

The Islamic Case for Religious Liberty

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The words of the Qur'an and hadith contain rich resources for supporting the democratic order. If Muslims are to embrace modernity, including life in a pluralistic, democratic society, without abandoning their faith, they must take up the argument for religious liberty that is embedded in their history and that stands at the center of their most sacred texts. Although the broad thrust of the Qur'an and hadith supports religious liberty, many parts of these texts can be, and traditionally have been, interpreted as denying it. One example is a qur'anic verse that deals with the question of the *jizyah*, a tax on non-Muslims: "Fight those who believe not in Allah nor the Last Day, nor hold that forbidden which hath been forbidden by Allah and His Messenger, nor acknowledge the religion of Truth, (even if they are) of the People of the Book, until they pay the Jizyah with willing submission, and feel themselves subdued" (Q 9:29). The Prophet reportedly sometimes demands the death penalty for apostasy, the most obvious example of this being the hadith "Whoever changes his religion, kill him" (Bukhari, *Sahih*, 9, 84, hadith 57). These problematic texts are outweighed by the bulk of the texts and instruction provided by the two most important authorities in Islam, the Qur'an and the Prophet Muhammad's actual practice. Both are remarkably supportive of the idea of individual and personal religious freedom. The bedrock of the Islamic case for religious liberty is the Qur'an's vision of the human person. The Qur'an's anthropology—which is shared by Christianity and Judaism—views every human being as a creation of God, blessed with intellect and free will. God created humans "in the best of molds" (Q 95:4) and in doing so honored humanity and conferred on it special favors (Q 17:70). The Qur'an emphasizes that human beings have inherent worth and dignity. Further, it holds that God gave humankind the intellect and ability to discern between right and wrong (Q 17:15 and 6:104). The Qur'an emphasizes free choice. "The truth [has now come] from your Sustainer: Let, then, him who wills, believe in it, and let him who wills, reject it," it says (Q 18:29). And also: "Whoever chooses to follow the right path follows it but for his own good; and whoever goes astray goes but astray to his own hurt" (Q 17:15). Resoundingly, the Qur'an declares that "there shall be no coercion in matters of faith" (Q 2:256). Belief is an individual choice—or, rather, it is a choice involving the individual and God. Therefore forced conversions are simply unacceptable, and anyone who would use force rather than persuasion to promote religion must ignore the view of the person central to the Qur'an. The capstone of the qur'anic case for religious liberty is the fact that not even the Prophet Muhammad could impose or force people to profess Islam. When people were unreceptive to the message of Islam, the Qur'an explicitly reminded him that he was never to resort to coercion: "Your task is only to exhort; you cannot compel them [to believe]" (Q 88:21). Evidence from Islamic history suggests that this view was held not only by Prophet Muhammad but also by his political successors. In one recorded example, an elderly Christian woman came to see the caliph Umar and then refused his invitation to embrace Islam. He became anxious that she might have perceived his invitation as compulsion. "O my Lord," he said, expressing his remorse, "I have not intended to compel her, as I know that there must be no

compulsion in religion. . . . [R]ighteousness has been explained and distinguished from misguidance.” Unfortunately, many Muslim-majority countries have failed to follow the Prophet’s example. Muslims in these states face penalties for blasphemy, heresy, and, most famously, apostasy. Non-Muslims are barred from proselytizing and possessing or importing unsanctioned religious items, including Bibles. They face restrictions on the public practice of religion and strict limits on the building or renovation of places of worship. The government monitors their religious activities, raids private services, and sometimes harasses or imprisons non-Muslim believers simply for practicing their faith. But the Qur’an says much to undercut such restrictions. On a practical level, it repeatedly emphasizes the role of the Prophet as teaching people about God rather than forcing them to convert to Islam. “The Apostle is not bound to do more than clearly deliver the message [entrusted to him]” (Q 24:54). Similarly, it urges readers to “pay heed, then, unto God and pay heed unto the Apostle; and if you turn away, [know that] Our Apostle’s only duty is a clear delivery of this message” (Q 64:12). In fact, the Qur’an appears to afford a high degree of freedom to non-Muslims under Muslim rule, particularly Jews and Christians (sometimes known as the “people of the book”). Its relatively tolerant position gave way to restrictions that emerged approximately one hundred years after the death of Muhammad. At the time of the Prophet, the Qur’an clearly distinguished between those non-Muslims who were hostile to the emerging Muslim community and were prepared to use violence against it and those non-Muslims who desired to live peaceably. In passages from the last two years of the prophet’s time in Medina (631-2 c.e.), the Qur’an encouraged, and even commanded, Muslims to bring these hostile forces under the authority of the Muslim state. However, even when exhorting Muslims to fight their opponents, the Qur’an did not suggest that those engaged in hostilities should be forced to convert to Islam. Indeed, it drew a sharp line between enforcing recognition of state authority and forcing any change of religious belief. So the Qur’an does not endorse use of the sword to force conversions to Islam. But does it command such means to stop conversion *from* Islam? The answer, I believe, is no. The Qur’an itself does not prescribe any worldly penalty—let alone death—to those who leave Islam. There are two clear categories of apostasy in the Qur’an. The first concerns Muslims who profess Islam outwardly but who then attempt to destroy the Muslim community from within, using every opportunity to discredit the Prophet (Q 2:8–18). However, the Qur’an does not recommend the death penalty even for this group of religious hypocrites, or *munaḥiqun*. The other category of apostasy concerns Muslims who reject Islam and then return to it, only to reject it again a second or even a third time, seesawing back and forth between Islam and their former religions (Q 4:137). In the case of these serial apostates, the Qur’an does not suggest the death penalty. It specifies only a severe punishment that they will suffer in the life after death—the same other-worldly punishment the Christian tradition reserved for apostates. And in fact, in the first centuries of Islam after the Prophet’s death, when the community was more threatened from outside forces, the laws prohibiting apostasy, blasphemy, and heresy were used often against political and theological opponents, whereas at other times Muslim critics of Islam were allowed to remain and function within the Muslim community despite their controversial views. That is the qur’anic teaching. What do the hadith, the

collected traditions and sayings of the Prophet, say about religious liberty? Some appear to indicate that any Muslim who changes his or her religion should be killed. However, the hadith themselves offer no evidence to suggest that Prophet Muhammad himself ever imposed the death penalty for the mere act of conversion from Islam. For example, a hadith in Bukhari's collection (one of the most important collections of hadith for Sunni Muslims) tells of a man who came to Medina and converted to Islam. Shortly after his arrival, however, he informed Prophet Muhammad that he wanted to return to his former religion. Far from punishing him with death, the Prophet let him go free, without imposing any penalty at all (Bukhari, *Sahih*, 9, 92, hadith 424). A contradiction, therefore, exists between certain sayings attributed to the Prophet and his actual conduct. Of course, there are instances when the Prophet did impose the death penalty. What are we to make of them? In these cases, the accused had joined an enemy camp, or taken up arms against the Muslim community, or done something else that made their act more than a simple conversion. One version of an important hadith says: "A man who leaves Islam and engages in fighting against God and His Prophet shall be executed, crucified, or exiled." (Abu Duwad, *Sunan*, 33, hadith 4339). The crime being singled out for punishment is not the simple changing of one's faith but rather the definite choice to engage in war against the Muslim community. Another hadith, attributed to the Prophet, affirms the idea that it is not simply a change of religion that warrants the death penalty for apostasy: "The blood of a Muslim who professes that there is no God but Allah and I am His Messenger is sacrosanct except in three cases: in the case of a married adulterer, one who has killed a human being, and one who has abandoned his religion, while splitting himself off from the community" (Muslim, *Sahih*, 16, hadith, 4152). The reference here to "splitting himself off from the community" is interpreted to mean one who actively boycotts and challenges the community and its legitimate leadership. The various hadith that appear to command Muslims to kill apostates from Islam must, therefore, be understood in their proper political context. Most Muslim scholars today rely on the legal reasoning of the classical jurists without considering whether their reasoning should be considered authoritative or how changed political and legal conditions should shape our reception of that tradition's authoritative elements. In the view of Muhammad Mutawalli al-Sha'rawi, for example, a preacher from Egypt, the liberty of a Muslim is restricted in that a Muslim may not leave Islam once he becomes a Muslim. He argues that although a person is free to believe or not to believe in Islam, once he has embraced the Islamic faith he is subject to all of its requirements, including the contemporary stand on apostasy and its punishment. At the time of Prophet Muhammad there was no "state" as such. A tribal system was in place in much of Arabia in the sixth and early seventh centuries. With the rise of Islam and its consolidation in Medina during the last decade of the Prophet's life (622–32 c.e.), converts to Islam from various tribes joined a community that was political as well as religious. Given the ongoing hostility between the Muslims and their opponents, conversion from Islam generally meant that a person left the Muslim community and joined its opponents. Apostasy was the equivalent of treason. If the Qur'an does not speak against religious liberty, and if the evidence from relevant hadith is weak, how can we account for the restrictions on religious liberty in Muslim-majority states? Most of these restrictions can be traced back to classical Islamic law.

The classical legal texts from each of the surviving schools of Islamic law provide a range of restrictions on the religious liberty of both non-Muslims and Muslims. These are not inevitable developments of Islam's two most authoritative sources, the Qur'an and the Prophet's actual practice, but rather a contestable departure from them. About one hundred years after the death of the Prophet, Muslim theologians and jurists during the Umayyad dynasty began to define *Muslim* and *community*. Discussions of relations between Muslims and non-Muslims and of Islam's superiority over other religions were intertwined with theological debates over matters such as free will, predestination, and the nature of God. These debates produced a wide range of positions and schools of thought. It was within this context of religious pluralism and conflict that Muslims had to deal with the problem of religious liberty. Over time, limits on religious liberty for non-Muslims were added. These included restrictions on the building of places of worship, public readings of Scripture, and the ability of non-Muslims to engage publicly in certain activities that Muslims considered forbidden (such as drinking alcohol) if these non-Muslims were living in Muslim communities. It is far from clear how consistently or stringently the restrictions were applied in practice. Like apostasy law, they may have been used only at particular times of uncertainty, difficulty, or tensions with an external enemy. Although these restrictions have come to form an influential part of classical Islamic law, non-Muslims under Muslim rule generally have been granted the prerogative to manage their own affairs (including religious affairs) from the time of the Prophet Muhammad onward. This practice was adhered to in various Muslim empires (from the Umayyad through to the Abbasid and the Ottoman). One example is the "millet system" established by the Ottoman Empire. One of the major challenges for the Ottomans was finding ways to govern the broad array of people, religions, cultures, and languages contained within their empire. Under the millet system, the Ottomans gave people of various religious traditions the right to practice their own religion and preserved their places of worship, provided they recognized the Ottoman state and the superiority of Islam. With these arrangements in place, Ottoman society remained generally free of large-scale religious conflict for centuries. Even the Jews fleeing persecution in Spain found that they were welcome in Ottoman lands. This tolerance did not necessarily result in full equality or equal citizenship (which are, in any case, relatively modern concepts even in the West), but non-Muslims nonetheless rose to prominence in many Muslim states. Today there is some movement toward Muslim acceptance of religious liberty. In global legal terms, religious liberty receives its primary definition from Article 18 of the Universal Declaration of Human Rights, which has been incorporated into other international instruments such as the International Covenant on Civil and Political Rights (ICCPR) and the UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief. Many Muslim-majority states have even signed and ratified the ICCPR, which contains the wording of Article 18 of the Universal Declaration, with some minor changes. The article reads: "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." Though they may continue to flout these ideals, the many

Muslim-majority countries that have accepted this statement have, in some minimal legal sense, already committed themselves to the ideal of religious liberty. Sadly, the implementation of this standard continues to be painfully slow because of certain trends within Islam. At a time when a number of ultraconservative voices appear to be dominating the discourse in many parts of the Muslim world, Muslim scholars who advocate for religious liberty are fiercely opposed. They are often labeled as stooges of the West or accused of being apostates or heretics. Many such scholars in Muslim nations are imprisoned for their views or have their publications banned. My book *Freedom of Religion and Apostasy in Islam* was banned in the Maldives in 2008 after a targeted campaign against my coauthor (and brother) Hassan Saeed by certain politicians and an ultraconservative group. Despite current challenges, the degree of freedom available to many Muslims, particularly those who are based in intellectually free societies (many of which are in the West), can be used to challenge those who threaten religious liberty. Muslims, who now make up roughly 20 percent of the world's population, have a political and religious duty to take into account the important values and norms that have extensive grounding in Islam's most sacred texts and its own tradition. In doing so, Muslim thinkers will be returning to their most important sources of authority, the Qur'an and the Prophet, in support of tolerance and religious liberty. *Abdullah Saeed is the Sultan of Oman Professor of Arab and Islamic Studies at the University of Melbourne, Australia. This essay includes material delivered in a lecture given to the James Madison Program at Princeton University.*