

Memoires van onze tijd

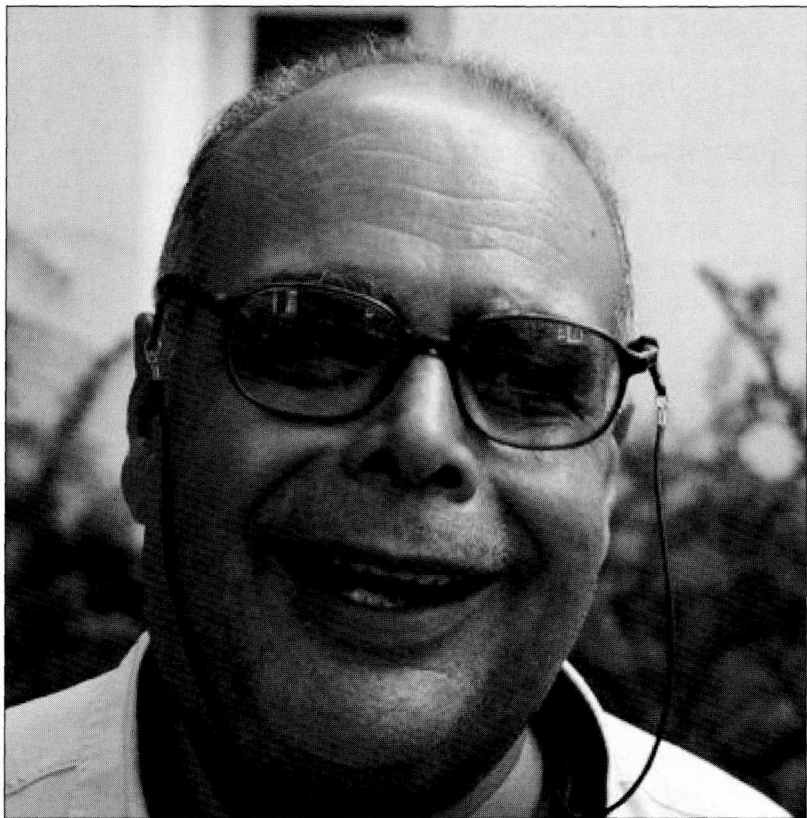
Nasr Abû-Zayd

Inquisition in Egypt

Nasr Abû-Zayd, slachtoffer van de bekrompen interpretatievrijheid van de Koran in Egypte, vertelt in deze Memoires zijn aangrijpende verhaal.

In the introductory pages of my book *Critique of Islamic discourse* I brought to attention the relationship between the political islamist discourse in Egypt and the socio-economic scandal caused by the so-called Islamic Investment Companies. Some representatives of the political islamist discourse issued and published so many *fatwas* condemning the economic banking system as religiously illegal because it is based on a fixed interest rate system equal to usury prohibited in Islam. The Islamic alternative to this non-Islamic dealing, in their religious opinion, was the Islamic investment companies, although some high rate of self-interest was involved in those companies as well. These *fatwas* encouraged the majority of the Egyptian people to put their savings into those companies. The result was the largest swindle operation in modern history at the expense of hundreds of thousands Egyptians who trusted the opinions of those representatives and believed the religious emblems they used.

In May 1992, I applied to the department of Arabic studies for the rank of a full professor and submitted my last five years academic publications consisting of eleven papers and two books, one of them was *Critique of Islamic discourse* to be evaluated. According to the university regulation, an advisory committee judges the scholarly value of the publications and submits its report to the dean of the faculty. One of the three academic judges, appointed by the advisory committee to evaluate my works, was a religious councilor for one of those companies. He was the one who refused my claim for a full professor grade while the other two expressed a very favorable opinion on the scholarly qualities of the works. Nevertheless, the unfavorable opinion of that islamist professor was endorsed to be the committee opinion although some members of the committee had refused to sign the report.



Professor Nasr Abu-Zayd. Privécollectie Abu-Zayd.

What happened within the academic committee would not have happened if the social and political context were not conducive to such things. The fact that one opinion was able to persuade the committee to adopt it, ignoring the other two favorable opinions, testifies to that. Without the atmosphere of terror that usually prevails whenever religion is mentioned it would have been impossible to conceive of such a farce taking place. But the personal element in this specific case should not be neglected. The fact that the committee member who presented the negative report was the religious councilor of one of the 'Islamic' investment companies, to which I made a critical remark in *Critique of Islamic discourse*, could explain his insistence to label my academic works as representing apostasy.

What was concluded in that critical remark on my book was, in the

eyes of the honorable committee member, something like a red rag to a bull. He lost sense of any academic responsibility to the extent that in his so called 'academic' report he did not bother to examine the three chapters of the book neither did he mention a single word concerning the method of analysis used. That point was exactly what the department's committee emphasized in the letter of protest and denunciation to the dean of the faculty. The report, according to the department committee's opinion, went beyond the fundamental task of the promotion committee which is, according to the academic rules: 'to investigate exclusively the scholarly production without having concern with any other consideration'. The report, more than that, disregarded an objective scholarly evaluation and concentrated upon dogmatic aspects that had no connection with the task of the committee; it was transformed into a dogmatic accusation. That was clear because the report contained phrases that doubted the faith of the candidate, and instead of passing judgment on his academic capabilities, his true faith in Islam was judged.

The academic procedure finally reached its last chapter when all the documents came into the hands of Cairo University rector who had to make the final decision within the University committee. And again the atmosphere of intellectual terrorism prevailed. The university rector preferred to deal with the case as if the issue was an issue of a regular ordinary promotion; he was very reluctant to admit that the issue was the academic values in the heart of which was the freedom of research. As the appointment to the position of a university rector is a political decision made by the prime-minister, the rector dealt with the matter in a way mainly inspired by the political soft attitude of the state in dealing at that time with the terrorist phenomenon. It was much easier for him to refute Abû -Zayd's promotion than to provoke the islamists in the university. Abû -Zayd, the rector said loudly, could re-apply some months later and get promoted in the second round, but provoking the islamists in the context of the state trying to reach a compromise with them would be very dangerous to all the parties including Abû Zayd himself.

As the academic values and the University reputation were damaged by such political manipulation of the whole affair the matter became a subject of political and intellectual debate outside the academic boundaries. Only two weeks after the university's decision, the same islamist professor used the pulpit of a central Cairene mosque, *ʿAmr Ibn al-ʿĀs* mosque, to publicly proclaim that Abû -Zayd was an apostate. That was on Friday, 2 April 1993.

The following Friday mosques all over Egypt, including a small mosque in my home village, which is very close to the city of Tanta, declared Abû-Zayd's apostasy. Ironically, the preacher of that mosque and I grew up together learning and memorizing the Qur'an in the same traditional school called *kuttab*. For this preacher and others, the source of those allegations was a reliable unquestionable authority, and the university's decision surely added more credit to his opinion.

It seems that a single person was able to lead a serious campaign against not only one individual but also against the intellectual school of thought presented in Abû-Zayd's writings. But things could not have moved in that direction without a situation in which some individuals are treated as if they were sacred and protected against committing any mistake by God himself. It was the context in which some people's understanding and explanation of religion enjoyed an almost religious sanctity. In this specific atmosphere of intellectual stagnation any new fresh explanation or interpretation of religion could easily be branded as blasphemous and proof of apostasy. Such a context, which involved the hammering home of a message by constant repetition before an illiterate audience, be that a real or cultural illiteracy, could normally and easily facilitate such a situation.

The next step after the declaration of apostasy was to prove it by a court verdict. The entire plan was decided and organized in another mosque in the Pyramids neighborhood where an associate professor of Cairo University preached. It was proposed by him to carry the issue to the Family Court asking the marriage of Abû-Zayd to be de-validated on the ground of being declared an apostate. An apostate is supposed to be executed according to the opinions of traditional jurists unless he or she does repent and return back to the true faith. Till execution is carried out an apostate is treated as a dead person and should not be allowed to marry not to mention being married to a Muslim woman. According to this associate professor's own words, in a book which was distributed free of charge to Abû-Zayd's students inside the university, when the idea of raising a lawsuit occurred to him he consulted with the dean of Dar al-'Ulûm college along with another professor. They approved and gave their permit and blessing. Some Islamist lawyers volunteered to carry on the case in court and money was collected to cover the expenses involved.

They chose the Family Court because they had uncovered an old but apparently still effective article in its legislative code that permits such a case to be presented. Although the Family Code was totally institutionalized

as part of the Egyptian civil code when the Shari`a court was abolished, it was left open to the judge to apply the *Hanafi* opinion for cases that are not dealt with in the civil code. Defending religion and religious values were indicated as the plaintiff's objectives of bringing me to the court under the old *hisba* principle. As an apostate my marriage was against the *shari`a*, and my wife was to be considered an adulteress if she insisted on being married to me. As a Muslim woman she had to be protected from such an evil unlawful marriage even against her will.

It was ironically obvious that the islamists were not really concerned about my marital status, because the leader of the plaintiffs openly declared that they wanted to use this obscure article with the intention of having a judge of the state establish the apostasy of Abû-Zayd. If the judge would do so then they could start to have me discharged from my teaching commitment at the university. This was also mentioned openly in the 15th of April 1993's issue of the supposedly 'moderate' Islamic weekly *al-Liwâ' al-Islamî* newspaper published by the ruling National Democratic Party and intended to teach the true meaning of religion to fight against religious extremism and terrorism. In the editorial column, the editor had cried out against the heretic Abû-Zayd who endangered the religious creed of his students and urged the rector of Cairo University to fire him. The same weekly newspaper of the ruling party suggested in its 22nd April issue execution as the penal code to be applied in the case of Abû-Zayd by the official authorities. But the hidden intention of the islamists was to have me killed legally and officially in the name of Islam.

When the court procedure started on May 1993 the case generated intellectual and public protest and attracted the attention of international Human Rights organizations and international mass media. The defense committee built its argumentation on the lack of individual interest. As for the collective interest it is the responsibility of the General Attorney not the responsibility of any individual. The *hisba* was a traditional institution abolished along side with the *shari`a* court by the introduction of the modern civil code. On the 27th of January 1994 the Giza Court of First instance passed a judgment and decided that the plaintiffs had no legal standing as they had no personal and direct interest in filing this case, in accordance with the Law on Civil and Commercial Procedures. The Court decided that the case could not be admitted as *hisba*, based on Islamic *shari`a*, as neither the prevailing personal status court regulations nor any other law include any rules on the conditions, procedures, content and scope of this case.

Therefore, the Law on Civil and Commercial Procedures should apply.

This judgment was appealed, and on 14 June 1995 the Cairo court Appeal passed an unprecedented judgment, accepting the appeal, canceling the First Instance judgment, rejecting all pleas related to the Court's jurisdiction and acceptance of the case and decided on the merits to divorce Abû-Zayd and his wife. The Court gave, as grounds for its judgment, inter alia that Abû-Zayd had in his books allegedly denied the existence of certain creatures such as angels and devils referred to in the Qur'ân. He, furthermore, had described certain images in the Qur'ân about paradise and hell as mythical. He had also described the text of the Holy Qur'ân as human. He had advocated the use of intellect to replace the concepts derived from the literal reading of the text of the Qur'ân by modern, more human and progressive concepts, and in particular the texts related to inheritance, women, the Christians, Jews (*Ahl al-Zimmah*) and women slaves.

The judgment caused a terrible shock for the whole Egyptian society. A *fatwa* from the terrorist *Jihad* group was dispatched by fax from Switzerland to many newspapers decided that Abû-Zayd should be killed. A similar *fatwa* was issued by a group of *al-Azhar* scholars called 'The Front of al-Azhar Scholars' (*Jabhat Ulama' al Azhar*). The Government officially provided heavy security protection for us at home in addition to bodyguards to accompany each of us outside. The Public Prosecution challenged the judgment before the Supreme Court (*Court de Cassation*), because it represented a sever threat to social order and stability. A coalition of sixteen of the most prominent Egyptian lawyers was formed to respond to the above unprecedented judgment in an unprecedented manner before the Supreme Court. All volunteered to handle this case recognizing that the judgment passed by the Court of Appeal represented an eminent danger to the stability and the security of the Egyptian society. It also represented a threat to the true spirit of Islam by admitting for the first time a case filed on the basis of *hisba*. It was against the law to make an accusation against a thinker based on his academic research and publications, which were accepted and commenced by the Faculty of Arts, Cairo University, as basis for his promotion to full 'professor' only two weeks before the judgment. This provided religious and terrorist groups with a legal mechanism to practice terrorism through the court system and combat the principles of human rights, particularly the rights to freedom of thought, freedom of expression and freedom of religion as well as the right to marry and found a family. International treaties and the Egyptian Constitution protect all

these rights. There was also a request to stay execution of the Court of Appeal Judgment.

In the mean time, the Egyptian Government, in an attempt to stop this type of abusive litigation, proposed a law, approved and passed in the parliament in January 1996, prohibiting the filing of any case based on the concept of *hisba* in personal status matters directly through the court. Any complaint should be filed to the Public prosecutor who has exclusively the right to either reject the complaint or file proceedings. However, this law, although a step in the right direction, was not sufficient to stop abusive litigation threatening human rights and freedom of expression by writers and artists and did not apply to Abû-Zayd case and many other cases, nearly 80 cases, which were pending before the courts.

Members of the Parliament, therefore, proposed a new law-amending Article 3 of the Law on Civil and Commercial Procedures. This draft law was supported by the Egyptian Government and was passed on 22 May 1996 as Law 81 for 1996. The new law confirmed that any action, appeal or application is not admissible unless it is filed by person who has direct and personal interest therein. This law made this rule a matter of public policy and obliged all the courts of Egypt, including the Supreme Court, to observe this rule of public policy and apply it in all the pending cases.

The defense on behalf of Abû-Zayd also submitted to the Supreme Court an opinion from the Grand Mufti confirming that reading Abû-Zayd's books does not provide sufficient basis for the judgment of separation between him and his wife. The Grand Mufti said that Abû-Zaid must be summoned more than once to appear before the Court, and that a thorough scientific and detailed discussion should be conducted with him personally concerning all his writings and the accusations made against him. There is a possibility, the Mufti said, that Abû-Zayd might change his opinion subject of accusations, or that his opinions may be construed as valid interpretations, even in certain aspects.

On 5 August 1996, the Supreme Court passed a shocking and unprecedented judgment confirming the Appeal Court Judgment divorcing Abû-Zayd and his wife. The Supreme Court recognized that the new Law 81/1996 is binding on the Supreme Court, but refused to apply it to the case, without any legal justification. The Supreme Court completely disregarded the Grand Mufti's opinion and rejected all defense presented on behalf of Abû-Zaid.

The defense applied for stay of execution of the Court of Appeal Judg-

ment confirmed by the Supreme Court, divorcing the Abû-Zayd's, based on Law 81 for 1996. According to the said law, no person at present has legal standing to request enforcement of the judgment. On 24 September 1996, a 'stay of execution' judgment was passed. It was appealed against by the Islamist lawyers before the Appeal Court, but the appeal was refuted.

Although Abu-Zayd and his wife insisted on fighting against this unjust judgment and against all kinds of abuse to Islam, they had to leave their homeland and their students and colleagues behind. The country they choose to live in is the Netherlands, where Abû-Zayd was first appointed as visiting professor, and in 2000 was honored the rotated prestigious Cleveringa Chair at Leiden University. Since September 2003 he became the holder of Averroes' Chair for Humanism and Islamic Studies at the University of Humanistics in Utrecht. He was also appointed as a resource person in the project 'Rights at Home' at the International Institute of the Study of Islam in the Modern World (ISIM). He was a member of the 'Reflection Group' of the European Cultural Foundation (EUC) (2002-2004). Abû-Zayd received so many other awards that made him decide to stay in the Netherlands for the rest of his life; it became his second homeland to the extent that he didn't accept an offer from the University of Berkley, USA, of a live-long magistrate chair for Islamic Studies.

Home is where your life is secure, your rights are guaranteed and your freedom is protected. This is my life story.