanafi school is influential in Turkey, Pakistan, Jordan, Lebanon and Afghanistan, the Maliki school dominates Morocco, Algeria, Tunisia, Sudan, Bahrain, Kuwait and some parts of Egypt.⁹⁸ The Hanbali school, with its Wahhabi interpretation, is strictly adhered to in Saudi Arabia, with the Shiite Jafari school is followed closely in Iran.

However, as the fervour of the resurgence of political Islam has died down, the use of traditional shari'a laws has steadily diminished. This is despite the fact that the language of shari'a is often used today for political legitimisation, manifested in flamboyant statements by Muslim rulers.

The diminution in the application of shari'a law is evidenced by the fact that most of today's Muslims do not live in states that practice shari'a law. According to a study on the constitutions of Muslim countries by the United States Commission on International Religious Freedom (USCIRF) today there are 1.3 billion Muslims in the world, one billion of whom live in forty four countries with predominantly Muslim populations.⁹⁹

Of the forty four Muslim-majority countries, only ten are officially declared as Islamic nations. These ten countries seek to enforce Islamic tradition and belief not only as the state religion, but also as the overarching societal framework. They are:

Afghanistan, Bahrain, Brunei, Iran, Maldives, Mauritania, Pakistan, Qatar, Saudi Arabia and Yemen.¹⁰⁰

Only 28 per cent of the Muslims from the forty four majority-Muslim nations live in these ten countries. In addition to these, there are twelve Muslim countries whose constitutions state Islam as the official state religion but are not declared as Islamic nations. These countries are:

Algeria, Bangladesh, Egypt, Iraq, Jordan, Kuwait, Libya, Malaysia, Morocco, Qatar, Tunisia, U.A.E.

There are eleven Muslim countries which are declared as secular states:

Azerbaijan, Burkina Faso, Chad, Guinea, Kyrgyzstan, Mali, Niger, Senegal, Tajikistan, Turkey and Turkmenistan.

The Republic of Turkey, sitting at the 'liberal' end of the spectrum of Muslim countries, is completely based on secular European laws and enforces a strict interpretation of secularism that even bans Muslim women from wearing headscarves in the civil service and at university. According to research done by Sabanci and Isik Universities in 2006, only 9.1 per cent of Turks would like to see the implementation of shari'a in the country.¹⁰¹ This deeply internalised secularism in Turkey, seen in the pro-EU and pro-democracy attitude of the ruling AK Party, which has roots in political Islam, is unique in the Islamic world.

The remaining eleven Muslim countries have not taken any constitutional stand on the relation of Islam to the state or the secular nature of the state. These are:

Albania, Comoros, Djibouti, Gambia, Indonesia, Lebanon, Sierra Leone, Somalia, Sudan, Syria, Uzbekistan.

Therefore, more than half of all the world's Muslims live in countries that have either declared to be secular, or have not declared Islam as the official state religion. When the reality of political structures of Muslim countries are juxtaposed with that of the dominant rhetoric of being faithful to shari'a, a wide disparity surfaces between what is said and lived.

98 Kamali, 1999:113

99 *A Comparative Textual Analysis of the Constitutions of Predominantly Muslim Countries*, USCIRF, 2005:6. This section uses the findings of this study unless otherwise stated

100 See Table II for relevant articles in the constitutions of these ten countries

101 "Turkiye Saga Kaydi", Milliyet Gazetesi, 14 June 2006 <http://www.milliyet.com.tr/2006/06/14/guncel/agun.html>

TABLE II: Declared Islamic States and Quotes from their Constitutions: *

Country	Constitutional Basis for Islam	
Afghanistan	Article 1	Afghanistan is an Islamic Republic, independent, unitary and indivisible State.
	Article 2	The religion of Afghanistan is the sacred religion of Islam. Followers of other religions are free to perform their religious rites within the limits of the provisions of law.
Bahrain	Article 1	a. The Kingdom of Bahrain is [a] fully sovereign, independent Islamic Arab State...
	Article 2	The religion of the State is Islam. The Islamic Shari'a is a principal source for legislation...
Brunei	Article 3	(1) The religion of Brunei Darussalam shall be the Muslim Religion according the Shafeite sect of that religion. Provided that all other religions may be practiced in peace and harmony by the person professing them in any part of Brunei Darussalam.
	Article 3	(2) The Head of the religion of Brunei Darussalam shall be His Majesty the Sultan and Yang Di-Pertuan ["Supreme Ruler"].
Iran	Article 1	The form of government of Iran is that of an Islamic Republic, endorsed by the people of Iran on the basis of their longstanding belief in the sovereignty of truth and Qur'anic justice...
	Article 2	The Islamic Republic is a system based on belief in: 1. the One God (as stated in the phrase "There is no god except Allah"), His exclusive sovereignty and the right to legislate, and the necessity of submission to His commands; 2. Divine revelation and its fundamental role in setting forth the laws...
Maldives	Article 1	The Maldives shall be a sovereign, independent, democratic republic based on the principles of Islam...
	Article 7	The religion of the State of the Maldives shall be Islam.
Mauritania	Article 1	Mauritania is an indivisible, democratic and social Islamic Republic.
	Article 5	Islam shall be the religion of the people and of the State.
Oman	Article 1	The Sultanate of Oman is an Arab, Islamic, Independent State with full sovereignty and Muscat is its Capital.
	Article 2	The State's religion is Islam and Islamic Sharia is the basis for legislation.
Pakistan	Article 1	(1) Pakistan shall be [a] Federal Republic to be known as the Islamic Republic of Pakistan, hereinafter referred to as Pakistan.
	Article 2	Islam shall be the State religion of Pakistan
Saudi Arabia	Article 1	<i>The Basic System of the Consultative Council (Decree A/90), 1992</i> The Kingdom of Saudi Arabia is an Arab and Islamic sovereign state. Its religion is Islam, and its constitution, the holy Quran and the prophet's Sunnah...
	Article 6	The citizens will take allegiance before the monarch in line with the holy Quran and the prophet's Sunnah.
Yemen	Article 1	The Republic of Yemen is an independent, sovereign, Arab Islamic State which is inseparable and no part of it shall be ceded.
	Article 2	The Yemeni people is part of the Arab and Islamic nation Islam is the religion of the State and Arabic is its official language.

* This table is adapted from Stahnke, T and Blitt, R. C; The Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Predominantly Muslim Countries; March 2005; prepared for the United States Commission on International Religious Freedom; http://www.uscifr.gov/countries/global/comparative_constitutions/03082005/Study0305.pdf.

5.1.1 Shari'a as a source of legislation

It is important to examine those Islamic countries which declare shari'a law as a source of legislation, as this has a direct effect on the treatment of apostates today.

According to the USCIRF, only twenty-two Muslim countries confer a constitutional role to Islamic principles and jurisprudence.¹⁰² These countries are:

Afghanistan, Algeria, Bahrain, Comoros, Gambia, Egypt, Iraq, Iran, Jordan, Kuwait, Libya, Malaysia, Maldives, Mauritania, Oman, Pakistan, Qatar, Saudi Arabia, Sudan, Syria, U.A.E., and Yemen.¹⁰³

In all of these countries, although shari'a or Islam is stated as the 'source' or 'basis' of legislation, or given a legislative role, what these statements actually mean in practice varies from state to state. At one end of the spectrum, Saudi Arabia has flatly rejected a written constitution, since it claims to have the Qur'an and shari'a as its constitution. Its judiciary is drawn from Wahhabi clerics and its courts are modelled on medieval shari'a courts with the judge acting simultaneously as prosecutor, defence and jury.

Iran, unlike Saudi Arabia, has a strong modern legal system even though Article 12 of its constitution declares that "the official religion of Iran is Islam and the Twelver Ja'fari school, and this principle will remain eternally immutable. Other Islamic schools, including the Hanafi, Shafi'i, Maliki, Hanbali, and Zaydi, are to be accorded full respect, and their followers are free to act in accordance with their own jurisprudence in performing their religious rites." Article 168 of the constitution states that the judiciary functions "in accordance with the criteria of Islam" and Article 4 declares that "all civil, penal financial, economic, administrative, cultural, military, political, and other laws and regulations must be based on Islamic criteria".

Although the ambiguous "Islamic criteria" is declared the supreme basis of law, post-Islamic revolution Iranian law has maintained a significant number of secular laws inherited from the Shah era. Islamisation of Iranian law has focused primarily on the penal code and personal status law, and unique laws such as "blood money." Thus, Islamic Iran has never fully switched to shari'a and made traditional jurisprudence its basis. In reality, the populist rhetoric masks a creative fusion of modern and Islamic laws.

Further along the spectrum, Jordan, just like Iran, limits shari'a to personal status law and the running of Muslim endowments (*waqf*). Article 104 of its constitution creates two different court systems on religious matters; a) Shari'a courts for Muslims, and b) courts for recognised non-Muslim religions. In this micro-plural system, non-Muslim citizens are exempted from shari'a. The lack of a constitutional court creates problems when decisions of the shari'a court contradict those of the civil courts, human rights provisions in the Jordanian constitution or international treaties to which Jordan is a party.

Pakistan's constitution declares shari'a as the *Grundnorm*- basis of law in Article 41 and Section 227(1) states "all existing laws shall be brought in conformity with the injunctions of Islam as laid down in the Holy Quran and Sunnah, in this Part referred to as the Injunctions of Islam, and no law shall be enacted which is repugnant to such Injunctions."¹⁰⁴ Even though Pakistan has retained much of its law from the British, including criminal law, Zia Ul-Haq's Islamisation politics created a Federal Shari'a Court which oversees the application of *hudud* punishments for certain crimes such as adultery.

Egypt has undergone a similar political process to Pakistan. Article 2 of the Egyptian constitution states that "Islam is the religion of the state and Islamic jurisprudence is the principle source of legislation." Article 2 was amended in 1980 from the original, which stated that Islam was "... a principle source of legislation", turning shari'a law into 'the' primary basis. However, Egypt has no shari'a courts and its legal system is mostly secular, which limits the use of Islamic jurisprudence to personal status matters such as marriage, custody and inheritance.

¹⁰² USCIRF, 2005:9

¹⁰³ See Appendix IV: "Islam and Shari'a in Islamic Constitutions" for relevant articles in the constitutions of these twenty-two countries

¹⁰⁴ As quoted by Barends, 2005:69

The *de facto* operation of including shari'a in the Egyptian constitution suggests that far from 'the' primary basis of Egyptian law, it is not even a major one. Therefore, the change in Article 2 from 'a' to 'the' must be interpreted within the political context of Anwar Sadaat and his efforts to appease growing Islamism, rather than an actual legal stand.

Perhaps the most complicated application of shari'a in today's world is the legal system of the multiethnic country of Malaysia. Even though being a Malay is constitutionally defined as being a Muslim and Article 3 declares Islam as the official religion of the Federation, Malaysia does not consider itself as an Islamic country with shari'a as its supreme legal basis. Malaysia limits the application of shari'a to Muslims in personal law and religious matters and only in certain states of the Federation. Apostasy is a capital offence in the states of Kelantan and Terengganu.

Interestingly there are four further countries, which declare Islam as the state religion but do not provide any constitutional or legal role for Islamic jurisprudence: these are Bangladesh, Brunei, Morocco, and Tunisia. The constitution of Bangladesh declares in Article 8 that, "absolute trust and faith in the Almighty Allah shall be the basis of all actions" but that this fundamental principle "shall not be judicially enforceable."

So although twenty two countries today give a constitutional role to Islamic principles and jurisprudence, the implementation of shari'a is far from uniform across the states. The majority of these nations' application of shari'a is limited at best, usually in the areas of personal status law and certain criminal offences. However, even in the most radical examples of Iran and Saudi Arabia, a clever strategy of balancing shari'a with the realities of contemporary governance is apparent.

Balancing shari'a law with the demands of the modern world

Ayatollah Khomeini had developed the doctrine of *maslahat*, which describes the interest of the state and community in appropriating Islam for today's world. In terms of this doctrine, the *faqih*, the ruling grand leader, has authority to override and contradict shari'a when he deems that it is harmful for the greater good of society. Khomeini even saw basic Islamic practices such as prayer and pilgrimage as 'secondary', and therefore dispensable, if they worked against the nation's 'interests'. This doctrine is in serious contradiction to the rhetoric of the fixed and divine nature of shari'a and 'decrees of Allah'. The debate and consequent change in the official and religious position on birth control in Iran is an example of how present day challenges might result in a break from tradition.¹⁰⁵

Saudi Arabia, in trying to follow Islamic jurisprudence as closely as possible, remains the sole example of a country that clearly refuses to have a constitution on theological grounds. Even though it is easy to declare such a strong theological stance, living up to it has proved extremely difficult. The discovery of oil resulted in strong social and political change in Saudi life. The effect of oil wealth resulted in the urbanisation and rapid modernisation of a deeply traditional tribal society. This placed heavy demands on the government for dramatic political change leading to a radical departure from Islamic traditions. For example, certain regions in the Kingdom became exempted from shari'a standards governing economic activity.

A modern country cannot survive without a dependable and consistent legal system. Therefore, the uncoded and disparate nature of shari'a formulations forced King Abdul Aziz (1876-1953) to issue decrees bringing order to the medieval shari'a and tribal courts. Even though Article 1 declares the Qur'an and Sunna as the constitution, the decree of Basic Law issued by King Fahd in 1992 is the *de facto* constitution of the country. This, together with the modern structures of a Ministry of Justice and a system of appeal over the decision of shari'a courts as well as quasi defence lawyers for the accused, signal a departure from Islamic history. Recent legal reforms announced include the creation of a Supreme Court as the highest legal authority, which will be formed by appointed qualified lawyers and not clerics. There are also efforts to specialise the courts on criminal law, personal status and commercial issues.

The Royal Family draws a significant source of its power from links with the influential Wahhabi clerics and ideology, therefore they have to meet the demands of the modern world while appeasing a strongly religious society that aims to keep Islam pure. Although change is a precarious process and reform may seem to be slow, even Saudi Arabia has not been able to escape the modernising forces of the contemporary world.

105 See Neil Macfarquha, "With Iran Population Boom, Vasectomy Receives Blessing", The New York Times, 8 September 1996 <http://query.nytimes.com/gst/fullpage.html?res=9902E2DF123BF93BA3575AC0A960958260&sec=&spon=&pagewanted=all>

Implementation of shari'a law has always been an integral part of power-politics. Even though it is presented as 'God-given', it is a human product influenced by its wider context. Thus no matter how faithful a country claims to be to shari'a, in reality it uses a shrewd mixture of traditional and foreign legal systems. The dynamic nature of the application of shari'a signals the possibility of change and a harmonisation with international law, even when some Muslim countries reject some freedoms provided in the international human rights treaties.

Why apostasy is still an issue

Although it is becoming clear that even the most zealous countries, such as Saudi Arabia, have adapted to modern economics and judicial structures, the same flexibility and political will for change is not apparent on the issue of apostasy.

There are two primary reasons for this. Firstly, because contemporary Islamic governments find themselves using secular and often European models of law and governance, they feel the need to assert the difference of shari'a in certain areas in order to demonstrate the Islamic identity of the state. Sami Zubaida puts it this way:

It is precisely because the codified *shari'a* in its mundane application to civil matters resembles other profane codes that those who seek the shari'a as an identity and difference marker vis-à-vis the West emphasize those elements in it which are distinct and often disapproved in liberal contexts: the penal provisions, the patriarchal norms, the ban on alcohol and the interdiction of dealing in interest.¹⁰⁶

This is clearly seen in Pakistan where the main presence of shari'a is demonstrated in the enforcement of *hudud* punishments on social taboos such as extramarital affairs. If sexual misconduct is seen as a significant problem that needs to be discouraged in order to protect the morality and Islamic nature of society, then apostasy must be treated with the utmost severity. Since the rule of Islamic governments is primarily legitimised by adherence to Islam, the presence of apostates and of people turning against Islam pose a great danger to the protection of a political Islamic identity.

“Although the contemporary international reality means that Islamic countries do not usually apply the death penalty, states actively persecute converts by placing them in vulnerable situations where they are open to attack by extremists or must endure social pressure.”

Secondly, reluctance to punish the apostate could be used against the rulers by opposition groups and religious fundamentalists. If governments appear to be giving in to the West by not applying shari'a on such a taboo subject, they will face domestic political consequences. Although the contemporary international reality means that Islamic countries do not usually apply the death penalty, states actively persecute converts by placing them in vulnerable situations where they are open to attack by extremists or must endure social pressure.

5.1.2 Contemporary calls for shari'a

When shari'a is implemented as part of a national political programme, there is the opportunity to negotiate with national authorities over the rights and protection of individuals who leave Islam for another religion. However, demands for a strict application of shari'a are no longer limited to the domestic politics of nation-states.

We are now witnessing a new wave of post-national calls by Islamist groups demanding the global implementation of an Islamic order. Just as political Islam emerged from the failures of secular nation building exercises, global radical and militant Islamism emerged from the current failure of political Islam to deliver prosperity and political superiority.¹⁰⁷

¹⁰⁶ Zubaida, 2003:179

¹⁰⁷ See Olivier Roy (2004), *Globalized Islam: the search of a new ummah*. New York: Columbia University Press

Within the popular narratives of a ‘clash of civilisations’ between the World of Islam and the West, there are calls for the re-instatement of the caliphate, militancy and the full application of shari’a law. The elusive and utopian calls of these groups, such as *Hizb ut-Tahrir*, often include enforcement of the death penalty for apostates.

The global vision and network of such groups, being devoid of tangible local political aims, undermine the power of state officials to maintain control within their societies. These groups declare the leaders of Muslim countries as betrayers of Islam, or puppets controlled by the ‘Crusaders’ or ‘Zionists’. Respected scholars, their institutions and grand muftis are all perceived to be bowing down to the demands of ‘sold-out’ politicians. Thus, even when contemporary Muslim scholars speak against temporal punishment for apostasy, the Islamists see this as betraying the truth of Islam.

As Faisal Devji has successfully highlighted, these trends have resulted in the emergence of a global jihad, which no longer has to await orders and regulations from a Muslim ruler in line with Islamic tradition. Rather it encourages individuals to see militant jihad as a personal religious duty that calls on them to define the boundaries of their action for themselves.¹⁰⁸

These untraditional formations, which are not part of modern political systems, make advocacy and the enforcement of human rights incredibly difficult. We are witnessing a breakdown of the traditional power structures of the issuance and implementation of fatwas. Radical groups and individual actors use their own initiative to apply the law by following leaders of their local communities and fatwas issued on the internet by ‘sheikhs’. The outcome for apostates can be fatal, as converts from Islam are vulnerable targets in their communities, who often end up as the victims of a global Manichean battle.

5.2 Codified Laws on Apostasy

In contrast to Islamic jurisprudence, which is unanimous on the punishment of an apostate, contemporary Muslim societies are not resolved on how to handle apostasy. Although official attitudes towards apostasy are still negative, international obligations and sensitivities are adjuring governments to be careful regarding their legislation.

5.2.1 Direct laws

There are three legal ways states deal with apostasy. The first is by direct punishment within a codified legal system. There are, in fact, only a handful of countries where punishment for apostasy is embodied in national law. Sudan and Malaysia have codified laws which stipulate capital punishment for apostasy and Egypt has codified laws which have serious consequences for the personal status of apostates.

Sudan

In a report submitted to the UN General Assembly in 1996 on religious freedom in Sudan, Mr Abdelfattah Amor, then the Special Rapporteur on Religious Intolerance, refers to Article 126 of the Sudanese Penal Code of 1991, which stipulates:

1. Every Muslim who advocates the renunciation of the creed of Islam, or who publicly declares his renouncement thereof by an express statement or conclusive act, shall be deemed to commit the offence of apostasy.
2. Whoever commits apostasy shall be given a chance to repent during a period to be determined by the court; if he persists in his apostasy, and is not a recent convert to Islam, he shall be punished with death.
3. The penalty provided for apostasy shall be remitted whenever the apostate recants his apostasy before execution.¹⁰⁹

¹⁰⁸ See Faisal Devji (2005) *The Landscapes of Jihad*, New York: Cornell University Press

¹⁰⁹ Paragraph 20, addendum 2 of the interim report on the elimination of all forms of religious intolerance relating to a visit to the Sudan, prepared by Mr. Abdelfattah Amor; <http://www.un.org/documents/ga/docs/51/plenary/a51-542add2.htm>

Even though the 1991 Penal Code remains in use, Article 38 of the Interim National Constitution, which came into force in 2005, includes the provision that "no person shall be coerced to adopt such faith, that he/she does not believe in, nor to practice rites or services to which he/she does not voluntarily consent".

Malaysia

In Malaysia, the Syariah Criminal Code (II) Act 1993 of the State of Kelantan and the Terengganu Syariah Criminal Offence Act 2002 both stipulate the death penalty for an apostate who refuses to repent after three days. In most Malaysian states apostasy is punishable with a fine up to RM 5,000 (around £780), three years imprisonment, six lashes of cane or any combination of these punishments.¹¹⁰

Perry Smith notes that in Malacca and Sabah "if a Muslim attempts to change his religion, either by words or conduct, that person is to be detained in the Islamic Rehabilitation Center for rehabilitation purposes, and is required to repent in accordance with Islamic law. Upon repentance being confirmed, the person is released".¹¹¹ There is an ongoing debate on whether these legislations contradict the Federal Constitution and exceed the limits and powers set by the Syariah Courts (Criminal Jurisdiction) Act of 1965 (Amended 1984).

Egypt

Egypt has no shari'a courts and there are no laws that stipulate the death penalty for apostates. On the contrary, Article 40 of the Constitution states, "all 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". Articles 46 and 47 guarantee freedom of belief, practice of religious rites and freedom of opinion respectively. Article 46 stipulates, "the State shall guarantee the freedom of belief and the freedom of practising religion". However these legal provisions and Egypt's obligations under international treaties is somewhat overshadowed in practice by the presence of *hisba law* and the use of shari'a laws in personal status law.

Hisba literally means "accountability" and in practice results in limitations being placed on intellectual and religious freedoms. Before the abolition of Shari'a Courts in Egypt in 1955, under the Islamic principle of *hisba*, any member of the community was entitled to lodge a complaint at court against anyone suspected of being a heretic, or apostate.

After a landmark final ruling by the Court of Cassation in August 1996, *hisba* law was applied in the case of Mr Nasr Hamed Abu Zayd, a Professor of Arabic Literature at Cairo University, who was deemed an 'apostate' for his critical views on Islam, even though he did not convert to another religion. Whilst the court commented on the serious nature of apostasy and the need for punishment, it never defined the punishment. For Mr Zayd, it resulted in the annulment of his marriage, and he and his wife fled from Egypt to Holland shortly after.

Following this case, the government limited the use of *hisba* to the Prosecutor-General, since Mr Zayd had been accused of apostasy and taken to court by a group of Muslim lawyers who claimed to have the right to do so through *hisba*. The Prosecutor-General has the rights to punish an apostate, or anyone who is deemed to have damaged Islam, with 'civic death'.

Besides *hisba*, several laws negatively affect the personal status of converts from Islam. Because of the stance of shari'a on the marriage of non-Muslims to Muslims, a man registered as a Muslim can marry a woman registered as a Christian, whereas a man registered as a Christian cannot marry a Muslim woman. This has serious implications on converts who wish to marry within their newly chosen religion, which will be addressed further in Section 8.

110 For a detailed study see Mohamed Adil, Mohamed Azam (2007) "Law of Apostasy and Freedom of Religion in Malaysia," *Asian Journal of Comparative Law*: Vol. 2 : Iss. 1, Article 6.

111 Perry Smith, "Speak No Evil: Apostasy, Blasphemy and Heresy in Malaysian Syariah Law" *UC Davis Journal of International Law and Policy* Vol:10.2004, p. 385

Muslims who convert to another religion whilst married to a Muslim, risk having their marriages annulled and losing rights over their children if their spouse files a complaint (Law no. 25 of 1920, Law no. 52 of 1929). The Court of Cassation set case law precedent when it ruled:

the invalidity of the marriage of a female Muslim apostate if she gets married after apostasy to a non-Muslim and separation is enforceable... and the impermissibility of changing the name or religion status of the apostate in the identity card information... a women apostate does not originally have the right to marry either a Muslim or a non-Muslim; she is considered dead, and the dead is not subject to marriage.¹¹²

The same ruling also disqualifies a female apostate from family inheritance, in line with Law No. 77 of 1943.¹¹³

5.2.2 Implied laws

Unlike the countries mentioned above, most Muslim countries do not have codified laws on apostasy.

Saudi Arabia

In the case of Saudi Arabia, Article 26 of the Basic Law provides human rights 'in accordance to Islamic shari'a'. Therefore, even though there is no written clause or legislation regarding apostasy, the fact that the country seeks to be faithful to traditional Islamic jurisprudence through shari'a courts automatically makes apostasy a criminal act punishable by death. However, no executions on the grounds of apostasy have been reported in recently.

An Arab Christian living in Saudi Arabia said in an interview with CSW that two years ago five Saudi apostates were arrested and imprisoned for six months. They were released without being charged with apostasy. In May 2007, a Saudi Christian was arrested, later released, and then rearrested because of his conversion. The convert reported that he was tortured by the security forces when he was arrested.¹¹⁴

Mauritania

The situation in Mauritania is similar to that in Saudi Arabia. The country's law has been based on shari'a since 1983. Apostasy is therefore a capital offence punishable by death, but as with Saudi Arabia, this law has never been codified there have been no reports of official executions of converts.¹¹⁵

Iran

There are no direct laws addressing apostasy in Iran.¹¹⁶ However two important provisions in the Iranian constitution create a *de facto* legal stance on the punishment of apostates. Firstly, Article 12 declares Islam as the country's official religion with Ja'fari Shi'ism as the chosen doctrine. Other mainstream Islamic schools of thought, such as Hanafi, Shaf'i, Maliki and Hanbali, are granted 'full respect' and given freedom to exercise their traditions.¹¹⁷ All of these schools of Shari'a agree on capital punishment for the male apostate.

¹¹² Court of Cassation, Case No 1359, Judicial Year 28, 27 Nov, 1984; Case No 162, Judicial Year 62, 16 May 1995

¹¹³ For a detailed legal study of apostasy in Egypt see Hebatallah Ghali, *Rights of Muslim Converts in Egypt*, unpublished thesis submitted to the Department of Law, American University in Cairo, December 2006,

¹¹⁴ Saudi Arabia, International Religious Freedom Report 2007, Released by the Bureau of Democracy, Human Rights, and Labor; U.S. State Department; <http://www.state.gov/g/drl/rls/irf/2007/90220.htm>.

¹¹⁵ Ibn Warraq, in his book *Leaving Islam* (2003:11), cites Article 306 of the Penal Code of Mauritania as, "all Muslims guilty of apostasy, either spoken or by overt action, will be asked to repent during a period of three days. If he does not repent during this period, he is condemned to death as apostate, and his belongings confiscated by the State Treasury". However, capital punishment for apostasy has never been codified in Mauritania.

¹¹⁶ Recently various NGOs have reported a new effort in Iran to codify capital punishment for apostasy, under the Section 5 of a draft penal code legislation which is being reviewed at the Iranian parliament. CSW has not been able to confirm the accuracy of these report at the time of writing and whether this legislation would ever be approved by the Iranian government and parliament. For further information on the draft law; see BBC News, "EU attacks Iran's new penal code", 26 February 2008; http://news.bbc.co.uk/1/hi/world/middle_east/7264810.stm

¹¹⁷ Article 12 states: "The official religion of Iran is Islam and the Twelver Ja'fari school, and this principle will remain eternally immutable. Other Islamic schools, including the Hanafi, Shafi'i, Maliki, Hanbali, and Zaydi, are to be accorded full respect, and their followers are free to act in accordance with their own jurisprudence in performing their religious rites."

Secondly, according to Article 168 of the constitution, the judiciary functions “in accordance with the criteria of Islam”. Article 167 allows for judges to deliver verdicts “on the basis of authoritative Islamic sources and authentic fatwa” in the absence of any relevant legislation in the codified law. Since there is no relevant legislation on apostasy, and the constitution refers the judge to shari’a for guidance, the death penalty is automatically implied. Although there have been no apostasy convictions in Iran for over ten years, the threat of apostasy charges and capital punishment has been used in order to pressure converts who have been detained. Apostasy charges were brought against Mehdi Dibaj in 1994, a Muslim-background Christian. The charges were dropped following international pressure, but Mehdi Dibaj and four other clergymen, some of whom were apostates, were murdered following his release from custody.

Jordan

A more subtle situation emerges in other Islamic countries which declare Islam and shari’a law as ‘the principal source of legislation’. As explained above, most of these countries use a mixture of secular and religious laws, limiting shari’a often to personal status law. In such settings, apostasy can become a major offence, even though there is no direct or codified legal stance on the issue.

For example, Jordan has no codified laws on apostasy. Its legal system, being dominantly secular, limits the use of shari’a mostly to the Status courts. Article 104 of the Constitution creates two different court systems on religious matters: a) shari’a courts for Muslims, and, b) courts for recognised non-Muslim religions, whose members are exempted from shari’a. Although these courts do not have any criminal punishment mandates, their decisions on civic matters, such as marriage, inheritance and official registrations, can have serious consequences for an apostate.

When a convert is taken to the Status court, accused of apostasy by a relative or spouse, the court refers to shari’a law. Since the court has no authority to hand down a criminal punishment, and because there are significant international implications in response to a ruling of capital punishment, apostasy charges take on the equivalence of the annulment of marriages, denial of inheritance and custody rights, removal of official records and confiscation of identification cards. In this way, even though apostasy is not a codified ‘crime’ in Jordan, a convert from Islam faces the risk of ‘civil death’.

During 2005 and 2006 two apostasy cases were heard by the shari’a courts in Jordan. In January 2005, the shari’a appeals court, declaring a Muslim convert to Christianity to be a ward of the state, stripped him of his civil rights and annulled his marriage. The court stated that he no longer had any inheritance rights and that he could not remarry his wife unless he returned to Islam. He was also forbidden from being considered an adherent of any other religion. The verdict also implied the possibility that legal and physical custody of his child could be assigned to someone else. The convert has since left Jordan, received refugee status, and resettled in another country. A similar decision in 2006 left another Jordanian man without identification cards, thus depriving him of basic social rights.¹¹⁸

Kuwait

In 1995, Hussein Ali Qambar converted to Christianity in Kuwait and assumed the name of Robert Hussein Ali. During the custodial dispute with his wife following their divorce, his conversion became public and he willingly spoke to the media about his new-found belief, thus causing a stir in the country. In 1996 he was charged with apostasy at a lower Shiite court, which recommended capital punishment. Although Mr Qambar received threats from radical Muslim groups, no official punishment was either ordered or carried out.

Today, there are only a handful of known converts from Islam to Christianity in Kuwait. One such convert, Musa*, told CSW in an interview in Kuwait City that as long as a convert keeps quiet about his faith he will be able to remain a Christian. Musa had converted from Islam some six years previously, and because none of his friends or relatives knew about his conversion, he had been able to continue in his job at a government office without difficulty. He does, however, fear that if his conversion becomes known and attracts attention from local media and devout clerics, he would have no option but to leave the country, as he may face official apostasy charges or be physically attacked by radical groups.

The use of shari’a law in personal status courts could cause similar difficulties to those in Jordan and Kuwait for converts living in Bahrain, Oman, Qatar and Yemen

118 See Jordan, International Religious Freedom Report 2007, Released by the Bureau of Democracy, Human Rights, and Labor; U.S. State Department.; <http://www.state.gov/g/drl/rls/irf/2007/90213.htm>.

Due to international sensitivities, these countries do not often carry out apostasy verdicts, but, as described in detail below, other laws dealing with national security, or other criminal charges can be used to punish apostates. Owing to the arbitrary and secretive nature of shari'a courts in strongly religious societies which have only a small non-Muslim population, combined with the lack of interest from the international community and international media, there is often no way of knowing when, or if, an individual is detained, charged with, or executed for, apostasy.

5.2.3 Other laws

In addition to direct and implied laws on apostasy, states and security forces use other laws in order to accuse, or charge, converts.

Egypt

In Egypt, converts from Islam are often arrested by the State Security Intelligence Service (SSIS) and charged with damaging national unity and social peace in contempt of religion under Article 98F of the Egyptian Penal Code, which stipulates:

detention for a period of not less than six months and not exceeding five years, or the payment of a fine of not less than five hundred pounds and not exceeding one thousand pounds shall be the penalty inflicted on whoever exploits and uses the religion in advocating and propagating by talking or in writing, or by any other method, extremist thoughts with the aim of instigating sedition, or division, or disdaining and contempting any of the heavenly religions, or the sects thereto, or prejudicing national unity or social peace.

A convert accused under 98F is tried before the State Security Court as a national security threat. On 5 April 2005, Mr Bahaa Ahmed Hussein Mohamed el-Akkad, 57, was arrested following his conversion to Christianity a few months previously. Initially detained without charge by the SSIS at Doqqi State Security Prison in Cairo, he was then transferred to Tora prison after 45 days later. Mr Akkad was accused of contempt of religion under 98F, but was acquitted by the court. Upon his release from Tora prison, he was again arrested without charge and kept by the SSIS in very poor conditions, including solitary confinement, in the notorious Wadi el-Natroun Prison. This despite the fact that the court had ordered his release on 30 July 2006. He was eventually released on 28 April 2007, without explanation or any guarantee that he would not suffer the same ordeal again.¹¹⁹

Iran

In Iran, converts face trial before the Revolutionary Courts on similar accusations of harming national unity. In April 2006, an Iranian church leader was arrested and interrogated about his Christian faith and activities. In June, after a period of solitary confinement and having appeared in court several times, he was told he had been charged with "working against the Islamic government of Iran and conspiracy to overthrow it." If convicted, he could have faced the death penalty. He was later released on bail.

In addition to treason, converts can also be arrested on criminal charges. The US State Department reported that "on 24 July, 2006, the authorities arrested Issa Motamedi Mojdehi in Iran, a Muslim convert to Christianity, following his attempt to register the birth of his son. Charges of drug trafficking were brought against him, which Christian groups said was an attempt to punish him for his conversion".¹²⁰

Pakistan

In Pakistan, converts can be sentenced to imprisonment and death under the infamous blasphemy laws, even though Pakistani law does not legislate directly against the right to change religion.¹²¹ The law states:

Section 295A: "Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs. Whoever, with malicious and deliberate

¹¹⁹ For further information see Compass Direct News; *Egypt Releases Jailed Christian Convert*, 24/5/2007, accessed 04/09/2007; <http://www.compassdirect.org/en/display.php?page=news&lang=en&length=long&id=4883&backpage=index>

¹²⁰ Iran, International Religious Freedom Report 2007, Released by the Bureau of Democracy, Human Rights, and Labor; U.S. State Department.; <http://www.state.gov/g/drl/rls/irf/2007/90210.htm>.

¹²¹ For a detailed account of blasphemy laws, see CSW's briefing Pakistan: Parliamentary Visit 2005; <http://dynamic.csw.org.uk/article.asp?t=report&id=13>

intention of outraging the religious feelings of any class of the citizens of Pakistan, by words, either spoken or written or by visible representations, insults or attempts to insult the religion or religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.”

Section 295B: “Defiling of the Holy Koran. Whoever wilfully defiles, damages or desecrates a copy of the Holy Koran or of an extract there from or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life.”

Section 295C: “Use of derogatory remarks in respect of the Holy Prophet. Whoever, by words either spoken or written, or by visible representation, or by imputation, innuendo or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Mohammad (peace be upon him) shall be punished by death, and shall also be liable to fine.”

Even though 547 persons were formally charged with blasphemy between 1986 to 2005, there have been no official executions.¹²² However, a blasphemy charge, or even accusation, places the individual at serious risk of mob violence, attacks from extremist groups and torture and other maltreatment by the police. The list of known deaths relating to blasphemy charges include Tahir Iqbal, a convert from Islam to Christianity, who was poisoned to death in prison in 1992 while serving his blasphemy sentence. Iqbal was charged with blasphemy on the sole basis of his conversion, and sentenced, even though he suffered partial paralysis that limited him to a wheelchair. He was tortured, mistreated, deprived of basic necessities and held in solitary confinement throughout his imprisonment.

In May 2006, a group of Islamist parties at the *Mutahida Majlis-i-Amal* (MMA) proposed an Apostasy Act to the Pakistani Parliament. The act calls for the death penalty for a male convert who refuses to return to Islam and life time imprisonment for a female convert in accordance with traditional Islamic jurisprudence. The proposed act is under review at the National Assembly’s Standing Committee on Law and Justice.

Algeria

Converts who actively proselytize their newfound faith face the risk of arrest for missionary activities. In 2006, the Algerian Parliament passed a new resolution called “the conditions and rules for the exercise of religious worship other than Islam”. It was approved by the Algerian Parliament in February 2006, came into force in September 2006 and became applicable in May 2007.

The new law stipulates a prison term of between two and five years, and a monetary fine of €5000, for anyone who “incites, constrains or uses any seductive means aimed at converting a Muslim to another religion, or uses to this end establishments for teaching, education, health; organisations of a social or cultural nature; training institutions, or any other establishment, or any financial means”, and who “makes, stores, or distributes printed documents or audiovisual productions or who makes use of any other support or means that aims to shake the faith of a Muslim”. It even criminalises objections or protests against the legislation itself.¹²³

The issue of missionary activity and Muslims converting to the Christian faith in Algeria has caused widespread debate in that country and in the wider Arab world. Conservative estimates put the number of Muslim-background Christians in the country at between 30,000 to 50,000. As tensions between Islamist groups and the government escalate, officials have been pressured to take action on missionary activities.

During the summer of 2007, three Muslim converts were arrested by police officers who had introduced themselves as Muslims interested in learning about Christianity. Although the converts were in clear

122 The report cited above states that “since 1986 at least 635 persons have been accused of blasphemy, and 547 persons were formally charged. A total of 297 cases have been registered. Among the accused, there were 309 Muslims (49%), 236 Ahmadis (37%), 82 Christians (13%) and eight Hindus (1%). In 2004 alone, allegations were leveled against 88 people, but the cases did not proceed. Of these, 83 allegations were leveled against Muslims and five against Christians. At least 20 people have been murdered extra-judicially by extremists, after having been accused of blasphemy. In the first half of 2005 at least 60 people have been accused under the blasphemy laws, 53 of whom have been formally charged. Of the 53 individuals charged with blasphemy, 27 (51%) were Muslims, 23 (43%) Ahmadis, two Hindus and one was a Christian. In April, five children were charged with blasphemy in Khanewal”.

123 For further details of this legislation and its relation to the Algerian Constitution, as well as International Law, see the CSW briefing, *Algeria: Increasing Persecution of Christians in Algeria and the application of Legislation defining Conditions and Rules for the Exercise of Religious Worship other than Islam*, March 2008

violation of the new law, the court decided on their acquittal. Throughout 2008, at least five other Muslim-background Christian leaders were summoned to court and told that they would be sentenced to imprisonment and a monetary fine. In addition to these personal cases, to date ten Protestant congregations, predominantly made up of Muslim-background Christians, have been closed down by the authorities, on the grounds that they must be registered under the new law.¹²⁴

Turkey

In Turkey, Article 115 of the Criminal Code stipulates imprisonment for one to three years for any attempt to force a person to declare or change his or her religious, political or social convictions, and any attempt to stop a person from declaring and propagating such convictions. However, converts who propagate their faith are arrested and charged under other laws, such as reviling Islam (Article 216) and 'insulting Turkishness' (Article 301).¹²⁵ On 11 October 2006, two Turkish Muslim-background Christians, Hakan Tastan and Turan Topal, were arrested and charged under Articles 216 and 301. Their case is recorded in detail in the following section.

¹²⁴ For further details see the CSW briefing, *Algeria: Increasing Persecution of Christians in Algeria and the application of Legislation defining Conditions and Rules for the Exercise of Religious Worship other than Islam*, March 2008

¹²⁵ For further information see CSW briefing, *Religious Freedom Profile: Turkey*, May 2007

6 State Responses to Apostasy

Increasing pressure from the international community on human rights abuses, the access enjoyed by the global media, the effects of negative global public opinion on tourism and foreign investment and the legal and political responsibilities that come with membership of the UN and the signing of international human rights treaties means that many governments deal with apostasy using alternative methods.

This section examines the treatment of apostates by states using largely non-legislative measures. These measures are state initiated or result from negligence on the part of the state to take preventative steps. They result in the most widespread human rights abuses suffered by apostates, even in countries that have full secular laws and publicly demonstrate a positive commitment to international law. Due to the often subtle nature of these measures, abuses can go unnoticed and unchallenged by the international community and media.

6.1 Official Policies against Apostasy

6.1.1 Employment and equal opportunities

Most Islamic countries have official policies that limit the employment of non-Muslims in the state sector and dismiss apostates from their jobs. Iran is one of the few countries in the world that codifies discriminatory policies against non-Muslims in its constitution, penal and civil codes. Article 144 of the Iranian Constitution declares that “the army of the Islamic Republic of Iran must be an Islamic army” and must recruit individuals who are committed to the “objectives of Islamic Revolution.” Although non-Muslims are obliged to do compulsory military service, they cannot be career officers.

Iran’s policy of limiting non-Muslims in the state sectors extends to the rejection of appointment of non-Muslims as judges, security officials and school principals. Therefore, when a Muslim in the civil, military or judicial service converts to another religion, he risks losing his job.

In an interview in a Middle Eastern country, a Muslim-background Christian, Adel*, explained what happened when his conversion became known by his colleagues and supervisor at the government office where he had been working for more than ten years. His supervisor gave him a lengthy lecture about Islam’s superiority over Christianity and the sin of apostasy. When he refused to return to Islam and enter into such discussions at work, his colleagues began to shun him and he was asked to do many humiliating tasks that were not in his job description. His supervisor threatened him with the loss of his job and with informing the police and state-sponsored militia groups of his conversion. Adel was eventually accused of poor performance and disobedience to his superiors; he lost his job and retirement rights and he had no income to support his wife and children. His dishonourable discharge and conversion severely limit what little employment opportunities he may now have.

Adel believes that he has been ‘lucky’ in just losing his job. His wife stated in the interview that she fears he may be arrested at any time and accused of apostasy, treason or espionage. Her fears are not unfounded. Converts who work for the government or the armed forces have faced serious allegations in the past.

In 2004, Hamid Pourmand, a military officer, was arrested with 80 other Protestant church leaders at a conference in Karaj in Iran. All of them were released within a few days, with the exception of Mr Pourmand, who had converted from Islam to Christianity almost twenty years previously. In January 2005, he was tried in a military court on charges of espionage, and on 16 February 2005, he was found guilty and sentenced to the maximum of three years in prison. Pourmand was found guilty of not revealing his true identity, despite presenting documents that proved his superiors were aware of his religion prior to promoting him to the rank of officer.

Pourmand was dishonourably discharged from the army, lost his income, pension and housing for his family. He was brought before a shari’a court in Teheran on several occasions between 13 April and 23 April 2005, but he refused to renounce his faith, despite being pressured to do so. Three months after the initial sentence, Pourmand was transferred to a criminal prison in Bandar-i Bushehr, where he was tried for both

“When a Muslim in the civil, military or judicial service converts to another religion he risks losing his job.”

proselytism and apostasy. However, on 28 May 2005, following international pressure, the judge acquitted him, declaring he had "done nothing wrong" under Islamic law. Pourmand was subsequently held in Tehran's Evin Prison with political dissidents and other prisoners of conscience until 20 July 2006, when he was released without explanation.

Although Iran represents the extreme end of the spectrum, apostates face a low glass ceiling in every Muslim country, which can affect their employment opportunities in the civil service or other sectors, such as telecommunications and the media, and diminishes access to equal opportunities in education. In most countries, security forces keep records of non-Muslims, especially converts attending non-Islamic places of worship. When converts are recorded by the state as apostates, or their conversion becomes apparent during a background check, they often find that their security clearances come up negative when requested by an employer. Cicek*, a young academic in Turkey, told CSW that when she tried to apply for a state-funded project at her university, she was told by her supervisor not to apply. The reason given was that officials knew about her conversion and they would not allow her to participate in the project, even though she was more than suitably qualified.

6.1.2 Religious affiliation records

The most important bureaucratic problem converts face is the inability to change religious affiliation records required by the state. Lebanon is the only country in the Middle East and North Africa, if Turkey is considered to be a part of Europe, where religious records may be changed following conversion.

Egypt

Egypt is a prime example of where religious classification emerges as a serious human rights concern. The Egyptian Civil Code Article 47 of Law No 143 requires every Egyptian citizen to carry a national identity card, which, among other personal details, includes a section on religion. Since Egypt has a plural legal system based on the use of shari'a laws for Muslims in matters of personal status, an individual's religious records are crucial. This has serious consequences for a Muslim-background Christian who is still registered as a Muslim.

On the other hand, when non-Muslims wish to become Muslims, they can easily receive an official certificate of conversion from the religious authorities and change their records within a very short time. This effective procedure does not apply to those changing their records from Islam to any other religion, even though conversion is not prohibited in Egypt and the Civil Status Law provides for the right to change religious records.

There are two groups of Muslims who may wish to change their religious affiliation records. The first group are those who wish to re-convert to Christianity; they were born as Christians, later converted to Islam and then chose to revert to Christianity. The second group are those who were born Muslim but have chosen to convert to Christianity; Muslim-background Christians.

Muslims who wish to retrieve their original Christian identity are dealt with by the Court of Administrative Litigation if the Civil Affairs Registry has refused their application. In an interview with CSW in 2007, an Egyptian human rights lawyer said that there were at least 450 such cases across the country. Human Rights Watch recently documented that at least 211 appeals have been made before the Cairo Court of Administrative Litigation. They note that:

between 2004 and early 2007, the court ruled in favor of a number of these plaintiffs, and the Interior Ministry, usually after long delays, eventually implemented the rulings. But with the retirement in September 2006 of the judge responsible for these favorable rulings, the court has since reverted to its earlier position that re-conversion to Christianity also constitutes apostasy. This development means that the administrative courts appear no longer to be acting as a check on these discriminatory policies of the Ministry of Interior.¹²⁶

¹²⁶ Human Rights Watch, *Prohibited Identities: State Interference with Religious Freedom*, November 2007, Introduction and Summary: Religious Conversion, http://hrw.org/reports/2007/egypt1107/1.htm#_Toc181766674

On 9 February 2008, the High Administrative Court ruled in favour of twelve Coptic Christians who had converted from Christianity to Islam, but then chosen to reconvert to Christianity. The court's decision cannot be appealed and obligates the Ministry of Interior Affairs to issue Christian identity cards for the twelve applicants. However, the court ordered that the phrase "ex-Muslim" be used on the records. This demonstrates how far Egypt still has to go on this issue before it is compliant with international religious freedom standards.

In contrast, Muslim-background Christians are often dealt with by the State Security Courts. These courts decide whether to extend an apostate's detention or whether to release him. Typically, the apostates will have been arrested and detained by the State Security Intelligence Service (SSIS) without charge. Hebatallah Gali illustrates this irony well in her excellent dissertation on the subject; "Converts of the first category [Converts who wish to retrieve their Christian identities] often file actions requesting a change of religion in the identity card; whereas converts of the second category [Muslim-background Christians] often file petitions for release."¹²⁷

Article 40 of the Egyptian Constitution states that: "All 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" and Article 46 declares, "the State shall guarantee the freedom of belief and the freedom of practising religion". However, the use of shari'a law in personal status law and official state attitudes towards apostasy makes it impossible for converts from Islam to change their records.

To date, only one Muslim-background Christian has legally challenged the Egyptian government's de facto denial of the fundamental right to choose a religion and to live accordingly. On 2 August 2007, Mohammad Ahmed Hegazy, a 25-year-old convert from Islam to Christianity, filed suit against the Interior Ministry, following the failure of previous attempts to change his religious records at the Civil Affairs Registry.¹²⁸

Mr Hegazy had converted to Christianity in 2003 and was previously detained and tortured by the SSIS. Since he and his wife had not been able to change their records, they were forced to have a Muslim marriage due to their legal status as Muslims. However, the upcoming birth of his first child, born on 10 January 2008, prompted him to take a legal stand in order to make sure that his child would be recorded as a Christian and not as a Muslim. If registered as a Muslim, his daughter would be obliged to attend Islamic Religious Education and treated officially as a Muslim, even though her family was now Christian.

The original lawyer for the case was Mamdouh Nakhla, of the al-Kalema Centre for Human Rights, who received numerous death threats, including from the State Security Police. He also faced three lawsuits because of the case, which included accusations of 'causing sectarian strife'. Nakhla officially withdrew from the case in August 2007. Despite his lawyer's withdrawal, Muhammad Hegazy continued with the case, represented by lawyers Rawda Ahmed and Gamal Eid of the Arabic Network for Human Rights Information, who took the brave decision to defend him.

After several hearings and adjournments, on 29 January 2008 Judge Muhammed Hussein ruled against Hegazy, basing his decision on Article 2 of the Egyptian constitution, which identifies shari'a as 'the primary source of legislation'. Hussein argued that since Islam was the last of the three 'heavenly religions', to be a Muslim was to practice freedom of religion. Furthermore, one was not allowed to 'backslide' from Islam, since to do so would be to insult the 'great religion'.

Owing to the numerous death threats Hegazy had received and the wide coverage of his apostasy in the media across the Arab world, he and his family have had to go into hiding. On 11 October 2007, Hegazy's vacated flat was broken into, with much of its contents smashed and burnt. At the time of writing, he and his young family are still in hiding and currently deciding whether or not to appeal the court's decision. The outcome of Hegazy's case will be of great significance to the fate of the Muslim-background Christian community in Egypt, estimated to number a few thousand people.

127 Hebatallah Gali; *Rights of Muslim Converts in Egypt*, unpublished thesis submitted to the Department of Law, American University in Cairo, December 2006, p 6

128 The following information on the details of Hegazy's case is abridged from CSW's case briefing: "Muhammad Ahmed Hegazy, Christian Convert", 6 February 2008.

Turkey

There are today around 3,000 known Muslim-background Turkish Protestant Christians. Although the right to choose a religion has always been protected under Turkish law, it was practically impossible to change religious affiliation on state documentation. Until Turkey's increasing openness and commitment to EU integration under the ruling AK Party, a convert had to take the serious social risk of filing an official application through the courts, which would decide whether or not a convert's new religion was acceptable before the records could be changed. This procedural absurdity, which made it almost impossible for converts to change their ID, was eventually revoked.

In its place, a convert was obliged to produce a baptismal certificate received from one of the officially accepted Christian churches: Armenian, Greek, Catholic and Anglican churches. This still posed a problem for converts since most are members of Turkish Protestant churches, which are not recognised by the government. Over the last two years, however, the implementation of EU criteria has enabled records to be changed by a simple letter written by the convert to the authorities. Thanks, therefore, to international pressure, Turkish citizens can now officially declare a religion of their choice, and even opt to leave the section recording religious affiliation on their ID blank.

Sadly, the situation in Lebanon and Turkey are the exceptions. Most Muslim countries keep official records and issue national ID cards which state the holder's religious affiliation. In the other countries of the Middle East and North Africa, a convert will always remain officially Muslim.

This means that they will be bound by shari'a rulings across a wide range of personal status areas, from marriage and divorce, to inheritance and to custody rights. They will be obliged to have Muslim weddings if they wish their marriages to be officially recognised and their children will be required to attend compulsory Islamic religious education classes. They will face harassment from security forces, who will also deny them entry to church premises. They will not be allowed to attend any Bible school or non-Muslim theological institutions across the region. Consequently, each time they attend a non-Muslim service, spend time with non-Muslims, or are found to be in possession of non-Muslim literature, they run the risk of being charged with apostasy, or contempt of religion.

6.1.3 Use of propaganda in influencing public opinion

Turkey has used state-initiated campaigns to influence public opinion on apostates. Prior to 2005, apostasy in the media was limited to sensational news items across the country, which reported that missionaries were covering Turkey like a 'spider's web', luring young Turks into their traps with offers of money and employment. In 2005, the issue re-emerged and occupied the media following high level statements from politicians and commentators who spoke about the grave danger the 'Christianization of Turkey' posed to national security.

On one frequently-cited occasion, Rahsan Ecevit - the wife of the much respected late Prime Minister Bulent Ecevit - warned that the Turkish nation was facing a great danger through the EU alignment process, which had opened doors for religious groups to promote their faith. Mrs Ecevit stated:

Churches have even spread into meeting in flats in residential buildings. Our citizens are being Christianised through various means. America tops the list of those who await the increase of Christian population in Turkey. America thinks that if the Christian population increases, it would be easier to dismantle Turkey. America dreams to actualize her Grand Middle East Project in this way.¹²⁹

The renewal of the subject led to the submission of a report by the police on missionary activities to the National Security Council in February 2005. A similar report signalling the national threat posed by missionary activities was submitted to the Council in 2001 by the National Intelligence Agency.¹³⁰ Proselytization, conversion and public expressions of faith are rights protected by the Turkish constitution and Penal Code, as well as by international human rights treaties to which Turkey is a party, such as the ICCPR and the ECHR. As many public commentators, politicians and religious leaders in Turkey have stated over the years, this means that such activities, "sadly", cannot be criminally punished or officially stopped. Instead, the Turkish state has taken steps to address the issue by briefing security and military forces on

¹²⁹ Rahsan Ecevit, "Misyonerlerin Amaci Turkiye'yi Parcalamak", Zaman Gazetesi, 05 January 2005

¹³⁰ Tarik Isik, "Sagci da Solcu da Misyonerlik alarmi veriyor" Radikal Gazetesi, 20 April 2007

missionary activities, sponsoring and disseminating reports, holding seminars on missionary activities, preaching sermons in the mosques, publishing sensationalist articles in the newspapers and having state officials speak publicly about the dangers posed by missionary activities.

One Turkish Muslim-background Christian described in an interview with CSW the shock he had received during the National Security briefing given to army officers. A picture of his pastor, a Muslim-background Christian, was shown on the screen as a national security threat. In the briefing, high ranking intelligence officers told the new recruits that the Turkish nation faces serious dangers from the separatist Kurdish terror, Islamist groups and the activities of non-Muslims, particularly Christians.

The Directorate of Religious Affairs sent a sermon to be preached at the local mosques on 11 March 2005, in which all Muslims were called on to protect and enshrine Islam against missionary work, which was described as the embodiment of the crusades:

Some powers, afraid of the incredible expansion of Islam, had formed crusading armies to wipe out Muslims. They failed because the crusaders were fighting a self-confident society whose members believed in justice. The same powers are trying to sever our people's links to Islam because they see it as the biggest obstacle to their domination. These highly organized forces are using ethnic differences and economic and political hardship to entice our children.¹³¹

One week after this sermon was preached nationwide, the International Protestant Church of Ankara received a bomb threat, and in April the same church was attacked with Molotov cocktails.

The Directorate's call to defend Islam was echoed widely by officials, social commentators and academics, who asked society to be vigilant against missionary activities and conversion. Mehmet Aydin, then a State Minister, stated before the Turkish Parliament on 27 March 2005 that "the goal of missionary activity is to break up the historical, religious, national and cultural unity of the people of Turkey", and that Christian missionaries have "ulterior political motives," and their activities "have a historical background."

This official attitude continued throughout 2006 and 2007 amidst fatal attacks on Christians. After the grotesque murders of two Turkish apostates and one German missionary on 18 April 2007 in Malatya, Niyazi Guney from the Ministry of Justice, declared before the Justice Commission at the Turkish Grand National Assembly that missionary activities in Turkey were a lot more dangerous than terror attacks and that there was a strong parallel with the end-days of the Ottoman Empire.¹³²

Mehmet Aydin and Niyazi Guney were referring to the fall of the Ottoman Empire, when non-Muslim subjects, such as Greeks, Bulgarians and Armenians, had sought to declare their independence from Turkish rule by enlisting the help of foreign powers and missionaries. This played a significant role in the formulation of the need for a homogenized nation state, citizens of which would speak one language, adhere to one religion and refer to themselves as Turks. In this scenario, a non-Muslim cannot be considered a Turk, and as is widely said in Turkey, "a Turk has no friend besides a Turk".

In addition to official statements, the Turkish media widely reported on missionaries, accusing them of offering money, sex with under-age girls, visas for the U.S. and Europe, employment and alcohol in order to convert vulnerable Turkish youths to the Christian faith and eventually turn them against their nation. Even though the state runs an effective media watchdog, the Supreme Board of Radio and Television (RTUK), to monitor and control the media, these slanderous accusations were never challenged, criticized or punished, despite the fact that RTUK's mandate includes intervention for stopping racist and provocative reporting.

This dangerous move on the part of the Turkish state has only served to cement the already present suspicion towards non-Muslims and widespread beliefs in conspiracy theories. It has achieved an almost unanimous social attitude against missionaries and created a much needed scapegoat in a turbulent period in the history of the Turkish Republic.

131 "Missionaries the New Crusaders", Turkish Daily News, 24 February 2005

132 Tarik Isik, "Sagci da Solcu da Misyonerlik alarmi veriyor" Radikal Gazetesi, 20 April 2007

Alignment with EU criteria on human rights has been interpreted by nationalist and right wing groups as an attempt to undermine Turkey through the strengthening of minorities. The AK Party government has been continually accused of 'selling out' the Turkish nation to the West. Interestingly, as the AK Party was accused of having a secret Islamist agenda to bring shari'a into the country, they were also accused of being secret Jews and Western agents trying to bring Turkey under Western domination.

With increasing unemployment and social unrest in the country, together with calls from politicians and the Armed Forces to defend the nation from internal enemies who work for foreign powers, 2006 and 2007 saw a significant increase in attacks on non-Muslims in Turkey. Attacks on Muslim-background Christians by nationalist youths, who were encouraged or organized by members of nationalist parties and security and intelligence officers, were particularly notable.

These actions by the Turkish state have unquestionably put its non-Muslim citizens in a vulnerable situation and have also fostered a dangerous public opinion towards apostates. The current persecution of Muslim-background Christians in Turkey does not stem from Islam, neither is it caused by Islamist groups. It has grown out of a secular nation-state that believes that conversion to Christianity or Judaism is synonymous with treason and that those who convert are recruits for Western and Israeli agencies whose aim is to destroy Turkey from within.

However, the consequences of state-initiated propaganda are not just limited to Turkey. It is a well established fact that officially sanctioned and promoted disinformation leads to dehumanisation and marginalisation of minority groups and plays an important role in ethnic and religious violence. This has been the case, for example, in the Serbian massacres of Bosnian Muslims¹³³, as well as the Rwandan genocide.¹³⁴

“It is a well established fact that officially sanctioned and promoted disinformation leads to dehumanisation and marginalisation of minority groups and plays an important role in ethnic and religious violence.”

Attacks on Christians in Turkey during 2006 and 2007 ¹³⁵

A PHYSICAL ASSAULT in Adana in January 2006 on Pastor Kamil Kiroglu, a Muslim-background Christian who was forced to reconvert to Islam by his attackers.

THE MURDER of Roman Catholic priest Andrea Santoro in Trabzon on 5 February 2006

MORE THAN FIFTEEN ATTEMPTED ATTACKS AND DEATH THREATS against the Christian radio station, Radio Shema in Ankara, throughout 2007

THE MURDER of the Armenian Orthodox journalist Hrant Dink on 19 January 2007

AN ATTACK WITH STONES on the properties of Samsun Agape Church, in Samsun on 28 January 2007

THE TORTURE AND MURDER of two Turkish Muslim-background Christians and one German missionary in Malatya on 18 April 2007

PHYSICAL ASSAULTS on two Georgian priests in Artvin on 28 May 2007

AN ATTACK on Pastor Mehmet Sahin Coban's car and his house on 1 May 2007. Pastor Coban, a Muslim-background Christian, has faced regular attacks on his house and church throughout 2006 and 2007

AN ATTACK causing material damage to Koca Mustafa Pasa Agape Church in Istanbul on 26 July 2007

A PETROL BOMB ATTACK on the Eskisehir branch of Istanbul Protestant Church Foundation on 20 May 2007

AN ARSON ATTACK on Istanbul Protestant Church Trust's Izmit Building on 3 September 2007

A FAILED ATTEMPT TO KIDNAP Pastor Orhan Picaklar in Samsun on 25 November 2007

THE STABBING of Roman Catholic Priest, Adriano Francini, in Izmir on 16 December 2007

A MURDER ATTEMPT, prevented by the police, on Pastor Ramazan Arkan, a Muslim-background Christian, in Antalya on 30 December 2007

133 See Ahmed, Akbar S. (2002) "'Ethnic Cleansing': A Metaphor for Our time?" in Hinton, A. Laban (ed.), *Genocide: An Anthropological Reader*, pp: 211-230, Oxford: Blackwell

134 See Thompson, Allan, ed. (2007) *The Media and the Rwandan Genocide*, London: Pluto Press

135 Sources: Alliance of Turkish Protestant Churches, Turkish Media, CSW

6.2 The Abuse of Power by Local Authorities

Apostates regularly face obstruction and mistreatment from local authorities or individuals in positions of power, even where state policies and regulations work in favour of the apostate.

Minik*, a Turkish Muslim-background Christian in his late twenties, stated in an interview with CSW that following the positive developments in the process for changing religious affiliation records, he was encouraged to submit an application, even though he had been a Christian for more than five years. He applied to his local civil registry office, producing a certificate of baptism from the Turkish Protestant Church and a letter stating that he was now a Christian. He expected a straightforward process, but instead was asked to come back the following week. On his return, he was told that he had to get official approval from the *kaymakam*, the local provincial authority. Although Minik argued that such an approval was unnecessary, he was told that this was the procedure.

The *kaymakam*, who already knew about his case, was expecting him. He asked him why he had converted and whether he had been offered incentives to do so from Christians. When Minik insisted that his faith was his own personal choice, the *kaymakam* ended the discussion by giving him some nationalist literature and a lapel pin bearing a picture of Atatürk – the founder of modern Turkey. He requested that Minik return to his office the following week after he had reconsidered his decision.

Apparently unaffected by the books and pin, Minik returned as asked and was dismissed by the *kaymakam*, who told him to apply to the civil registry office. Eventually, after further delays, Minik was able to change his ID. Minik believes that part of the reason he was eventually able to change his religious affiliation on his ID was because he was based in Ankara, where local authorities are under greater control from the central government. Had he applied in a smaller town or more rural setting, he fears he may not have been quite so successful.

This example, which is one of many, suggests that even though there have been significant improvements for the rights of non-Muslims in Turkey, implementation of the law can still be hindered by local officials.

Sadly, apostates often fall victim to abuses of power exercised by individuals, even within institutions outside of the Muslim world, such as National Immigration Offices and the United Nations High Commission for Refugees (UNHCR). Over the years, CSW has received complaints from apostates claiming asylum in the UK or applying for refugee status at the UNHCR, who have been subject to direct threats and insults from Muslim case workers and translators.

One Afghani asylum seeker in the UK, Hassan*, a Muslim-background Christian, whose brothers are Mujahadeen fighting for the Taliban, was told by a Muslim Home Office case worker to stop using his Muslim name. The case worker told him that the use of a Muslim name by an apostate who followed an ‘unholy religion’ defiled Islam.

In addition, Hassan’s translator, who was paid by the Home Office to facilitate communication with the case officer, told him that he regretted coming to work, because it was “such a shameful day to see a Muslim who left Islam and brought shame to his people.” The translator also told Hassan that if he had been from Bradford, England, he would have been “torn to pieces”. Hassan has since filed an official complaint, but to date has not had any response.

Similar stories of mistreatment have been related to CSW by asylum seekers or their sponsors, awaiting refugee status from UNHCR offices in Jordan and Kuwait. Given that asylum seekers are already in such a vulnerable situation, the majority of them choose not to file complaints or report mistreatment for fear of further repercussions.

6.3 State Security Apparatus

Whether they are secular police and intelligence officers, such as the State Security Intelligence Service (SSIS) in Egypt, or religious police officers, such as the *muttaween* in Saudi Arabia, or semi-official religious paramilitaries, such as the Basijis and Anser-e-Hezbollah in Iran, security forces remain the most

systematic and cruel persecutors of apostates across the Islamic world. Their actions not only reflect their country's official policies towards apostasy, but also the prevailing public opinion. These factors serve to legitimise a climate of impunity, whereby security forces take matters into their own hands, even if it contradicts domestic law.

Intimidation and arrests

Intimidation and social pressure are the most common form of human rights abuses committed by the security forces. Officers regularly 'drop by' the houses, work places and schools of converts to inform peers, families and employers of their conversion. Until strong international pressure was put on illegal police activities in Turkey because of EU negotiations, a significant proportion of converts experienced such police visitations, which has led to serious tensions in relationships, and in some cases, loss of employment, housing and the inclusion of negative comments in school disciplinary notes.

Over the last three years in Turkey, such visits have largely diminished to those converts who play a leading role in the small population of Muslim-background Christians. However, arrests on charges of 'missionary activities' has continued, even though proselytism is a right protected by Turkish law.

On 11 October 2006, Hakan Tastan and Turan Topal, both Muslim-background Christians, were arrested by Gendarme officials. Their residences and offices were stormed and computers and documents confiscated. They were taken to Silivri, where the alleged crime of "missionary activities" had taken place. Following interrogation by military officials, they were taken to the prosecutor, who charged them with a number of crimes, including "insulting Turkishness", inciting hatred against Islam, disrespecting the Turkish Army, promoting sexual promiscuity, promising money to convert Muslims to Christianity, and gathering personal information about people with whom they were in contact.

Subsequent court hearings were turned into demonstrations by ultra-nationalist lawyers and protesters all claiming that Hakan and Turan were working with foreign intelligence agencies who sought to destroy Turkey. In fact, Hakan and Turan were working for a Christian ministry that facilitates Bible courses for those interested in the Christian faith. During the hearings, it emerged that the Gendarme officials had recruited a group of young men, who had previously requested information on the Christian faith, to gather data about Christian activities and provide testimony in court that Hakan and Turan had threatened them with guns and coerced them with offers of money, employment and sex in order to convert them. The court case is ongoing.

Hakan and Turan have told CSW that because their faces have been shown in the media, their families' safety is now in jeopardy. Police operations targeting converts can significantly raise their profile in society, even if they have not committed any crime. Due to prevailing negative attitudes in Islamic societies towards apostasy, security force interventions can lead to further abuse and attacks by members of the public, followed by serious limitations on the apostate's economic and social activities.

In most cases, security officials are the prime agents of social pressure. Noyan*, who converted to the Christian faith from Islam in Iran two years ago, stated in an interview with CSW that he was detained by the police after they learnt of his conversion. He was not mistreated in detention and was released within two days, but the police continued to follow and intimidate him. They informed his landlord and employer about his conversion. As a result, his rent was increased and he was fired from his job. Since he was living in a small town, news of his apostasy spread fast, compelling his family to move to a bigger city. He is afraid that, sooner or later, the police will locate him and will cause him further trouble.

Detention

Those who actively promote their new faith or hold leadership roles in their new faith communities, face the possibility of being detained, whether legally or illegally. Converts are subjected to various forms of psychological pressure, mistreatment or even torture while in detention. Most commonly converts report psychological pressure through threats of harm and of being charged with apostasy and treason, both punishable by death, and threats that the convert's apostasy will be made public. In addition, converts are frequently subject to lengthy questioning regarding their reason for conversion and are interrogated about their contacts within the non-Muslim community.

“Intimidation and social pressure are the most common form of human rights abuses committed by the security forces.”

During 2006, there were a number of reported cases of detention in Iran. In all cases, the detainees were charged and were only released on payment of a hefty bail. They received no assurance regarding their legal status on release, thereby implanting a fear of future prosecution.

“Converts are subjected to various forms of psychological pressure, mistreatment or even torture while in detention.”

For example, on 2 May 2006, Mr Ali Kaboli, 51, who had converted to Christianity over 30 years previously, was arrested from his shop in Gorgan in northern Iran and held incommunicado for several weeks. No reason was given for his arrest. He had church leadership responsibilities and had been threatened, arrested and interrogated on several occasions in recent years in connection with his Christian activities. Although he was not formally charged, the authorities informed his family that he would face legal proceedings. He was released on bail on 12 June 2006.¹³⁶

Reza Montazami and his wife, Fereshteh Dibaj, were detained by the secret police for nine days in October before they were released on bail. The couple, who were house church leaders in Mashhad, were never charged. Fereshteh Dibaj is the daughter of the late Rev Mehdi Dibaj, who was abducted and killed in 1994 following his release from prison where he had been incarcerated for nine years for apostasy.¹³⁷

Murdered Iranian Christians

On 28 September 1996, 35-year-old Muslim background Christian, **Mohammed Bagher Yusefi**, a pastor of the Assemblies of God church, was found hanging from a tree in a forest near his home in north west Iran. Having converted to Christianity ten years earlier, Yusefi and his wife led a growing church and were raising of Mehdi Dibaj's children, also a convert who had been murdered in 1994.

On 5 July 1994, the body of Muslim-background Christian, **Mehdi Dibaj**, 60, was found following his disappearance on 24 June whilst on his way to his daughter's birthday celebrations. He had been released from prison on 16 January 1994 without explanation, following nine years incarceration, during which time he had been tortured and kept in solitary confinement. In December 1993, he had been charged with apostasy, tried by Islamic Courts, found guilty and sentenced to death. Mehdi Dibaj had converted to Christianity 45 years previously.

On 2 July 1994, the son of **Tateos Michaelian** was brought in by the Iranian authorities to identify his father's body, whose head had been partly shot off. Tateos Michaelian, successor to the murdered Haik Hovsepian-Mehr as Chairman of the Council of Protestant Ministers in Iran, was killed after leaving his home on 29 June 1994.

On 19 January 1994, 49-year-old Bishop **Haik Hovsepian-Mehr**, disappeared on his way to Tehran airport. Bishop Haik had widely publicised the case of the imprisoned convert, Mehdi Dibaj. Two weeks later his body was found on the side of a road with stab wounds to the chest and back. His body was identified by his son from photos provided by the authorities.

On 3 December 1990, Muslim-background Christian, Reverend **Hossein Soodmand** was hung on charges of apostasy and for operating an illegal Christian church and bookshop. He had converted 24 years previously. He was killed after being tortured both physically and psychologically whilst in prison. His family was not allowed to see his body.

Shortly after the Iranian revolution of 1979, Shiraz-based priest, the Reverend **Sayyah**, had his throat cut by two men after they had appeared to express an interest in Christianity.

Shortly after the Iranian revolution of 1979, a group of armed men forced entry into the house of Bishop **Dehqani**. They shot five times; one of the bullets struck his wife's hand. Some time after this event, his son Bahram Dehghani-Tafti, also a minister, was kidnapped and shot dead.

¹³⁶ Quoted from CSW briefing, Iran: Religious Freedom Profile, November 2006 <http://dynamic.csw.org.uk/article.asp?t=report&id=61>

¹³⁷ Quoted from CSW briefing, Iran: Religious Freedom Profile, November 2006 <http://dynamic.csw.org.uk/article.asp?t=report&id=61>

Coercion

In some instances police and security officers offer the convert an opportunity to act as an 'informant' as a way of avoiding serious personal consequences. Maghsoud*, an Iranian Muslim convert to Christianity, said in an interview with CSW that after his conversion he became involved in evangelism. He was arrested by the police and detained for three weeks. During his detention, he was threatened with being charged with apostasy and beaten regularly. He was released when he accepted an offer to be an informant for the police and compile a list of other converts and church leaders.

Maghsoud expressed shame that he did not have the courage to refuse the offer. Following his release, he was asked to report to a particular officer weekly, which he did not do. He fled to another part of the country, but out of fear of being arrested and charged with apostasy, he travelled to Turkey as a tourist and applied for asylum at the UNHCR. His application was rejected. Maghsoud believes that his name and details are recorded with the Iranian police, and fears his name will be flagged up at the border. Consequently, he believes that he will face imprisonment if he returns to Iran.

A similar case was recounted by a Muslim-background Christian in Egypt, who told CSW in an interview about a female Muslim convert to Christianity who had been detained by the SSIS in 2006. During her detention she was physically harassed and threatened with rape. She was asked to be an informant for the SSIS and to report the activities of other Christians. When she refused, she was told that the SSIS would inform her family and employers regarding her conversion. Following her release, SSIS kept their word, visiting her employers and pressuring them to fire her.

Torture

Apostates face a high risk of physical and sexual abuse during their detention. One of the most widely known examples is the case of three male Muslim converts to Christianity, aged between nineteen and twenty one, who were arrested in September and October 1990 and detained until July 1991 under Article 98F of the Penal Code (High State Security Court Case No 662/1990). During their detention they were tortured repeatedly by security officials in a variety of ways, including being subjected to electric shocks to the genitals, burnt by cigarettes, beaten, sexually humiliated and raped, and isolated in cells too small to lie down in. They were finally released following widespread international pressure and the renunciation of their faith.

During the research for this report, CSW interviewed these three men. They all stated that even though more than ten years has passed since the events, they are still haunted by their memories. One stated that he is still unable to sleep before 2am, which was the time when the SSIS broke into his house.

Their ordeals continued after their release. The SSIS have repeatedly detained and threatened them over the years. They were not able to find housing or work, because the SSIS continued to intimidate them and informed their potential landlords and employers, and no Christian wanted to employ them due to fear of repercussions. However, they managed to find a loan to start their own business, but the SSIS shut down their work three years later and made it impossible for them to continue.

All three men stated that, although they are no longer afraid of the SSIS and are accustomed to being ostracised for their beliefs, they suffer from deep seated fear and anxiety that the SSIS will harm their families. Two of the men reported that SSIS officers had insinuated that they would sexually assault their wives and harm their children.

Sadly, these experiences are not isolated incidents on the ever growing list of serious human rights abuses committed by the SSIS in Egypt. Paul Marshall of the Hudson Institute documented that in 2003 alone 22 Muslim-background Christians and those who assisted them were arrested: "some were tortured, and one, Isam Abdul Fathr, died in custody".¹³⁸

138 Paul Marshall, "Apostates from Islam: The Case of the Afghan Convert is Not Unique", The Weekly Standard, 2 April 2006; <http://www.freedomhouse.org/template.cfm?page=72&release=352>

In January 2005, Gaseer Mohamed Mahmoud, a Muslim-background Christian, was arrested by the SSIS. During his detention he was beaten and his toenails were pulled out. On 10 January 2005, he was transferred to the El-Khanka mental hospital by the SSIS and “kept in solitary confinement, put in a water-filled room, beaten, whipped, and told that he would be incarcerated until he renounced his faith”.¹³⁹ He was released in June 2005 following international pressure.

A human rights lawyer stated in an interview with CSW that the SSIS regularly detains, tortures and harasses Muslim-background Christians and only releases them following international pressure. He stated that he was aware of at least 22 cases of apostates who were arrested and released during 2006. He said that, due to fear of further repercussions and social stigmas, these individuals were not able to speak about or register a complaint about their mistreatment with the police.

The Egyptian State Security Intelligence Service is one of the most violent and unlawful persecutor of apostates across the Middle East and North Africa. Although there are more Muslim-background Christians in Iran than in Egypt, there have been relatively few reported cases of physical mistreatment and extended periods of detention of apostates in that country over the last ten years.

Similarly, there are very few Muslim-background Christians in Saudi Arabia, and the fact that they live out their faith in complete secrecy means that there have been few recorded incidents of abuse. In addition, the absence of a free civil society, including freedom of press, makes such reports difficult to come by.

In summary, even though the death penalty for apostasy is rarely codified or applied by today’s Muslim states, governments, state administration and security forces actively interfere with the personal religious choices of individuals. This intervention penalises the exercise of a fundamental human right, to choose a religion or belief, and results in serious human rights abuses ranging from discrimination, social pressure and physical and psychological mistreatment by the state security apparatus. Official state reactions to apostasy only serve to fuel a culture of hostility and impunity, thereby making apostates extremely vulnerable in their communities. This is addressed in detail in the following section.

139 Congressional Hearing on The International Religious Freedom Report, 15 November 2005, pg 80
<http://www.foreignaffairs.house.gov/archives/109/24596.pdf>

Social Reactions to Apostasy

7

In the post-enlightenment West, religion is primarily seen as a matter of personal belief with little relevance to society or the state. This is in stark contrast to the majority of the world, particularly Islamic nations, where religion is often the core unifying factor in communal identity and the most important political force. Therefore, religious conversion is not viewed as an issue of personal freedom but as an issue which affects the whole of society. This section seeks to highlight how communities react to apostasy and demonstrates that apostates are often subjected to discrimination, ostracism and even fatal physical attacks from their societies.

7.1 Community and the Apostate

Apostasy as treason

In relation to Abu Zayd's case, the Professor of Arabic Literature who was deemed 'apostate' for his critical views on Islam, the Egyptian Court of Cassation stated that

the apostasy of a Muslim is not an independent matter that the Islamic law and its state can pardon and overlook as one of the rights of the individuals... because exiting from Islam is a revolt against it, and this is reflected upon the person's loyalty to Shari'a and state, and his relations to society... Nobody is entitled to call for whatever contradicts its public order or morale, nor uses the freedom of opinion to harm its foundation.¹⁴⁰

The judge's perception of the right to choose a religion is similar to the perception of Muslim rulers and legal scholars from the early days of Islam. The mitigating factor however, is that during the time of the Prophet Muhammad and the Rightful Caliphs, leaving Islam meant siding with and living with groups that were in military or political conflict with Muslims. In the 21st century, conversion from Islam to another religion no longer involves actual political or military treason.

Of the converts interviewed during research for this report or in previous fieldwork, almost all expressed a strong commitment to their respective countries. However, their societies have branded them as 'betrayers' siding with the 'Christian' West. In actual fact, Christians across the Middle East are as critical of US foreign policy as their fellow Muslims, so they are often much closer politically to the Islamic world than they are to their co-religionists in the West.

During 2007, CSW informally asked approximately 30 Turkish Muslim-background Christians about the political parties they voted for before and after their conversion. Their answers covered the whole spectrum of Turkish politics, from left wing to central right, and from nationalist and to moderate Muslim parties. Most of them continued to vote for the same party after their conversion, although some reported a shift in their attitudes towards favouring minority rights.

The label of 'treason' placed on Muslim-background Christians upon their conversion is an 'imagined' treason, to borrow Benedict Anderson's phrase on the formation of nations. Even though 'imagined' treason does not place any actual political or military risk to a country, its widespread acceptance by mainstream Muslims means that traditional Islamic views on apostasy continue to be dominant in today's world.

The importance of the Islamic community

This dominant view of apostasy as 'treason' has its roots in Islamic doctrines and in the dynamics of communal identity. For Islam, the unity of the worldwide Muslim community is of paramount importance. There is a hadith that says that if one part is in pain the whole body is in pain, and this is understood to mean that the Muslim community must be perfectly united. This belief is rooted in the historical foundations of Islam, which introduced a new type of allegiance that was more encompassing than tribal or ethnic allegiances: allegiance to the umma - the Islamic community.

The idea of umma entails a sense of kinship with the rest of the Muslim community, and relates to the unity of the collective. As Muslim doctrine has developed, the unity of the Islamic community is not simply a choice not to wage war against other members of the community, but it assumes a degree of surrender of one's individual

“This dominant view of apostasy as ‘treason’ has its roots in Islamic doctrines and in the dynamics of communal identity.”

140 Court of Cassation, Case No. 475, 478, 481, Judicial Year 65, 1172

identity and opinions for the greater good. As Fatema Mernissi put it; renouncing freedom of thought and subordinating oneself to the group is the pact that will lead to peace; salam [peace] will be instituted if the individual agrees to sacrifice his individualism.¹⁴¹

From this perspective, society is perceived to be most functional, and most stable, when there is conformity of behaviour amongst its members. On the other hand, though, stability through social cohesion comes at the cost of the freedom and privileges of minorities. The extremely high value placed on community in many Muslim settings entails limits on individual expression. This explains why the judge ruling on Abu Zayd's case in Egypt saw Zayd's criticism of Islam not as an expression of freedom of belief and opinion, but as a threat to the unity of the community.

If criticism of Islam is seen as a threat against the Islamic community, leaving Islam for another religion evokes even more powerful negative feelings. Any group of people will take offence if any of its members abandon it, but a community whose very identity is built around its unity and cohesiveness is threatened to its very core by such abandonment.

Thus rejection of Islam as a religion is seen as a rejection of the Muslim community, no matter what converts feel about it. In the eyes of their communities, they have defiled that community and its honour, as well as the honour of Islam, which should be defended at all costs.

Geographical influences

Society's response to apostasy and the severity of that response depends on the community's size and geographical location. The bigger the society and social setting, the greater chance converts have to keep and live out their faith in secret. Thus converts living in urban settings can assume anonymity as long as they are careful, whereas converts in rural settings will face more difficulties as their new religion will become apparent sooner or later. Since social ties are often much stronger in rural communities, their personal decision to choose a religion will be dealt with as a very serious community matter.

Jeje Nehemiah Baki, is a nomad from Chad, who converted from Islam to Christianity in the town of Ngudungudu in 1995.¹⁴² After a year in Ngudungudu, Baki returned to his nomadic community in the wilderness. The news of his conversion had already reached his father-in-law, who told Baki he could not have his wife and children unless he converted back to Islam. The following year, Baki remained with his nomadic people. Due to continuing pressure to return to Islam, Baki eventually left his community without his family.

When he returned in 2002 to try to reunite with his wife and children, he was stopped by his father-in-law again. In the confrontation that followed, his father-in-law killed Baki's first born son on 18 August 2002. After the murder, Baki left the community without his wife once again amidst the increasing threats made against him. He was finally able to reunite with his wife and second son, but he had to leave Chad.

Baki's experience is an example of how rural communities can react to apostasy with fatal consequences. Yet even in the city, when a person's apostasy becomes known, it can create problems at work, finding or keeping a house or business, at school with teachers as well as fellow students. The stigma of apostasy will lead to ostracism and social leprosy, whereas, in rural settings, it may mean more life threatening social disciplining acts such as a denial of access to water, health services and government subsidies.

A 20-year-old university student who converted to the Christian faith from Islam in Tehran, stated in an interview with CSW that he had not been subjected to any physical or harsh treatment by his family. He was only warned to keep quiet and to be careful, but he reported occasional tensions at home and angry outbursts from his parents.

One key element that cuts through the two extremes of rural and upper middle class urban circles is the social standing and ties of the family. If converts come from a family where some members are Muslim clerics, community leaders, government officials or anyone of social significance, they are more likely to be subjected to harsh treatment, no matter what their social standing is or where they may live.

¹⁴¹ Mernissi, 2002: 89

¹⁴² Compass Direct: *Chad: Convert loses family members for his faith*. 7 February 2008; <http://www.compassdirect.org/en/display.php?page=lead&lang=en&length=long&idelement=&backpage=&critere=&countryname=&rowcur=>

Conversion to another religion in countries where ethnic identity markers have strong religious connotations or where there are ethnic tensions results in a more difficult situation. This explains in part why apostasy results in such strong communal and official condemnation in Egypt and Malaysia. In Egypt, the presence of between ten to fifteen million Copts, whose most visible separation from the dominant Arab Muslim identity is their Christian faith and church, automatically ties personal belief with belonging to a community. It is no surprise, therefore, that Coptic families and communities also react with dismay when their children convert to Islam, or marry a Muslim.

In countries where there are no ethnic non-Muslim minorities, and where Islam does not determine national identity, such as in Morocco and Tunisia, converts can more easily negotiate a place for their new Christian faith alongside a commitment to their nation. This is not the case in the Arab Gulf, even though there are no national non-Muslim minorities. As Arabia was the birthplace of Islam, to be a Muslim is considered an essential element of what it means to be a Gulf Arab. Choosing to follow another religion is perceived as betraying not only the nation, but the world of Islam. Thus a convert in the Gulf often has no other option but to emigrate.

Muslim diaspora communities tend to regard apostasy as a betrayal of their ongoing struggles with identity within their host countries. The more distant the culture of the host country is from an Islamic and Middle Eastern culture, the more intense the imperative becomes for maintaining Islam identity. When identities are precarious, their enforcement will take an aggressive form. This helps to understand why apostates face an equally dangerous situation, even when they are born and raised in a Western country.

Nissar Hussein, 43, was born and raised in the United Kingdom and converted from Islam to Christianity with his wife, Qubra, in 1996. Relationships with both their families were severed following conversion and Nissar has not heard from his parents or siblings since. What makes the story of Nissar and Qubra so unpleasant is how the Pakistani community in Bradford, where Nissar grew up, reacted to his conversion.

Nissar and Qubra stated in an interview with CSW that the initial response to their conversion was that their friends severed relationships and asked them never to visit or talk to them again. As news of their conversion spread, people on the streets, in shops and at their children's school began to ignore them, or to insult them, and on one occasion, Nissar was called a "Jewish bastard" by strangers.

In 2001, things began to get violent. On various occasions, Nissar was surrounded by groups of Asian men who insulted him and pushed him, Qubra was followed around the town in a car by young men. Groups of young Asian men, particularly of Pakistani origin, smashed the windows of their house and threw garbage at the front door. On 1 September 2001, Nissar confronted a group of youths causing a disturbance in front of his house. Later that day, a young Pakistani man drove into Nissar's car, which was parked outside his house.

In the same month, Nissar was attacked when he confronted another group of youths behind his house, who were throwing rocks and shouting death threats. His car was set on fire in the early hours of the morning. In October, a young man threatened to burn his house down if he did not repent and return to Islam. When Nissar reported this to the police, he was told that such threats were rarely carried out and the police officer told him to "stop being a crusader and move to another place".

A few days later, Nissar, Qubra and their five children, all under ten, awoke in the middle of the night to find that the unoccupied house next door was on fire.

Occasional attacks on their car and house continued until, in July 2006, they moved to another part of the city. Nissar said that throughout his family's ordeal, they felt isolated and vulnerable as they were offered hardly any help from the police, the local authority, and Christian churches. He frequently referred to the fact that the police had wilfully failed to arrest and charge the attackers, saying it was "not in the public interest".

“In the context of segregated communities that are often hostile towards each other, an apostate emerges as a betrayer.”

The experiences of Nissar's family must be placed in the context of tensions between the Asian community and other communities, especially the white English community in Bradford. Riots in Bradford in July 2001¹⁴³ resulted in 297 arrests, 187 people being charged with riot, 45 charges of violent disorder and 200 jail sentences totalling 604 years.¹⁴⁴

In the context of segregated communities that are often hostile towards each other, an apostate emerges as a betrayer. This was what Hassan's translator was referring to during the asylum interview when he said that that Hassan would be “torn into pieces if he was from Bradford”.

7.2 Family and the Apostate

7.2.1 Honour, shame and choosing a religion

Middle Eastern and North African cultures and their relationship with Islam can be confusing to many Western observers. The Western perception of self and identity encourages the individual to become who he or she is through self actualization. Although parents may express concern or displeasure over their children's life choices, both society and the wider family see the individual as personally responsible and accountable for their own lives.

This is in stark contrast to the interaction of identities and individuals in the Islamic world. An individual's value is not so much about his, or her, own achievements, and how much they have realised their potential, it is about their ‘honour’- their standing in the eyes of their societies. Honour, therefore, is determined according to an image in the eyes of others.

A person's honour is rooted in his image as someone who is honest, keeps his commitments, fights against injustice, and works to further his and his family's interests.¹⁴⁵ While a good person, by this definition, is valued in any community, in an honour-based paradigm, what matters is not so much the way the man thinks, or what he does in private, but how he is perceived by the community to be thinking or behaving.¹⁴⁶

The other side of honour is shame. When honour is bestowed, shame is removed; when honour is tainted, shame is the result. Shame is what destroys one's standing within society and the family. An individual's honour is directly related to the social standing of his or her family, and the family's honour is linked to the honour of its individual members. Thus a renegade family member brings disgrace not only to his or herself, but also to the entire family.

The social standing of the family is crucial to every aspect of the relationship of the family to their societies, from commercial activities to finding spouses for children. Since apostasy is perceived to be one of the most, if not the most, serious offence against the world of Islam, this act brings shame to the convert and the entire family. It is not only an issue of ‘personal choice’, it is a disgraceful act of treason, which implicates the family, and a family's honour must be protected at all costs.

7.2.2 Saving the family's honour

The first stage of a family's reaction to apostasy is to ignore it and to keep quiet about it. Since a significant number of conversions occur in the late teens and early twenties, many parents tend to see them as youthful and temporary explorations. In one interview in Turkey, a 29-year-old female Muslim-background Christian recounted how her parents and brother did not take her decision to change religion seriously. She has been a convert for ten years and still feels that her family does not really believe that she is a Christian. Her case is unique since she comes from an urban and secular middle class family and lives in a different city to them. Therefore, she has been able to keep her conversion secret.

¹⁴³ For further information on the Bradford Riots see, BBC's *In Depth: Bradford Riots*, http://www.bbc.co.uk/bradford/news/indepth/bradford_riots.shtml

¹⁴⁴ BBC, *Last Bradford rioter is sentenced*, 21 December 2007 http://news.bbc.co.uk/1/hi/england/west_yorkshire/7156619.stm

¹⁴⁵ Zeid, 1965:245

¹⁴⁶ Moughrabi, 1978: 104

Many families do not react to their children's personal disbelief, as long as they keep quiet about it. As long as a convert does not speak about their new religion and continues to participate in traditional religious festivals their apostasy does not cause any problems. For this reason, many new converts choose to keep a low profile for the first few years, often not even informing their families.

Hussein*, a Palestinian man living in Amman has been a convert for more than 30 years, and his wife and children follow the Christian faith, yet none of their relatives and neighbours know about their conversion. They see Hussein as a backslidden Muslim, who does not attend the mosque, but he is still regarded as a Muslim. Hussein also lives away from his and his wife's extended families, which makes it possible to keep their Christian faith a secret.

However, because his daughter is about to become engaged to a Muslim, they are under immense pressure to finally speak up. Hussein fears that his Palestinian relatives will be angry with him, his children will be in trouble and his family will lose the honour bestowed on them. He is particularly worried that the engagement of his daughter will be broken if the Muslim fiancée discovers his family's apostasy.

Hussein's 30-year-long silence is fairly uncommon. For most converts, their new faith surfaces when they bring Christian literature home, attend churches and further change their behaviour. Ahmed* in Amman was able to keep his new faith secret from family and friends for two years. His friends noticed his lack of zeal in Islam and his silence when religion was discussed, yet none suspected him of leaving Islam. His mother eventually found Christian literature under his bed and threatened to tell his father, if he didn't stop reading Christian writings. Ahmed then assured her of his 'belief in Islam' and that he would not 'do it' again.

When CSW interviewed Ahmed, he was feeling guilty about lying to his family, but he saw this as the only way he could stay out of trouble. However, three days after the interview he had a conversation with his family, during which he was directly asked whether or not he was a Christian. Ahmed felt he had no alternative other than to declare his Christian faith. He left home that night and eventually fled to another Arab country at short notice, abandoning his college studies and leaving behind all his personal possessions.

He was not only afraid of physical punishment from his father and relatives, but also that a local Imam, a friend or a relative, would report him to the Personal Status Court as an apostate. Ahmed knew of other examples of apostates who had been sentenced to 'civic death' by the courts and he did not wish to suffer the same fate. He is still living abroad.

Tim Green, in his Masters dissertation, *Factors affecting attitudes to apostasy in Pakistan*, gathered data on the lives of 70 Muslim-background Christians.¹⁴⁷ Of the 70 converts, three women and one man were killed by their relatives; eight faced life threatening attacks or attempts of murder by family members; 23 were subjected to severe abuse in the forms of beatings, physical deprivations, threats of physical harm, forced marriages and ostracism; 24 faced moderate abuse, such as emotional and social pressure including inducements to reconvert; six experienced mild reactions in the form of family disapproval; and the remaining five converts did not face any reaction from their families. In other words, half the sample suffered extreme retaliation for their conversion.

Such strong reprisals from families and relatives can be surprising to Western readers, but as explained above, shame is a communal offence that needs to be considered seriously. When families can no longer hide their shame from the eyes of society, they are compelled to take measures to correct the wrong. If the reason for the shame is left unpunished, others in the community will take corrective measures. This cultural stance on shame is echoed strongly in the Qur'anic doctrine of *hisba*.

While there are only a few known cases where apostates have been killed in the Arab world, death is frequently considered and threatened. For example, Kathryn Kraft recounts the story of one individual whose mother's brothers kept him tied up in an abandoned building for more than two months. He was held in a remote location, beaten and almost starved, and his uncles brought in religious leaders to try to convince him to reconvert. His uncles did this in an attempt to preserve the family's honour.¹⁴⁸

¹⁴⁷ Green, 1998: 18

¹⁴⁸ Example taken from Kraft, Kathryn: *Community and Identity Among Arabs of a Muslim-background who Choose to Follow a Christian Faith*, Thesis 2007, p. 128.

Pressure on women to maintain family honour

There are much higher expectations on women than men in maintaining their community honour, thus they often face greater challenges from their community after conversion. There are, naturally, exceptions to this, including women who enjoy a great deal of independence from their families' expectations. Equally, men who come from isolated villages where community pressure is strongest can face similarly rigorous sanctions. Overall though, honour is a much more serious obligation and shame a greater potential danger for female converts than for male.

Besides being 'defender of the Muslim faith' within the family, it is a woman's duty to preserve the heritage and honour of the family. Her beliefs and her purity are seen as closely interwoven; her role as a good Muslim woman is not only to demonstrate piety, but also to maintain her purity and to be a good wife.¹⁴⁹ In fact, more than the suspicion about her beliefs, it is the tarnish on a woman's purity that brings shame on her family which causes them to retaliate against her.

Women apostates married to Muslim men, whether marrying before or after their change of faith, find themselves either living a secret faith with very infrequent contact with co-religionists, or returning to Islam. Based on interviews with North African Muslim-background Christian women, Evelyn Reisacher suggests that the reason why it is very hard to be married to a Muslim man is because of the woman's obligation to submit to her husband. He sees it as the mother's responsibility to raise their children as good Muslims, so he may severely limit her actions or try to force her to be a "good Muslim" – for example by making her cover her head – out of fear that she will not raise the children as he would like.¹⁵⁰

On 20 September 2007, CSW issued an appeal on behalf of Farida, a fifteen-year-old Nigerian girl, who converted from Islam to Christianity in December 2006 from a strong Muslim family. At the time she was married to a soldier who immediately divorced her. On returning to the family home her parents urged her to renounce her faith and return to Islam. When she refused she was driven from the house for several weeks. Her family later asked her to return but the pressure to reconvert remained strong.

Shortly afterwards, her mother asked her to boil water hot enough to remove flesh from a chicken, and then asked her to choose between her faith or being scalded with the water. When Farida chose her faith her mother threw the water over her, scalding her upper torso and inflicting third degree burns to her arm. She was pregnant at the time of this attack. She was then sheltered by friends within the church, but remains under great pressure.

Social factors that encourage honour killings

The principles behind such harsh measures against apostates are the same principles behind honour killings. A family restores its honour when an adulterous sister or daughter is killed, because when there is a perceived stain on a woman's honour, the family may seek to reduce the damage that she has done – or that has been done through her –, which can mean eliminating her.¹⁵¹ This is seen especially in communities where honour is already fragile, such as in Palestine, where there is a relatively high incidence of honour killings of women.¹⁵²

As can be seen in Farida's case, actions taken by families present a real risk to converts, especially to female converts who come from, or live in, rural areas. Often, family's actions are not seen as criminal acts and are actively encouraged by local communities and security forces, who do not intervene. Even when a publicly known honour killing takes place and the perpetrators are arrested, the courts in the majority of the Islamic world, including Turkey – which has the most secular legal system in the Islamic world – will accept the honour argument as a basis for acquittal, or a reduced prison sentence.

149 See Sikand, 1999, "Women and the Tablighi Jama'at" in *Islam and Christian-Muslim Relations* 10: 41-52.

150 Reisacher, 2005: 117

151 McIlroy, 2005: 2

152 Slaughter, 1993:197

Most family reprisals against apostates take place out of sight of security forces and governments. Therefore, there is often no way of knowing whether an apostate is murdered by their family or community. Two church leaders who work with Muslim-background Christians in Egypt, told CSW of their suspicion regarding the fate of two converts whom they knew personally. A couple of months after their disappearance from the community, the clergymen learned of their 'suicides'. They had not been aware of any emotional turmoil that could have led to them taking their own lives.

In summary, the reaction of a family to apostasy differs significantly depending on the country of their origin, geographical location, socio-economic levels and their gender. While converts in rural areas of predominantly religious Middle Eastern, African and Asian countries face life threatening risks from their own families and relatives, converts from urban areas and educated families may often face the severance of relational ties.

Nothing can be done about inevitable family tensions and the break down of relationships, since leaving Islam is considered the most 'shameful' thing a person can do. However, physical and mental abuse from family members and local communities is encouraged by the knowledge that the security forces and judiciary will not punish family members for their actions, creating a culture of impunity around the treatment of apostates.

This culture is further reinforced by the media, sermons in mosques and statements by officials. The family or community, therefore, feels justified that harsh treatment is the only way to deal with conversion from Islam. Even when a family does not want to punish, or ostracise a convert, they are often pressured into doing so by their communities. Given the role society plays in dictating the family's reaction to the convert, it becomes clear that governments should take measures to address this issue.

8 Life as a Muslim-background Christian

8.1 Conversion, Anomy and Alienation

For humans, belonging to a group or close knit community, religion or nation, is an important element in the making of who we are. Belonging provides safety, meaning, understanding and clear guidelines about how to live in an extremely confusing age. Renowned sociologist Peter Berger notes that “society is the guardian of order and meaning not only objectively, in its institutional structures, but subjectively as well, in its structuring of individual consciousness. It is for this reason that radical separation from the social world, or anomy, constitutes such a powerful threat to the individual”.¹⁵³ The threat is to be left alone, out in the cold, without a protective ‘shield’ and without a guiding ‘compass’.

The first outcome of apostasy is anomy – the loss of a clear framework. For a Muslim, Islam provides a clear interpretation of the cosmos and practical guidance on how to live. A Muslim knows what he or she is expected to do or not to do, what can or cannot be eaten, how one can or cannot dress or do business. To leave Islam for another religion is to undo one’s upbringing and perception of the world.

Converts face a lifelong struggle in re-ordering and making sense of their new world. Such a dramatic change is emotionally, intellectually and physically draining. Emile Durkheim, in his classic book, *Suicide*, identifies anomy as one of four types of suicide – egoistic, altruistic, fatalistic and anomic.¹⁵⁴

The second outcome of apostasy is alienation. Social ties and identities are reciprocal. It is not enough that an individual wishes to be accepted and cherished by a community, the community also has to want or accept him. For example, even though a Turkish Muslim-background Christian still sees himself as a committed and patriotic Turk, his ‘Turkishness’ has to be approved and accepted by Turkish society. Since Turkish society and the state sees apostasy as an act of betraying the Turkish nation, the convert’s social ties are automatically severed.¹⁵⁵ As a consequence, ostracism and accusations of shame isolate and damage the convert emotionally.

The social alienation of converts is exacerbated by their inability to participate in cultural and religious rites. Just as the celebration of Christmas rekindles warm memories of childhood in a Westerner, so Islamic festivals are important for Muslims. The effect of being unable to partake and enjoy Islamic festivals with the wider family is similar to how a European might feel if he were no longer welcomed by his family at Christmas.

No place to call home

Therefore, converts become outsiders – unwanted strangers in their own homes. An expatriate living outside his country of origin will always feel ‘foreign’ in that country of residence no matter how long he lives there, even if he is granted full citizenship rights. This is understandable, but to be treated like a foreigner, worse, a traitor, in one’s own country is devastating. It leads to a sense of homelessness that affects an apostate much more strongly than if he were a first generation migrant, who still has his country of origin as a second address to fall back on.

When alienation and anomy is internalised by the individual, along with the knowledge that his own families has turned against him, and that his society, government and security forces will not protect him, a life long struggle with depression, loneliness, fear and anxiety can result. All the converts interviewed for this report spoke of their anxieties and deep sense of loneliness. As one young church leader in Iran – a Muslim-background Christian – put it: “I know that I am completely alone. Anyone can attack or arrest me. Anything can happen and nobody will run to help me”.

Converts often have high hopes of their local Christian community. In many ways, the local church is the only community that can provide a sense of belonging and practical support. However, as Gean-Marie Gaudeul documents in his research on Muslim-background Christians, converts from Islam are often not welcomed into churches, and many churches deliberately delay baptism of converts from Islam.

¹⁵³ Berger, 1967:31

¹⁵⁴ See Durkheim, 1997:241-277 for anomic suicide

¹⁵⁵ For a detailed and personal account of this see, Ziya Meral, *How I became a ‘so-called’ Turk*, Turkish Daily News, 2 January 2008 <http://www.turkishdailynews.com.tr/article.php?enewsid=92409>

“Converts become outsiders – unwanted strangers in their own homes.”

He suggests that this is largely due to the church's fear of repercussions from the state, the history of antipathy between Christian minorities and the dominant Muslim population, and a general mistrust of Muslims.¹⁵⁶

Aslan*, one of the first Muslims to convert to Christianity in Jordan, stated in an interview with CSW that when he became a Christian, no Jordanian Christian believed he was sincere, and no church reached out to help him, except for a few foreign missionaries. Aslan eventually left Jordan following pressure from his community and the security forces, only to return when he realised that he felt more lonely and isolated in the West amongst Western Christians than he had felt in the Middle East.

While Aslan recognises the growing sense of community in the increasing numbers of Muslim-background Christians, the issue of the integration of converts into ethnic Christian communities in the Middle East remains problematic. He said that in the church he attends in Jordan there are now four other converts, but no other church members spoke to them and they were often left to talk to each other in a corner of the meeting hall where they served drinks. Aslan's observations and experiences were echoed in interviews undertaken by CSW in Egypt, Iran, Jordan and Kuwait.

Although no data is available, a significant number of apostates eventually abandon their Christian faith because of the social and personal cost involved in leaving Islam.¹⁵⁷ In some cases, apostates return to Islam with greater zeal, but in most cases they simply stop associating with their local churches and other Christians. Some maintain a secret Christian faith, although they may or may not reassert themselves as Muslims again. Some simply give up religious belief altogether.

“Although no data is available, a significant number of apostates eventually abandon their Christian faith because of the social and personal cost involved in leaving Islam.”

8.2 Marriage and Forming a Family

One of the biggest personal concerns among Muslim-background Christians is finding a partner. Marriage is still an important aspect of life in the Middle East, North Africa and Asia, and both men and women are expected to be married at the earliest opportunity, although this pressure is much greater for women. Consequently, most female converts fear that they will have no option other than to marry a Muslim man, since there are few Christian men in their countries. Official data provided by the Jordanian Interior Ministry reflects the small number of Christian marriages. During 2005 there were a total of 56,418 registered marriages. When this number is broken down by religious affiliation, 55,767 marriages were to Muslim husbands and 651 to Christians. Given that 55,403 Muslim and 1015 Christian women were married, it indicates that 364 Christian women were married to Muslim husbands. This is slightly higher than the previous figures of 324 Christian women marrying Muslim men during 2004, 265 in 2003, and 270 in 2002.¹⁵⁸

These figures only reflect ethnic Christian women who are registered as Christian from birth. Besides the limited number of possible candidates, marriage becomes a serious problem for apostates in Islamic countries where shari'a laws regulate personal status issues. According to shari'a rules on marriage, a Muslim man can marry a woman of any faith, whereas a Muslim woman can only marry a Muslim man. This means that, while a male convert who is still officially registered as a Muslim, can easily marry a Christian woman, a female convert can only marry a Muslim man, or a Muslim-background Christian man who is still officially registered as a Muslim.

This leads some converts to falsify their identity papers in order to marry as Christians. In Egypt this is a criminal offence punishable by five to fifteen years imprisonment, which puts further pressure on apostates in addition to the risk of detention, abuse and being charged with contempt of religion under Article 98F. Therefore, when forged documents are exposed, converts often have no option other than to flee the country. During 2007, CSW was approached for advice in two separate cases of Egyptian convert couples seeking asylum, on the grounds that they were at imminent risk of imprisonment on charges of forgery.

Convert men generally prefer to marry another convert. As men in these societies, they typically enjoy greater freedoms than women, so even if they marry a Muslim, they are usually able to continue to live out their new faith. Regardless of whom they marry, the marriage itself may solidify their position in the family and help ease the tension created by their apostasy.

¹⁵⁶ Gaudeul, 1999: 268-270

¹⁵⁷ For a further elaboration on this see Meral, Ziya (2006) "Conversion and Apostasy; a Sociological Perspective", *Evangelical Missions Quarterly*, Vol 42, No:4, Illinois: Wheaton College

¹⁵⁸ Source: Table 3.6, Registered Marriages by Selected Characteristics, 2001-2005.

As mentioned above, a number of convert women find themselves with no other option than to marry a Muslim man, but when the husband discovers her divergent beliefs, he may force her to start wearing the hijab, and restrict her freedom to spend time with other Christians. Many female converts, therefore, continue to look for fellow Muslim-background Christians as long as they can withhold family pressure to marry. However, even if a woman has changed her faith in a way that has preserved her family's honour, if she marries a Christian she would be seen as an apostate and face ostracism from her family.

Converts often feel fulfilled in their new religious identity after marrying a fellow convert. Women in particular enjoy freedom to participate in more Christian religious activities and to welcome other Christians into their homes. As religious deviants in a strongly cohesive society, a shared new culture and shared faith often diminishes many of the potential strains on the marriage.

Raising children

Childrearing can be one of the biggest challenges for apostates from Islam. Having faced the personal challenges discussed earlier, they may be much more daunted by the prospect of raising children according to their own beliefs in a Muslim community.

The problems faced by the children of converts, therefore, constitute serious human rights concerns across the whole Middle East and North Africa, due to official religious affiliation records, with the notable exception of Lebanon. Since children of apostates are automatically registered as Muslims, a host of problems emerge during their education, in addition to personal safety, future employment and marriages.

Islamic Religious Education is compulsory throughout the Islamic world. In countries such as Egypt, Jordan and Iran, officially recognised non-Muslim minorities are exempt from attending Islamic Religious Education classes and can take courses in their own religion. However, children of converts who are still recorded as Muslims are obliged to attend classes on Islam. In Turkey, it is only during the last five years that, thanks to the EU negotiation talks, children of converts can be exempted from Islamic religious education in public schools.

Compulsory Islamic education has two negative consequences. Firstly, children are coerced to learn and practice a religion different from that to which they are exposed at home. This can lead to confusion or to living a double life. Secondly, they have to defend their faith and suffer as a result of the apostasy of their families from a very young age. When their status emerges, they are often ostracised by their Muslim classmates and shunned by ethnically Christian pupils, since they are still registered as Muslims and have Muslim names. They are also vulnerable to harsh and unfair treatment from their teachers.

One Muslim-background Christian in Turkey, who is a prominent church leader, stated in an interview that although he knows what he believes and is ready to die for his faith, the idea of his children or wife suffering discrimination or physical harm both frightens and infuriates him. In fact, his children had to change schools because of ill treatment by their peers and teachers.

For this reason, a small proportion of parents do not tell their children about their Christian faith until they reach maturity, allowing them to live as Muslim children. Sooner or later their parents' faith becomes an issue within the community and affects them directly, even though they may not be fully aware of their parents' apostasy. Therefore, most parents prefer to raise their children as Christians and encourage them to understand what they learn about God and religion in school by relating it to their Christian faith.

When the emotional and relational effects on apostates resulting from state and community reactions to their conversion are considered alongside the serious nature of the human rights abuses they face, a tragic picture emerges. Apostates live in a "no-mans land"; isolated from their native communities, haunted by the actions of their states, burdened by the vulnerability of their families, shunned by their new co-religionists and overlooked by the international community. Their cries for help are never heard. One apostate told CSW that when he was subjected to torture in a Middle Eastern country, his torturer told him he could scream as loud as he wanted, but no one would hear or save him. When he realised this was true, he broke down and never really recovered from the damage caused by his detention.

“Children of apostates are automatically registered as Muslims.”

Conclusion

9

This report clearly demonstrates that apostates from Islam to another religion suffer a host of serious abuses from their families, communities and nations. This is due to a combination of factors including the stance of traditional Islamic theology and jurisprudence on apostasy, increasing radicalism within Islam, the cultural dynamics of shame and honour, the role Islam plays in communal identities and the perception that apostasy is akin to betraying the world of Islam. The following conclusions can be drawn.

Apostates are often denied their most basic civil and political rights as enshrined in the UDHR and ICCPR.

In the first instance, the right to freedom to change religion is often denied. This contravenes Article 18 of the UDHR which unequivocally provides for this right. It states:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion, or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

In addition to the denial of the rights to change their religion and live according to their new faith, apostates face discrimination in many areas of their lives from employment and housing, to access to economic opportunities, health and education. This contravenes Article 2 (1) of the 1981 Declaration which states:

No one shall be subject to discrimination by any State, institution, group of persons, or person on the grounds of religion or other belief.

Apostates face unequal and unfair treatment by the judiciary, which is in breach of Article 26 of the ICCPR:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Apostates face incommunicado detention, illegal arrests and torture by security forces. This contravenes Article 9(1) of the ICCPR:

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.

and Article 7:

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Security forces, religious police and members of semi-official paramilitaries intimidate and coerce the re-conversion of apostates by making their apostasy public, leading to loss of employment, housing and the annulment of marriages. This activity breaches Article 17 of the ICCPR which states:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

Apostates face severe restrictions and state meddling in their marriages, including the annulment of marriages on grounds of apostasy and restrictions on marrying persons of their choice. This is in contravention of Article 23 of the ICCPR, which states:

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

Children of apostates are obliged to attend religious education that does not conform to their parents' religion. This contravenes Article 5 of the 1981 Declaration, Article 18(4) of the ICCPR and Article 14(1) and (2) of the 1989 Convention on the Rights of the Child. Article 18(4) of the ICCPR states:

The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Muslim states fail in protecting the rights of apostates and in ending the human rights abuses expounded in this report.

These states, which are members of the UN, have pledged to abide by the UN Charter and the UDHR. In addition, many are party to the ICCPR, Article 3 of which states:

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

As the findings of this report demonstrate, not only are these states negligent in their duty to abide by international law, they can also be complicit in promoting the marginalisation, coercion and persecution of apostates.

The international community has failed to address the personal safety and security of apostates and their full and free participation in society.

Apostasy is rarely discussed in bilateral or multilateral human rights dialogues. In addition, nothing more than lip-service is paid to adherence to human rights clauses in trade or aid agreements.

Experiences of apostates are also often omitted in country reports to the UN Human Rights Committee and the Committee often fails to comment on the issue of apostasy in its response to the country in question. Apostasy is not openly recognised as a serious human rights issue at the UN even though Article 3 of 1981 Declaration affirms that:

Discrimination between human being on the grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations, and shall be condemned as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and enunciated in detail in the International Covenants on Human Rights, and as an obstacle to friendly and peaceful relations between nations.

A significant consequence of this failure by the international community is that apostate asylum-seekers or applicants for refugee status with the UNHCR are not treated with the gravity they deserve and their mistreatment at the hands of Muslim case workers and official translators is not recognised as a problem. Applications are therefore readily rejected and failed applicants are either deported to their home countries or forced to flee.

International civil society has failed those who are persecuted on the basis of their apostasy.

There is a widespread lack of understanding of apostasy from Islam by civil society. This is reflected in the notable absence of documentation and condemnation of human rights violations against apostates by leading non-governmental human rights organisations. Similarly, incidents of religious persecution, particularly of apostates living in Muslim countries, are not reported by the international media.

Within Muslim countries, there is an absence of non-governmental initiatives to provide for the safety and welfare of apostates. This is not simply due to the restrictions on civil society by repressive states, but also reflects a general lack of will in the populace. Very few Muslim leaders or writers publicly condemn the mistreatment of apostates in their countries and discrimination and disinformation in the media goes unchallenged.

10 Recommendations

To the Governments of majority Muslim states

It is recommended that the governments of majority Muslim states should:

- uphold their responsibilities under international law to guarantee the personal safety of apostates and their full and fair participation in society;
- take concrete steps to end intimidation, detention and torture of apostates by security forces, religious police and paramilitaries;
- openly and resolutely address all forms of discrimination and inequality suffered by apostates;
- provide an easy and transparent mechanism to allow apostates to change their religious affiliation on all state identity documentation, or rescind national requirements to record such data;
- guarantee apostates the freedom to marry a partner of their choice and refrain from any state interference with or annulment of marriages of apostates;
- protect the religious rights of the children of apostates including removing the requirement for compulsory Islamic religious education for these children;
- provide unhindered access for the UN Special Rapporteur on Freedom of Religion or Belief;
- take steps to address wide-spread propaganda and disinformation against apostates in the media without compromising the independence of the press.

To the international community

It is recommended that states and regional actors should:

- actively engage with majority-Muslim nations to encourage the implementation of the recommendations given above and to regularly highlight concern for the treatment of apostates;
- regularly update information used in the consideration of asylum applications to include specific information on apostates;
- provide orientation and training to human rights officers in the diplomatic and civil services and to asylum case workers on apostasy;
- take measures to ensure the safety and protection of apostates in Muslim diaspora communities;
- provide orientation and training for police and local authorities on apostasy and the potential risks apostates face;
- develop effective mechanisms to monitor and prevent honour killings, forced marriages and forced resettlement of apostates to Muslim countries;
- engage in dialogue with Muslim diaspora communities on the issue of apostasy.

To the United Nations

It is recommended that the United Nations should:

- resolve to address the treatment of apostates as a priority issue at the highest levels;
- regularly engage with Muslim countries over their treatment of apostates and call for compliance with international law;
- ensure that human rights abuses resulting from the exercise of an individual's right to choose a religion or belief are given due attention by the UN Human Rights Council, including adopting resolutions on the issue;
- resolve to maintain and fully support the mandate of the Special Rapporteur on Freedom of Religion or Belief;
- take careful note of the recommendations of the Special Rapporteur on Freedom of Religion or Belief on matters relating to apostasy and commit to encourage their implementation;
- ensure that the UN Human Rights Committee properly assesses states parties obligations under Article 18 of the ICCPR when considering states parties reports and that it addresses the right to choose a religion or belief in its concerns and recommendations when adopting concluding observations;
- implement measures to prevent discrimination and mistreatment of apostates seeking refugee status by case workers in UNHCR offices.

To the international media

It is recommended that the international media should:

- ensure adequate reporting of the experiences of apostates and facilitate discussion forums where possible;
- take steps to address instances of discriminatory reporting or disinformation against apostates in an appropriate manner.

Glossary

Ahmadiyas:	an outlawed Islamic sect in Pakistan
Anomy:	the breakdown of standards, norms and laws
Aql:	theological reasoning independent of the religious texts and traditions
Caliph:	spiritual and political leader of the Islamic community after the death of the Prophet Muhammad
Da'wah:	invitation of non-Muslims to Islam and Islamic rule
Dhimmi:	minority status granted to Jews and Christians living in an Islamic nation
Eschatology:	the study of the end times and life after death
Fatwa:	an authoritative ruling
Faqih:	a righteous and pious jurist
Fiqh:	Islamic jurisprudence
Grand Mufti:	the highest Islamic official in a country with authority to issue a fatwa
Grundnorm:	the basic rule and norm for developing laws
Hadith:	the sayings and deeds attributed to the life of the Prophet Muhammad, his companions and caliphs
Hermeneutics:	the study of interpretation
Hisba:	the Qur'anic doctrine of accountability of Muslims to ensure the application of Islamic teachings
Hizb ut-Tahrir:	an international Islamist movement that aims to implement the global rule of Islam
Hudud:	fixed punishments prescribed in the Qur'an and Sunna
Ijma:	consensus among the learned jurists
Ijtihad:	legal reasoning to apply Islamic principles in a given context
Ilm al-rijal:	historical studies into the credibility of the hadith narrators
Imam:	Islamic clergyman who leads prayers at a local mosque
Irtidad:	apostasy
Isnad:	chain of transmission of a hadith
Istihsan:	personal preferences of shari'a judges when faced with unique cases
Jahiliyya:	times before the coming of Islam referred to as the period of darkness or ignorance
Jamat-i Islami:	an Islamist party and movement originally found in Pakistan
Kafirun:	plural for kafir, unbeliever or infidel
Kaymakam:	governor of a provincial district in Turkey
Khalifah:	caliph
Kufr:	disbelief
Madhahib:	school of shari'a law
Maslaha:	consideration of public good when developing Islamic laws
Millet:	Ottoman system of limited autonomy granted to non-Muslim subjects of the Empire
Muamalat:	legal aspects of shari'a
Mujtahid:	a scholar qualified for undertaking ijtihad
Mullah:	trained clergymen or religious leader
Murtadd:	apostate
Mutawatir hadiths:	hadiths which are word by word records of what the Prophet Muhammad had stated
Mu'tazilis:	followers of the 8th century rationalistic theological movement, mu'tazilah, which was deemed heretic and persecuted
Qiyas:	analogical reasoning in developing jurisprudence
Qisas:	retaliatory punishments
Rashidun:	the first four caliphs after the death of the Prophet Muhammad, also referred to as the Rightful Caliphs
Ridda:	apostasy
Rightful Caliphs:	see rashidun
Shari'a:	the name given to the all-encompassing commentary on the principles of the Qur'an and Sunna. Also Islamic law
Sheikh:	an honourable titled used for senior Muslim leaders, scholars and clergy
Shiites:	followers of the second largest Islamic denomination
Shirk:	idolatry, especially polytheism
Shura:	consultation of a group of elders and scholars
Siyasa shar'iya:	political rule which is based upon shari'a law
Sufi:	a follower of the mystic Islamic sect Sufism
Sunna:	the example of the Prophet elaborating on and living out the teachings of the Qur'an
Sunni:	follower of the largest Islamic denomination
Taqlid:	close following of the precedents set by previous generations
Tazir:	discretionary punishments granted by judges according to shari'a law
Ulama:	Islamic scholars
Ummah:	Islamic community
Wahhabi:	A follower of a strict Islamic sect, also referred to as Salafism
Zakat:	Compulsory tiding for charity

The Story Behind the Cover Photo

Sanusi's Shoes

Sanusi Ali lived in Angwan Kartau, Katsina State, Nigeria with his parents and his younger sisters.

When Sanusi turned 21, he announced that he had decided to become a Christian, and was promptly thrown out of school. His mother arranged for him to speak with the Reverend Saidu Audu of the local ECWA (Evangelical Church of West Africa) Church. When the Reverend asked him why he had not returned to school, Sanusi replied that his father was angry at his decision to convert and was refusing to allow him to return.

The Reverend Audu and his fellow pastors told Sanusi that becoming a Christian was not going to be easy, and that he should expect persecution and prepare for the worst. Sanusi insisted he still wanted to be a Christian and officially converted to Christianity on 12 February 2008. The Reverend Audu advised Sanusi to humble himself before his father by kneeling and respectfully requesting that he be allowed to return to his studies.

On the following day, 13 February, Sanusi went to speak to his father. As they began their conversation, his uncle Salisu, also a Muslim, approached and asked Sanusi whether he had been to the mosque that day. When Sanusi said he had not, Salisu immediately began to beat him with a koboko, a multi-pronged whip made of dried, hardened and twisted animal skin.

The beating occurred in front of a crowd that included the Assistant Village Head. However, even when Sanusi fell to the ground defenceless, no one intervened until the Reverend Yunusa Gargari came on the scene. The Reverend asked why Salisu was continuing to beat Sanusi so severely when he was clearly already incapacitated and asked if he was trying to kill him. Salisu replied that he was indeed trying to kill Sanusi. The Reverend Gargari and the Reverend Audu decided to complain to the Village Head, about the non-intervention of the Assistant Village Head.

On Monday 18 Sanusi visited the pastors and told them that he would be returning to school. They later met his mother, who confirmed that Sanusi would be going to school once he had finished washing his clothes. However, at 6 o'clock, Sanusi turned up at the Reverend Audu's door. When asked why he was not in school, Sanusi explained that on the way he was stopped by the Assistant Village Head, his uncle Salisu and another man. The Assistant Village Head had complained that he had been reported to the Village Head and said that the Village Head wanted to see Sanusi.

During the meeting the Village Head asked Sanusi who had told him to return to school. He replied that his father had given him transport money. He was then asked if he was now a Christian. Sanusi responded that he was. The Village Head then informed Sanusi that he would have to report for a subsequent meeting with the District Head, along with the Assistant Village Head, his father, his grandfather and his uncle Salisu.

The Reverend Audu encouraged Sanusi, telling him to be courageous and stand his ground no matter what happened. The pastors tried to meet with the District Head in advance but he was not around, so they met with his assistant instead. The pastors advised the assistant that the church was closely monitoring the proceedings, was aware of his role in the matter, and would be taking matters further should Sanusi be harmed in any way. The Assistant District Head assured the pastors that he would not allow anything untoward to occur, nor would he allow any harm to come to Sanusi.

On the morning of 19 February, the uncle, father, grandfather and the Assistant Village Head surreptitiously left the village, taking Sanusi with them. That evening, all returned except Sanusi and Salisu. Sanusi's mother went to the Reverend Audu to tell of her son's disappearance, expressing fears that he may have been killed. A day passed without any sighting of Sanusi or his uncle Salisu. On the evening of 21 February Salisu returned to the village alone.

Then on 22 February, Sanusi's mother came running to see the Reverend Audu, clearly in great distress. Salisu had given her Sanusi's shoes and two items of jewellery that he usually wore, stating that this was all that was left of her son.

Recent pressure to determine the fate of Sanusi has led to Sanusi's mother being taken to a distant location to confirm that Sanusi is alive. She found him imprisoned in a small dirty room with his hands and feet tied and continued to appeal for his release. Tragically, on 20 March she was violently strangled by her ex-husband who was outraged at the family's attempts to seek justice. At the time of publication, Sanusi's mother is in a coma and Sanusi remains in captivity.

Appendix I: Selected Reports of Recent Apostasy Cases

Afghanistan

- In March 2006, Abdul Rahman was arrested and put on trial for converting to Christianity from Islam. His case was controversial in many ways; his family claimed he was suffering from mental illness, while Judge Mawlavizada questioned his status as an Afghan citizen. The case as a whole received huge international publicity, with Islamists throughout Afghanistan protesting at the American involvement in the case. Whilst being held, Abdul Rahman faced the death penalty for adhering to his new faith. The case was ultimately suspended because of his family's claims over his mental state, and he was able to gain asylum in Italy.¹⁵⁹
- There were three known cases of apostasy in Afghanistan in 2006 besides that of Abdul Rahman. Two families left the country after facing harassment. The third, imprisoned for murder, was killed in prison by another inmate who found out about his religious beliefs.¹⁶⁰

Bangladesh

- A 70-year-old woman convert from Islam died on 1 February 2008 from burns she suffered when unknown assailants in a Muslim-majority area about 150 miles northwest of the capital set her home on fire last month. Rahima Beoa of Cinatuly village suffered burns over 70 to 80 percent of her body after the home she shared with her daughter and son-in-law, also converts, was set ablaze the night of January 7, said Khaled Mintu, Rangpur regional supervisor of the *Isha-e-Jamat* (Jesus' Church) Bangladesh denomination. Villagers were upset over her conversion to Christianity and that of her daughter and son-in-law, he said.¹⁶¹
- On 12 June 2007, a large group of Hindus and Muslims were baptised into the Christian faith. On 26 June, these converts were attacked with sticks by a group of Muslims in the village of Durbachari. The group allegedly gave them 24 hours to leave the village. Police were deployed to stop further violence and allow the converts to remain in their homes and jobs. Patrols of the village were subsequently introduced, and the district police superintendent took steps to reduce tensions in the area.¹⁶² Since the initial incident, Muslims have reportedly been attempting to coerce the converts back to Islam by both financial rewards and physical threats.¹⁶³
- In September 2004, Abdul Gani Gomes was murdered in the northern town of Jamalpur by four members of the illegal militant Islamic group, Jamaatul Mujahideen Bangladesh (JMB).¹⁶⁴ Hafez Mahmud and Mohammad Salauddin, both of whom are high ranking members of JMB, were arrested, tried, and on 9 November 2006, were sentenced to death by a 'fast-track' criminal court. The two men specifically stated that they murdered Gomes for converting from Islam to Christianity fifteen years previously.¹⁶⁵

159 CNN; *Afghan Christian convert could be executed; Western nations outraged Muslims who convert can be put to death*; 22/03/2006 1304 GMT; accessed 12/09/2007;

<http://edition.cnn.com/2006/WORLD/asiapcf/03/22/afghan.christian/index.html?iref=newssearch>.

See also: Sanjoy Majumder, BBC News, Kabul; *Mood hardens against Afghan convert*; 24/03/2006 14:20:31 GMT; accessed 07/09/2007;

http://news.bbc.co.uk/1/hi/world/south_asia/4841334.stm.

160 Afghanistan, International Religious Freedom Report 2007, Released by the Bureau of Democracy, Human Rights, and Labor; U.S. State Department; <http://www.state.gov/g/drl/rls/irf/2007/90225.htm>.

161 Cited in full from Compass Direct News: *Bangladesh: Elderly Convert from Islam Dies from Burns*; 04 February 2008

162 Bangladesh, International Religious Freedom Report 2007, Released by the Bureau of Democracy, Human Rights, and Labor; U.S. State Department; <http://www.state.gov/g/drl/rls/irf/2007/90226.htm>.

See also: Compass Direct News; *Bangladesh: Officials offer Protection for Attacked Converts*, 03/07/2007; accessed 23/10/2007;

<http://www.compassdirect.org/en/display.php?page=news&lang=en&length=long&idelement=4928&backpage=archives&critere=bangladesh%20converts&countryname=&rowcur=0>.

163 Compass Direct News; *Bangladesh: Muslims Force Converts back to Islam*, 21/08/2007;

<http://www.compassdirect.org/en/display.php?page=news&lang=en&length=long&idelement=4998&backpage=index>.

164 BBC News; *Killers of Christian Face Death*; 09/11/2006 13:43 GMT; accessed 23/10/2007;

http://news.bbc.co.uk/1/hi/world/south_asia/6132486.stm.

165 ABC News (AFP); *Bangladesh Militants Sentenced to Death for Killing Christian*; 09/11/2006 10:35pm AEDT; accessed 23/10/2007;

<http://www.abc.net.au/news/stories/2006/11/09/1785178.htm>.

Egypt

- On 2 August 2007, 25-year-old Muslim-background Christian, Muhammad Ahmed Hegazy, took the unprecedented step of filing suit against the Minister of Interior, Habib al-Adly, to challenge the right of Muslims to legally convert to Christianity, following his failed attempts at changing his religion on official documents.¹⁶⁶ When police heard of his conversion in 2002, Hegazy was tortured in prison. He has since been unable to change his religion on his documents. Hegazy and his convert wife were forced to have a Muslim marriage due to their legal status as Muslims. It was the upcoming birth of his daughter, born on 10 January 2008, which prompted him to make the legal challenge, since children of Muslim-background Christians are automatically recorded as Muslims. The original lawyer for the case, Mamdouh Nakhla of the al-Kalema Centre for Human Rights, withdrew from the case after receiving multiple death threats, including some from the State Security Police.¹⁶⁷ Despite Nakhla's withdrawal, Muhammad Hegazy continued with the case with new lawyers. On 11 October 2007, Hegazy's vacated flat was broken into, with much of its contents smashed and burnt. After several hearings and adjournments, on 29 January 2008, Judge Muhammed Husseini ruled against Hegazy, basing his decision on Article 2 of the Egyptian constitution, which identifies shari'a as 'the primary source of legislation'.¹⁶⁸ Due to the numerous threats he has received, Hegazy has had to go into hiding.¹⁶⁹
- On 5 April 2005, Mr Bahaa Ahmed Hussein Mohamed el-Akkad, 57, was arrested following his conversion to Christianity just a few months previously. Initially detained without charge by the SSIS at Doqqi State Security Prison in Cairo, he was transferred to Tora prison 45 days later. Mr Bahaa el Akkad was charged with 'contempt of religion', but was acquitted. Upon his release from prison on 30 July 2006, he was kept in custody before being rearrested without charge and kept by the SSIS in very poor conditions, including solitary confinement in the notorious Wadi el-Natroun Prison. This despite the fact that the court had ordered his release. He was eventually released on 28 April 2007, without explanation or any guarantee that he would not suffer the same ordeal again. One human rights lawyer pointed out in an interview with CSW that at least 22 apostates were released from detention in Egypt in 2006.¹⁷⁰
- In early 2005, Gaseer Muhammad Mahmoud, who converted in 2003, was tortured by police by being whipped and having his toenails pulled out. On 10 January 2005, the state security police forced Gaseer into confinement at Cairo's El-Khanka mental hospital following his adoptive parents' discovery of his conversion. He was kept in solitary confinement, put in a water-filled room, beaten, whipped, and told he would remain confined until he renounced his new faith. He was released on 9 June 2005, following international publicity, but soon went into hiding for his own safety.¹⁷¹
- In 2003, 22 converts, and those who provided them with assistance, were arrested by security forces. From this group, Isam Abdul Fathr died after being tortured in custody.¹⁷²

166 Nir Boms and Michael Meunier, *Washington Times*; *Egypt's Choice*; August 27, 2007, <http://washingtontimes.com/apps/pbcs.dll/article?AID=/20070827/EDITORIAL/108270016>

167 Jonathan Wright, Reuters; *Egyptian Lawyer Abandons Work on behalf of Convert*; Tuesday 7 August 2007, 12:08GMT, accessed 08/08/2007.

168 Christian Solidarity Worldwide; *Egyptian Court Dismisses Case to Recognise Religious Conversion*; 01/02/2008; accessed 01/02/2008; <http://dynamic.csw.org.uk/article.asp?t=news&id=704&search=>

169 Alaa Shahine, Reuters; *Egypt Convert continues Legal Case Despite Threats*; August 8 2007 08:45GMT, accessed 08/08/2007.

170 See CSW briefing: Religious freedom profile: Egypt, August 2008

171 Testimony of Nina Shea, Director Center for Religious Freedom, Freedom House before the Committee on the International Relations U.S. House of Representatives Subcommittee on Africa, Global Human Rights and International Operations "Monitoring Respect for Rights Around the World: A Review of the Country Reports on Human Rights Practices for 2005" March 16, 2006, p6 http://crf.hudson.org/files/publications/nina_shea_testimony_05.pdf, accessed 07/09/07.

172 Paul Marshall; Apostates from Islam, *The case of the Afghan convert is not unique*. 04/10/2006, Volume 011, Issue 28; accessed 07/09/07; <http://www.weeklystandard.com/Content/Public/Articles/000/000/012/059fpgn.asp>.

Iran

- On 19 September 2006, Reza Montazemi and his wife Fereshteh Dibaj, leaders of an active Protestant Christian house church, were arrested by Iranian secret police at 7am in the northern city of Mashhad. Following their arrest, Montazemi's parents were repeatedly misinformed about both their location and details of their pending trial. They were eventually found to be held by the Islamic Revolutionary Guard Corps. Reza Montazemi, 35 at the time of his arrest, is from a well known family in Mashhad, and converted while in his 20s. His 28-year-old wife, Fereshteh Dibaj, is the daughter of the late Rev. Mehdi Dibaj, who was killed in 1994 having converted to Christianity some many years previously.¹⁷³ The couple were released on bail on 5 October, without being formally charged, leaving them vulnerable to future harassment.¹⁷⁴ Before being released on bail, Montazemi's parents were forced to sign a document ensuring no more Christian meetings would take place in their house.
- On 24 July 2006, Issa Motamedi Mojdehi, a Muslim-background Christian, was arrested after his attempt to register the birth of his son. Following his arrest, he was charged with trafficking drugs. Several Christian groups claim that the charges were false, in an attempt to divert international attention from his apostasy.¹⁷⁵
- On 2 May 2006, Ali Kaboli, a Muslim-background Christian, was arrested in Gorgan following many years of police surveillance. While in custody, he was given an ultimatum of leaving Iran or being prosecuted. After being held in solitary confinement, he was released on 12 June 2006.¹⁷⁶
- On 22 November 2005, Ghorban Tori, a Muslim-background Christian pastor of a house church for other Christian converts, was kidnapped from his home and killed by Muslim extremists. Following his murder, his house was searched by the authorities for Bibles and illegal Christian literature. One week earlier, there were allegations that the Ministry of Intelligence and Security, Iran's principal Intelligence agency, had arrested and tortured ten Christians in different locations.¹⁷⁷
- In 2004, authorities forced entry into the Annual General Conference of Iran's Assemblies of God church, arresting around 80 pastors.¹⁷⁸ All were released within a few days, except for Pastor Hamid Pourmand, a former Muslim who converted to Christianity before the 1979 revolution, after which time conversion became illegal.¹⁷⁹ In late January 2005 he was tried in a military court on charges of espionage for hiding his conversion from his army superiors, and on 16 February 2005, he was found guilty and sentenced to the maximum of three years in prison. The ruling was based on Iranian law, which states that military officers must be Muslim. Pourmand was found guilty of not revealing his true identity, despite presenting documents that proved his superiors were aware of his religion prior to promoting him to the ranks of officer. Pastor Pourmand was also dishonourably discharged from the army, losing his income, pension and housing for his family. He was brought before a shari'a court in Teheran on several occasions between 13 and 23 April, and refused to renounce his faith, despite being pressured to do so. Three months after the initial sentence, Pourmand was relocated to a criminal prison, where he faced prosecution for proselytism and apostasy, punishable by the death penalty under shari'a. However, on 28 May 2005, following international pressure, the Islamic court judge cleared him, declaring he had "done nothing wrong" under Islamic law. Pourmand subsequently remained incarcerated in Tehran's Evin Prison with political dissidents and other prisoners of conscience until 20 July 2006, when he was released without explanation.¹⁸⁰

173 Compass Direct News; *Iran: Police Arrest Martyred Christians Daughter*; 29/09/2006;

<http://www.compassdirect.org/en/display.php?page=news&lang=en&length=long&idelement=4554&backpage=index>.

174 Iran, International Religious Freedom Report 2007, Released by the Bureau of Democracy, Human Rights, and Labor; U.S. State Department.; <http://www.state.gov/g/drl/rls/irf/2007/90210.htm>.

175 Iran, International Religious Freedom Report 2007, Released by the Bureau of Democracy, Human Rights, and Labor; U.S. State Department.; <http://www.state.gov/g/drl/rls/irf/2007/90210.htm>.

176 Ibid.

177 Ibid.

178 CSW briefing; *Religious Freedom Profile: Iran*, November 2006

179 CSW; *Iranian Christian Cleared of Apostasy Charges*; 02/06/2005; accessed 04/09/2007; <http://www.csw.org.uk/latestnews/article.php?id=402>.

180 Compass Direct News; *Iran Authorities Quietly Release Convert Christian Prisoner*; 12/09/2006; accessed 22/10/07; <http://www.compassdirect.org/en/display.php?page=news&lang=en&length=long&idelement=4533&backpage=archives&critere=pourmand&countryname=&rowcur=0>.

Jordan

- On 20 January 2006, Mahmoud Abdel Rahman Mohammad Eleker, a Muslim-background Christian, had charges of apostasy filed against him by his brother-in-law at a Shari'a court. On 14 April 2006, the charges were dropped after the convert's wife relinquished her right to inheritance from her parents in the presence of a lawyer.¹⁸¹
- In September 2004, a Muslim-background Christian was arrested and placed in custody overnight, after being accused of apostasy by a Shari'a court. The convert was then found guilty of apostasy in November 2004, a ruling which stood after an appeal in January 2005. The guilty verdict left the convert with no civil rights; resulting in his marriage being annulled, as well as loss of inheritance rights, unless he returned to Islam. He has since been accepted into the United States as a refugee.¹⁸²

Malaysia

- On 30 May 2007, Lina Joy's attempt to officially change her religion from Islam to Christianity was rejected in the courts. Having left Islam for Christianity in 1990 (being baptised in 1998), she tried and failed to change her official religion in 1999. Following this failure, she tried taking her case to the civil courts, since she was no longer a Muslim. This legal challenge and subsequent appeals were rejected, the final challenge being seen by the Federal Court (the highest in the country). The appeals were rejected since Lina Joy was still officially a Muslim, and as such could only be tried by the Islamic courts. Essentially, her conversion had to be recognised by the Islamic courts before she could deal with the civil courts, but since conversion goes against the fundamental tenets of Islam, such recognition would not be given. Due to the high profile of the case, Lina Joy has had to go into hiding. She is also unable to marry her Christian fiancé.¹⁸³

Nigeria

- On 10 March 2006, Idris Aliyu converted from Islam to Christianity. Subsequent to his conversion, he faced many death threats from his uncle and other local Muslims, who forced him to leave his home in the town of Kominjak for Lafia in Nasarawa state, and then to Akwanga town. An attempt to return home resulted in "intense" persecution, forcing him to leave again.¹⁸⁴
- In December 2005, Pastor Zacheous Habu Bu Ngwenche was attacked for allegedly hiding a Muslim-background Christian.¹⁸⁵

Pakistan

- In August 2006, a Muslim-background Christian girl was attacked by her uncle because of her conversion to Christianity. She subsequently escaped and went into hiding.¹⁸⁶
- On 11 July 2006, 15-year-old Christian, Kenneth Gill, was forced to convert to Islam by a group of Muslim youths. When he claimed his conversion was forced, local clerics accused him of apostasy, resulting in his arrest. Following Gill's release on 7 August 2006, he is reported to have left the region.¹⁸⁷

181 Jordan, International Religious Freedom Report 2007, Released by the Bureau of Democracy, Human Rights, and Labor; U.S. State Department.; <http://www.state.gov/g/drl/rls/irf/2007/90213.htm>.

182 Ibid.

183 Hana Beech, Time Magazine; *Malaysia's Crisis of Faith*; 30/05/2007; accessed 04/09/2007; <http://www.time.com/time/world/article/0,8599,1626300,00.html>. See also; The Economist; *Lina Joy's Despair*; 31/05/2007; accessed 25/09/2007; http://www.economist.com/world/asia/displaystory.cfm?story_id=9262452.

184 Compass Direct News; *Nigeria: The Life of a Convert: Fleeing Murder Threats*; 12/12/07; <http://www.compassdirect.org/en/display.php?page=news&length=long&lang=en&id=4683>.

185 Paul Marshall; *Apostates from Islam, The case of the Afghan convert is not unique*, 04/10/2006, Volume 011, Issue 28; <http://www.weeklystandard.com/Content/Public/Articles/000/000/012/059fpgrn.asp>.

186 Pakistan, International Religious Freedom Report 2007, Released by the Bureau of Democracy, Human Rights, and Labor; U.S. State Department; <http://www.state.gov/g/drl/rls/irf/2007/90233.htm>.

187 Ibid.

Saudi Arabia

- In May 2007, a Muslim-background Christian man was arrested, later released, and then rearrested due to his conversion from Islam to Christianity, according to a report received by the U.S. Consulate General in Jeddah. The man, alleges torture at the hands of the authorities.¹⁸⁸
- On 29 November 2004, Muslim-background Christian Emad Alaabadi, was stopped by the Muttawa (the Saudi religious police), whilst driving his children home from school. They were accompanied home by the police, who then arrested Emad. He was subsequently relocated to Jeddah, where he was incarcerated. It is suspected that he has been tortured by the Muttawa in an attempt to reconvert him to Islam. Alaabadi was 30 years old at the time and has four children.¹⁸⁹

Turkey

- On 18 April 2007, Muslim-background Christians Necati Aydin, 36, and Ugur Yuksel, 32, were killed at the Christian publishing house where they worked in the Eastern village of Malatya. Also killed was Tilmann Geske, a 46-year-old German man. They were attacked by five men aged between nineteen and twenty, who each carried notes claiming that their actions were for the benefit of the Turkish state. The victims were found sitting on chairs with their hands and legs tied down, having had their throats slit between both ears. The five men were rapidly arrested due to the proximity of the local police station. When caught, they were still found armed with the murder weapons. Ugur Yuksel, who was found alive, but died hours later, was given an Islamic burial despite his Christian beliefs.¹⁹⁰
- On 11 October 2006, Muslim-background Christians Hakan Tustan and Turan Topal, who converted almost 20 years ago, were arrested by police and had books and computers confiscated, having been secretly followed for the previous month. The charges faced by the two men are based on Articles 135, 216 and 301 of the Turkish Penal Code. They are charged with insulting Turkishness, insulting Islam, and illegally collecting personal data for a Bible correspondence course. Charges were filed following meetings with three young men aged 16, 17 and 23, who made initial contact with Tustan and Topal by expressing an interest in Christianity, but then pressed charges. If convicted the men may be imprisoned for up to nine years. The case has been repeatedly delayed following the resignation of the initial judge and state prosecutor.¹⁹¹
- In January 2006, Muslim-background Christian Kamil Kiroglu was beaten unconscious by extremists who also threatened to kill him when he refused to return to Islam.¹⁹²

188 Saudi Arabia, International Religious Freedom Report 2007, Released by the Bureau of Democracy, Human Rights, and Labor; U.S. State Department; <http://www.state.gov/g/drl/rls/irf/2007/90220.htm>.

189 Asia News; *Saudi Christian Convert Arrested and Jailed*; 12/17/2004, 10:17; accessed 16/10/2007; <http://www.asianews.it/view.php?l=en&art=2134#>.

190 CSW briefing, *Religious Freedom Profile: Turkey*, May 2007

191 CSW briefing, *Religious Freedom Profile: Turkey*, May 2007

192 CSW briefing, *Religious Freedom Profile: Turkey*, May 2007

Appendix II: Selected UN Human Rights Texts on Religious Freedom

Universal Declaration of Human Rights, 1948

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion, or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

International Covenant on Civil and Political Rights, 1966

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to 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.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Convention on the Rights of the Child, 1989

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, 1981

Preamble

The General Assembly,

Considering that one of the basic principles of the Charter of the United Nations is that of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action in co-operation with the Organization to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights and the International Covenants on Human Rights proclaim the principles of nondiscrimination and equality before the law and the right to freedom of thought, conscience, religion and belief,

Considering that the disregard and infringement of human rights and fundamental freedoms, in particular of the right to freedom of thought, conscience, religion or whatever belief, have brought, directly or indirectly, wars and great suffering to mankind, especially where they serve as a means of foreign interference in the internal affairs of other States and amount to kindling hatred between peoples and nations,

Considering that religion or belief, for anyone who professes either, is one of the fundamental elements in his conception of life and that freedom of religion or belief should be fully respected and guaranteed,

Considering that it is essential to promote understanding, tolerance and respect in matters relating to freedom of religion and belief and to ensure that the use of religion or belief for ends inconsistent with the Charter of the United Nations, other relevant instruments of the United Nations and the purposes and principles of the present Declaration is inadmissible,

Convinced that freedom of religion and belief should also contribute to the attainment of the goals of world peace, social justice and friendship among peoples and to the elimination of ideologies or practices of colonialism and racial discrimination,

Noting with satisfaction the adoption of several, and the coming into force of some, conventions, under the aegis of the United Nations and of the specialized agencies, for the elimination of various forms of discrimination,

Concerned by manifestations of intolerance and by the existence of discrimination in matters of religion or belief still in evidence in some areas of the world,

Resolved to adopt all necessary measures for the speedy elimination of such intolerance in all its forms and manifestations and to prevent and combat discrimination on the ground of religion or belief, Proclaims this Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief:

Article 1

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever 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.

2. No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice.

3. Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

Article 2

1. No one shall be subject to discrimination by any State, institution, group of persons, or person on the grounds of religion or other belief.

2. For the purposes of the present Declaration, the expression "intolerance and discrimination based on religion or belief" means any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.

Article 3

Discrimination between human being on the grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations, and shall be condemned as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and enunciated in detail in the International Covenants on Human Rights, and as an obstacle to friendly and peaceful relations between nations.

Article 4

1. All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.

2. All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.

Article 5

1. The parents or, as the case may be, the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.

2. Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle.

3. The child shall be protected from any form of discrimination on the ground of religion or belief. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, respect for freedom of religion or belief of others, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.

4. In the case of a child who is not under the care either of his parents or of legal guardians, due account shall be taken of their expressed wishes or of any other proof of their wishes in the matter of religion or belief, the best interests of the child being the guiding principle.

5. Practices of a religion or belief in which a child is brought up must not be injurious to his physical or mental health or to his full development, taking into account article 1, paragraph 3, of the present Declaration.

Article 6

In accordance with article I of the present Declaration, and subject to the provisions of article 1, paragraph 3, the right to freedom of thought, conscience, religion or belief shall include, inter alia, the following freedoms:

- (a) To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;
- (b) To establish and maintain appropriate charitable or humanitarian institutions;
- (c) To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;
- (d) To write, issue and disseminate relevant publications in these areas;
- (e) To teach a religion or belief in places suitable for these purposes;
- (f) To solicit and receive voluntary financial and other contributions from individuals and institutions;
- (g) To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;
- (h) To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;
- (i) To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.

Article 7

The rights and freedoms set forth in the present Declaration shall be accorded in national legislation in such a manner that everyone shall be able to avail himself of such rights and freedoms in practice.

Article 8

Nothing in the present Declaration shall be construed as restricting or derogating from any right defined in the Universal Declaration of Human Rights and the International Covenants on Human Rights.

UN Human Rights Committee General Comment 22, Article 18:

1. The right to freedom of thought, conscience and religion (which includes the freedom to hold beliefs) in article 18.1 is far-reaching and profound; it encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others. The Committee draws the attention of States parties to the fact that the freedom of thought and the freedom of conscience are protected equally with the freedom of religion and belief. The fundamental character of these freedoms is also reflected in the fact that this provision cannot be derogated from, even in time of public emergency, as stated in article 4.2 of the Covenant.

2. Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms "belief" and "religion" are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility on the part of a predominant religious community.

3. Article 18 distinguishes the freedom of thought, conscience, religion or belief from the freedom to manifest religion or belief. It does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice. These freedoms are protected unconditionally, as is the right of everyone to hold opinions without interference in article 19.1. In accordance with articles 18.2 and 17, no one can be compelled to reveal his thoughts or adherence to a religion or belief.

4. The freedom to manifest religion or belief may be exercised "either individually or in community with others and in public or private". The freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts. The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship, the use of ritual formulae and objects, the display of symbols, and the observance of holidays and days of rest. The observance and practice of religion or belief may include not only ceremonial acts but also such customs as the observance of dietary regulations, the wearing of distinctive clothing or headcoverings, participation in rituals associated with certain stages of life, and the use of a particular language customarily spoken by a group. In addition, the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as the freedom to choose their religious leaders, priests and teachers, the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications.

5. The Committee observes that the freedom to "have or to adopt" a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views, as well as the right to retain one's religion or belief. Article 18.2 bars coercion that would impair the right to have or adopt a religion or belief, including the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. Policies or practices having the same intention or effect, such as, for example, those restricting access to education, medical care, employment or the rights guaranteed by article 25 and other provisions of the Covenant, are similarly inconsistent with article 18.2. The same protection is enjoyed by holders of all beliefs of a non-religious nature.

6. The Committee is of the view that article 18.4 permits public school instruction in subjects such as the general history of religions and ethics if it is given in a neutral and objective way. The liberty of parents or legal guardians to ensure that their children receive a religious and moral education in conformity with their own convictions, set forth in article 18.4, is related to the guarantees of the freedom to teach a religion or belief stated in article 18.1. The Committee notes that public education that includes instruction in a particular religion or belief is inconsistent with article 18.4 unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.

7. In accordance with article 20, no manifestation of religion or belief may amount to propaganda for war or advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. As stated by the Committee in its General Comment 11 [19], States parties are under the obligation to enact laws to prohibit such acts.

8. Article 18.3 permits restrictions on the freedom to manifest religion or belief only if limitations are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others. The freedom from coercion to have or to adopt a religion or belief and the liberty of parents and guardians to ensure religious and moral education cannot be restricted. In interpreting the scope of permissible limitation clauses, States parties should proceed from the need to protect the rights guaranteed under the Covenant, including the right to equality and non-discrimination on all grounds specified in articles 2, 3 and 26. Limitations imposed must be established by law and must not be applied in a manner that would vitiate the rights guaranteed in article 18. The Committee observes that paragraph 3 of article 18 is to be strictly interpreted: restrictions are not allowed on grounds not specified there, even if they would be allowed as restrictions to other rights protected in the Covenant, such as national security. Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner. The Committee observes that the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations on the freedom to manifest a religion or belief for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition. Persons already subject to certain legitimate constraints, such as prisoners, continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint. States parties' reports should provide information on the full scope and effects of limitations under article 18.3, both as a matter of law and of their application in specific circumstances.

9. The fact that a religion is recognised as a state religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents to other religions or non-believers. In particular, certain measures discriminating against the latter, such as measures restricting eligibility for government service to members of the predominant religion or giving economic privileges to them or imposing special restrictions on the practice of other faiths, are not in accordance with the prohibition of discrimination based on religion or belief and the guarantee of equal protection under article 26. The measures contemplated by article 20, paragraph 2 of the Covenant constitute important safeguards against infringement of the rights of religious minorities and of other religious groups to exercise the rights guaranteed by articles 18 and 27, and against acts of violence or persecution directed towards those groups. The Committee wishes to be informed of measures taken by States parties concerned to protect the practices of all religions or beliefs from infringement and to protect their followers from discrimination. Similarly, information as to respect for the rights of religious minorities under article 27 is necessary for the Committee to assess the extent to which the right to freedom of thought, conscience, religion and belief has been implemented by States parties. States parties concerned should also include in their reports information relating to practices considered by their laws and jurisprudence to be punishable as blasphemous.

10. If a set of beliefs is treated as official ideology in constitutions, statutes, proclamations of ruling parties, etc., or in actual practice, this shall not result in any impairment of the freedoms under article 18 or any other rights recognized under the Covenant nor in any discrimination against persons who do not accept the official ideology or who oppose it.

11. Many individuals have claimed the right to refuse to perform military service (conscientious objection) on the basis that such right derives from their freedoms under article 18. In response to such claims, a growing number of States have in their laws exempted from compulsory military service citizens who genuinely hold religious or other beliefs that forbid the performance of military service and replaced it with alternative national service. The Covenant does not explicitly refer to a right to conscientious objection, but the Committee believes that such a right can be derived from article 18, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief. When this right is recognized by law or practice, there shall be no differentiation among conscientious objectors on the basis of the nature of their particular beliefs; likewise, there shall be no discrimination against conscientious objectors because they have failed to perform military service. The Committee invites States parties to report on the conditions under which persons can be exempted from military service on the basis of their rights under article 18 and on the nature and length of alternative national service.

Appendix III: Islamic Human Rights Texts

Universal Islamic Declaration of Human Rights

Preamble

WHEREAS the age-old human aspiration for a just world order wherein people could live, develop and prosper in an environment free from fear, oppression, exploitation and deprivation, remains largely unfulfilled;

WHEREAS the Divine Mercy unto mankind reflected in its having been endowed with super-abundant economic sustenance is being wasted, or unfairly or unjustly withheld from the inhabitants of the earth;

WHEREAS Allah (God) has given mankind through His revelations in the Holy Qur'an and the Sunnah of His Blessed Prophet Muhammad an abiding legal and moral framework within which to establish and regulate human institutions and relationships;

WHEREAS the human rights decreed by the Divine Law aim at conferring dignity and honour on mankind and are designed to eliminate oppression and injustice;

WHEREAS by virtue of their Divine source and sanction these rights can neither be curtailed, abrogated or disregarded by authorities, assemblies or other institutions, nor can they be surrendered or alienated;

Therefore we, as Muslims, who believe

a) in God, the Beneficent and Merciful, the Creator, the Sustainer, the Sovereign, the sole Guide of mankind and the Source of all Law;

b) in the Vicegerency (Khilafah) of man who has been created to fulfill the Will of God on earth;

c) in the wisdom of Divine guidance brought by the Prophets, whose mission found its culmination in the final Divine message that was conveyed by the Prophet Muhammad (Peace be upon him) to all mankind;

d) that rationality by itself without the light of revelation from God can neither be a sure guide in the affairs of mankind nor provide spiritual nourishment to the human soul, and, knowing that the teachings of Islam represent the quintessence of Divine guidance in its final and perfect form, feel duty-bound to remind man of the high status and dignity bestowed on him by God;

e) in inviting all mankind to the message of Islam;

f) that by the terms of our primeval covenant with God our duties and obligations have priority over our rights, and that each one of us is under a bounden duty to spread the teachings of Islam by word, deed, and indeed in all gentle ways, and to make them effective not only in our individual lives but also in the society around us;

g) in our obligation to establish an Islamic order:

i) wherein all human beings shall be equal and none shall enjoy a privilege or suffer a disadvantage or discrimination by reason of race, colour, sex, origin or language;

ii) wherein all human beings are born free;

iii) wherein slavery and forced labour are abhorred;

iv) wherein conditions shall be established such that the institution of family shall be preserved, protected and honoured as the basis of all social life;

- v) wherein the rulers and the ruled alike are subject to, and equal before, the Law;
- vi) wherein obedience shall be rendered only to those commands that are in consonance with the Law;
- vii) wherein all worldly power shall be considered as a sacred trust, to be exercised within the limits prescribed by the Law and in a manner approved by it, and with due regard for the priorities fixed by it;
- viii) wherein all economic resources shall be treated as Divine blessings bestowed upon mankind, to be enjoyed by all in accordance with the rules and the values set out in the Qur'an and the Sunnah;
- ix) wherein all public affairs shall be determined and conducted, and the authority to administer them shall be exercised after mutual consultation (*Shura*) between the believers qualified to contribute to a decision which would accord well with the Law and the public good;
- x) wherein everyone shall undertake obligations proportionate to his capacity and shall be held responsible pro rata for his deeds;
- xi) wherein everyone shall, in case of an infringement of his rights, be assured of appropriate remedial measures in accordance with the Law;
- xii) wherein no one shall be deprived of the rights assured to him by the Law except by its authority and to the extent permitted by it;
- xiii) wherein every individual shall have the right to bring legal action against anyone who commits a crime against society as a whole or against any of its members;
- xiv) wherein every effort shall be made to
 - (a) secure unto mankind deliverance from every type of exploitation, injustice and oppression,
 - (b) ensure to everyone security, dignity and liberty in terms set out and by methods approved and within the limits set by the Law;

Do hereby, as servants of Allah and as members of the Universal Brotherhood of Islam, at the beginning of the Fifteenth Century of the Islamic Era, affirm our commitment to uphold the following inviolable and inalienable human rights that we consider are enjoined by Islam.

I Right to Life

- a)** Human life is sacred and inviolable and every effort shall be made to protect it. In particular no one shall be exposed to injury or death, except under the authority of the Law.
- b)** Just as in life, so also after death, the sanctity of a person's body shall be inviolable. It is the obligation of believers to see that a deceased person's body is handled with due solemnity.

II Right to Freedom

- a)** Man is born free. No inroads shall be made on his right to liberty except under the authority and in due process of the Law.
- b)** Every individual and every people has the inalienable right to freedom in all its forms? physical, cultural, economic and political — and shall be entitled to struggle by all available means against any infringement or abrogation of this right; and every oppressed individual or people has a legitimate claim to the support of other individuals and/or peoples in such a struggle.

III Right to Equality and Prohibition Against Impermissible Discrimination

- a) All persons are equal before the Law and are entitled to equal opportunities and protection of the Law.
- b) All persons shall be entitled to equal wage for equal work.
- c) No person shall be denied the opportunity to work or be discriminated against in any manner or exposed to greater physical risk by reason of religious belief, colour, race, origin, sex or language.

IV Right to Justice

- a) Every person has the right to be treated in accordance with the Law, and only in accordance with the Law.
- b) Every person has not only the right but also the obligation to protest against injustice; to recourse to remedies provided by the Law in respect of any unwarranted personal injury or loss; to self-defence against any charges that are preferred against him and to obtain fair adjudication before an independent judicial tribunal in any dispute with public authorities or any other person.
- c) It is the right and duty of every person to defend the rights of any other person and the community in general (*Hisbah*).
- d) No person shall be discriminated against while seeking to defend private and public rights.
- e) It is the right and duty of every Muslim to refuse to obey any command which is contrary to the Law, no matter by whom it may be issued.

V Right to Fair Trial

- a) No person shall be adjudged guilty of an offence and made liable to punishment except after proof of his guilt before an independent judicial tribunal.
- b) No person shall be adjudged guilty except after a fair trial and after reasonable opportunity for defence has been provided to him.
- c) Punishment shall be awarded in accordance with the Law, in proportion to the seriousness of the offence and with due consideration of the circumstances under which it was committed.
- d) No act shall be considered a crime unless it is stipulated as such in the clear wording of the Law.
- e) Every individual is responsible for his actions. Responsibility for a crime cannot be vicariously extended to other members of his family or group, who are not otherwise directly or indirectly involved in the commission of the crime in question.

VI Right to Protection Against Abuse of Power

Every person has the right to protection against harassment by official agencies. He is not liable to account for himself except for making a defence to the charges made against him or where he is found in a situation wherein a question regarding suspicion of his involvement in a crime could be reasonably raised

VII Right to Protection Against Torture

No person shall be subjected to torture in mind or body, or degraded, or threatened with injury either to himself or to anyone related to or held dear by him, or forcibly made to confess to the commission of a crime, or forced to consent to an act which is injurious to his interests.

VIII Right to Protection of Honour and Reputation

Every person has the right to protect his honour and reputation against calumnies, groundless charges or deliberate attempts at defamation and blackmail.

IX Right to Asylum

- a) Every persecuted or oppressed person has the right to seek refuge and asylum. This right is guaranteed to every human being irrespective of race, religion, colour and sex.
- b) Al Masjid Al Haram (the sacred house of Allah) in Mecca is a sanctuary for all Muslims.

X Rights of Minorities

- a) The Qur'anic principle "There is no compulsion in religion" shall govern the religious rights of non-Muslim minorities.
- b) In a Muslim country religious minorities shall have the choice to be governed in respect of their civil and personal matters by Islamic Law, or by their own laws.

XI Right and Obligation to Participate in the Conduct and Management of Public Affairs

- a) Subject to the Law, every individual in the community (*Ummah*) is entitled to assume public office.
- b) Process of free consultation (*Shura*) is the basis of the administrative relationship between the government and the people. People also have the right to choose and remove their rulers in accordance with this principle.

XII Right to Freedom of Belief, Thought and Speech

- a) Every person has the right to express his thoughts and beliefs so long as he remains within the limits prescribed by the Law. No one, however, is entitled to disseminate falsehood or to circulate reports which may outrage public decency, or to indulge in slander, innuendo or to cast defamatory aspersions on other persons.
- b) Pursuit of knowledge and search after truth is not only a right but a duty of every Muslim.
- c) It is the right and duty of every Muslim to protest and strive (within the limits set out by the Law) against oppression even if it involves challenging the highest authority in the state.
- d) There shall be no bar on the dissemination of information provided it does not endanger the security of the society or the state and is confined within the limits imposed by the Law.
- e) No one shall hold in contempt or ridicule the religious beliefs of others or incite public hostility against them; respect for the religious feelings of others is obligatory on all Muslims.

XIII Right to Freedom of Religion

Every person has the right to freedom of conscience and worship in accordance with his religious beliefs.

XIV Right to Free Association

a) Every person is entitled to participate individually and collectively in the religious, social, cultural and political life of his community and to establish institutions and agencies meant to enjoin what is right (*ma'roof*) and to prevent what is wrong (*munkar*).

b) Every person is entitled to strive for the establishment of institutions whereunder an enjoyment of these rights would be made possible. Collectively, the community is obliged to establish conditions so as to allow its members full development of their personalities.

XV The Economic Order and the Rights Evolving Therefrom

a) In their economic pursuits, all persons are entitled to the full benefits of nature and all its resources. These are blessings bestowed by God for the benefit of mankind as a whole.

b) All human beings are entitled to earn their living according to the Law.

c) Every person is entitled to own property individually or in association with others. State ownership of certain economic resources in the public interest is legitimate.

d) The poor have the right to a prescribed share in the wealth of the rich, as fixed by Zakah, levied and collected in accordance with the Law.

e) All means of production shall be utilised in the interest of the community (*Ummah*) as a whole, and may not be neglected or misused.

f) In order to promote the development of a balanced economy and to protect society from exploitation, Islamic Law forbids monopolies, unreasonable restrictive trade practices, usury, the use of coercion in the making of contracts and the publication of misleading advertisements.

g) All economic activities are permitted provided they are not detrimental to the interests of the community (*Ummah*) and do not violate Islamic laws and values.

XVI Right to Protection of Property

No property may be expropriated except in the public interest and on payment of fair and adequate compensation.

XVII Status and Dignity of Workers

Islam honours work and the worker and enjoins Muslims not only to treat the worker justly but also generously. He is not only to be paid his earned wages promptly, but is also entitled to adequate rest and leisure.

XVIII Right to Social Security

Every person has the right to food, shelter, clothing, education and medical care consistent with the resources of the community. This obligation of the community extends in particular to all individuals who cannot take care of themselves due to some temporary or permanent disability.

XIX Right to Found a Family and Related Matters

- a) Every person is entitled to marry, to found a family and to bring up children in conformity with his religion, traditions and culture. Every spouse is entitled to such rights and privileges and carries such obligations as are stipulated by the Law.
- b) Each of the partners in a marriage is entitled to respect and consideration from the other.
- c) Every husband is obligated to maintain his wife and children according to his means.
- d) Every child has the right to be maintained and properly brought up by its parents, it being forbidden that children are made to work at an early age or that any burden is put on them which would arrest or harm their natural development.
- e) If parents are for some reason unable to discharge their obligations towards a child it becomes the responsibility of the community to fulfill these obligations at public expense.
- f) Every person is entitled to material support, as well as care and protection, from his family during his childhood, old age or incapacity. Parents are entitled to material support as well as care and protection from their children.
- g) Motherhood is entitled to special respect, care and assistance on the part of the family and the public organs of the community (*Ummah*).
- h) Within the family, men and women are to share in their obligations and responsibilities according to their sex, their natural endowments, talents and inclinations, bearing in mind their common responsibilities toward their progeny and their relatives.
- i) No person may be married against his or her will, or lose or suffer diminution of legal personality on account of marriage.

XX Rights of Married Women

Every married woman is entitled to:

- a) live in the house in which her husband lives;
- b) receive the means necessary for maintaining a standard of living which is not inferior to that of her spouse, and, in the event of divorce, receive during the statutory period of waiting (*iddah*) means of maintenance commensurate with her husband's resources, for herself as well as for the children she nurses or keeps, irrespective of her own financial status, earnings, or property that she may hold in her own rights;
- c) seek and obtain dissolution of marriage (*Khul'a*) in accordance with the terms of the Law. This right is in addition to her right to seek divorce through the courts.
- d) inherit from her husband, her parents, her children and other relatives according to the Law;
- e) strict confidentiality from her spouse, or ex-spouse if divorced, with regard to any information that he may have obtained about her, the disclosure of which could prove detrimental to her interests. A similar responsibility rests upon her in respect of her spouse or ex-spouse.

XXI Right to Education

- a) Every person is entitled to receive education in accordance with his natural capabilities.
- b) Every person is entitled to a free choice of profession and career and to the opportunity for the full development of his natural endowments.

XXII Right of Privacy

Every person is entitled to the protection of his privacy.

XXIII Right to Freedom of Movement and Residence

- a) In view of the fact that the World of Islam is veritably *Ummah Islamia*, every Muslim shall have the right to freely move in and out of any Muslim country.
- b) No one shall be forced to leave the country of his residence, or be arbitrarily deported therefrom without recourse to due process of Law.

Explanatory Notes

1 In the above formulation of Human Rights, unless the context provides otherwise:

- a) the term 'person' refers to both the male and female sexes.
- b) the term 'Law' denotes the *Shari'ah*, i.e. the totality of ordinances derived from the Qur'an and the Sunnah and any other laws that are deduced from these two sources by methods considered valid in Islamic jurisprudence.

2 Each one of the Human Rights enunciated in this declaration carries a corresponding duty.

3 In the exercise and enjoyment of the rights referred to above every person shall be subject only to such limitations as are enjoined by the Law for the purpose of securing the due recognition of, and respect for, the rights and the freedom of others and of meeting the just requirements of morality, public order and the general welfare of the Community (*Ummah*).

The Arabic text of this Declaration is the original.

The Cairo Declaration on Human Rights in Islam

Adopted and Issued at the Nineteenth Islamic Conference of Foreign Ministers in Cairo on 5 August 1990.

The Member States of the Organization of the Islamic Conference,

Reaffirming the civilizing and historical role of the Islamic Ummah which God made the best nation that has given mankind a universal and well-balanced civilization in which harmony is established between this life and the hereafter and knowledge is combined with faith; and the role that this Ummah should play to guide a humanity confused by competing trends and ideologies and to provide solutions to the chronic problems of this materialistic civilization.

Wishing to contribute to the efforts of mankind to assert human rights, to protect man from exploitation and persecution, and to affirm his freedom and right to a dignified life in accordance with the Islamic Shari'ah

Convinced that mankind which has reached an advanced stage in materialistic science is still, and shall remain, in dire need of faith to support its civilization and of a self-motivating force to guard its rights;

Believing that fundamental rights and universal freedoms in Islam are an integral part of the Islamic religion and that no one as a matter of principle has the right to suspend them in whole or in part or violate or ignore them in as much as they are binding divine commandments, which are contained in the Revealed Books of God and were sent through the last of His Prophets to complete the preceding divine messages thereby making their observance an act of worship and their neglect or violation an abominable sin, and accordingly every person is individually responsible — and the Ummah collectively responsible — for their safeguard.

Proceeding from the above-mentioned principles,

Declare the following:

Article 1

(a) All human beings form one family whose members are united by submission to God and descent from Adam. All men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the grounds of race, colour, language, sex, religious belief, political affiliation, social status or other considerations. True faith is the guarantee for enhancing such dignity along the path to human perfection.

(b) All human beings are God's subjects, and the most loved by him are those who are most useful to the rest of His subjects, and no one has superiority over another except on the basis of piety and good deeds.

Article 2

(a) Life is a God-given gift and the right to life is guaranteed to every human being. It is the duty of individuals, societies and states to protect this right from any violation, and it is prohibited to take away life except for a Shari'ah-prescribed reason.

(b) It is forbidden to resort to such means as may result in the genocidal annihilation of mankind.

(c) The preservation of human life throughout the term of time willed by God is a duty prescribed by Shari'ah.

(d) Safety from bodily harm is a guaranteed right. It is the duty of the state to safeguard it, and it is prohibited to breach it without a Shari'ah-prescribed reason.

Article 3

(a) In the event of the use of force and in case of armed conflict, it is not permissible to kill non-belligerents such as old men, women and children. The wounded and the sick shall have the right to medical treatment; and prisoners of war shall have the right to be fed, sheltered and clothed. It is prohibited to mutilate dead bodies. It is a duty to exchange prisoners of war and to arrange visits or reunions of the families separated by the circumstances of war.

(b) It is prohibited to fell trees, to damage crops or livestock, and to destroy the enemy's civilian buildings and installations by shelling, blasting or any other means.

Article 4

Every human being is entitled to inviolability and the protection of his good name and honour during his life and after his death. The state and society shall protect his remains and burial place.

Article 5

(a) The family is the foundation of society, and marriage is the basis of its formation. Men and women have the right to marriage, and no restrictions stemming from race, colour or nationality shall prevent them from enjoying this right.

(b) Society and the State shall remove all obstacles to marriage and shall facilitate marital procedure. They shall ensure family protection and welfare.

Article 6

(a) Woman is equal to man in human dignity, and has rights to enjoy as well as duties to perform; she has her own civil entity and financial independence, and the right to retain her name and lineage.

(b) The husband is responsible for the support and welfare of the family.

Article 7

(a) As of the moment of birth, every child has rights due from the parents, society and the state to be accorded proper nursing, education and material, hygienic and moral care. Both the fetus and the mother must be protected and accorded special care.

(b) Parents and those in such like capacity have the right to choose the type of education they desire for their children, provided they take into consideration the interest and future of the children in accordance with ethical values and the principles of the Shari'ah.

(c) Both parents are entitled to certain rights from their children, and relatives are entitled to rights from their kin, in accordance with the tenets of the Shari'ah.

Article 8

Every human being has the right to enjoy his legal capacity in terms of both obligation and commitment. Should this capacity be lost or impaired, he shall be represented by his guardian.

Article 9

(a) The quest for knowledge is an obligation, and the provision of education is a duty for society and the State. The State shall ensure the availability of ways and means to acquire education and shall guarantee educational diversity in the interest of society so as to enable man to be acquainted with the religion of Islam and the facts of the Universe for the benefit of mankind.

(b) Every human being has the right to receive both religious and worldly education from the various institutions of education and guidance, including the family, the school, the university, the media, etc., and in such an integrated and balanced manner as to develop his personality, strengthen his faith in God and promote his respect for and defence of both rights and obligations.

Article 10

Islam is the religion of unspoiled nature. It is prohibited to exercise any form of compulsion on man or to exploit his poverty or ignorance in order to convert him to another religion or to atheism.

Article 11

- (a) Human beings are born free, and no one has the right to enslave, humiliate, oppress or exploit them, and there can be no subjugation but to God the Most-High.
- (b) Colonialism of all types being one of the most evil forms of enslavement is totally prohibited. Peoples suffering from colonialism have the full right to freedom and self-determination. It is the duty of all States and peoples to support the struggle of colonized peoples for the liquidation of all forms of colonialism and occupation, and all States and peoples have the right to preserve their independent identity and exercise control over their wealth and natural resources.

Article 12

Every man shall have the right, within the framework of Shari'ah, to free movement and to select his place of residence whether inside or outside his country and, if persecuted, is entitled to seek asylum in another country. The country of refuge shall ensure his protection until he reaches safety, unless asylum is motivated by an act which Shari'ah regards as a crime.

Article 13

Work is a right guaranteed by the State and Society for each person able to work. Everyone shall be free to choose the work that suits him best and which serves his interests and those of society. The employee shall have the right to safety and security as well as to all other social guarantees. He may neither be assigned work beyond his capacity nor be subjected to compulsion or exploited or harmed in any way. He shall be entitled — without any discrimination between males and females — to fair wages for his work without delay, as well as to the holidays, allowances and promotions which he deserves. For his part, he shall be required to be dedicated and meticulous in his work. Should workers and employers disagree on any matter, the State shall intervene to settle the dispute and have the grievances redressed, the rights confirmed and justice enforced without bias.

Article 14

Everyone shall have the right to legitimate gains without monopolization, deceit or harm to oneself or to others. Usury (riba) is absolutely prohibited.

Article 15

- (a) Everyone shall have the right to own property acquired in a legitimate way, and shall be entitled to the rights of ownership, without prejudice to oneself, others or to society in general. Expropriation is not permissible except for the requirements of public interest and upon payment of immediate and fair compensation
- (b) Confiscation and seizure of property is prohibited except for a necessity dictated by law.

Article 16

Everyone shall have the right to enjoy the fruits of his scientific, literary, artistic or technical production and the right to protect the moral and material interests stemming therefrom, provided that such production is not contrary to the principles of Shari'ah.

Article 17

- (a) Everyone shall have the right to live in a clean environment, away from vice and moral corruption, an environment that would foster his self-development; and it is incumbent upon the State and society in general to afford that right.
- (b) Everyone shall have the right to medical and social care, and to all public amenities provided by society and the State within the limits of their available resources.
- (c) The State shall ensure the right of the individual to a decent living which will enable him to meet all his requirements and those of his dependents, including food, clothing, housing, education, medical care and all other basic needs.

Article 18

- (a) Everyone shall have the right to live in security for himself, his religion, his dependents, his honour and his property.
- (b) Everyone shall have the right to privacy in the conduct of his private affairs, in his home, among his family, with regard to his property and his relationships. It is not permitted to spy on him, to place him under surveillance or to besmirch his good name. The State shall protect him from arbitrary interference.
- (c) A private residence is inviolable in all cases. It will not be entered without permission from its inhabitants or in any unlawful manner, nor shall it be demolished or confiscated and its dwellers evicted.

Article 19

- (a) All individuals are equal before the law, without distinction between the ruler and the ruled.
- (b) The right to resort to justice is guaranteed to everyone.
- (c) Liability is in essence personal.
- (d) There shall be no crime or punishment except as provided for in the Shari'ah.
- (e) A defendant is innocent until his guilt is proven in a fair trial in which he shall be given all the guarantees of defence.

Article 20

It is not permitted without legitimate reason to arrest an individual, or restrict his freedom, to exile or to punish him. It is not permitted to subject him to physical or psychological torture or to any form of humiliation, cruelty or indignity. Nor is it permitted to subject an individual to medical or scientific experimentation without his consent or at the risk of his health or of his life. Nor is it permitted to promulgate emergency laws that would provide executive authority for such actions.

Article 21

Taking hostages under any form or for any purpose is expressly forbidden.

Article 22

- (a) Everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of the Shari'ah.
- (b) Everyone shall have the right to advocate what is right, and propagate what is good, and warn against what is wrong and evil according to the norms of Islamic Shari'ah.
- (c) Information is a vital necessity to society. It may not be exploited or misused in such a way as may violate sanctities and the dignity of Prophets, undermine moral and ethical values or disintegrate, corrupt or harm society or weaken its faith.
- (d) It is not permitted to arouse nationalistic or doctrinal hatred or to do anything that may be an incitement to any form of racial discrimination.

Article 23

- (a) Authority is a trust; and abuse or malicious exploitation thereof is absolutely prohibited, so that fundamental human rights may be guaranteed.
- (b) Everyone shall have the right to participate, directly or indirectly in the administration of his country's public affairs. He shall also have the right to assume public office in accordance with the provisions of Shari'ah.

Article 24

All the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'ah.

Article 25

The Islamic Shari'ah is the only source of reference for the explanation or clarification to any of the articles of this Declaration.

Cairo, 14 Muharram 1411H 5 August 1990

Arab Charter on Human Rights (1994)

Preamble

Given the Arab nation's belief in human dignity since God honoured it by making the Arab World the cradle of religions and the birthplace of civilizations which confirmed its right to a life of dignity based on freedom, justice and peace,

Pursuant to the eternal principles of brotherhood and equality among all human beings which were firmly established by the Islamic Shari'a and the other divinely-revealed religions,

Being proud of the humanitarian values and principles which it firmly established in the course of its long history and which played a major role in disseminating centres of learning between the East and the West, thereby making it an international focal point for seekers of knowledge, culture and wisdom,

Conscious of the fact that the entire Arab World has always worked together to preserve its faith, believing in its unity, struggling to protect its freedom, defending the right of nations to self-determination and to safeguard their resources, believing in the rule of law and that every individual's enjoyment of freedom, justice and equality of opportunity is the yardstick by which the merits of any society are gauged,

Rejecting racism and zionism, which constitute a violation of human rights and pose a threat to world peace,

Acknowledging the close interrelationship between human rights and world peace,

Reaffirming the principles of the Charter of the United Nations and the Universal Declaration of Human Rights, as well as the provisions of the United Nations International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights and the Cairo Declaration on Human Rights in Islam

In confirmation of all the above, have agreed as follows :

Part I

Article 1

(a) All peoples have the right of self-determination and control over their natural wealth and resources and, accordingly, have the right to freely determine the form of their political structure and to freely pursue their economic, social and cultural development.

(b) Racism, zionism, occupation and foreign domination pose a challenge to human dignity and constitute a fundamental obstacle to the realization of the basic rights of peoples. There is a need to condemn and endeavour to eliminate all such practices.

Part II

Article 2

Each State Party to the present Charter undertakes to ensure to all individuals within its territory and subject to its Jurisdiction the right to enjoy all the rights and freedoms recognized herein, without any distinction on grounds of race, colour, sex, language, religion, political opinion, national or social origin, property, birth or other status and without any discrimination between men and women.

Article 3

(a) No restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Charter in virtue of law, conventions or custom shall be admitted on the pretext that the present Charter does not recognize such rights or that it recognizes them to a lesser extent.

(b) No State Party to the present Charter shall derogate from the fundamental freedoms recognized herein and which are enjoyed by the nationals of another State that shows less respect for those freedoms.

Article 4

- (a) No restrictions shall be placed on the rights and freedoms recognized in the present Charter except where such is provided by law and deemed necessary to protect the national security and economy, public order, health or morals or the rights and freedoms of others.
- (b) In time of public emergency which threatens the life of the nation, the States Parties may take measures derogating from their obligations under the present Charter to the extent strictly required by the exigencies of the situation.
- (c) Such measures or derogations shall under no circumstances affect or apply to the rights and special guarantees concerning the prohibition of torture and degrading treatment, return to one's country, political asylum, trial, the inadmissibility of retrial for the same act, and the legal status of crime and punishment.

Article 5

Every individual has the right to life, liberty and security of person. These rights shall be protected by law.

Article 6

There shall be no crime or punishment except as provided by law and there shall be no punishment in respect of an act preceding the promulgation of that provision. The accused shall benefit from subsequent legislation if it is in his favour.

Article 7

The accused shall be presumed innocent until proved guilty at a lawful trial in which he has enjoyed the guarantees necessary for his defence.

Article 8

Everyone has the right to liberty and security of person and no one shall be arrested, held in custody or detained without a legal warrant and without being brought promptly before a judge.

Article 9

All persons are equal before the law and everyone within the territory of the State has a guaranteed right to legal remedy.

Article 10

The death penalty may be imposed only for the most serious crimes and anyone sentenced to death shall have the right to seek pardon or commutation of the sentence.

Article 11

The death penalty shall under no circumstances be imposed for a political offence.

Article 12

The death penalty shall not be inflicted on a person under 18 years of age, on a pregnant woman prior to her delivery or on a nursing mother within two years from the date on which she gave birth.

Article 13

- (a) The States parties shall protect every person in their territory from being subjected to physical or mental torture or cruel, inhuman or degrading treatment. They shall take effective measures to prevent such acts and shall regard the practice thereof, or participation therein, as a punishable offence.
- (b) No medical or scientific experimentation shall be carried out on any person without his free consent.

Article 14

No one shall be imprisoned on the ground of his proven inability to meet a debt or fulfil any civil obligation.

Article 15

Persons sentenced to a penalty of deprivation of liberty shall be treated with humanity.

Article 16

No one shall be tried twice for the same offence.

Anyone against whom such proceedings are brought shall have the right to challenge their legality and to demand his release.

Anyone who is the victim of unlawful arrest or detention shall be entitled to compensation.

Article 17

Privacy shall be inviolable and any infringement thereof shall constitute an offence. This privacy includes private family affairs, the inviolability of the home and the confidentiality of correspondence and other private means of communication.

Article 18

Everyone shall have the inherent right to recognition as a person before the law.

Article 19

The people are the source of authority and every citizen of full legal age shall have the right of political participation, which he shall exercise in accordance with the law.

Article 20

Every individual residing within the territory of a State shall have the right to liberty of movement and freedom to choose his place of residence in any part of the said territory, within the limits of the law.

Article 21

No citizen shall be arbitrarily or unlawfully prevented from leaving any Arab country, including his own, nor prohibited from residing, or compelled to reside, in any part of his country.

Article 22

No citizen shall be expelled from his country or prevented from returning thereto.

Article 23

Every citizen shall have the right to seek political asylum in other countries in order to escape persecution. This right shall not be enjoyed by persons facing prosecution for an offence under the ordinary law. Political refugees shall not be extraditable.

Article 24

No citizen shall be arbitrarily deprived of his original nationality, nor shall his right to acquire another nationality be denied without a legally valid reason.

Article 25

Every citizen has a guaranteed right to own private property. No citizen shall under any circumstances be divested of all or any part of his property in an arbitrary or unlawful manner.

Article 26

Everyone has a guaranteed right to freedom of belief, thought and opinion.

Article 27

Adherents of every religion have the right to practise their religious observances and to manifest their views through expression, practice or teaching, without prejudice to the rights of others. No restrictions shall be imposed on the exercise of freedom of belief, thought and opinion except as provided by law.

Article 28

All citizens have the right to freedom of peaceful assembly and association. No restrictions shall be placed on the exercise of this right unless so required by the exigencies of national security, public safety or the need to protect the rights and freedoms of others.

Article 29

The State guarantees the right to form trade unions and the right to strike within the limits laid down by law.

Article 30

The State guarantees every citizen's right to work in order to secure for himself a standard of living that meets the basic requirements of life. The State also guarantees every citizen's right to comprehensive social security.

Article 31

Free choice of work is guaranteed and forced labour is prohibited. Compelling a person to perform work under the terms of a court judgement shall not be deemed to constitute forced labour.

Article 32

The State shall ensure that its citizens enjoy equality of opportunity in regard to work, as well as a fair wage and equal remuneration for work of equal value.

Article 33

Every citizen shall have the right of access to public office in his country.

Article 34

The eradication of illiteracy is a binding obligation and every citizen has a right to education. Primary education, at the very least, shall be compulsory and free and both secondary and university education shall be made easily accessible to all.

Article 35

Citizens have a right to live in an intellectual and cultural environment in which Arab nationalism is a source of pride, in which human rights are sanctified and in which racial, religious and other forms of discrimination are rejected and international cooperation and the cause of world peace are supported.

Article 36

Everyone has the right to participate in cultural life, as well as the right to enjoy literary and artistic works and to be given opportunities to develop his artistic, intellectual and creative talents.

Article 37

Minorities shall not be deprived of their right to enjoy their culture or to follow the teachings of their religions.

Article 38

(a) The family is the basic unit of society, whose protection it shall enjoy.

(b) The State undertakes to provide outstanding care and special protection for the family, mothers, children and the aged.

Article 39

Young persons have the right to be afforded the most ample opportunities for physical and mental development.

Part III

Article 40

- (a) The States members of the League's Council which are parties to the Charter shall elect a Committee of Experts on Human Rights by secret ballot.
- (b) The Committee shall consist of seven members nominated by the member States Parties to the Charter. The initial elections to the Committee shall be held six months after the Charter's entry into force. The Committee shall not include more than one person from the same State.
- (c) The Secretary-General shall request the member States to submit their candidates two months before the scheduled date of the elections.
- (d) The candidates, who must be highly experienced and competent in the Committee's field of work, shall serve in their personal capacity with full impartiality and integrity.
- (e) The Committee's members shall be elected for a three-year term which, in the case of three of them, shall be renewable for one further term, their names being selected by lot. The principle of rotation shall be observed as far as possible.
- (f) The Committee shall elect its chairman and shall draw up its rules of procedure specifying its method of operation.
- (g) Meetings of the Committee shall be convened by the Secretary-General at the Headquarters of the League's Secretariat. With the Secretary-General's approval, the Committee may also meet in another Arab country if the exigencies of its work so require.

Article 41

1. The States Parties shall submit reports to the Committee of Experts on Human Rights in the following manner :
 - (a) An initial report one year after the date of the Charter's entry into force.
 - (b) Periodic reports every three years.
 - (c) Reports containing the replies of States to the Committee's questions.
2. The Committee shall consider the reports submitted by the member States Parties to the Charter in accordance with the provisions of paragraph 1 of this article.
3. The Committee shall submit a report, together with the views and comments of the States, to the Standing Committee on Human Rights at the Arab League.

Part IV

Article 42

- (a) The Secretary-General of the League of Arab States shall submit the present Charter, after its approval by the Council of the League, to the member States for signature and ratification or accession.
- (b) The present Charter shall enter into effect two months after the date of deposit of the seventh instrument of ratification or accession with the Secretariat of the League of Arab States.

Article 43

Following its entry into force, the present Charter shall become binding on each State two months after the date of the deposit of Its instrument of ratification or accession with the Secretariat. The Secretary-General shall notify the member States of the deposit of each instrument of ratification or accession."

Appendix IV: Islam and Shari'a in Islamic Constitutions

Country	Constitutional Provisions	
Afghanistan	Article 2	The religion of Afghanistan is the sacred religion of Islam. Followers of other religions are free to perform their religious rites within the limits of the provisions of law.
	Article 3	In Afghanistan, no law can be contrary to the sacred religion of Islam and the values of this Constitution.
	Article 130	When there is no provision in the Constitution or the laws with respect to a case under consideration, the court shall follow the provisions of the Hanafi jurisprudence within the provisions set forth in this Constitution to render a decision that secures justice in the best possible way.
	Article 131	Courts shall apply Shia jurisprudence in cases dealing with personal matters involving the followers of the Shia Sect in accordance with the provisions of the law.
	Article 149	In other cases as well, where no provisions of this Constitution and other laws apply and both sides of the case are followers of the Shia Sect, courts shall resolve the case according to laws of this Sect. The provisions of adherence to the provisions of the sacred religion of Islam and the republican regime cannot be amended.
Algeria	Article 9	The [government] institutions forbid: ... – practices contrary to Islamic morals and the values of [the] November [revolution].
	Article 171	Next to the President of the Republic, a High Islamic Council is established...especially to: – encourage and promote ijtihad [independent legal interpretation of Islamic law]; – to provide its opinion on the religious rules on what is submitted to it...
	Article 178	No constitutional revision may impinge on: ... 2. The democratic character based on plural parties. 3. Islam, as the religion of the State. ... 5. On fundamental liberties, on the rights of man and citizen. ...
Bahrain	Article 2	The religion of the State is Islam. The Islamic Shari'a is a principal source for legislation...
	Article 5	b. The State guarantees reconciling the duties of women towards the family with their work in society, and their equality with men in political, social, cultural, and economic spheres without breaching the provisions of Islamic canon law (Shari'a).
	Article 120	d. Inheritance is a guaranteed right governed by the Islamic Shari'a. c. It is not permissible to propose an amendment to Article 2 of this Constitution, and it is not permissible under any circumstances to propose the amendment of...the principles of freedom and equality established in this Constitution.

Note: This table is adapted from Stahnke, T and Blitt, R. C; The Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Predominantly Muslim Countries; March 2005; prepared for the United States Commission on International Religious Freedom; http://www.uscirf.gov/countries/global/comparative_constitutions/03082005/Study0305.pdf.

Country	Constitutional Provisions	
Comoros	Preamble	The Comorian people solemnly affirm their will to: draw from Islam the permanent inspiration for the principles and rules that shall govern the union...
	Article 9	This preamble forms an integral part of the Constitution. The Union will have exclusive jurisdiction in the following matters: religion, nationality, currency, foreign relations, external defense, and national symbols.
	Article 36	...the Council of the Ulemas and the Economic and Social Council shall assist as needed, the government of the Union...in formulating decisions that affect the religious, economic and social life of the country.
Egypt	Article 2	Islam is the religion of the State...Islamic jurisprudence is the principal source of legislation.
Gambia	Article 7	In addition to this Constitution, the laws of The Gambia consist of— ...
	Article 137	(f) the Sharia as regards matters of marriage, divorce and inheritance among members of the communities to which it applies. (1) A Cadi Court shall be established in such places in The Gambia as the Chief Justice shall determine. ... (4) The Cadi Court shall only have jurisdiction to apply the Sharia in matters of marriage, divorce and inheritance where the parties or other persons interested are Muslims.
Iraq	Article 3	<i>[Supreme Law]</i> (A) This Law is the Supreme Law of the land and shall be binding in all parts of Iraq without exception...Likewise, no amendment may be made that could abridge in any way the rights of the Iraqi people cited in Chapter Two...reduce the powers of the regions or governorates; or affect Islam, or any other religions or sects and their rites.
	Article 7	<i>[State Religion, Freedom of Religion, Arab Nation]</i> (A) Islam is the official religion of the State and is to be considered a source of legislation. No law that contradicts the universally agreed tenets of Islam, the principles of democracy, or the rights cited in Chapter Two of this Law may be enacted during the transitional period. This Law respects the Islamic identity of the majority of the Iraqi people and guarantees the full religious rights of all individuals to freedom of religious belief and practice.
Iran	Article 1	The form of government of Iran is that of an Islamic Republic, endorsed by the people of Iran on the basis of their longstanding belief in the sovereignty of truth and Qur'anic justice...
	Article 2	The Islamic Republic is a system based on belief in: 1. the One God (as stated in the phrase "There is no god except Allah"), His exclusive sovereignty and the right to legislate, and the necessity of submission to His commands; 2. Divine revelation and its fundamental role in setting forth the laws...

Country	Constitutional Provisions	
	Article 4 All civil, penal financial, economic, administrative, cultural, military, political, and other laws and regulations must be based on Islamic criteria. This principle applies absolutely and generally to all articles of the Constitution as well as to all other laws and regulations, and the fuqahā' of the Guardian Council are judges in this matter. Article 12 The official religion of Iran is Islam and the Twelver Ja'fari school [in usūl al-Dīn and fiqh], and this principle will remain eternally immutable. Other Islamic schools, including the Hanafi, Shāfi'i, Maliki, Hanbali, and Zaydi, are to be accorded full respect, and their followers are free to act in accordance with their own jurisprudence in performing their religious rites. These schools enjoy official status in matters pertaining to religious education, affairs of personal status (marriage, divorce, inheritance, and wills) and related litigation in courts of law. In regions of the country where Muslims following any one of these schools of fiqh constitute the majority, local regulations, within the bounds of the jurisdiction of local councils, are to be in accordance with the respective school of fiqh, without infringing upon the rights of the followers of other schools. Article 170 Judges of courts are obliged to refrain from executing statutes and regulations of the government that are in conflict with the laws or the norms of Islam... Article 177 The contents of the Articles of the Constitution related to the Islamic character of the political system; the basis of all the rules and regulations according to Islamic criteria; the religious footing; the objectives of the Islamic Republic of Iran; the democratic character of the government; the wilayat al-'amr; the Imamate of Ummah... [and the] official religion of Iran [Islam] and the school [Twelver Ja'fari] are unalterable.	
Jordan	Article 104 The Religious Courts shall be divided into:— (i) The Sharia Courts (ii) The tribunals of other Religious Communities. Article 105 The Sharia Courts shall have exclusive jurisdiction in the following matters in accordance with its special laws: (i) Matters of personal status of Moslems (ii) Cases concerning blood money (<i>diyyeh</i>) where the two parties are Moslems or where one of the parties is not a Moslem and the two parties consent to the jurisdiction of the Sharia Courts. Article 106 The Sharia Courts shall apply in its proceedings the provisions of the Sharia Law. Article 108 The tribunals of Religious Communities are the tribunals of the non-moslem [sic] religious tribunals which were or will be recognized by the Government as being established in the Hashemite Kingdom of Jordan.	
Kuwait	Article 2 The religion of the State is Islam, and the Islamic Sharia shall be a main source of legislation. Article 18 ... Inheritance is a right governed by the Islamic Sharia.	
Libya	Article 2 <i>Constitutional Proclamation, 11 December 1969</i> Islam is the religion of the State and Arabic is its official language. The State protects religious freedom in accordance with established customs. Article 8 ...Inheritance is a right which will be governed by the Islamic Shari'a.	

Country	Constitutional Provisions
Malaysia	NINTH SCHEDULE Legislative Lists¹¹⁷ List II—State List 1. Except with respect to the Federal Territories of Kuala Lumpur and Labuan, Islamic law and personal and family law of persons professing the religion of Islam, including the Islamic law relating to succession, testate and intestate, betrothal, marriage, divorce, dower, maintenance, adoption, legitimacy, guardianship, gifts, partitions and non-charitable trusts; Wakafs and the definition and regulation of charitable and religious trusts, the appointment of trustees and the incorporation of persons in respect of Islamic religious and charitable endowments, institutions, trusts, charities and charitable institutions operating wholly within the State; Malay customs; Zakat, Fitrah and Baitulmal or similar Islamic religious revenue; mosques or any Islamic public places of worship, creation and punishment of offences by persons professing the religion of Islam against precepts of that religion, except in regard to matters included in the Federal List; the constitution, organisation and procedure of Syariah [sharia] courts, which shall have jurisdiction only over persons professing the religion of Islam and in respect only of any of the matters included in this paragraph, but shall not have jurisdiction in respect of offences except in so far as conferred by federal law, the control of propagating doctrines and beliefs among persons professing the religion of Islam; the determination of matters of Islamic law and doctrine and Malay custom.
Maldives	Article 1 The Maldives shall be a sovereign, independent, democratic republic based on the principles of Islam... Article 16 (2) Every person who is charged with an offence shall have the right to defend himself in accordance with Shari'ah... Article 23 (1) Property of persons shall be inviolable. No person shall be deprived of his property except as provided by law or Shari'ah. Article 38 The President shall be the supreme authority to propagate the tenets of Islam in the Maldives.¹¹¹ Article 43 The powers of the President shall be exercised subject to Shari'ah and the Constitution. Nothing shall be done in violation of Shari'ah or the Constitution. Article 156 In this Constitution the word 'law' also includes the norms and provisions of Shari'ah established by the Noble Quran and the traditions of the Noble Prophet, and the rules derived therefrom.
Mauritania	Article 94 There shall be instituted next to the President of the Republic a High Islamic Council composed of five (5) members. ... It shall formulate opinions concerning the questions about which it has been consulted by the President of the Republic.

Country	Constitutional Provisions	
Oman	Article 2	The State's religion is Islam and Islamic Sharia is the basis for legislation.
	Article 10	The Political Principles: ... Laying suitable foundations for consolidating the pillars of genuine shura emanating from the country's heritage, values and its Islamic Sharia, taking pride in its history while adopting the useful contemporary methods and tools.
	Article 11	The Economic Principles: ...Inheritance is a right governed by Islamic Sharia.
Pakistan	Article 31	(1) Steps shall be taken to enable the Muslims of Pakistan, individually and collectively, to order their lives in accordance with the fundamental principles and basic concepts of Islam and to provide facilities whereby they may be enabled to understand the meaning of life according to the Holy Quran and Sunnah. (2) The State shall endeavour, as respects the Muslims of Pakistan,— (a) to make the teaching of the Holy Quran and Islamiat compulsory...and to secure correct and exact printing and publishing of the Holy Quran; (b) to promote unity and the observance of the Islamic moral standards; ...
	Article 203(C)	(1) There shall be constituted for the purposes of this Chapter a court to be called the Federal Shariat Court. (2) The Court shall consist of not more than eight Muslim [Judges], including the [Chief Justice], to be appointed by the President.
	Article 203(D)	(1) The Court may...examine and decided the question whether or not any law...is repugnant to the Injunctions of Islam, as laid down in the Holy Quran and the Sunnah of the Holy Prophet... ... (3) If any law or provision of law is held by the Court to be repugnant to the injunctions of Islam,— (a) the President...or the Concurrent Legislative List, or the Governor...shall take steps to amend the law so as to bring such law or provision into conformity with the Injunctions of Islam; and (b) such law or provision shall, to the extent to which it is held to be so repugnant, case [sic] to have effect on the day on which the decision of the Court takes effect.
	Article 227	All existing laws shall be brought in conformity with the Injunctions of Islam as laid down in the Holy Quran and Sunnah, in this Part referred to as the Injunctions of Islam, and no law shall be enacted which is repugnant to such Injunctions ... (3) Nothing in this Part shall affect the personal laws of non-Muslim citizens or their status as citizens.
	Article 228	(1) There shall be, constituted...a Council of Islamic Ideology, in this part referred to as the Islamic Council. (2) The Islamic Council shall consist of such members...as the President may appoint from amongst persons having knowledge of the principles and philosophy of Islam as enunciated in the Holy Quran and Sunnah, or understanding of the economic, political, legal or administrative problems of Pakistan.

Country	Constitutional Provisions	
	Article 229 Article 230	The President or the Governor of a Province may, or if two-fifths of its total membership so requires, a House or a Provincial Assembly shall, refer to the Islamic council for advice any question as to whether a proposed law is or is not repugnant to the Injunctions of Islam. (1) The functions of the Islamic Council shall be— (a) to make recommendations to [Majlis-e-Shoora (Parliament)] and the Provincial Assemblies as to the ways and means of enabling and encouraging the Muslims of Pakistan to order their lives individually and collectively in all respects in accordance with the principles and concepts of Islam as enunciated in the Holy Quran and Sunnah; (b) to advise [sic] a House, a Provincial Assembly, the President or a Governor on any question referred to the Council as to whether a proposed law is or is not repugnant to the Injunctions of Islam; (c) to make recommendations as to the measures for bringing existing laws into conformity with the Injunctions of Islam and the stages by which such measures should be brought into effect; and (d) to compile in a suitable form, for the guidance of [the Majlis-e-Shoora] and the Provincial Assemblies, such Injunctions of Islam as can be given legislative effect.
Qatar	Article 1	Qatar is an Arab State, sovereign and independent. Its religion is Islam, and the Islamic Law is the main source of its legislations. Its system is democratic, and its official language is the Arabic language...
	Article 51	The right of inheritance is inviolable and is governed by the Islamic Law.
Saudi Arabia	Article 1	<i>The Basic System of the Consultative Council (Decree A/90), 1992</i> The Kingdom of Saudi Arabia is an Arab and Islamic sovereign state. Its religion is Islam, and its constitution, the holy Quran and the Prophet's Sunnah.
	Article 6	The citizens will take allegiance before the monarch in line with the holy Quran and the Prophet's Sunnah.
	Article 7	The rule in the kingdom depends on the holy Quran and the Prophet's Sunnah.
	Article 8	The rule in the kingdom is based on justice, consultations and equality in accordance with the Islamic Sharia.
	Article 23	The state protects the Islamic creed, carries out its Sharia and undertakes its duty towards the Islamic call.
	Article 46	The judicial authority is an independent organ and nobody has authority over the judges except the authority of the Islamic sharia.
	Article 48	The system of judges which is applied to all cases presented before it is, sharia rules according to the teachings of the holy Quran, the Sunnah, and the regulations set by the ruler provided that they do not contradict the holy Quran and sunnah.
	Article 55	The king will rule the nation according to the rulings of Islam and supervise the application of sharia, the state's general policy and the protection and defense of the country.

Country	Constitutional Provisions	
Sudan	Article 18	Those in service in the State and public life shall envisage the dedication thereof for the worship of God, wherein Muslims stick to the scripture and tradition, and all shall maintain religious motivation and give due regard to such spirit in plans, laws, policies and official business in the political economic, social and cultural fields in order to prompt public life towards its objectives, and adjust them towards justice and up-rightness to be directed towards the grace of God in The Hereafter.
	Article 65	Islamic law and the consensus of the nation, by referendum, Constitution and custom shall be the sources of legislation; and no legislation in contravention with these fundamentals shall be made; however, the legislation shall be guided by the nation's public opinion, the learned opinion of scholars and thinkers, and then by the decision of those in charge of public affairs.
	Article 139	(3) [No constitutional amendment] shall...come into force where it amends the provisions of the basic fundamentals, save after the same is also passed by the people in a referendum and signed by the President of the Republic. The basic provisions and fundamentals are:— (a) Islamic law and the legislative consensus of the people by the referendum, the Constitution or custom are the prevalent sources of law; (b) the human being has the freedom of creed and worship, and the citizen has the freedom of expression and the organization of political association, in accordance with the provisions set out in this Constitution; ...
Syria	Article 3	(2) Islamic jurisprudence is a main source of legislation.
U.A.E.	Article 7	Islam shall be the official religion of the Union. The Islamic Shari'ah shall be a principal source of legislation in the Union...
Yemen	Article 3	The Islamic Sharia'a (jurisprudence) shall be the source of all legislations.
	Article 23	The right to inherit according to Islamic Sharia'a shall hereby be guaranteed by law.
	Article 46	...Crime and punishment shall be determined by the provisions of Sharia'a and law...
	Article 59	The defence of religion and the country is a sacred duty and military service is an honour...

Appendix V: Full listing of Qur'an verses on Religious Freedom

Verses on apostasy

Nor will they cease fighting you until they turn you back from your faith if they can. And if any of you turn back from their faith and die in unbelief, their works will bear no fruit in this life and in the Hereafter; they will be companions of the Fire and will abide therein. (2:217)

How shall God guide those who reject faith after they have accepted it and bore witness that the Apostle was true and that Clear Signs had come unto them? But God guides not a people unjust. Of such the reward is that on them (rests) the curse of God, Of His angels, And of all mankind (3:86-87)

But those who reject Faith after they have accepted it, and then go on adding to their defiance of Faith, - never will their repentance be accepted; for they are those who have (of set purpose) gone astray (3:90)

As to those who reject Faith, and die rejecting, - never would be accepted from any such as much Gold as the earth contains, though they should offer it for ransom. For such is (in store) a penalty grievous, and they will find no helpers. (3:91)

If anyone contends with the Apostle even after guidance has been plainly conveyed to him, and follows a path other than that becoming to men of Faith, we shall leave him in the path he has chosen, and land him in Hell, - what an evil refuge! (4:115)

Those who believe, then reject Faith, then believe (again) and (again) reject Faith, and go on increasing in Unbelief, - God will not forgive them nor guide them on the Way (4:137)

They swear by God that they said nothing (evil), but indeed they uttered blasphemy, and they did it after accepting Islam; and they meditated a plot which they were unable to carry out: this revenge of theirs was (their) only return for the bounty with which God and His Apostle had enriched them! If they repent, it will be best for them; but if they turn back (to their evil ways), God will punish them with a grievous penalty in this life and in the Hereafter: they shall have none on earth to protect or help them. (9:74)

Those who turn back as apostates after Guidance was clearly shown to them, - the Evil One has instigated them and buoyed them up with false hopes...But how (will it be) when the angels take their souls at death, and smite their faces and their backs? (47:25, 27)

Verses that are used in support of the death penalty

They but wish they ye should reject Faith, as they do, and thus be on the same footing (as they): but take not friends from their ranks until they flee in the way of God (from what is forbidden) but if they turn renegades, seize them and slay them wherever ye find them; and (in any case) take no friends or helpers from their ranks... (4:89)

The punishment of those who wage war against God and His Apostle, and strive with might and main for mischief through the land is: execution or crucifixion or the cutting off of hands and feet from opposite sides, or exile from the land: that is their disgrace in this world, and a heavy punishment is theirs in the Hereafter (5:33)

But (even so), if they repent, establish regular prayers, and practise regular charity,- they are your brethren in Faith: (thus) do We explain the Signs in detail, for those who understand. But if they violate their oaths after their covenant, and taunt you for your Faith,- fight ye the chiefs of Unfaith: for their oaths are nothing to them: that thus they may be restrained. (9:11-12)

Any one who, after accepting faith in God, utters unbelief,- except under compulsion, his heart remaining firm in Faith – but such as open their breast to unbelief,- on them is the wrath from God, and theirs will be a dreadful penalty. (16:106)

There are among men some who serve God as it were, on the verge: if good befalls them, they are, therewith, well content; but if a trial comes to them, they turn on their faces: they lose both this world and the Hereafter: that is loss for all to see! (22:11)

Verses that promote religious freedom

Let there be no compulsion in religion: Truth stands out Clear from Error: whoever rejects Evil and believes in God hath grasped the most trustworthy hand-hold, that never breaks. And God heareth and knoweth all things. (2:256)

So if they dispute with thee, say: "I have submitted my whole self to God and so have those who follow me." And say to the People of the Book and to those who are unlearned: "Do ye (also) submit yourselves?" If they do, they are in the right guidance, but if they turn back, thy duty is to convey the Message; and in God's sight are (all) his servants. (3:20)

Now have come to you, from your Lord, proofs (to open your eyes): if any will see, it will be for (the good of) his own soul; if any will be blind it will be to his own (harm): I am not (here) to watch over your doings. (6:104)

And unto God leads straight the Way, but there are ways that turn aside: if God had willed, He could have guided all of you. (16:9)

Who receiveth guidance, receiveth it for his own benefit: who goeth astray doth so to his own loss: no bearer of burdens can bear the burden of another: nor would We visit Our Wrath until We had sent an apostle (to give warning). (17:15)

Say, "The Truth is from your Lord": let him who will, believe, and let him who will, reject (it). For the wrong-doers We have prepared a Fire whose (smoke and flames), like the walls and roof of a tent, will hem them in: if they implore relief they will be granted water like melted brass, that will scald their faces. How dreadful the drink! How uncomfortable a couch to recline on! (18:29) (18:29)

...if any accept guidance, they do it for the good of their own souls, and if any stray, say: 'I am only a Warner'. (27:92)

Say: O ye that reject Faith! I worship not that which ye worship, nor will ye worship that which I worship. And I will not worship that which ye have been wont to worship, nor will ye worship that which I worship. To you be your Way, and to me mine. (109:1-6)

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