

# **Death penalty for apostasy: Selected Sunni and Shi'a scholars' views in favour of abolition**

Edition 4, 2020

Dr Ali Akbar & Professor Abdullah Saeed

DOI: 10.37839/MAR2652-550X4.17

The principle of freedom of religion holds a significant place in today's world. According to Article 18 of the Universal Declaration of Human Rights, "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". One key element of freedom of religion is the freedom to maintain or change a religion or belief. An individual's right to change their religion has been emphasised by various international formulations of freedom of religion, such as the 1976 International Covenant on Civil and Political Rights, the European Convention on Human Rights and the American Convention on Human Rights.

Despite the explicit references to freedom to change religion in various international agreements, the application of such freedom has been problematic in many Muslim-majority countries and people wishing to leave Islam encounter many difficulties. Relying on classical Islamic legal sources, many Muslim scholars throughout Islamic history have affirmed that the punishment for apostasy is death and argued that the application of the death penalty for this action is obligatory for Muslim states. However, during the 20th and 21st centuries, some Muslim scholars have questioned the death penalty for apostasy.

This article aims to provide an overview of the main arguments employed by some

reformist Sunni and Shi'a scholars in support of freedom of religion and an individual's right to change religion. Central to their ideas, as we demonstrate, is that a change of religion is a personal matter and should not lead to any form of punishment, let alone the death penalty.

## **Classical Islamic law and the Qur'an's position on freedom of religion**

Apostasy is defined in classical Islamic law as turning away from Islam to unbelief or to another religion. Classical Muslim jurists commonly held that nothing is worse than becoming a disbeliever after being a Muslim. According to Mohamed S. El-Awa, "the common view among Muslim jurists ... is that apostasy from Islam is a crime for which the death penalty is prescribed". Most Sunni jurists throughout the course of Islamic history believed that an apostate should be punished by death, but often specified that a grace period of three days should be given to the apostate to reconsider his or her decision. All Sunni schools of jurisprudence, except the Hanafis, adopted the view that the punishment for apostasy should be applied to both male and female apostates. According to most Shi'a jurists, female apostates should not be executed, but face solitary confinement. During imprisonment, if a female apostate repented she should be released.

Despite the near unanimous agreement among premodern Muslim jurists on applying the death penalty for apostasy, many verses of the Qur'an seem to support freedom of belief and religion. The Qur'an acknowledges there are many belief systems that are important to those who practice them (Q 6:108; see also Q 10:99 and Q 109: 4, 5 and 6). The Qur'an suggests that Muslims avoid coercion in matters of faith and religion. Gentle persuasion is advised for inviting others to accept Islam (Q 16:125). The Qur'an also says people may choose to accept Islam or reject it (Q 18:29). The Prophet himself was not permitted to force people to believe (Q 10:99). People of other faiths should be treated with kindness (Q 60:8) and if non-believers do not actively engage in hostilities or war against Muslims, Muslims should also

favour peace and peaceful relations (Q 8:61).

The Qur'an deals with the notion of apostasy in several verses but does not specify any worldly punishment for apostates—it only warns them of punishment in the afterlife. Several Qur'anic verses (e.g. Q 2:108 and Q 4:167) describe apostates as having strayed from the right path. One verse describes them as being enticed by Satan (Q 47:25) and another warns that they cannot expect God's forgiveness (Q 4:137). The Qur'an also says that apostates are cursed by God and the angels (Q 3:87). Some Qur'anic verses clearly envisage a natural death for apostates in their condition of disbelief (Q 2:217; Q 3:91; Q 2:161-162; Q 5:5; 88:23-24). These verses of the Qur'an convey one significant message: if there is a punishment for apostasy it should be on the Day of Judgment. It is God alone who can make that decision. Muslim jurists who support the death penalty for apostates often refer to various hadith, rather than the Qur'an. One of the most frequently quoted is: "whoever changes his religion, kill him" or in another formulation, "whoever willingly disbelieves in God after he has believed, kill him".

It is important to note that many contemporary Muslims support the implementation of classical rulings and punishments for apostasy. For example, according to Muhammad Mutawalli al-Sha'rawi (a contemporary Sunni scholar from Egypt and popular preacher in the late decades of the twentieth century) a Muslim should not leave Islam once one embraces it. Although one should not be forced to accept Islam, once the person embraces it, they are subject to all requirements of the religion including the law of apostasy and its punishment. Similarly, from the Shi'a tradition, Grand Ayatollah Lankarani argued that the application of capital punishment for apostasy is obligatory in Islam. Killing an apostate, according to Lankarani, is God's law and was endorsed and practised by the Prophet, Imam Ali and other Shia imams.

## Arguments from contemporary Sunni reformist scholars

Some Muslim scholars began to challenge the application of the death penalty for apostasy during the twentieth century. Muhammad Abduh (d.1905) and Rashid Rida (d.1935) were among the earliest scholars in this period to argue that no one should be killed on the sole ground of changing their religion. They stated that no verse in the Qur'an prescribes capital punishment for the charge of apostasy. Verses such as Q 2:218 and Q 3:86-97, which are cited by some Muslims to defend the execution of apostates, envisage a natural death for the apostate. According to Rida and Abduh, capital punishment for apostasy is based on prophetic traditions, in particular, which stand in sharp contrast to the Qur'anic verses that defend freedom of religion. Such traditions belong to those that rely on a single authority (*khobar al-ahad*) and were not widely known among the Companions of the Prophet, Rida and Abduh argued.

According to Mahmud Shaltut, there should be no temporal punishment for apostasy since the Qur'an only speaks of punishment in the afterlife for apostates. If there is to be punishment for apostasy, it should be left to God to decide on the Day of Judgment. Like Rida and Abduh, Shaltut argued that the hadith "whoever changes his religion, kill him" should not be used to kill apostates because "*ḥudūd* (prescribed punishments in the Qur'an) cannot be established by a solitary (*ahad*) hadith". Shaltut concluded that "unbelief by itself does not call for the death punishment". Apostasy is punishable only when it is associated with aggression and hostility against the state.

From the 1980s onwards the issue of death penalty for apostasy has received significant scholarly attention. For example, Muhammad Shahrur interprets verses such as Q 2:117 and Q 5:54, which refer to the notion of apostasy, in light of Q 99:6-8, Q 10:108 and Q 76:3, which state that the adoption of faith—being a believer or a disbeliever—is a rational decision taken voluntarily and freely. For him, early jurists (*fuqaha*) searched the Qur'an to find justification for the death penalty for

apostates, but they could not find any. Therefore, they relied on a number of narratives found in the biographies of the Prophet to serve a political purpose; that is, to “legitimise the [repression] of their political opponents as a preventive measure for the protection of religion”.

Shahrur also questions the authenticity of the hadith “whoever changes his religion (*din*), kill him”, since it stands in sharp contrast to the ‘spirit’ of the Qur’an and the many verses that endorse freedom of religion. In addition, Shahrur states that the aforementioned hadith is about “someone who leaves one’s religious community for another...” Therefore, “[i]t is impossible to interpret *din* in this hadith as ‘religion’ in the conventional meaning of ‘religious community’, because then it should also be applied to Jews and Christians who have converted to Islam”. In other words, the act of the person liable for execution is described in this hadith in general rather than specific terms, and thus the wording of the hadith could even imply that a non-Muslim who embraces Islam should be killed. Shahrur concludes that those who support the death penalty for apostasy not only deny the right to freedom of religion but also seek to promote violence. According to Shahrur, “We must not criminalise those ‘who cut off their ties with God’, as they [should] enjoy their human right to do so”.

Nasr Hamid Abu Zayd raised similar points. He states that “the Qur’an itself does not mention any worldly punishment for those who—after having accepted Islam—turn their back on it. What the Qur’an does mention is punishment in the afterlife”. For him, the death penalty for apostasy was introduced later by religious scholars and political authorities mainly for political reasons; that is, for the purpose of repressing their political opponents. According to Abu Zayd, if freedom of religion is guaranteed in the Qur’an and if the Qur’an has explicitly condemned forced conversion in verses such as Q 2:256, the right to change religion or belief should also be protected. Abu Zayd writes, “The freedom to convert to another faith after accepting Islam... is left to man’s essential free choice... [If] freedom of belief is guaranteed and secured against enforcement, the individual’s right to change his or her religion is protected”.

Another contemporary scholar, Muhammad Abed al-Jabiri, argues that the punishment for apostasy, as prescribed in verses such as Q 2:217, Q 3:177, Q 3:86-7, Q 16:106 and Q 4:115, includes “a curse by God, His wrath, and hell but not execution” for apostates. According to al-Jabiri, Muslim scholars and jurists in the course of Islamic history have referred to the wars of apostasy (*ridda*) that occurred during the caliphate of Abu Bakr (d.634) to justify the death penalty for apostasy. Al-Jabiri considers this claim unwarranted. He confirms that “fighting the apostates at the time of Abu Bakr is a historic fact”, but states that the apostates were fought and killed at that time not merely because of a simple change of faith. Rather, they posed a danger to society and state. The wars of apostasy were launched against those who attacked the Islamic state after violating its laws. Extrapolating this to the contemporary era, only those who renounce the state and become a “fighter, a conspirator or a spy for the enemy” should be fought and killed. Al-Jabiri’s view is that the Islamic jurisprudence on apostasy in fact condemns treason, “collusion with the enemy or turning into a thief or enemy in arms”.

## Arguments from contemporary Shi’a reformist scholars

A number of Shi’a scholars also emphasised the importance of freedom of belief and religion in their writings during the 20th century. The Iranian scholar Murtaza Mutahhari (d.1979) highlighted the incompatibility of coercion with the spirit of Islam. Relying on the Qur’anic verse which says that “There is no coercion in matters of faith” (Q 2:256), Mutahhari states, “religion and faith is [sic] not a matter of coercion ... the kind of faith that Islam requires cannot be forced”. For Mutahhari, Islam highlights the right to freedom of religion as a general principle.

Among contemporary Shi’a reformist scholars, one of the most significant contributions to challenge the death penalty for apostasy comes from Iranian scholar Mohsen Kadivar. According to Kadivar, the Qur’an confirms that forced faith has no validity. He says, “the rejection of force and compulsion in this verse (referring to Q

2:256) amounts to an endorsement of freedom to choose religions". The capital punishment for apostasy or forcing non-believers to return to Islam contradicts this verse. He argues that religion and faith can only be meaningful under conditions where people have chosen them freely. Even the invitation to Islam should only be articulated based on "logic and reasoning, suggestion and advice". No form of "coercion, death... murder, or any kind of force" should be associated with inviting people to Islam. Kadivar concludes, "if people cannot be coerced into becoming Muslims, then they cannot be forced to stay in the religion either".

Like his Sunni counterparts, Kadivar argues that the Qur'an does not prescribe any temporal punishment for apostasy: "Although the Holy Qur'an rejects turning away from the just religion and becoming an apostate, its logic does not determine any earthly punishments for apostasy and only warns of divine wrath on the Day of Judgment". Analysing several Qur'anic verses on apostasy, such as Q 2:216-217 and Q 3:85-90, Kadivar concludes that turning away from faith is condemned in Islam but the Qur'an does not stipulate any punishment. Apostates will not benefit from divine grace and blessing. They will be condemned to divine punishment on the Day of Judgment.

Kadivar also notes that all the hadith concerning capital punishment come from a single source. Yet, when it comes to deciding to take a person's life, a plurality of sources is required to affirm this decision since the Prophet himself warned Muslims to be cautious of hadith, asking them to examine hadith attributed to him in light of the Qur'an. Kadivar also notes, "During the Prophet's time, no one was executed on account of apostasy. Those who were sentenced to capital punishment were guilty of crimes other than apostasy". He affirms it is undeniable that some people were killed on the charge of apostasy during the Umayyad and Abbasid caliphates, but there is no reliable evidence to demonstrate that Shi'a Imams endorsed the act: "There is no cogent evidence in the Shi'i corpus to establish that anyone was killed for apostasy due to a judgment rendered by the Imams or with their endorsement and satisfaction". Indeed, no Shi'a Imam has ordered a person to be executed only for changing their religion or for turning away from Islam.

To challenge the application of a temporal penalty for apostasy, Kadivar finally argues that this creates a negative image of Islam in the global community and negatively affects the overall well-being of the religion. For him, killing someone because of a change of faith is considered a violent act in the name of religion. This is undesirable in today's world because it weakens the religion and causes repulsion and repugnance. Indeed, "[t]he negative effects that would ensue from making licit the shedding of someone's blood would be plenty and, as such, would certainly weaken Islam".

## Conclusion

This article has shown how several contemporary Muslim scholars have argued that the classical Islamic legal position on conversion from Islam and the death penalty associated with it should be discarded. The scholars chosen for this study argue that the Qur'an does not prescribe a particular worldly punishment for turning away from Islam. They also question the authenticity of the hadith justifying the execution of apostates, stating that they stand in sharp contrast to the spirit of the Qur'an, especially those verses that endorse freedom of religion. They argue that turning away from religion was punishable only when it was associated with aggression, high treason, hostility or an act of political betrayal. Thus, change of religion by itself should not lead to any punishment, let alone the death penalty. The arguments presented from these scholars contribute to both the understanding and the advancing of religious freedom in Islamic scholarship.

*Banner image credit: t-bet/Flickr*