

# WORLD: SENTENCING PRISON TERMS TO IMAMS EDUCATED ABROAD IS UNFAIR, HOWEVER...

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HRWF (24.07.2017) – Sentencing 'controversial' imams to prison terms because they have been educated abroad is a violation of human rights, *however* it is the right of a state to protect its population against radicalization and foreign ideologies that promote degrading and inhumane treatments.

Foreign forms of controversial Islamic teachings introduced in various ways in Muslim majority countries threaten their traditional culture of tolerance and the peaceful relations between their various religious communities.

Iran attracts and trains foreign Shi'a theologians to export its theocratic model and Sharia practices, values which are incompatible with human rights. Salafists and Wahhabis backed by Saudi Arabia and other states of the Arabic Peninsula are increasingly disturbing the homegrown peaceful Islam in

Indonesia, the Maldives, Tajikistan, Kyrgyzstan and other countries. The implantation of their Islamic universities and other educational institutions in such countries, in addition to the granting of scholarships for foreign education of imams and young students in theology, are part of their diversified strategies to export forms of Islam that are alien to local Islam and conflict with human rights.

### **Imprisonment of imams educated abroad**

#### ***Azerbaijan: The case of Sardar Babayev***

On 3 July, an Azerbaijani court handed down a three-year prison term to Sardar Babayev for leading Muslim prayers for he had previously received religious education abroad. The imprisonment of Sardar Babayev on such grounds is clearly a violation of international law.

According to an amendment to the Religion Law adopted in 2015, foreign-educated imams can only lead worship in state-recognized mosques if their appointment has been approved by the state-backed Caucasian Muslim Board and the State Committee for Work with Religious Organisations.

After studying Islam in Baku, Shia Imam Babayev completed theological studies at Al Mustafa University in the Iranian city of Qom in 2000.

Qom is Iran's main theological training center for foreigners<sup>[1]</sup>. Its teachings promote theocracy instead of separation of state and religion, and an extreme form of Sharia, as it is practiced in Iran: execution by hanging, stoning, imprisonment of apostates, large scale repression of Baha'is, and so on.

#### ***Kazakhstan: The case of Abdukhaliil Abduzhabbarov***

On 17 February, the Kazakh authorities arrested Sunni Imam Abdukhaliil Abduzhabbarov. He had been the subject of an

extradition request from Astana for spreading ideas of so-called takfir<sup>[ii]</sup> in western Kazakhstan and for inciting religious hatred in the early 2000s. Additionally, he was accused of 'continued attempts to influence Muslims in Kazakhstan and students who were studying or visiting him in Saudi Arabia' where he had fled in 2006 to avoid prosecution. He had graduated from the Saudi-backed International Islamic University in the Pakistani capital Islamabad in 1999.

In his 2013 paper on the International Islamic University of Islamabad<sup>[iii]</sup>, Qasir Amir notes that the following teachings of the criminal law are instructed in the said institution:

- Apostasy: death
- Adultery/ Illegal sexual intercourse: stoning to death or lashes
- Theft: amputation of the right hand from the joint of the wrist
- Drinking alcohol: 80 lashes

In July 2017, Satymzhan Azatov was jailed for four years eight months for inciting religious hatred and promoting terrorism, which he denied. He was the fourth Muslim who studied in Saudi Arabia convicted in 2017 in Kazakhstan.

Azerbaijan, Kazakhstan and other countries are confronted with a real threat to public order and state security by the introduction of such ideologies, however harsh repression is not an adequate or efficient response.

### **Freedom of religion and the state's duty to protect its citizens**

States have the duty to protect their citizens and residents on their territory. On the grounds of security, more and more Muslim majority countries try to protect their peaceful homegrown practice of Islam against radical and extremist movements which use or promote the use of violence. To combat

this issue, these countries only allow imams to operate if they were trained at home or in other 'safe' countries or institutions – a sort of security label

Sentencing imams to prison terms just because they were educated abroad in 'suspicious' countries or institutions is a violation of human rights. However, punishing hate crimes and hate speech or the promotion of physical punishments, such as stoning and lashes, is in line with international law.

### **Freedom of religion and security: responses to radicalization from abroad of cultural Muslims in Western societies**

In early May 2017, Denmark banned five Islamic clerics and an American evangelical Christian pastor from entering the country, calling them "hate preachers" who posed threats to public order.

In December 2016, Shayk El Alami Amaouch, also known as Alami Abu Hamza, who had double citizenship (Moroccan and Dutch) through his marriage with a Dutch woman, left Belgium after an expulsion order had been issued against him. He was reproached with making 'Salafist' propaganda, preaching violence, calling for jihad, and recruiting ISIS fighters for Syria. He is not allowed to enter Belgium for ten years.

His family was not concerned by the order. However, his 17-year old son is also under scrutiny of the authorities since he posted a video in which he called for the murder of Christians

(see <https://www.memri.org/tv/youth-walks-down-street-verviers-belgium-cursing-christians-and-praying-their-annihilation>).

However, he cannot be deported since he was born in Belgium. He afterwards said he regretted 'his error'.

France has also deported dozens of imams since 2012. Other EU member states have followed suit.

The deportation policy based on the prosecution of hate speech

and incitement to religiously-based hatred can thwart the radicalization of cultural Muslims in Western societies, which has been exported from ISIS and certain countries in the Arabic Peninsula, but other legal avenues need to be explored.

### **A missing tool in the fight for human and state security**

A legal basis for the 'management' of imams and students in theology educated in controversial religious centers exists in international law: Article 5 of the ICCPR which reads as follows:

Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

Under Article 17 of the European Convention on Human Rights, which is identical to Article 5 of the ICCPR, Strasbourg has declared inadmissible the application (no. 31098/08) of **Hizb Ut-Tahrir and Others v. Germany** against the ban imposed on them by German courts on the ground that their ideology aims at the destruction of any of the rights and freedoms recognized in Article 5 of the ICCPR or at their limitation.

The groups teachings in a number of foreign countries and religious institutions are in egregious contention with Article 5 of the ICCPR. They promote an "Untermensch" worldview in which Muslims are superior to and have more rights than non-Muslims. They promote segregation between men and women leading to gender inequality. They promote judicial practices which blatantly contradict Article 7 of the ICCPR: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." The UN and its member states, EU member states, the USA, and other liberal democracies, have not done enough, if any, to reduce and

eradicate such judicial practices and their implementation.

## **Conclusions**

Since the beginning of this century, the expansion of violent and totalitarian Islamist political ideologies have been accompanied by the spread and the strengthening of the Sharia law, in its most discriminatory and violent forms, in an increasing number of Muslim majority countries. This has been achieved inter alia by offering young people free education or scholarships for theological studies in Saudi Arabia, in Pakistan, and in Iran, just to name a few countries, which results in fueling the worldwide radicalization of Islam. During their studies, the youth sent to overseas madrasas are converted to Salafist, Wahhabi and other totalitarian forms of Islam that are alien to the traditional Islam of their country of origin. Along with 'returnees' from the battlefields of Syria and Iraq, these educated 'returnees' from radical religious training centers abroad are then expected to import their newly discovered ideology back home.

When these 'returnees' are arrested, they are first and foremost a threat to the international human rights system, which includes the equal right to religious freedom for all, rather than victims of religious rights violations. Organisations and activists defending human rights and religious freedom should keep this in mind.

All states, whatever their political system, should unite their efforts, in the framework of the UN or not, to prevent the expansion of a totalitarian ideology that 'aims at the destruction of any of the rights and freedoms' recognized in Article 5 of the ICCPR or at their undue limitation. A black list of countries and religious institutions to be banned from study-abroad options and imposing an embargo for such studies is not to be excluded from the proactive measures to be taken by Muslim majority states and countries with Muslim minorities.

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[1] Hojatiye School (Qom) was established 70 years ago by a Shia cleric. It had around 600 foreign students in 2010 and 200 professors (<http://hawzahnews.com/TextVersionDetail/233956>). Many well-known clerics have studied in this school including Ayatollah Khamenei, the current Supreme Guide of Iran. Hojatiye School mainly accommodates students coming from other countries while Feyziye School is for Iranian students.

Professors of Hojatiye School are among Shia clerics that have close ties with the Iranian government. Ayatollah Sobhani is one of them. In various speeches he has clarified his ideas about how a Shia society should look. For instance, according to his teachings, police should definitely forbid people from eating and drinking in public places during the holy month of Ramadan.

In addition, he has called western television channels harmful for the Shia beliefs (having access to these channels through satellite is illegal in Iran, although most people watch them). Sobhani has also emphasized the important role of *Velayat-e Faghih* (Islamic government). Referring to the necessity of increasing the Iranian population, as it is the general policy that was determined by the supreme guide, he teaches that abortion is against the policy and regulations of the Islamic Republic (<http://www.asriran.com/fa/tag/>).

The General policies of the school as mentioned on its website

<http://feqh.miu.ac.ir/index.aspx?fkeyid=&siteid=19&pageid=4531>  
) include:

- Clarifying and establishing the ideals of Islamic Revolution as well as Ayatollah Khomeini and Khamenei's political and religious opinions
- Training religious scholars for other countries especially Islamic countries for researching, teaching,

preaching and translating

- supporting researching projects based on the social and cultural needs of countries

Moreover, the Graduation Office is one of the important departments of the school that it organizes and helps graduated students in their future job. This office has various responsibilities mainly: Identifying and supporting graduated students that returned to their country, organizing them and guiding them (<http://en.feqh.miu.ac.ir/index.aspx?fkeyid=&siteid=19&pageid=6845>)

This footnote was prepared by an Iranian student during her internship with *Human Rights Without Frontiers*.

[ii] The identification by a Muslim of others as being infidels. This term is as strong as “infidel” in English or « mécréant » in French. It presupposes that non-Muslims are second-rank citizens and conveys the concept that they are some sort of “Untermensch”.

[iii] See

<https://www.academia.edu/people/search?utf8=%E2%9C%93&q=International+Islamic+University+in+the+Pakistani+capital+Islamabad>