

## **The problem of granting autonomy to Islamic enclaves in the West**

By ICLA, the International Civil Liberties Alliance ([www.libertiesalliance.org](http://www.libertiesalliance.org)), July 7<sup>th</sup> 2009

The International Civil Liberties Alliance (ICLA), an international alliance defending democracy and freedom, is observing with concern the growing tendency to establish religious parallel societies in the West. This is a serious challenge to our constitutional democracies and deserves close attention, to ensure that religious freedom is always implemented in a way that is compliant with our constitutions, and that this freedom is not misused to diminish other constitutional freedoms.

Another cause for concern is the increasing use of intimidation on religious grounds. More or less discrete threats, condemnations, desecrations and violence are being used to ensure that people, not least women, adhere to religious demands and tradition. Modern secular law is created to ensure that the state respects rights of religious minorities, but the problem of adherents of one religion violating the rights of adherents of other faiths, or of no faith, is often insufficiently addressed, nor the possible misuse of religious autonomy to establish parallel societies where national law does not apply. This is an unintended application of the concept of religious autonomy, and should be prevented.

The modern nation-state is based on a fundamental premise of "One law for all", which works well and guarantees all citizens equal rights in society. The misuse of religious 'autonomy' now threatens these fundamental rights. While OSCE endorses and supports religious autonomy, the concept, if not well defined, can lead to a situation of religious segregation in our societies, where members of such societies, in particular women, are effectively deprived of their legal, constitutional and human rights by the religious groups they belong to, including the vital issue of right to divorce.

The debate over the extent of religious autonomy is growing, sometimes with surprising viewpoints for and against. Some recent examples of incidents and opinions include:

Regional autonomy laws are used in Indonesia to implement religious law in ways that violate the religious freedom and civil liberties of the population:

<http://www.christianitytoday.com/ct/2009/april/4.13.html>

[http://www.kbri-canberra.org.au/s\\_issues/aceh/aceh\\_specautonomy.htm](http://www.kbri-canberra.org.au/s_issues/aceh/aceh_specautonomy.htm)

Quote: "A provision of the law, which has attracted much attention among Indonesians, is that Aceh's legal system should be based on the Islamic Sharia."

As of today, Great Britain has 85 operational Sharia courts:

<http://www.dailymail.co.uk/news/article-1196165/Britain-85-sharia-courts-The-astonishing-spread-Islamic-justice-closed-doors.html>

Introduction of Sharia ultimately leads to the use of barbaric punishments:

<http://www.swissinfo.ch/eng/news/international.html?siteSect=143&ty=ti&sid=10860890>

Switzerland has strongly rejected the notion of introducing elements of Sharia:

[http://www.swissinfo.ch/eng/front/There\\_s\\_no\\_place\\_for\\_Sharia\\_in\\_Switzerland.html?siteSect=106&sid=10191498](http://www.swissinfo.ch/eng/front/There_s_no_place_for_Sharia_in_Switzerland.html?siteSect=106&sid=10191498)

Elham Manea, an emigrant from Yemen to Switzerland, political scientist at Zurich University, weighs in on the issue:

<http://www.actforamerica.org/index.php/learn/recent-news/1261-shariah-is-not-like-jewish-law-or-catholic-canon-in-any-pertinent-way>

"It's really presumptuous to say migrants can't actually integrate because they're not used to our legal tradition. I mean, why would migrants have a problem with a system that respects basic human rights and gender equality?" she told swissinfo.

Manea, a Muslim, said she also had a problem with the practice in Britain because it led to parallel societies and discriminated against women. [...] "So, why on earth would we want a law that discriminates against women while we already have a law here that respects the concept of gender equality," she said.

"It's a step backwards and it's a step that actually legalises the establishment of a parallel society, because according to some Islamic legal tradition a father or guardian has the right to marry off his daughter without her knowledge - and in all Islamic jurisprudence schools the agreement of the male guardian is a condition for the woman to marry. Why would you want that? It's just not compatible with democracy, gender equality or human rights."

Manea also drew attention to the various studies which showed that most Muslims in Switzerland didn't have a problem with the Swiss legal system. "On the contrary, they consider it an advantage – a benefit that protects their rights."

ICLA is of the opinion that autonomy should be defined with a tolerant but not submissive view of religious freedom, that permits people to worship as they please, but does not create a "religious community" that is a "state within a state" regarding other civil society functions such as law, courts, arbitration panels enforced by the civil law, criminal law, finance, and accommodations that go against public policy.

Thus, it would be beneficial to have OSCE elaborate on the following points:

- 1) What exactly are the practical limits of religious autonomy? A precise definition of autonomy is vital. This would contain clear limitations of issues that can be administered by religious organisations, and in turn be helpful to ensure that religion is not used as a pretext for voiding national law and depriving its adherents of its legal rights.
  - 2)
  - 3) How can we counter the increasing use of intimidation against apostates, Jews and Jewish interests, adherents of other faiths or atheists? We are well armed to deal with unjust measures from the side of the state, but less so to counter similar acts from diverse members of religious communities. A strategy to protect genuine freedom of religion from this would make sense.
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- 1) How do we ensure that religious communities do not use religion as a cover for extremist activities? This includes, but is not limited to: Racism, anti-Semitism in particular. Oppression of women. Disrespect for constitutional democracy and secular law. Hate-mongering against adherents of other religions. Terrorism.

Religious freedom is a precondition for political freedom, which cannot exist without genuine freedom of conscience. This is too precious to permit us to make a mockery of it.

As an attachment, we present an abbreviated version of A Proposed Charter for Muslim Understanding. This Charter, signed and adhered to, would guarantee the compatibility of Islamic organisations with secular democracy. Printed copies of the Charter are available at this meeting.

Paper presented to: OSCE Supplementary Meeting on Freedom of Religion or Belief, Vienna, July 9-10, 2009

## **A Proposed Charter of Muslim Understanding (summary)**

### **Article 1**

We will respect all other non-Muslim religions in word and deed by issuing a clear fatwa with an immediate effect prohibiting use of threats, force, violence and killing (elaborated in points a-d).

### **Article 2**

We will respect and honour all civilisations, cultures, and traditions of other nations and people irrespective of their ethnic or religious backgrounds. This will be achieved by introducing a clear educational programme through all Islamic institutions and outlets, as well as organising special meetings to address youth, promoting brotherhood, equality and the viability of domestic law (elaborated in points a-c).

### **Article 3**

In the spirit of the saying, “Let there be no compulsion in religion” (Sura 2:256), we commit to the upholding the value of freedom, and in particular freedom of belief and expression. The signatories hereby declare that religion is a private and personal matter and a personal choice. It is neither a right of a community nor a state’s right to dictate or interfere with a person’s personal choice of faith. (elaborated in points a-b).

### **Article 4**

The basis of the legitimacy of Islamists’ acts of terror and their perpetuated violence is the authority that they obtain from being sanctioned by religious leaders. These sanctioning statements are known as fatwas. This situation is now being reviewed in many Islamic nations. [...] Following from the foregoing articles, the signatories to this Charter ban and prohibit the right of issuing any fatwa that would result in violence against individuals or institutions. (elaborated in points a-e)

### **Article 5**

As peace-loving and peace-promoting people domiciled in Europe, and equally believing that Islam is a religion of peace that promotes co-operation and collaboration of all peoples irrespective of their religious or ethnic or gender backgrounds: (rejection of violence elaborated in points a-d)

### **Article 6**

Based on the acceptance of equality of all mankind, brotherhood of all and the freedom and sanctity of human life, and based on the principle that “whosoever slays one man is as though he has slain the whole of humanity,” all acts of terrorism are prohibited, shunned and outlawed: (more in points a-c).

### **Article 7**

We jointly will fight terrorism and do all within our abilities to stem it from our institutions through: (elaborated in points a-f.)

### **Article 8**

We will foster a better relationship with non-Muslims and promote peace by: (detailed in points a-d)

### **Article 9**

We the signatories request all Islamic institutions and all of its associates, affiliations and outlets in co-operation with the signatories to this Charter: (abolishing discrimination elaborated in points a-c)

### **Article 10**

Request all officially constituted Islamic bodies and institutions to revise and issue new interpretations of those Qur’anic verses that call for Jihad and violence against non-Muslims. For example, but not exclusively: (elaborated in examples a-q).

These, and other similar verses from the Qur’an and the sayings of the prophet reported in Islamic manuals called Hadith, are sources of inspiration for hate and terrorism.

The complete text of this charter can be found at the address <http://www.pilcrowpress.com/charter>