

The Penalties for Apostasy in Islam

By

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Introduction

The renaissance of Islam has been stimulated strongly through a repeated increase in the price of oil since 1973. With this has come a new awareness of legislation in the Islamic states.

The legal basis of Islam is the Sharia, Islamic law, that controls and orders all areas of life. It is not a moral law for the sensitising of conscience but is a penal law, requiring the punishment of violators through an instrument of the state. Islam demands a religious state as an executor to enforce the law.

A Muslim is not free to believe or do what he wishes. He is under Islamic law, which was derived and assimilated from the Qur'an, the example of Muhammad (*sunna*), the final analogy (*qijas*) and consensus (*idjmaa*).

Islam describes Muslims as worshippers and slaves of Allah (*ibaad Allah*). They have submitted themselves to him and are therefore his possession. The word *Islam* means, "surrender, devotion and submission".

Whoever falls away from faith in Islam commits -- from an Islamic perspective -- an unforgivable sin. He takes himself away from Allah, his owner -- which is theft -- and weakens the Islamic state, an action branded as revolt or insurrection. He who falls away from Islam must, according to the Sharia, be prosecuted, taken into custody by force, and called on to repent. If necessary, his return is to be "helped" along with torture. He who does not embrace Islam again has, according to the Sharia, forfeited his life and is to be put to death by the state. According to the daily paper, *Al Alam*, King Hassan II of Morocco, who is also the imam of his country, presented the following state of affairs before a human rights commission on May 15, 1990:

"If a Muslim says, 'I have embraced another religion instead of Islam,' he -
- before he is called to repentance -- will be brought before a group of
medical specialists, so that they can examine him to see if he is still in his
right mind.

After he has then been called to repentance, but decides to hold fast to the
testimony of another religion not coming from Allah -- that is, not Islam --
he will be judged."

Such thinking abounded in Christian churches during the Middle Ages, too. The Inquisition took on violent proportions and carried out the governmental functions of punishment. However, this madness in Church history was in direct opposition to the law and spirit of Christ. Indeed, the New Testament upholds the teaching of eternal punishment for the godless and for those who fall from living faith in Christ; but with the Parable of the Lost Son (Luke 15:11-24), Jesus teaches that the father waited for the rebellious son until he returned, and then he rushed out to meet him. The father did not have him searched for, kept under surveillance, followed, locked up, tortured, starved or killed. The spirit of Christ grants freedom and does not kill. But the revelations of Allah in the Qur'an require the death of all apostates. The grace and love of Christ are greater than the hate and law of Islam; this grace and love oppose the efforts of all inquisitors. Whoever follows Christ loves apostates and does not condemn them.

Islamic states are presently renewing their legislation, replacing it with earlier Islamic structures, and are trying to rid themselves of the influence of colonial powers. In most of the Islamic countries, endeavours are underway to make the Qur'an and the Sunna the basis of modern legislation.

Not all Muslims agree with this retreat into the Islamic Middle Ages of earlier times. Our world has become smaller through modern travel and telecommunication. The influences of humanism, rationalism, technology and modern living have left their mark on many Muslims. One-third to one-half of the Muslim population in Algeria, Egypt, Turkey, Pakistan and Indonesia resists the introduction of the Sharia. They do not wish to come under the yoke of oppression again -- one which would demand that thieves have their hands and feet amputated, adulterers be whipped, and converts be killed.

However, one-fourth to one-third of the Islamic population passionately demands the immediate introduction of the Sharia and is prepared, in some places, to enforce it with the help of terrorism and revolutions. In each Islamic country, fundamentalists and liberals wrestle over the Sharia. In Syria, these differences led to a civil war in 1982 -- one in which the army brutally defeated the uprising of the Muslim Brotherhood. Turkey was already rid of the Sharia by 1926, emerging as a secular state. But in other countries a re-Islamisation is underway -- especially in Morocco, Libya, Sudan, Saudi Arabia, Iran and Pakistan, where the Sharia or the Qur'an have been legally introduced as fundamental law. Until now, the enforcement rulings have not been enacted in detail, nor have they been abandoned. The establishing of the Sharia and its enforcement is subject to a continual developmental process in all Islamic countries.

The punishment of apostates from Islam is being demanded again and again by Islamic jurists and fundamentalists who stimulate public opinion; individual converts are persecuted by fanatics or placed under pressure by their own families. The slander against these witnesses of Jesus Christ and their subsequent imprisonment have been an acknowledged and ever-recurring fact during the last 20 years in Morocco, Egypt, Turkey, Iran and Pakistan. Many have been tortured. Some have died during their imprisonment. Parents have locked up their daughters in storage chambers, letting them

die of thirst. Islam is an intolerant spirit. According to Western ideas of freedom of religion, Islam consistently resists basic human rights.

The frequent reprinting of this book which, since 1934, has undergone eight revisions, makes the often bitter clashes over the Sharia and its implementation in individual countries even more apparent. The translator of the following extract, who is a graduate from an Islamic school of law, has translated similar texts from the Arabic -- texts which present and explain the penalty for apostasy in Islam.

Those responsible for harbouring refugees should not let themselves be deceived by Muslim translators who claim that there is no religious persecution in their countries; rather, they should study the legal demands of the Sharia explained in this book. Liberal theologians and everyone who is concerned with establishing peace among religions should consider this discussion of law, not remaining imprisoned by the ideas of the Enlightenment. Responsible Christians must realise that Islam is an anti-Christian religion that never allows the conversion of a Muslim to Jesus, for the fundamentals of Islamic law demand his death.

This translation is not intended as a Christian apologetic but serves to clarify the discussions between the religions objectively, leading the reader to a foundational legal understanding of Islamic law, free from mystical speculation and humanistic wishful-thinking.

Abd al-Masih

1. When Does a Muslim Become an Apostate?

Apostasy -- Allah forbid it -- is the unbelief of a Muslim who had publicly confessed faith in Islam willingly, according to his knowledge of the fundamentals of Islam, by professing the two main articles of faith (*al-shahadatain*):

There is no god but Allah. Muhammad is his messenger.

Apostasy can occur by an explicit declaration, such as, "I associate other gods alongside Allah" (*usherek billah*), or by a claim that results in blasphemy, such as, "Allah has a material substance or a shape just like other substances or shapes" (*kufir*), or by an action that clearly resembles blasphemy, such as carelessly discarding a Qur'an, or parts of it, or even a word of it (not as an honourable way of disposing it, or as a treatment for the sick), as well as burning the Qur'an out of contempt, and every manner of soiling it (such as putting it in a holy place that has become dirty, or staining it with an unclean substance, such as turning its pages with fingers that have been licked).

The same holds true for "the most beautiful names of Allah," the Hadith collections (traditions), the works of Islamic law and theology, when the Sharia and its regulations are thereby treated with disrespect or contempt, as well as the names of the prophets, or

the wearing of a belt -- assigned to unbelievers -- as a leaning toward unbelief. But if a Muslim does this in jest, it is regarded only as a forbidden action (*haram*).

The same holds true when a Muslim enters a church, worships an idol, or learns and practises magic, for by magic one glorifies a name other than Allah and ascribes predestination, knowledge and control of fate to someone other than Allah.

A Muslim loses his faith when he says that the world has always existed from eternity (*qadim*), for this assumption denies the existence of the Creator, or when he says that the world is everlasting and without end, since this is a denial of resurrection -- even if he himself believes in the resurrection.

A Muslim also becomes an unbeliever and blasphemer when he denies the existence of Allah, believes in the transmigration of souls (reincarnation) -- since this is a denial of resurrection -- or when he denies a decision agreed upon unanimously by the Islamic community (*ummah*), such as the obligatory necessity of prayer and fasting or the prohibition of adultery. He also becomes a blasphemer when he denies that which is allowed (*halal*) -- things over which the scholars of law agree, concerning what can be definitively concluded according to religion based on the Qur'an and the unbroken, traditional Sunna (the path, lifestyle and manners) of the Prophet.

A Muslim loses his faith when he suggests the possibility of prophethood being acquired through spiritual exercise, since that would imply the possible arising of a prophet after Muhammad. The same holds true when he curses a prophet or denigrates an angel whose positions are unanimously upheld by the consensus of the Umma. Apostasy also occurs if he, when talking about a prophet or angel, says, "As for me, I am not an adulterer or a magician," if he accuses a prophet of having a deficiency -- even a physical one, such as a limp or paralysis -- or if he questions the perfection of his knowledge, since each prophet is the most knowledgeable person of his age (but the master of prophets is the Prophet Muhammad -- *Allah pray for him and grant him peace* -- for he is absolutely the most knowledgeable in all creation). Furthermore, a Muslim becomes an apostate if he defames a prophet's character, morals, virtues, or religion, if he accuses angels of having bad qualities, or if he questions the efficacy of a prophet's asceticism.

Muslim scholars (imams) have said: Apostasy must be determined by the testimony of two upright adult witnesses whose accounts agree. When a judge asks how the Muslim fell from the faith, the witness must say, "He says such and such or does such and such."

All four imams (the founders of the four schools of Islamic law) -- may Allah have mercy upon them -- **agree that the apostate whose fall from Islam is beyond doubt -- may Allah forbid it -- must be killed, and his blood must be spilled without reservation. The hypocrite and heretic (*zindiq*) who poses as a Muslim but has secretly remained an unbeliever must also be killed.**

2. Calling the Apostate to Repentance

The **Hanafites**: When the Muslim falls away from Islam -- may Allah forbid it! -- he is first asked to return. If he has doubts, he is to express them; one can then clear up his doubts, for it may be that he truly has questions with regard to the faith -- questions in need of explanation. By this it is possible to deal with his evil deed (*sharr*) through the best of two possibilities: death or the acceptance of Islam. However, it remains desirable to offer him the acceptance of Islam again, although this is not obligatory, because the message had already been offered him once.

If he needs time to reconsider, it is desirable that the judge allow him a three-day extension, during which he is to remain in custody. If he accepts Islam thereafter, it is good; if not, he is to be killed, for Allah says to "kill those who believe in many gods" (Sura *al-Tawba* 9:5), without fixing a deadline. The Prophet also said, "Kill him who changes his religion," without mentioning a delay, because the apostate is surely a hostile unbeliever and no asylum seeker (*musta'min*) who has asked for protection; furthermore, he is no *dhimmi* (a non-Muslim under Islamic rule), for no poll tax is demanded of him. Therefore, he should be killed without reservation.

The **Hanafites** are of the opinion that it does not matter whether the apostate is a freeman or a slave.

The **Shafi'ites**: If a Muslim becomes apostate -- Allah forbid! -- the imam should grant him three days' grace; he is not to be killed before this period expires, for the apostasy of a Muslim from his faith often results from his confusion. Therefore a grace period is necessary, so that he can reflect, and that the truth can become clear to him again. We, the Shafi'ites, have determined that this time should consist of three days, whether he asks for it or not.

It has been told about our master, Umar b. al-Khattab -- may Allah be pleased with him -- that a man was sent to him by Abu Mosa al-Ashaari. Umar asked him: "Do you have any good news?"; the man said, "Yes, a man apostatised from Islam, so we killed him." Umar said: "Did you first take him into custody for three days, giving him one loaf per day, so that he may repent? O Allah -- you are a witness -- I was not there, neither did I give any orders, nor did I concede to that action." This story was mentioned by Malek the imam in his book, *Al-Muwattu*, to the effect that Umar disapproved of what they did. Thus, one can conclude from this event that an apostate must be given a three-day time limit before he is put to death.

If the apostate repents, or utters the two main articles of faith (*al-shahadatain*), or confesses faith in the oneness of Allah (monotheism), he will be released. But if he does not repent, he is to be killed by the sword immediately. This punishment cannot be evaded, because apostasy is the most atrocious and severe form of blasphemy, and it deserves the cruellest judgement, which invalidates all of a Muslim's previous deeds. Allah says: "And for those among you who allow themselves to be led astray from their religion, and who die as unbelievers, their works are invalid now and in eternity" (Sura

al-Baqara 2:217). If the apostate returns to Islam, he need not repeat the pilgrimage which had been performed before the apostasy. This is unlike the Hanafites who said: If the apostate repents, he must repeat the pilgrimage, because his apostasy has nullified it.

The **Malikites**: The imam should grant the apostate three days and nights -- beginning with the day on which his apostasy was committed, and not with the day of his unbelief or the day upon which the accusation was brought against him. The three days of confinement are to follow in succession, and the day on which the apostasy was proven should not be considered as part of the time limit, if it was preceded by dawn. During his confinement, he is to be given food and drink, which are to be paid out of his assets, while his wife and children are not being cared for by his assets. If he has no assets, he is to be cared for by the public treasury or House of Property (*bait ulmal*), whether he promises to repent or not. He is not to be beaten in prison, even if he persists in his apostasy. He is surely to be given many chances to repent within this time-limit, in order to prevent bloodshed or punishment resulting from doubts. This should clear up his doubts and give him time to reconsider, so that he may change his mind and repent. If the judge decides on his death before the end of this grace period, his decision is legally binding, because he has ruled on a disputed issue. If he repents after three days, he is to be released; but if he does not, he is to be killed on the third day, at sunset. His corpse is to be neither washed nor embalmed. He is to be buried neither in the cemeteries of the Muslims nor of the unbelievers (*kuffar*), for he is not one of them, having once been a Muslim. In fact, his body is to be thrown upon the ground as a public example.

The **Hanbalites**: There are two opinions on this issue. Some believe that the apostate should be given a period for repentance consisting of three days, while others are of the opinion that he is to be granted no time for reconsideration but should only be offered Islam. If he accepts the offer, he is to be set free; if not, he is to be put to death immediately.

3. The Case of the Female Apostate

The **Shafi'ites**, **Hanbalites** and **Malikites** say: The verdict for the female apostate is the same as for the male. She must be called on to return to Islam for three days, prior to her death, for an evil-doer may have confused her understanding; thus the possibility exists for her being released from her confusion. Offering the apostate a time limit for repentance has been approved. According to a tradition related by Daruqutni, quoting from Djabir b. Abdillah, the Prophet offered Islam to a woman named Ummu Rumman who had previously apostatised. Furthermore, the Prophet said, "It is good if she repents. If she does not, she is to be killed, since by apostasy she should be treated like a woman who has fought against Muslims, being taken captive in a holy war (*jihad*); thus it is lawful to kill her with the sword. Moreover, her guilt is far more abominable than women who are taken captive in a holy war, since she has become a Muslim."

The Prophet -- the blessing and peace of Allah be upon him -- said, "He who changes his religion must be killed"; this holds true both for men and women. The apostasy of a man calls for putting him to death. It is unanimously agreed upon that apostasy is a horrible

crime deserving a horrible punishment. The apostasy of a woman is no less horrible. Therefore, it too deserves a corresponding punishment: death.

The **Malikites**: The death of a nursing woman must be postponed until the time for nursing her infant has been completed, if either no wetnurse can be found or if the babe cannot accept another woman in place of its mother. The death of a married woman and of a divorced woman who was given the option of returning (*talaqu radj'a*) must also be postponed. As for the divorced woman who refuses to return, she must be killed without hesitation, unless she is menstruating (even if she should menstruate only every five years). If she has no period, owing to a weakness or questionable menopause, she is to be left in peace for three months, in case she is thought to be pregnant. If she is not thought to be pregnant, she is to be killed immediately after being called to repent. If unmarried, she is not to be acquitted.

The **Hanafites**: The apostate woman is not to be killed; but if she kills someone, she is not to be taken into custody, be she a free woman or a slave, for the Prophet has forbidden that women should be killed. It is also better to postpone punishment to the afterlife, since hastening it violates the concept of tribulation (*mabada' al-Ibtala'*). The only acceptable exception to this rule is for war (*al-Harab*). However, women, unlike men, are no real danger in war time, so the apostate woman is to be treated like one who has never been a Muslim. Every punishment has to be stipulated, having some benefit for us in this world; that is, the punishment for slander, drinking, adultery, theft. Thus, punishment has been legalised to protect people, honour, minds, relationships and money. The death sentence upon an apostate should be with the aim of preventing evil, not as a retribution for apostasy, since Allah will repay an apostate with a greater retribution. So, punishment is confined to those who can fight (that is, men). That is why the Prophet -- the blessing of Allah be upon him -- forbid putting women to death, since they are not involved in battles. This is according to tradition. (According to one tradition, the Prophet allowed an apostate woman to be killed, not only for her apostasy but also for her being a witch and a poet who mocked him and incited her thirty sons against him.)

The apostate woman is to be thrown in prison until she returns to Islam or dies, being whipped thirty-nine times every day -- which is nothing less than death; uninterrupted whipping inevitably leads to death. She must be imprisoned, because she, after being a Muslim, did not give Allah the rights due him; so she must be obliged to pay back these rights by being imprisoned.

According to a tradition in *al-djamius's-sagir*, the woman, whether free or slave, must be forced to embrace Islam. A concubine is forced by her master, because two rights are being dealt with: the right of Allah and the right of the master. The free woman who apostatises is not to be enslaved, as long as she remains in the House of Islam. But she is to be beaten excessively every day, in order to force her to return to Islam and regain her heritage; otherwise, her Muslim husband will inherit all her belongings.

Abu Yusuf, quoting from Abi Hanifa, quoting from Aasem Ibn Abi al-Gonood, quoting from Abi Razeen, quoting from Ibn Abbas -- the peace of Allah be upon them -- said:

"Do not kill women if they apostatise from Islam. They must be imprisoned, offered the chance to return to the faith, and then forced to do so."

It is quoted from Ibn Umar that a woman was killed during one of the Prophet's conquests. Therefore, the Prophet of Allah -- peace be upon him -- forbid the killing of women and children. Muhammad narrated: "It came to our knowledge that Ibn Abbas said, 'If a woman apostatises from Islam, she must be imprisoned.'" Such an opinion is not an interpretative one.

It is said, quoted from Moaz Ibn Gabal -- peace be upon him -- that the Prophet of Allah - - peace and blessings be upon him -- said to him when he was resurrected to the right: "Any man who apostatises from Islam is to be given the chance to return to the faith. If he repents, accept his repentance. But if he does not, cut off his head. Any woman who apostatises from Islam is to be offered the chance to return. If she repents, accept her repentance. If she does not repent, give her a second chance, etc." (Hadith).

It is quoted from Imam Ali that Daruqutni -- peace be upon him -- said in his Hadith collection that an apostate woman is to be given a chance to repent. She should not be put to death.

There is evidence that the Hanifites said that the apostate woman should not be killed but should be only imprisoned and beaten.

4. The Possessions of the Apostate

The **Hanafites**: The apostate forfeits his right of disposal in regard to his possessions, until his case is cleared. If he returns to Islam, he receives his possessions back. But there is no killing unless by war. This necessitates the loss of his right to possess as well as the possessions themselves. Yet, he is invited back to Islam by force, until he repents. So we have to wait in his case. If he becomes a Muslim, the incident is nullified, and he is to be treated as if he remained a Muslim during all of that time. The entire incident is voided. If he died or was killed in a state of apostasy, or participated in war against the House of Islam, and his involvement is proven, his apostasy is upheld. So the incident is valid, and he loses his possessions. It is unanimously agreed that if he comes back to Islam, and his possessions are still there, he has the right to get them back. This is an operative rule: Possessions are lost with apostasy, but repentance restores them legally.

Abu Yusuf and Muhammad Ibn Shaiban are of the opinion that the apostate does not lose power over his fortune, because he is a taxpayer. In this case he resembles him who is to be stoned or punished; both are considered Muslims of sound mind who are subject to taxation, who can be outlawed, and whose blood can be spilled.

According to Abu Hanifa, his fortune is to be transferred to those Muslims who are legally entitled to his estate, if he dies or is killed as an apostate. All that he acquired during his apostasy is considered booty for the Muslim community and should be put in the House of Property (*bait ulmal*).

Abu Yusuf and Muhammad Ibn Shaiban said: In both cases, the possessions should be divided among the Muslim heirs, since the apostate's possessions belong to him in both cases; after apostasy, the possessions go to his heirs, because he is a needy taxpayer. In this case, the status of possession is based upon his condition before apostasy (that is, as a Muslim), since apostasy is the reason for death. So, as a Muslim, Muslims should be his heirs, and all that he possessed as an apostate is considered as if it were earned in Islam.

When the apostate dies or is killed, he is to be inherited by his Muslim wife during her waiting period (the time during which a widow or divorcee may not remarry) since he is considered a fugitive -- even if he was healthy when he apostatised, for apostasy is the cause of death.

The **Malikites**, **Shafi'ites** and **Hanbalites**: In case an apostate dies or is killed as an apostate, whatever he acquires, before or after his apostasy, is to be considered booty (and transferred to the public treasury), since he died as a blaspheming deceiver. The fortune of an apostate is like that of an unbeliever who finds himself in a state of war with Muslims (*harbi*) and who does not enjoy any safety provided by them; all his possessions are booty.

The Shafi'ites: They have differing viewpoints regarding an apostate being dispossessed of goods that were acquired before or during his apostasy, the most common of which are as follows:

1. To determine whether he joined a war against Islam (with view to his wife's possessions). If he dies in a state of apostasy, it is clear that he is to be dispossessed. All that he earned by trading (*'ma malakahu'*) is booty. All that he took for himself of things found in a public area (*'ma tamallakahu'*) remains as public property. However, if he returns to Islam, his belongings are still his, since the voiding of his works depends on his death in a state of apostasy. The same is true for his being dispossessed of his goods.
2. He loses his property as soon as he apostatises, for if he loses the protection of Islam by apostasy, how much more his property!
3. Ownership of property is not nullified by apostasy, since there is no contradiction between apostasy and property, as is the case with the original blaspheming deceiver who has never become a Muslim (*al-kafer al-asli'*).

Consequently, the debts of the apostate are to be paid from his property -- even if these debts accumulated before the apostasy. If we say that the property of the apostate remains or is put on probation, that is clear. If it is disclaimed, nothing is better than death. The debt should have priority over the right of inheritance, as is the case with the right of booty.

5. The Status of the Heretic

The **Malikites** and the **Hanbalites**: As soon as the condition of the heretic has been determined, he must be killed, without having the opportunity to repent. He qualifies as a

heretic (*al-zindiq*) who poses as a Muslim and resides in the Muslim community, yet who is secretly an unbeliever or atheist. During the time of the Prophet and his Companions -- the peace of Allah be upon them all! -- such a one was called a "hypocrite" (*munafiq*), and his death was unavoidable, even if he repented. In such a case (if he repented) he was to be killed, not as an unbeliever, but as a penalty for his misdeed. Thus he was acknowledged to have been a Muslim; his corpse was ritually washed, wrapped and buried in an Islamic cemetery, so that the whole matter could be decided by Allah.

They said: If he comes to us as a heretic, before we have known him to be such, the matter can fall into five possible categories: His fortune belongs to those entitled to the inheritance, if he has come to us in order to repent, or if he has repented after his condition has become known, or when his heresy could be determined only after his death. If we have learned of his condition before his death, his fortune belongs to the public treasury (*bait ulmaal*). We will kill him."

Such is the situation with him who has insulted a prophet whose prophethood has been unanimously upheld by the community (congregation). Such a one is killed, without being called to repentance. If he should repent, his repentance will not be accepted as a means of lessening his punishment. In this instance, he will be killed as a penalty for his deed (yet, he will be recognised as a Muslim). He who has insulted a prophet cannot be excused on account of ignorance, because unbelief is not excusable, just as something forbidden (*haram*), owing to drunkenness, rage or grudges, is not excusable. However, an unbeliever who has insulted a prophet must not be killed when he converts to Islam, even if he should do so out of fear of being killed, since recanting nullifies all that took place previously. As for a Muslim who has renounced Islam without insulting a prophet, he is to be killed if he insults a prophet after his renunciation and then seeks to return to Islam.

According to the **Shafi'ites**, his repentance is acceptable, even if he has insulted the angels and (all) the prophets.

According to the **Hanbalites** and **Malikites**, the repentance of him who has insulted Allah will be accepted, whereas the repentance of him who has insulted the prophets and angels is not accepted. They explain their actions regarding such a case as follows: Allah is exalted above all imperfections, in contrast to his believing servants whose exaltation over deficiency depends on the transmission of divine messages, not on their character.

In the second case, Islam excuses all his prayer, fasting and almsgiving, if due. So he is under no obligation to perform them after returning to Islam, if he returns before the end of prayer time. This is according to the saying of Allah who is exalted: "Say to unbelievers who submit that their past will be forgiven." Islam also disclaims the rewarding of his past deeds, owing to his past deeds, according to what Allah the exalted said: "If you associate others with him, surely he will deny your deeds." He is to perform the ritual ablution, but not washing, if it is required. He has also to perform the pilgrimage again, because its time (the lifespan of man) is still due. If he said to his wife, "The moment I enter the house, you are divorced," and then entered the house after his apostasy, his marriage is null and void. As for the divorce he claimed before apostasy, if

he claimed an irrevocable divorce, apostatised, and then returned to Islam, it is illegal for his wife to return to him unless she marries another man and then divorces him. Only then can she return to her former husband. Otherwise, the husband and wife should apostatise together and return to Islam together.

The **Hanafites** and **Shafi'ites**: When the heretic repents and expresses his belief in Islam, his repentance is accepted. Such a one (in any case) will be called to repentance and not killed. He is to be treated as an unbeliever who has crossed over to Islam (*al-kafer al-asli*).

Some of the **Shafi'ites** are of the opinion that a Muslim qualifies as an apostate when he finds himself to be of hidden (secret) unbelief (*'in irtadda ela kufren khafiy'*) or when he adheres to the unbelief of the Batinites. These (the Batinites) are of the opinion that the Qur'an has a hidden, implicit meaning in opposition to its obvious, explicit one. The same is the case with him who converts to a religion that maintains that Muhammad was sent only to the Arabs; likewise with him who joins a religious society that regards the religion of Muhammad as indeed true but as not yet "visible". When he renounces an obligatory duty (*fard*) or that which is forbidden (*haram*), his belief in Islam is not genuine, and he must be killed.

This is also valid for those philosophies which claim that Allah created something, and that out of this thing he created something else that controls the world. The first is called "mind" (*aql*); and the second, "soul" (*nafs* or *anima*). This is an obvious heresy (*'zufrun zaher*)!

The same applies to naturalists who say that life and death can be traced back to nature.

He who slanders the Prophet Muhammad (or calls him a liar in relation to his message), or insults one of the prophets whose name appears in the Qur'an, is to be killed (as a severe penalty), without his repentance being taken into consideration. There are also legal scholars who say that the repentance of a heretic can be accepted in such a case, but that he must be whipped eighty times. Even though the apostasy has been annulled through his repentance, the penalty of flogging remains.

Furthermore, the **Hanafites** say: He who slanders the prophets must be killed by all means, in view of the fact that even he who cherishes hatred in his heart toward the Prophet becomes an apostate. His repentance is not to be accepted; it cannot save him from being put to death.

6. The Apostate Who Resides in "The House of War"

The **Hanafites**: When the apostate resides in "The House of War," and this is confirmed by a judge, his slaves and concubines are to be freed, and his debts cancelled. What he has accumulated as a Muslim will be transferred to those Muslims entitled to his

inheritance, because he now belongs to those who are "at war" with Muslims and who qualify as "deceased" in regard to the requirements of Islam, since all obligations come to an end, as is the case with the dead.

They said: The debts he had accumulated while being a Muslim are to be repaid from the money he earned while being a Muslim. The debts he accumulated while being an apostate are to be settled from the money he earned while being an apostate.

His existing debts should be repaid. If what he earned while being a Muslim is not enough, the debts are to be settled from what he earned in apostasy, since what is due in both cases is different. Every case is considered according to the reason of debt, so each debt is to be settled from what is earned in that case, so that the earning will balance the debt of each case. The settlement should start with what is earned in apostasy, since what is earned in Islam is still his, until the inheritor succeeds him in running this property; but this succession is based only on the termination of the right of the testator. Thus, the debt takes first priority, and then the succession. As for the property earned in apostasy, it is not considered his because the legal capacity of possession ends with apostasy. The debts are not to be settled from it unless there is no other way to repay it. Only then is the debt to be settled from what is earned in Islam (while being a Muslim), as is the case with the *dhimmi*, the free non-Muslim living under the protection of Islamic law; when he dies, and no inheritors exist, all his belongings are transferred to the House of Property *bait ulmal*. If he has any debts, they should be settled first. A third opinion is that the property earned in Islam is the legal right of the inheritors, and what is earned in apostasy is the legal right of no one. The settlement of the debt should be from what is earned in apostasy, unless insufficient. Then it should be settled from what is earned in Islam -- the debt having first priority in this case.

Abu Yusuf said: Such an apostate is considered a testator at the time of judgement, since by the sentence of judgement he is considered to be dead. The apostate woman is to be treated equally if she joins war.

The **Shafi'ites**: The goods of the apostate who resides in "The House of War" are to be seized (*maquuf*), and his debts accumulated prior to his apostasy from Islam, as well as any damages caused, are to be paid from their value. There are other legal scholars from among the Shafi'ites who say that he is not obligated in this respect, because he qualifies as unpropertied. As for the transactions undertaken before his apostasy -- such as the release of slaves, contracts and testaments -- these are valid only when he returns to Islam. Those business matters over which he is in charge, such as selling, donations and mortgages that cannot be suspended, are to be declared nonentities (liquidated). His goods are to be kept with a just man, and his concubines are to be entrusted to the care of either a trustworthy woman or a man who is allowed to be alone with them.

It is clear that his property has to remain his or be put on probation. If we say that his property is to be disclaimed, apostasy is no more severe than death, and religion is to come first -- before the rights of inheritors and the rights of booty. So if he died owing a

debt, it should be settled. Then, if some of his property remains after the debt has been settled, this remaining property goes to the House of Property.

They said: The renegade Muslim is to be placed under guardianship at the moment of apostasy. It was also said: He is to be placed under guardianship after his incompetence has been legally declared by a judge. The guardianship to be placed upon him is to be like the guardianship of bankruptcy. It was also said: The case must be treated like the guardianship of illness. During his illness, the apostate is to be sponsored from his own money during the time of his recantation. After death, his property is to be disclaimed, and his financial needs are to be considered as those of the enshrouding and burial of a corpse.

What is agreed upon with respect to the belief of the Shafi'ites is that the apostate is obligated to pay what he damaged of others' property while in a state of apostasy. Even if a group of people apostatise and rebel against an imam, and he has to fight and subdue them, they have to pay for what they damage, even if they return to Islam.

The more correct belief is that the apostate is obliged to pay for his wives if he stops having sexual intercourse with them. He is also obliged to pay for the subsistence of a close relative, since these are the obligations of the apostate when his property remains.

It was also said: He is not under any obligation to pay for any expenses, since all his possessions are legally disclaimed. As for the view that claims his property is to be placed under probation and guardianship, all his deeds are to be put on probation during apostasy, if indeed they can be placed under probation, as in the case of freeing a slave and any legal transactions or wills. If he returns to Islam, all his deeds become effective, but if he dies as an apostate, all his deeds are rendered null and void, since probation does him no harm. As for dealings that cannot be placed under probation, as in the case of sales, gifts, mortgages, pledges and other related transactions that cannot be placed under probation, they are voided according to the nullification of legal contracts. In ancient times, these deeds were nullified according to the validity of contracts. If he becomes a Muslim, they are to be enforced legally; otherwise, they are voided.

According to all these beliefs, the property of the apostate is to be delivered to a trustworthy woman or to a man legally eligible, since this property has something to do with the rights of Muslims.

The **Malikites**: Apostasy does not invalidate a contract. When one partner of a contract renounces Islam, the contract remains valid for the other partner. The matter is different, however, with marriage contracts. For instance, apostasy does not nullify the capacity of a second husband to make his wife eligible to remarry her first husband who had irrevocably divorced her earlier. If the second husband of an irrevocably divorced woman apostatises, his marriage to her is still valid, making her eligible to remarry her former husband who had irrevocably divorced her.

According to the Sharia, this is the only way that an irrevocably divorced woman can return to her former husband: by marrying another man and having sexual intercourse with him, and then having him divorce her. Only then can she return to her former husband as his wife; otherwise, she cannot return to him as his wife.

The case is not the same when an irrevocably divorced woman apostatises after marrying her second husband and having sexual intercourse with him. She is still not eligible to return to her former husband, since her apostasy had already nullified the sexual intercourse of her second marriage. She must have sexual intercourse with her second husband in order to be legally eligible to return to the first husband as his wife.

The unconditional liberation of a slave is not nullified by apostasy, whether the apostate returns to Islam or joins the blasphemous camp, (*'dar al-kufr'*). Also, the divorce is effective, not being nullified by the apostasy. As for donation and endowment, they are valid whether he returns to Islam or dies as a Muslim, if they occurred prior to the apostasy. However, if the donation and endowment occurred during apostasy, and the apostate dies in a state of apostasy or joined a blasphemous camp, they are invalid. We have to wait for him, whether he returns to Islam or not, and whether the judge will judge with nullification or not.

They said: The matter of an unbeliever abandoning his religion, in order to cross over to other unbelievers, such as a Christian who converts to Judaism or Manichaeism, does not concern us. An unbeliever who converts to Islam and then renounces the faith is excused when he says to the judge (who wants him killed) that he converted to Islam out of fear for his soul or for the sake of his property. If his excuse proves to be true, he is to be released; but if it proves to be a lie, he is to be treated as an apostate. If he returns to Islam after recanting, he is to be set free; but if he does not, he is to be killed as an apostate.

Whoever pronounces both articles of faith, yet fails to hold fast to the pillars of Islam, is to be beaten flogged, and given another chance, according to the decision of the judge. If he returns to the true path, his case is not treated like that of the apostate. But this is in case he does not live among us, knowing that we are committed to prayer, fasting and paying alms. Otherwise, he is an apostate, since he has already lived among us and learned the regulations and laws of our religion. He is to be punished. If he denies the statutes of Islam, then he is to be judged as an apostate.

A magician who has bewitched a Muslim, yet without causing him harm, is to be flogged. If he has harmed a Muslim, he is to be regarded as one who committed a breach of contract, and the imam is to decide on his death or enslavement, in case he does not return to Islam. If he, through magic, has harmed one of the People of the Book, he is to be killed. Whoever insults one of the prophets whose prophethood is not certain, such as al-Khidr (a mythical Arab figure) or Luqman (a legendary personage from Arabic paganism) or Mariam -- except that he suggests fornication -- or a family member of Muhammad, he is to be beaten and flogged with exceptional severity if it is known that he belongs to the clan of Muhammad. If he does not belong to the clan of Muhammad,

but claims to, either clearly or by way of intimation, such as by wearing a green turban, then he will not be beaten or flogged with exceptional severity, for the Prophet said: "May Allah curse him who joins our clan without proper kinship and leaves our clan without reason."

Malek, the imam -- may Allah be pleased with him -- said:

"He who allegedly claims nobility is to be beaten excessively and imprisoned for a long duration, until his repentance becomes clearly evident to us. His behaviour is a crime against the Prophet -- the peace of Allah be upon him."

They said: He who curses one of the Friends of the Prophet -- peace be upon him -- should be imprisoned but not condemned to death. Also, he who denies some of the Friends of the Prophet, including the four successors -- may Allah be pleased with them -- will not be considered blasphemous but is to be disciplined. He who denies all the Friends of the Prophet is to be unanimously considered a blasphemous apostate, since he has denied one of the well-established facts of religion and attributed the lie to Allah and his Prophet. If one of his people accuses either him or a group not eligible to witness of cursing a prophet whose reliability is unanimously upheld, he is to be only beaten. However, if he objects to Allah, he is surely an apostate.

7. The Activities of the Apostate

The **Hanafites**: The activities of the apostate are dealt with in different categories:

1. Valid through consensus: having children (his children qualify as having been born in wedlock); divorce, because it no longer demands the right of disposal, even when the separation occurred on account of the apostasy.
2. Invalid through consensus: marriage and blood sacrifice, because both must belong to the religion -- whereas the apostate does not have a religion, and his crossing over to a religion is not acceptable, because he is to be killed, because of apostasy.
3. Under probation by consensus: negotiation, when an apostate negotiates with a Muslim. The negotiation is under probation. When the apostate returns to Islam, a contract is valid. However, if he dies or is killed, or joins a blasphemous camp at war with Muslims, the negotiation becomes invalid, because negotiations demand equality, whereas a Muslim and an apostate are not considered equal.
4. Contested: buying and selling, the freeing of slaves, mortgaging, and the handling of a Muslim's possessions in the case of apostasy. Abu Hanifa -- the mercy of Allah be upon him -- said:

"In the case of apostasy all these dealings are to be placed under probation. If he returns to Islam, his contracts are to become operative, but if he dies in his apostasy, or is killed, or resides in 'The House of War,' they are nullified, because he now (in apostasy) qualifies as a frivolous or

crazy (*mutahawwir*) warrior (*harbi*) -- 'he who is at war with Muslims.' His dealings are to be rendered null and void, according to his legal position. Thus, the warring enemy and the apostate are to be treated the same. The apostate deserves the death sentence. There is no reason for him to enjoy the protection of Islam any longer. Consequently, he is incompetent, unlike the adulterer and murderer who, although they deserve death because of a crime, still enjoy the protection of Islam, since the reason for protection still exists: Islam. Thus, the adulterer and murderer do not lose their property. He is also unlike the apostate woman who is not a warring enemy and who is therefore not killed after apostasy. As for the apostate man, he is to lose all his property, as was already mentioned."

According to Abu Yusuf and Muhammad Ibn Shaiban, the transactions of the apostate are valid, and his contracts are legally binding, because legitimacy depends on legal capability, and validity depends on proprietary right. Because he can be spoken to, he is legally capable. As far as his right to property is concerned, it is valid until his death and does not stop on account of his apostasy, since he is considered a needy taxpayer who cannot pay the tax, unless out of what he possesses. So his possessions remain until he is killed. For this reason, his son inherits from him after his death.

They said: If the apostate returns to Islam as a Muslim, after having joined a faction warring against Islam, he has the right to receive back from his heirs whatever he can find of his former possessions, since the heir succeeds him in using the property, by virtue of his death effected when he joined the faction warring against Islam. When he returns as a Muslim, he needs his property returned, so he is to be given priority over his heir. But if the heir has removed him from his possessions, legally through injustice, it cannot be abrogated (unlike the mothers of his children and dealers, since judgement has become enforced by virtue of an operative proof). If the apostate returns to Islam before the sentence of a judge, he is to be treated as if he were still a Muslim who had never apostatised; all his property is to remain as before, and all the debts are still due and can be settled.

8. The Apostasy of the Youth and the Insane

The **Hanafites**: The apostasy of a lad who is mentally sound is a "competent apostasy" (*irtidadun namin*), and the regulations of the Sharia, with regard to the apostate, also apply to him: His marriage is annulled, he loses his rights of inheritance, and he is to be forced to embrace Islam, but is not to be killed. If, as an apostate, he matures, he is to be imprisoned, as in the case of the female apostate.

A lad's faith in Islam, if he is mentally sound, is valid, because Ali b. Abi Talib became a Muslim when he was only five years of age, and the Prophet himself confirmed his being a Muslim. A further proof for this is the fact that the Prophet offered Ibn Sayyed the religion of Islam while a youth.

Some said it would be an abomination for one to learn the Qur'an and its teachings, pronounce both articles of faith, perform the ritual prayer, and yet not be at a point where one could be called a Muslim.

Divine truths cannot be altered; as far as eternal happiness and salvation (*nadjat*) beyond the grave are concerned, these are privileges given to the Muslim. Therefore, in this case, a fundamental verdict (*al-hukmu'l-asli*) is at issue. Everything else is added to this base. Therefore, it is not important whether the lad or his faith suffered harm, for his obligatory prayer and fasting will be accepted and rewarded by Allah. Apostasy is indeed a fact, and a fact cannot be denied, but since it is not appropriate to pardon his apostasy, he will be forced to embrace Islam, but will not be killed, based on his own interest. Death is a penalty (*uquba*) and the penalties are lifted in the case of youths, as a mercy.

Such is the case in the matter of a mentally sound lad. As far as the mentally ill youth is concerned, his apostasy is not valid, for he does not have discretion. The matter is similar with his faith in Islam, which is not accepted.

This is also true for the insane whose apostasy is not accepted through consensus, just as his faith in Islam would carry no weight, since he is not a taxpayer; neither is he under any obligation according to the Noble Tradition (*al-hadith al-sharif*).

Abu Yusuf says the apostasy of a sensible lad is no apostasy, and his faith in Islam is accepted.

The **Shafi'ites**: Neither the apostasy of a mentally sound lad nor his faith in Islam is valid, because, with regard to Islam, he follows his parents. This cannot be regarded as foundational. His being a Muslim carries with it certain obligations which (in case he does not fulfil them) could cause him harm and for which he is not legally capable, since he is not a taxpayer and does not have the power of free choice.

The case is the same with the insane whose apostasy is not valid, because he does not qualify as being of sound mind, nor is he a taxpayer. One cannot pay serious attention to the apostasy or the faith of the lad and the insane.

The apostasy of him who was forced (*mukrah*) to accept Islam is also not valid. But if he accepted Islam with full assurance and faith prior to his apostasy, he qualifies as an apostate and is to be killed.

As for the Muslim who, without being previously called to repentance, becomes an apostate and, thereafter, loses his mind, he is not to be killed, because he may return to his senses and convert to Islam. If he is killed while being insane, his murderer is not guilty, yet, according to the opinion of the judge, he may be punished. In the Holy Qur'an (Sura al-Nahl 16:106-108) Allah says: "Whoso disbelieves in Allah, after he has believed -- excepting him who has been compelled, and his heart is still at rest in his belief -- but whosoever's breast is expanded in unbelief, upon them shall rest anger from Allah, and

there awaits them a mighty chastisement; that, because they have preferred the present life over the world to come...."

9. The Case of the Lad Who Reaches Maturity as an Apostate

The **Hanafites**: The apostate must not be killed in the following four cases:

1. If the lad, who became a Muslim like his parents, reaches maturity as an apostate, he must not be killed. He is to be imprisoned until he repents, since his faith in Islam occurred while he was dependent on others.

This is also the opinion of the **Hanbalites** who say that he is not to be killed. He is to be forced to return to Islam by being arrested and beaten.

According to the **Shafi'ites** and **Malikites**, the mature lad qualifies as an apostate even when he follows his parents; he will be called to repentance from his apostasy. If he repents and returns to Islam, his decision will be accepted, but if he does not, he is to be killed like every other apostate.

2. If the lad became a Muslim as a child and then later apostatised, he is not to be killed, because the sincerity of his faith in Islam is disputed, owing to his youth. This is also the opinion of the **Shafi'ites**. If someone kills him prior to his conversion, he is not guilty. If a Muslim relative dies after the lad's apostasy, he cannot inherit his estate.

The **Malikites** and **Hanbalites** say that the lad who apostatised prior to reaching maturity must be killed, if he reaches maturity as an apostate. All the stipulations of an apostate are to be applied to him.

3. If the lad apostatises prior to reaching maturity, his apostasy is not accepted. He is to be imprisoned and beaten until he repents, because Islam is more beneficial for him. For this reason, he is to be beaten severely until he converts and repents.

4. The apostate who is forced to return to Islam is not to be killed, because the demands on his being a Muslim were met, according to outward appearance. The **Shafi'ites** are likewise of this opinion: Since he has no inner conviction, and was forced to accept Islam, a punishment is out of the question.

The four Islamic theologians agreed: If the parents fall into apostasy -- may Allah forbid it! -- and the lad, like them, also apostatises, and they all reside in "The House of War," which has been confirmed by a judge, the apostasy of the lad is legitimate, and he is to be categorised as an unbeliever. If he should return to Islam, this is to be accepted from him. He cannot then inherit from his unbelieving parents, but he can inherit from his Muslim relatives who die after his turning to Islam. His marriage to a polytheist is not valid, but

he is allowed to marry a Muslim woman. He is not permitted to consume either wine or pork.

If the man and the woman apostatise -- may Allah forbid it! -- and reside in "The House of War," and the woman becomes pregnant in "The House of War," and delivers a child while in this condition, and grandchildren are born to her from this child, she and her husband (the grandparents) are considered as "booty" -- because apostates are enslaved. The children are to be forced to accept Islam, whereas the grandchildren are not, because they followed their father, not their grandfather. The Prophet -- the blessing and peace of Allah be upon him -- said: "Every baby is born with a natural leaning toward religion. It is the parents that make him a Christian or a Jew" (Hadith).

10. The Apostasy and Faith of the Drunkard

The **Hanafites**, **Malikites** and, according to their traditions, the **Hanbalites**: The drunkard who is not in full possession of his faculties, and who has lost his power of distinction and reason, is like the insane from whom neither apostasy nor faith in Islam is taken into consideration.

According to a teaching of the **Hanafites**, the apostasy of a drunkard is valid, and he is not to be excused if he has, willingly and without force, drunk anything forbidden.

The **Shafi'ites** say that the apostasy of a drunkard who, owing to his condition, has committed punishable infringements against the law, is valid, just as his other deeds, such as divorce, are punishable. As far as the validity of the call to repentance is concerned, which was offered him during his drunkenness, the majority are of the opinion that it is indeed valid, just as his apostasy was valid; yet it is desirable to postpone it until he returns to his senses. However, the apostasy of the drunkard who committed no lapse, despite his state of intoxication (that is, if he became drunk by compulsion), is not valid. This also applies to his divorce. This school of thought tends to accept the validity of the alcoholic's faith, even if he apostatises with a sober mind and then returns to Islam in a state of drunkenness. His statements are to be considered as if he were sober. The acknowledgement of his Islam in a state of drunkenness needs another confirmation after he has regained sobriety. When he recovers, he is to be offered Islam again. If he identifies with it, he is considered a Muslim from the moment of identification. But if he upholds his apostasy, he is considered an apostate from that moment. If he does not repent, he is to be killed immediately.

11. The Acceptance of the Witness for the Prosecution in the Matter of Apostasy

The **Shafi'ites**: A witness for the prosecution in the matter of apostasy is accepted in any case. This is ratified without a detailed explanation, because the witness, on account of the severity of apostasy, would only burden the individual concerned. Afterward, the

judge is to say to him, "Pronounce the two articles of faith!" There is no need to ask about the reason. If he refuses, this is evidence of apostasy, and one does not need to inquire about the reason behind the apostasy.

Others are of the opinion that the witness must be questioned thoroughly, and that a detailed explanation must be demanded from him, because the schools of thought are different regarding the charge of apostasy, and the verdict on it is very weighty. Therefore, one must proceed with caution.

The **Malikites** say that the witness can be accepted only after a detailed explanation has been given, because the repentance of an apostate is not valid.

The **Hanafites** are of the opinion that the charge of apostasy against a Muslim can only be accepted from two "eligible (*adl*) witnesses." The judge should ask him about the reason behind his apostasy, for it could be that he may have said something which indeed was no heresy, yet which was understood to be. If he rejects the accusation, this qualifies as repentance and a return to Islam.

12. The Manner of Repentance

The **Hanafites**: The apostate must deny all other religions except Islam and say: "I have repented and returned to the religion of Islam. I am freed from every religion except Islam!" It is desirable (*mustahabb*) for him to express his faith on the Day of Resurrection (*ba'th*) and the Resurrection (*nushur*). He must say so, since he has no religion. If he only confirms the religion he has just adopted -- Islam -- that is enough to reach the goal.

Al-Tahawi reports: Abu Yusuf was asked how the male apostate becomes a Muslim again. He said: "He must say that there is no god but Allah and that Muhammad is his Messenger. He confesses Islam, which Muhammad brought from Allah, and renounces the religion he had previously embraced. If he pronounces both articles of faith and says that he is freed from the religion to which he had converted, this qualifies as repentance."

As for the conversion of a Christian to Islam, he is to pronounce both articles of faith and renounce Christianity. The same is true for Jews and adherents of other religions. As for the non-Muslims living among us, they cannot become Muslims solely by pronouncing both articles of faith, because they, even if they pronounce both articles of faith, may still claim that Islam is only for the Arabs (in order to secretly protect their religion). But if an unbeliever residing in "The House of War" is attacked by a Muslim and says, "I confess that Muhammad is the Messenger of Allah," or "I have joined the religion of Islam or the religion of Muhammad," this is a proof of his being a Muslim. What is then the case if he would add to that the two articles of faith! One then decides whether he is really a Muslim and then lifts the death penalty. If he thereafter apostatises again, we will kill him. But when the Muslim apostatises twice, we will accept his repentance. This is true also if he apostatises three or four times. He can request the postponement of the penalty from the imam each time; but after the fourth time, the imam will grant him no further

postponement of penalty. If he immediately returns to Islam again, it is good; if not, he is to be killed.

Al-Karkhi says in his abridged edition:

If he repents, after he has apostatised four times, he is to be severely beaten and then imprisoned. The judge is not allowed to release him until his humiliation through repentance becomes visible and until his condition as a person of upright heart becomes apparent. When he has done this, he is to be released. If he again apostatises, this same procedure is repeated until he again returns to Islam, for the following Quranic verse is applicable in all cases: "But when they repent, perform the prayer, and give alms, then let them go their way! Allah is merciful and ready to forgive" (Sura al-Tawba 9:5).

According to a tradition from Ibn Umar and Ali, the repentance of him who repeatedly apostatises is not accepted, just as it is the case with the heretic. His death is obligatory.

The **Malikites** and **Hanbalites**: The repentance of the unbeliever who apostatises (the unbeliever who apostatises after his conversion to Islam) is not accepted if repeated, and he must be killed, based on the following Quranic verse: "Those who believe, and then disbelieve, and then believe, and then disbelieve, and then increase in unbelief -- Allah is not likely to forgive them, neither to guide them on any way" (Sura al-Nisa' 4:137). If someone kills him prior to his call to repentance, he is neither punished nor required to pay blood money.

The **Shafi'ites**: The repentance of a heretic or an apostate is accepted, if he requests it and returns to Islam, even if he continually apostatises and returns to Islam. He is to be killed only when he refuses to accept Islam.

The **Hanafites**: As for the heretic's repentance being accepted, there are two schools of thought (*riwayat*: "two traditions"). According to one, the repentance is not accepted; this is also the opinion of the scholar Malik (Ibn Anas) and Ahmad (Ibn Hanbal). According to the other school of thought, the repentance is valid if the heretic returns to Islam, as Shafi'i said.

13. Individual Rulings Concerning the Apostate

The **Hanafites**: A country becomes apostate, the country qualifies as a "House of War" when three conditions of apostasy have arisen:

1. When the laws of unbelief become visible.
2. When there are no more Muslims or *dhimmis* ("Jews and Christians" enjoying the guarantee of protection by the Islamic state).
3. When the region immediately borders a "House of War".

Abu Bakr al-Seddik -- may Allah be pleased with him -- was the first to fight against the apostates because they abstained from paying taxes. They said: "We pay tax only to him whose prayer is a source of security to us" (meaning the Prophet -- Allah's blessing and peace be upon him). So their city became a warring place.

The **Malikites**, **Shafi'ites** and **Hanbalites** say: The laws of unbelief becoming visible in a region make it a "House of War".

The **Hanafites** and **Malikites** say: When the inhabitants of a region apostatise, we can neither enslave their descendants nor treat them as booty. If they have reached maturity, they are to be forced to accept Islam. If they do not convert to Islam, they are to be imprisoned, and the judge will threaten them with beating in order to compel them to accept Islam.

According to their most widespread interpretation, the **Shafi'ites** are of the opinion that the descendants of the apostates should not be enslaved; whereas the others say that not only can their descendants be enslaved, but also that their descendants' descendants can be enslaved. The **Hanbalites** are also of this opinion, "for the descendants follow their fathers in unbelief."

Al-Bukhari, quoting Ibn Abbas, related the following tradition, after hearing that Ali Ibn Abi Talib burned a great many people: "If I were in your place, I would not have burned them, because the Prophet -- may Allah grant him peace -- said: 'Do not punish people with the punishment of Allah!' I would have killed them, as the Prophet said: 'Kill him who changes his religion!'" Ali -- peace be upon him! -- fought the heretics who joined the sect of Manichaeism -- those who believe in the eternity of light and darkness, and who say that the world was born out of this duality.

14. The Good Deeds of the Apostate

The **Hanafites**: Apostasy invalidates the reward for all the good deeds that a Muslim performed prior to falling away from Islam. When he repents and returns to Islam, he must repeat the prayer, after the performance of which he apostatised. In the same way, he must repeat the pilgrimage if he performed it prior to his apostasy. And one should not forget that the forfeiture of reward for a deed does not invalidate the deed itself, for a prayer in an occupied country is indeed valid and can abrogate judgement, but the Muslim (according to most scholars) is not rewarded by Allah.

The **Shafi'ites**: Apostasy, when followed immediately by death, invalidates good deeds: "...Whoso of you turns from his religion, and dies disbelieving -- their works have failed in this world and the next...; 'If thou associatest other gods with Allah, thy work shall surely fail and thou wilt be among the losers'; Whoso disbelieves in the faith, his work has failed, and in the world to come he shall be among the losers" (Suras al-Baqara 2:214; al-Zumar 39:65; al-Ma'ida 5:8). There are other verses that reveal that good works (in the case of apostasy) become invalid and the reward is lost. Therefore, he who returns to Islam must repeat the pilgrimage which was performed prior to the apostasy.

Closing

Whoever reads the reports and testimonies of those who are persecuted by their state, Islamic culture, or even their own families, will realise by their shocking experiences and suffering how the law against apostasy in Islam is still making itself felt today.

The law of Islam cannot be changed by Muslims, for it is understood to be divine revelation. Considered to be above and beyond all discussion, it fights against basic human rights in critical issues. This law functions as a drawn sword, dangling over the head of every convert as long as he lives. As soon as the control of a state is in the hands of Islamic fundamentalists, or when the masses chaotically rush through the streets during religious unrest, one must reckon with the death of individual converts; for the law demands their death without mercy!

Abd al-Masih

According to the Four Schools of Islamic Law

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