

Apostasy

What do contemporary Muslim theologians teach about religious freedom?

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Abstract

What are the positions taken by influential Islamic theologians on religious freedom? How do classic Islamic theologians at influential institutions of scholarship such as al-Azhar-University in Cairo or the Islamic University of Medina judge this question? A minority of theologians express themselves bluntly by saying that religious freedom is for them exclusively the freedom to belong to the one true religion, Islam, or to turn towards it. And furthermore, in the case where there is doubt or criticism among Muslims, their idea is that the death penalty immediately has to be administered. For an additional minority, religious freedom applies to every individual and means the freedom to accept Islam or to turn from it, completely in the sense of the UN Universal Declaration of Human Rights. A 'moderate' majority of theologians defines religious freedom in a differentiated manner nowadays: In countries characterized by Islam they advocate for non-Muslims - in particular for Jews and Christians - a situation where they may retain their religion and not convert to Islam. For Muslims, however, they define religious freedom exclusively as freedom of thought with the possibility, under certain circumstances, of secretly holding doubts about Islam.

Keywords Sharia law, death penalty, apostasy, religious freedom, Islam.

1. Religious freedom – a one-way street?

What are the positions taken by influential Islamic theologians on religious freedom? Is the death sentence against people like Pastor Yousef Nadarkhani which had previously been issued on June 28, 2011 by the Supreme Court of Iran on account of apostasy, covered by the Koran and Islamic theology, or does this merely have to do with power politics? And how do classic Islamic theologians at influential institutions of scholarship such as al-Azhar-University in Cairo or the Islamic University of Medina judge this question?

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The question of religious freedom is judged variously from within Islamic theology. A minority of theologians express themselves bluntly by saying that religious freedom is for them exclusively the freedom to belong to the one true religion, Islam, or to turn towards it.² And furthermore, in the case where there is doubt or criticism among Muslims, their idea is that the death penalty has to be administered immediately. For an additional minority, religious freedom applies to every individual and means the freedom to accept Islam or to turn from it, completely in the sense of the UN Universal Declaration of Human Rights.³

A “moderate” majority of theologians defines religious freedom in a differentiated manner nowadays: In countries characterized by Islam they advocate for non-Muslims – in particular for Jews and Christians – a situation where they may retain their religion and not convert to Islam. For Muslims, however, they define religious freedom exclusively as freedom of thought with the possibility, under certain circumstances, of secretly holding doubts about Islam. Whoever publicly confesses or propagates his deviating notions, however, according to the opinion of a broad majority of traditionally trained theologians, deserves the death penalty⁴ – even when there are only a few countries in which it would be at all possible to bring an apostate before a court. However, an apostate is quickly viewed as an enemy of the state. Such a situation can be at times very dangerous if legal scholars in mosques make calls to kill apostates and if society persecutes such renegades or in some cases even executes them in broad daylight. This for instance was the case with the Egyptian secularist Farag Fawda, who was murdered in broad daylight in 1992 in Cairo. This occurred after two scholars at the al-Azhar University, Muhammad al-Ghazali und Muhammad Mazru’a, had convinced those who became the perpetrators that it is the religious duty of every believer to execute apostates.⁵ The roots of this understanding lie in Sharia law, which from the early days of Islam up to the 10th century called for the death penalty for apostates in Sunni as well as Shiite Islam.

² The well-known Indian theologian and activist Abu l-A’la Maududi (1903-1979) has extensively written about the “freedom” everyone has to accept Islam but no other religion; otherwise he is to be punished with the death penalty: Abul Ala Mawdudi. *The punishment of the apostate according to Islamic law*. The Voice of the Martyrs: Mississauga, 1994.

³ An example would be Abdullah Saeed (born 1960), professor of Arabic and Islamic Studies in Melbourne, Australia, who has published extensively on the topic of religious freedom; see for example: Abdullah Saeed; Hassan. *Freedom of religion, apostasy and Islam*. Ashgate: Aldershot, 2004.

⁴ This is for example the position of the influential Egyptian born theologian Yusuf al-Qaradawi (born 1926) who interprets conversion from Islam to another religion as state treason: Yusuf al-Qaradawi. *Jarimat ar-ridda wa-’uqubat al-murtadd fi dau’ al-qur’an wa-’s-sunna. silsilat rasa’il tarshid as-sa’wa*, Nr. 6. Maktabat wahba: Kairo, 2005/3.

⁵ Cf for instance the depiction of the case in Armin Hasemann. “Zur Apostasiediskussion im Modernen Ägypten,” in: *Die Welt des Islam* 42/1 (2002), 72-121.

2. The consequences of apostasy from Islam

As a result, Muslims as well as representatives of classic Islamic theology consider an individual's orientation towards Islam to be desirable and yet condemn his or her falling away. This applies all the more when the "apostate" turns to another religion, such as for instance the Christian faith, which is held by Islamic theology as superseded and adulterated. As a consequence, Muslims who become Christians or, in rare cases, Buddhists for instance, or who are members of a non-recognized minority such as the Baha'i, are confronted with a number of difficulties.

Often the family has no understanding at all when it comes to a change of religion. It may attempt to change the individual's mind and at times threatens them, for apostasy as a general rule means disgrace, treason, and scandal. In most countries characterized by Islam, the convert can indeed not be condemned to death according to law, but the individual can at least be disinherited and forced to divorce (since according to Sharia law a Muslim may not be married to a non-Muslim). The apostate is threatened with the removal of his children (since according to Sharia law Muslim children may not be raised by a non-Muslim), and he often loses his job (since practically no one will employ a convert) and home.⁶ It is not uncommon for him to be cast out by his family. In dramatic cases, it can go so far that members of the family or society themselves lay hands on the convert and mistreat him, force him into psychiatric care, or even attempt to kill him. Many believe that the public loss of face due to having a convert in the family cannot be tolerated. Others hear from an imam or mullah that according to Sharia law it is the duty of every believer to kill apostates from Islam in order to defend Islam, since the Western world – especially the USA – has set out to destroy Islam and to "buy" converts and send them out as spies.

Because according to Sharia law it is not possible to leave Islam, the children of apostates in any event remain Muslims. They also have to be raised as Muslims and have to undergo Islamic religious instruction. They may only get married within the framework of an Islamic ceremony and their children likewise legally count as Muslims, even if they, their parents, and their grandparents have converted to Christianity. In many states a converted married couple or a converted parent is threatened with the removal of the children, if for instance a relative files a legal suit charging that "Muslim children" are not allowed to grow up among Christians, which Sharia law prohibits.

For that reason the charges of unbelief, apostasy from Islam, and blasphemy in countries characterized by Islam count as the most serious charges there are.

⁶ Some of the social consequences are mentioned by W. Heffening. Murtadd. In: *Encyclopedia of Islam*/2, Vol. VII. E. J. Brill: Leiden, 1993, 635-636.

They are not only leveled in cases where a person leaves Islam or brings guilt upon himself for blasphemy. They are times directed against undesirable political opponents or used in order to extort possessions. This is particularly the case in Pakistan. "Blasphemy laws," have existed there since colonial times, and they have been used as a powerful weapon, having been exacerbated step by step since 1980 in order mainly to apply pressure to the special Islamic community known as the Ahmadiya, as well as Christians.

3. Blasphemy laws in Pakistan and their victims

Thus Shabaz Bhatti, the Religious Minorities Minister and member of the ruling Pakistan Peoples Party (PPP), was murdered in 2011 in Islamabad after he had announced that he wished to revise the blasphemy laws applicable in Pakistan. The blasphemy laws, which were tightened in 1980, 1982, 1984, and 1986, threaten degrading remarks about the caliphs, the wives, family, and the companions of Muhammad, and the defilement, destruction, or desecration of the Koran with lifelong imprisonment. Furthermore, the degradation of Muhammad is threatened with the death penalty. From 1986 to 2007 there were over 4 000 charges filed on account of blasphemy.⁷

Shabaz Bhatti was dragged from his car by three assassins and publicly executed on the way to his ministry on 2 March 2011. The terror group Tehrik-i Taliban Pakistan (TTP) later assumed responsibility for the act. The ruling Pakistan Peoples Party (PPP) condemned the act in a restrained manner and retracted its proposal to revise the blasphemy laws from Parliament.

The prior Governor of Punjab and close friend of the ruling President Asif Ali Zardari, Salman Taseer, lost his life for the same reason. He was shot and killed by his bodyguard Malik Mumtaz Hussein Qadri, at a market in Islamabad. The remaining members of his security unit did not intervene. The background of the action was that Governor Taseer had visited the condemned Christian Asia Bibi in prison, who had been sentenced to death by hanging. Governor Taseer had assured her of his support.⁸ Asia Bibi had been condemned on 8 November 2010 by a court in the Province of Punjab on account of an alleged insult to Muhammad. A year earlier, as a day laborer on an estate, she had fetched water for female Muslim workers. Before accepting the water, they requested her to convert to Islam because the water was otherwise "impure," to which Asia Bibi is supposed to have answered with her

⁷ These figures are mentioned by Theodore Gabriel. *Christian citizens in an Islamic state. The Pakistan experience*. Ashgate Publishing Limited: Aldershot, 2007, 66.

⁸ Cf for instance the reports: "Vor einem Jahr erstes Todesurteil gegen eine Frau wegen Blasphemie." <http://tinyurl.com/igfmreport> (14.04.2012).

confession that Jesus Christ is the true prophet – Asia Bibi later disputed, however, that she had ever said those words.

A number of days later demagogic slogans were propagated against her over loudspeakers from the mosque. Then inhabitants of the village sought to take her by force. This was prevented by the police when they arrested her. Under pressure by Islamic clerics, a charge was brought against Asia Bibi on account of blasphemy, and she did not receive defense counsel. On 9 November 2010, in the court of first instance, she was sentenced to pay two and one-half years' salary and condemned to death by hanging. Asia Bibi has not yet been executed, but remains in prison, and there is hardly any hope left that she can be released and be united with her family in the near future.

While human rights organizations have advocated her release, President Asif Zardari has been warned by radical Islamic forces not to pardon her. Up until now there has not been an execution on account of blasphemy in Pakistan, but there are, however, numerous individuals who have been charged with blasphemy and are imprisoned. A number of those charged became the victims of lynching prior to the court proceedings.

4. Reasons for the rejection of complete religious freedom in Islam

The most prominent statement in the Koran on religious freedom is surely the verse: “Let there be no compulsion in religion” (Sura 2:256). Numerous Muslim theologians have emphasized that no one may be forced to convert to Islam. This is also mirrored in parts of the Islamic history of conquest: In areas conquered by Muslims, Christians and Jews were as a general rule allowed to retain their faith and their religious autonomy and thus did not have to convert. They were “subdues” (*dhimmi*) who had to pay special taxes and submit to the authorities. They were tolerated, second class citizens and legally discriminated against since they adhered to a religion that due to its deviation from Islam was viewed as adulterated and had been superseded by Islam.

Whoever has converted to Islam at some time, however, may not leave Islam. For that reason, according to the predominant opinion among theologians, Sura 2:256 does not mean that Islam would advocate free change of religion in both directions and the equality of all religions. Rather, it is often so interpreted to mean that no individual can be forced into the act of “belief” (in the sense of being convinced).

Conversion to Christianity counts as basically false because the Koran views Judaism and Christianity as inferior religions: It appears to be a regress to a superseded belief, which from the point of view of Islam was corrected and replaced by

the “seal of the prophets” (Sura 33:40). The Cairo Declaration on Human Rights mentions Islam for instance in Article 10 as “the religion of true unspoiled nature,”⁹ thus the unadulterated religion which naturally corresponds to every individual; every deviation from it is counted inferior. Additionally, Christianity appears to many theologians to be a “Western” religion, a religion of the crusaders and colonial lords and linked to Western political dominance.

An additional reason for the rejection of the freedom to change religions lies in the fact that turning away from Islam is not viewed as a private matter by many Muslims. Rather, it is a disgrace for the entire family or even a political act. It foments unrest, brings about turmoil, or is seen as a declaration of war on the Muslim community. Due to the fact that after Mohammed’s death in 632 several tribes on the Arabian Peninsula who had initially accepted Islam turned from it, Abu Bakr, the first caliph after Mohammed, fought these tribes in the so-called Ridda wars (apostasy wars) and successfully struck down the insurgency.¹⁰ Owing to the “apostasy wars” of early Islam, apostasy has from early on been linked in the collective memory of the Muslim community with political insurrection and treason and the suppression of this act of treason.

5. The Koran, tradition, and Islamic theologians on apostasy

On the one hand, the Koran itself speaks of unbelief and of “straying” (Sura 2:108), for which the punishment of God and “a grievous chastisement” (9,74) are threatened, but it does not define an earthly punishment and does not name a method of flawlessly determining apostasy. A number of verses even appear to suggest free choice of religion (e.g., Sura 3:20), while others, such as Sura 4:88-89, warn Muslims to “seize them and slay them” who “turn renegades.” An ambiguous textual finding is thus present, and it is interpreted by a small number of Muslim theologians to say that the Koran advocates complete freedom of religion. This is due to the fact that no clear textual finding of the elements of the offense of apostasy can be made. Others, however, argue that the Koran votes for the death penalty in the case of apostasy, for example, owing to verses such as Sura 4:88-89. What is first of all spoken of here in the verse are “hypocrites” (Arabic: *al-munafiqun*), who wish that all were as unbelieving as they are. And then it states:

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 . . .

Sura 9:11-12 also has to do with those who have joined the Muslim community – verse 11 mentions repentance, ritual prayer, and the giving of alms as marks of

⁹ See the text: <http://tiny.cc/cairodeclaration> (15.09.2013).

¹⁰ Cf Tilman Nagel. *Mohammed. Zwanzig Kapitel über den Propheten der Muslime*. Oldenbourg: München, 2010, 193-198.

their new adherence to Islam. They then “violate their oaths” and the call is: “Fight ye the chiefs of unfaith” (Arabic: *fa-qatilu a'immat al-kufr*). With these verses as well as the incipient and militarily defeated movement of apostasy, the *Ridda* wars, which occurred on the Arabian Peninsula upon Muhammad's death, numerous theologians derive from apostasy a political danger to the Muslim community.

Islamic tradition as it was compiled up to the 9th/10th century (with reports about Mohammed and the first Muslims and their actions) condemned turning away from Islam far more sharply and called more clearly for the death penalty.¹¹ Tradition expressly uses the term “apostasy” (Arabic: *ridda*) for turning from Islam and reports the execution of individual apostates, for instance by caliphs, and several times calls for administering the death penalty to apostates.

The most often quoted tradition relating to advocacy of the death penalty in this context is the dictum attributed to Muhammad: “Whosoever changes his religion, kill him” (Arabic: *man baddala dinahu fa-'qtulubu*).¹² Other theologians in turn doubt the genuineness of this dictum and have not allowed it to count as justification of the death penalty.

Admittedly the founders and students of the four Sunni legal schools of religious law as well as the most important Shiite school of law go along with this call for administering the death penalty for turning from Islam. The result is that from the early days of Islam, the majority of influential theologians call for the death penalty in the case of conversion and have set this down in binding form in texts for criminal law within Sharia compendia.¹³

6. Who is an apostate?

Over the course of centuries, Islamic theologians have indeed compiled many marks of apostasy – first and foremost are the denial of God and the belief in many gods. Thus these marks of apostasy are denials of the center of Islamic theology, monotheism – but at no point can a comprehensive definition of apostasy be found in the normative texts or in the work of any theologian.¹⁴ All the circumscriptions up to this day have not

¹¹ Lutz Wiederhold. Blasphemy against the Prophet Muhammad and his companions (*sabb al-rasul, sabb al-sa'abah*): The Introduction of the topic into Shafi'i legal literature and its relevance for legal practice under Mamluke rule. In: *Journal of Semitic Studies* 42/1 (1997), 39-70.

¹² This tradition goes back to Ibn 'Abbas; Bukhari (*istitabat al-murtaddin, bab 2*, Vol. 9, book 84, No. 57) mentions it among others, also Ibn Maja (*hudud, bab 2*) as well as al-Nasa'i (*tahrim ad-dam, bab 14*). Cf the overview over the texts of tradition at A. J. Wensinck. *Concordance et Indices de la Tradition Musulmane*, 7 vols., E. J. Brill: Leiden, 1936-1969, vol. I, 153 and vol. V, 287.

¹³ Cf Frank Griffel. Apostasy. In: *Encyclopaedia of Islam*/3. <http://tiny.cc/encyclopaedia> (15.09.2013); Wael Hallaq. Apostasy. In: *Encyclopaedia of the Qur'an*, vol. 1. E. J. Brill: Leiden, 2001, 119.

¹⁴ Some conditions necessary to “prove” apostasy are mentioned for example by Mahmoud Ayoub. Religious freedom and the law of apostasy in Islam. In: *Islamochristiana* 20 (1994), 88.

been sufficiently comprehensive on the basis of content or have remained vague. Thus, throughout history there has only been limited consensus achieved among scholars. The lack of a scholarly hierarchy in at least Sunni Islam has also contributed to this situation.

Far-reaching consensus exists from early days onward that distancing oneself from Islam in word or deed counts as apostasy. This is the case even if the involved party only expressed itself in jest. Likewise the permanent, deliberate non-observance of the Five Pillars of Islam counts as apostasy, in particular the duty to pray, the non-observance of which cannot be explained away on various grounds (such as illness, travel, or the like). Additionally, every conviction which essentially contradicts the basic teachings of Islam is generally counted as apostasy, such as the denial of God or a declaration of the invalidity of the Sharia.¹⁵

The fact remains that from the early days of Islam and throughout the entirety of Islamic history, people have been executed on account of their apostasy. Gaps in the reconstruction of history leave us unsure whether the death penalty was administered in every case, in particular during the early days of Islam, whether the apostate received an opportunity to repent, and just who was justified in the first place to judge what constituted apostasy and to bring charges and conduct executions. Up to the 19th century, there are known individual cases of executions, but there are cases of pardons as well.

In the 20th century the topic received a brand new meaning. In connection with the rise of Islamism and the call on the part of politico-Islamic forces to bring about the complete implementation of the Sharia, there have been increased calls for the execution of apostates. Individuals who interpret the Koran progressively, women's rights activists, critical journalists, and authors, secularists, and members of minorities have increasingly been charged with apostasy. As a result, there have been at least 50 charges of apostasy brought before courts in the last 20 years in Egypt, among them the famous case of the Koran scholar Nasr Hamid Abu Zaid. He had to flee from Egypt to the Netherlands in 1996 on account of apostasy charges.¹⁶ A number of theologians even called at that time for the introduction of the death penalty into Egyptian law.

7. Apostasy in the 20th century: A confession of faith as a coup attempt

There is an increasing attempt, especially by Islamists, to show that the persecution of apostates has "always" been practiced and apart from that, is a compulsory ac-

¹⁵ Cf Adel Theodor Khoury (Translator). *Der Koran, Arabisch-Deutsch. Übersetzung und wissenschaftlicher Kommentar*. Gütersloher Verlagshaus: Gütersloh, 1991, vol. 2, 94-98.

¹⁶ The whole case of Abu Zaid is analysed in the following dissertation: Jörn Thielmann. *Nasr Hamid Abu Zaid und die wiedererfundene hisba. Sari'a und Qanun im heutigen Ägypten*. Ergon: Würzburg, 2003.

tion. This is due to the idea that in the case of apostasy one is dealing with a capital crime. In modern times, apostasy is frequently equated with treason, insurgency, the revocation of political loyalty, and subversion.

Nowadays Muslim theologians usually defend one of three positions on the question of apostasy: A minority, such as the influential Pakistani theologian, journalist, and political activist Abu l-A'la Maududi (d. 1979), calls without compromise for the death penalty for every individual who leaves Islam.¹⁷ Another minority, including the theologian Abdullah Saeed (b. 1960), who hails from the Maldives, calls for complete freedom of belief. In his case, freedom also includes the latitude to turn from Islam to a new religion without consequences. Abdullah Saeed is also of the opinion that threatening a convert with the death penalty at the time of early Islam was motivated by the Islamic community's desire for political survival and for that reason nowadays no longer has any implication.¹⁸

The majority of classical Islamic theologians supposedly advocate the understanding of the internationally influential Egyptian scholar Yusuf al-Qaradawi (b. 1926). According to this position, a Muslim may indeed entertain definite doubts in his innermost being. This is due to the fact that the innermost being of an individual is not accessible to anyone and for that reason cannot be judged. However, according to Qaradawi's understanding, the individual may not speak with anyone about his doubts, may not convert to another religion, and may not attempt to entice an individual away from Islam. He may also not criticize the Sharia, Islam, the Koran, or Mohammed in any respect. If he does this, however, Qaradawi views it as inciting insurrection, treason, and divisiveness within the Muslim community, which has to be prevented and punished: In this case al-Qaradawi considers the administration of the death penalty to be compulsory. His definition of "freedom of belief" does not mean religious freedom. Rather, it is only a freedom of inner thought and conviction, without this being allowed to come to expression. In the process, a personal profession of faith becomes treason.¹⁹

7.1 The case of Yusuf Nadarkhani

Pastor Nadarkhani was initially arrested in 2006, again on 12 October 2009, and had remained for a long time in an intelligence services detention facility in Lakan outside of the city of Rasht in the northern part of Iran. After what was supposedly an order in December 2011 directing the state authorities to attempt for at least one

¹⁷ Abul Ala Mawdudi. *The punishment of the apostate according to Islamic law*. The Voice of the Martyrs: Mississauga, 1994.

¹⁸ Abdullah Saeed; Hassan. *Freedom of religion, apostasy and Islam*. Ashgate: Aldershot, 2004.

¹⁹ Yusuf al-Qaradawi. *jarimat ar-ridda wa-'uqubat al-murtadd fi dau' al-qur'an wa-'s-sunna. silsilat rasa'il tarshid as-sa'wa*, Nr. 6. Maktabat wahba: Kairo, 2005/3.

year to motivate Nadarkhani to return to Islam, it turned out that he had not been executed. He had presumably been submitted to mistreatment and torture. One means of pressure was first of all the arrest of Nadarkhani's wife on 18 June 2010 and her conviction to lifelong imprisonment. After this did not move Nadarkhani to return to Islam, she was released. The authorities also threatened the parents with the removal of the children from their custody so that they could be raised in a Muslim family. On 22 September 2010, Yusef Nadarkhani was sentenced to death by hanging in a judgment by the Chamber of First Instance of the Iranian Revolutionary Court. This was on account of "dissemination of non-Muslim teaching" and "apostasy from the Islamic faith." On 28 June 2011 the judgment was confirmed by the Third Chamber of the Supreme Court in Qom. Gholamali Rezvani, Vice-Governor of the Provinz of Gilan, labeled Pastor Nadarkhani a "Zionist" who had "made himself guilty of corruption and had committed high treason." Other Iranian media designated him a "rapist," "burglar," and an "extortionist." He was denied all contact with his family as well as his legal counsel. Nadarkhani's lawyer, Mohammad Ali Dadkhah, was sentenced in July 2011 to lashings, 9 years of imprisonment, and a 10-year occupational ban as a lecturer and lawyer in addition to a fine. Pastor Nadarkhani was finally unexpectedly released on 9 September 2012. Although this case has tentatively come to an end, it should not make us forget the many people who are still in prison in Iran only because their faith deviates from the state propagated form of Islam, many of whom are subjected to torture and mistreatment in various forms.

Although the Iranian Constitution guarantees religious freedom, the death penalty can be carried out any day against people like Pastor Nadarkhani who are considered apostates. Additionally, Iran, by signing the International Covenant on Civil and Political Rights, has incurred the obligation of allowing its citizens the right to freedom of thought, conscience and religion. It might be that the international response to the case in political circles and the media had prevented Nadarkhani's execution.

Nadarkhani has for years been the first convert where the Iranian judiciary has openly named "apostasy from Islam" as the justification for their death sentence. Earlier converts were mostly charged with other offenses such as "espionage" or "drug dealing." Others, such as the Iranian pastor Mehdi Dibaj, were dragged outside in broad daylight, and later found dead.²⁰ Since the Iranian government finds itself presently under tremendous pressure, converts from Islam and underground churches see themselves confronted with numerous arrests, forms of intimidation, and now what may soon possibly be the first execution on account of apostasy.

²⁰ Eliz Sanasarian. *Religious minorities in Iran*. CUP: Cambridge, 2000, 124-125.

7.2 Religious freedom according to Iran's definition

Due to a change in penal law, an insult to Muhammad has indeed been punishable by threat of the death penalty since 1996. However, up until now the Iranian Penal Code contains no paragraph explicitly calling for the death penalty in the case of apostasy from Islam. The currently applicable penal code in Iran is codified in the 30 July 1991 Islamic Criminal Code of Iran. It has been provisionally in force since that time and is extended every two years. However, it is not a part of the legislative penal code as passed by Parliament. Yet there have already been advances to openly hold apostasy to be a violation of penal law.

Thus in the Iranian Parliament on 9 September 2008 (*Majlis*) there was a legal draft passed regarding "apostasy, heresy, and witchcraft," which provides for the death penalty for apostasy.²¹ However, the law has apparently up to now (April 2012) not yet been presented to the Iranian Guardian Council for its approval. If that were to happen, the Guardian Council would have to make a decision regarding the law placed before it within a brief period of time. If the law were passed, it would be the first time apostasy would be codified as a statutory offense in Iran. In 1979 Iran basically introduced the Sharia in its entirety into its legal system. For that reason, apostasy currently counts in Iran as a serious offense, even if there is no explicit law in this connection. According to the new and not yet ratified Islamic penal code, the following would apply according to Articles 225.7 and 225.8:

Punishment for a (. . .) [male] apostate . . . death . . . The highest penalty for apostate women (. . .) is lifelong imprisonment. During this time of punishment her living conditions will be made difficult as directed by the court and attempts will be made to guide her to the right path and to be encouraged to issue a retraction.

Ayatollah Ruhollah Khomeini defines these "difficult living conditions" in the following manner:

She is to receive lashings at the five daily prayer times, and her quality of life and amount of food, clothing, and water have to be reduced until she demonstrates remorse.

Essentially, owing to the general validity of Sharia law, which provides for the death penalty for apostasy, the Iranian administration of justice is obliged to punish apostasy. Article 167 of the Islamic Republic of Iran Constitution stipulates that a judge has to base his judgment on Islamic sources, or more specifically, valid *Fatawa* (legal opinions) in cases where a law covering a particular issue is lacking.²²

²¹ The text appeared with the date December 11, 2007 on the page of the Iranian Ministry of Justice. <http://tinyurl.com/maavanews> (14.05.2011).

²² Thus Hossein Soodmand for instance was brought before a court on 3 December 1990 in Mashad due to his apostasy from Islam 30 years prior. In spite of the lack of a corresponding paragraph in the Iranian penal code, he was sentenced to death by hanging by invoking Sharia law on apostasy:

Additionally, according to Article 170 of the Constitution, no judgment can be made which contradicts the laws of Islam.

Article 226 of the Iranian Penal Code additionally permits the killing of an apostate without charges and court proceedings. Furthermore, according to Article 295 of the penal code, the executor administering the death penalty upon an apostate or a person held to be an apostate is not to be punished. There are thus a number of regulations, which allow a convert to be punished with death at any time in Iran.

At least since 2009, the time of the onset of the “Green Revolution,” converts from Islam to Christianity and similarly many women’s rights activists have been especially severely persecuted, their private meetings dissolved, and the members of house churches sentenced to long periods of imprisonment or even condemned to be executed.

Since the death penalty can be administered for numerous offenses, charges against apostates are possible at any time under the claim of one of these offenses. They include murder, drug smuggling, terrorism, war against God (*Mohareb*), armed robbery, mugging (highway robbery), subversion, obtaining weapons, treason, embezzlement and the misappropriation of public funds, forming gangs, insults against and desecration of institutions of Islam or holy individuals (which, for example, counts essentially as a given in the case of missions work by converts) as well as rape, homosexuality, sexual relationships between a non-Muslim and a Muslim, and adultery.

8. The topic of religious freedom belongs on the international politics and diplomacy agenda

To summarize, a paradoxical situation emerges where in a number of countries characterized by Islam the right to religious freedom is expressly recognized,²³ and yet nowhere is there positive as well as negative religious freedom in all directions. Rather, there is only the freedom to convert to Islam or to retain Islam. In the process, the question of the justification of religious freedom on the basis of frequently dramatic consequences for an apostate not only has a religious dimension but rather also social as well as political consequences. Even when many Muslims personally never lay a hand on a convert or more specifically would at least consider his condemnation to be problematic, the fact remains that neither classic nor

Alasdair Palmer. Hanged for being a Christian in Iran, 11 October 2008. <http://tiny.cc/hangediniran> (May 13, 2011).

²³ For several examples of corresponding passages in the texts of the constitutions of Syria, Jordan, Algeria, Yemen, Mauritania, and Morocco, which guarantee religious freedom, see Sami A. Aldeeb Abu-Sahlieh. “Le Délit d’Apostasie aujourd’hui et ses Conséquences en Droit Arabe et Musulman,” in: *Islamochristiana* (20) 1994, 93-116, here 96ff.

contemporary Islamic theology has up to now provided a largely accepted positive justification for religious freedom, nor an essential condemnation of the death penalty for apostasy. The result is that the term apostasy is very changeable in how it is filled with meaning and how it finds application in various situations.

The lack of religious freedom always involves a lack of political and individual civil rights and liberties. In the face of a democratically chosen Islamist majority, for example in Egypt after the Arab Revolution, which on the basis of their Sharia orientation holds to a unity of religion and the state, true religious freedom for minorities and those who think differently will hardly be initiated in the foreseeable future. In addition to women, those bearing the brunt are especially converts who cannot claim any legal status in a society characterized by Sharia law.

Religious freedom is a fundamental human right. For that reason, the topic of religious freedom belongs on the international politics and diplomacy agenda. We owe it to all those who are imprisoned, harassed, bullied, and even executed daily for their convictions – be they of a religious nature or not – to at least raise our voice from our position in the affluent, free West where it does not cost us anything. Human rights are indivisible. We enjoy their fruits today because others – not uncommonly due to the perspective of their own faith – believed in these ideas and stood up for them despite the personal disadvantages they experienced. This should be a reminder and an incentive to follow suit.