Suggestions that Presidential candidate Barack Obama was a Muslim seemed to have subsided when his controversial pastor, Reverend Jeremiah Wright, walked onto the stage. But even as Obama defended his Christian faith, and his choice of churches, speculation about his connection to Islam continues on-line as well as within the mainstream press, including an Op-Ed entitled “President Apostle” in The New York Times (May 12, 2008) by the military strategist and historian Edward Luttwak (and, exactly a week later, in a May 19 Christian Science Monitor Op-Ed entitled “Barack Obama–Muslim Apostle?”). Now, as if to flip the Muslim coin, Mr. Luttwak, Ms. Burki, and others speculate that Muslims will hold Mr. Obama to a higher religious standard because he does not embrace the religion of his father.

Mr. Luttwak argues that the election of Senator Barack Obama as President of the United States could cause serious complications between the United States and the Islamic world because Mr. Obama is an apostate, a result of the likely Democratic nominee being born to a Muslim father and raised Christian by his mother. The penalty for such heresy, Mr. Luttwak explains, is execution by the state or possible assassination by believers, not to mention the difficulty Muslim states would have dealing with a president who denies his true religion.

A strange paradox has emerged whereby Shari`a (the religious law of Islam) has paradoxically become mythical in its alleged power to determine the behavior of Muslims everywhere, yet defenseless against the most fanciful, even outrageous claims and charges.

It may be helpful to first note that the subject can be confusing if we mix a general discussion of the crime of apostasy under traditional interpretations of Shari`a, or the incidence of prosecutions in some Muslim-majority countries (i.e. where Muslims are the majority of the population) today, with the specific claims Dr. Luttwak made about Senator Obama.

Regarding the general subject, it is true that the dominant view among early Muslim scholars that remains popular today is that apostasy is a capital crime under Shari`a, punishable by death. It is also true that there have been reports of some recent prosecutions for apostasy in a few Muslim-majority countries like Afghanistan, Iran, Saudi Arabia, Sudan and Yemen.
But Dr. Luttwak is using that general situation as the premise and basis of his claims regarding the religious status and security risk for Senator Obama. Those claims must be challenged on at least two grounds: The claim is wrong from a Shari’a point of view, and false in terms of the present political and legal realities of Muslim-majority countries.

Taking Shari’a on its own terms as a theoretical construct developed by Muslim jurists twelve hundred years ago, the world is divided into dar al-Islam, which are lands ruled by Muslims where Shari’a prevails, and dar al-Harb, which are lands ruled by non-Muslims where Shari’a does not, therefore, prevail. In modern terms, Shari’a has jurisdiction under Muslim sovereignty and no jurisdiction under non-Muslim sovereignty. To invoke that ancient theoretical construct today is like invoking Canon law of the eighth century in determining the religious standing of someone who was raised a Catholic in the twentieth century.

Even if we assume that that theoretical construct of Shari’a is still applicable today, it cannot possibly apply as the law of the land in dar al-Harb, namely Kenya, in this case, where Senator Obama’s father was born and raised, presumably as a Muslim. As a matter of historical fact, the territory now constituting the modern state of Kenya was never part of dar al-Islam at any point in time. More specifically, when Senator Obama’s father was born, Kenya was a British colony, which means that Shari’a did not apply to determine the religious status of Senator Obama’s father.

Moreover, from a present political and legal perspective, Muslim populations are now constituted as “nation-states” under international law and their own national constitutions. All these countries have their own constitutional order (even if not a written constitution like Saudi Arabia), legal systems, penal codes, etc. It is therefore misleading to invoke general principles of Shari’a, even if we accept for the sake of argument that they may have applied in the pre-colonial era, as if they are the legal system of nation states today. Apostasy is only a crime in the penal codes of four or five out of the 40 Muslim-majority countries today.

Dr. Luttwak claims that “another provision of Muslim law... prohibits punishment for any Muslim who kills any apostate, and effectively prohibits interference with such a killing.” This claim implies that there is something called “Muslim law,” which is either the law of the land or overrides that law in present Muslim-majority countries.

If this is true, how is it that the killers of the Egyptian intellectual Dr. Farag Foda were prosecuted and executed for murder by the Egyptian state in 1994, despite the fact that a leading Islamic scholar from al-Azhar University in Cairo testified on his behalf that the killers were merely carrying out the sentence of Shari’a on Dr. Foda because the Egyptian state does not enforce the death penalty for apostasy?

Those who think Muslims will respond negatively to Sen. Obama based on his presumed religion have an overly simplistic view of what it means to be Muslim today. More than 20 percent of the world’s population embraces Islam at present. And while there is a history to the religion, as there is to all religions, beliefs vary from nation to nation and often within countries as well. Islam may be large and growing, but it is not monolithic. The notion that Muslims would wish Sen. Obama harm because he left Islam (though he never embraced Islam and was raised
Christian) is purely speculative and based on a misread of Shari’a and the history of Islam. These conclusions do nothing but further stereotype a religion that is poorly understood in the West—particularly in the United States.

Muslims, like people everywhere, are interested in greater security, education for their children, health care and jobs. Like other Americans, they too want to practice their religion freely. That does not mean executing people who were raised in different faiths or who have, as Sen. Obama did not, decided to convert to a different faith.

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