

The Legal Ramifications of Takfir in Shariah and Statutory Law: A Critical Analysis of Qatari Jurisprudence

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ABSTRACT

The declaration of excommunication (takfir) in Islamic theology constitutes a grave judicial determination with far-reaching legal consequences, far beyond a mere theological assertion. Although classical jurists established strict conditions (shurūt) and legal impediments (mawānī) to prevent abuse, takfir has historically and contemporarily been weaponized by extremist entities, threatening the unity of the Muslim ummah. Arbitrary, unmonitored excommunication destabilizes individual legal standing, worship (‘ibādāt), and social transactions (mu‘āmalāt), creating an urgent problem that drives human rights violations, political delegitimization, and social violence. To address this issue, this study investigates the legal, domestic, and social ramifications of takfir within contemporary governance, focusing on how classical doctrines transition into codified statutory law in the State of Qatar. By examining the shift from an abstract speech act or radical tool to a judicialized state framework, the research contextualizes Sharia principles alongside international human rights standards. Employing a qualitative, fiqh-based analytical methodology, the paper examines classical Ahl al-Sunnah wa al-Jamā‘ah literature alongside Qatari statutory frameworks, including the Qatari Family Law (Law No. 22 of 2006), Civil Code, and Constitutional provisions. The analysis specifically focuses on how apostasy (riddah) affects civil capacity, domestic relations, child custody (ḥaḍānah), post-mortem rites, and estate distribution. Ultimately, the study finds that Qatar systematically codifies Hanbali jurisprudence into structured court procedures, utilizing mandatory grace periods (‘iddah) to prevent arbitrary marital dissolution. However, confirmed apostasy triggers immediate civil penalties, creating persistent friction with international human rights benchmarks regarding freedom of belief.

Keywords: Takfir; Islamic Jurisprudence; Qatar; Family Law; Apostasy.

PREFACE

The practice of takfir (excommunication) the declaration that a fellow Muslim is an unbeliever (kāfir) has long constituted one of the most sensitive and consequential issues in Islamic theology and jurisprudence. Rather than being merely a theological characterization, takfir is a judicial determination that carries far reaching legal implications, affecting an individual's religious status, acts of worship (‘ibādāt), family relations, and civil transactions (mu‘āmalāt). In recognition of these grave consequences, classical and contemporary jurists have consistently maintained that a ruling of excommunication may only be issued upon the strict fulfillment of all prescribed conditions (shurūt) and the absence of any recognized legal impediments (mawānī). Despite these well-established safeguards, takfir has been repeatedly misappropriated throughout Islamic history and, more prominently, in the contemporary period by extremist organisations, sectarian groups, political movements, religious associations, and other ideological actors including ISIS, al-Qaeda, and Jemaah Islamiyah to delegitimise, exclude, and, in some instances, legitimise violence against Muslims holding differing theological or jurisprudential interpretations. Such indiscriminate application of takfir represents a clear departure from the methodology of Ahl al-Sunnah wa al-Jamā‘ah and poses a significant threat to the unity, stability, and legal integrity of the Muslim ummah (Kadir, 2020).

This study adopts a fiqh-based, highly analytical approach to investigate the legal and social ramifications of takfir as implemented within contemporary governance, with a specific focus on the statutory framework of the State of Qatar. Rather than merely reproducing classical juristic manual descriptions, this paper constructs

a comprehensive integrated framework that examines how theological excommunication translates into concrete structural changes across family law (al-aḥwāl al-shakhṣiyyah), civil capacity, property rights, and post-mortem rituals (Badar, et. al., 2017). By contextualizing these classical doctrines alongside modern Qatari legislation, such as the Qatari Family Law (Law No. 22 of 2006), the Civil Code, and constitutional parameters, this work evaluates the ongoing balance between preserving creedal integrity and safeguarding human and financial rights within a institutionalized state framework.

The Concept of Takfir in Islam

Linguistically, takfir is a transitive verbal noun (maṣḍar) derived from the triliteral Arabic root k-f-r (kafara), which denotes the act of covering, concealing, or exhibiting ingratitude; functionally, it signifies the formal declaration of unbelief (kufr) attributed to another individual (Badar et al., 2017; Kadir, 2020). Technically, the term implies imputing infidelity to an adherent (Ibn Manẓūr, 1997). From a sociological stance, takfirī ideology operates as a religious counterculture seeking to forge an alternative Islamic identity in opposition to mainstream orthodoxy (Aslan, 2025). A core theological tenets of takfirī doctrine is the assertion that outward physical deeds (ʿamal) constitute an essential component of faith (īmān). Quranically, the term kāfir (unbeliever) and its morphological variants appear 525 times, predominantly characterizing conduct in relation to God specifically the denial or rejection of divine favors (e.g., al-Baqarah: 191) or direct opposition to the teachings of the Prophet Muhammad (e.g., an-Nisā': 89; al-Anfāl: 60) (Asrori & Bakhtiar, 2021).

The theological origins of takfir reside within the foundational Qur'anic imperative mandating that Muslims adhere strictly to divine legislation and refrain from ideological deviation. This doctrinal warning is fundamentally rooted in the scriptural text: "...And whoever does not judge by what Allah has revealed then it is those who are the disbelievers (al-kafirun)" (Surah Al-Ma'idah 5:44). Historically, this particular verse has served as the primary ideological pillar for factions that apply takfir broadly to political rulers and entire societies, ranging from the classical Kharijites to modern Qutbist movements (Asrori & Bakhtiar, 2021).

Conversely, within the corpus of prophetic traditions, the concept of takfir is acknowledged but strictly circumscribed through explicit warnings regarding the spiritual and legal perils of its misapplication. This restrictive framework is established because an erroneous accusation of apostasy automatically rebounds upon the accuser. As documented in the prophetic tradition: "If a man declares his brother to be a kafir, it will apply to one of them" (Sahih al-Bukhari 6104; Sahih Muslim 60). As the seminal text regulating excommunication, this prophetic guidance dictates that falsely excommunicating a practicing Muslim triggers a spiritual backlash against the accuser. Islamic scholars historically interpret this consequence either literally—wherein the accuser lapses into actual apostasy or figuratively, signifying that the accuser incurs a spiritual transgression equivalent in gravity to disbelief.

Within Islamic jurisprudence, this concept transitions from a mere speech act into a formal legal decree (ḥukm sharʿī) that officially terminates and dissolves an individual's verified legal connection to Islam (Ministry of Awqaf and Islamic Affairs of Kuwait, 1993). Consequently, this ruling shifts the individual's status from a protected member of the Muslim community to that of an apostate (murtad). This reclassification strips them of family recognition, communal protections, and the foundational bonds of Islamic brotherhood (ukhuwwah Islamiyyah) (Nakissa, 2026).

The structural parameters of takfir within the normative framework of mainstream Islamic jurisprudence (Ahl al-Sunnah wa-al-Jamā'ah) are anchored in a principle of extreme caution and judicial restraint. This stands in stark historical and conceptual contrast to the doctrines of heterodox factions, such as the Kharijites, who famously utilized arbitrary excommunication as a political weapon to legitimize social anarchy and the shedding of Muslim blood (Ibn Qudamah, 1968; Kadir, 2020). Prophetic traditions deliver severe warnings against the hasty or unwarranted application of this decree. The Prophet Muhammad explicitly stated that if a person labels their fellow Muslim brother an unbeliever or an enemy of God without justification, the accusation rebounds (ḥāra 'alayhi) upon the accuser. Similarly, the prophetic tradition establishes that insulting a Muslim constitutes an act of open defiance (fusūq), while actively engaging in warfare against them is categorized as an act of disbelief (kufr) (Kadir, 2020; El-Muhammady & Zein, 2025).

To interpret these texts correctly, classical jurists established a critical differentiation between absolute or general excommunication (takfir al-muṭlaq) and specific excommunication directed at a particular individual (takfir al-muʿayyan). General excommunication applies strictly to abstract statements, tenets, or actions that inherently contradict the foundations of faith such as denying the oneness of God or treating explicit prohibitions as permissible (istiḥlāl) (Ministry of Awqaf and Islamic Affairs of Kuwait, 1993). However, transferring this abstract ruling to a specific person requires an exhaustive judicial investigation. An individual might engage in an action that is textually labeled as disbelief, yet remain protected from the decree of takfir due to valid legal impediments. These impediments include severe ignorance (jahl), misinterpretation (taʿwīl), slip of the tongue (khaṭaʿ), or duress (ikrāh) (Badar, et. al., 2017; Nakissa, 2026).

Furthermore, mainstream scholarship distinguishes between major disbelief (kufr akbar), which completely removes a person from Islam, and lesser disbelief (kufr dūn kufr or kufr aṣghar), which encompasses grave sins that do not disintegrate an individual's fundamental identity as a Muslim (El-Muhammady & Zein, 2025). Heterodox movements historical and modern frequently collapse these categories, treating practical deficiencies in religious practice or societal sins as total apostasy (Ibn Hisham, n.d.). This leads directly to the unlawful appropriation of property and acts of violence. Academic jurisprudence counters this by asserting that the foundational state of an individual is the continuation of their verified Islam (baqāʾ mā kāna ʿalā mā kāna), an established legal status that can never be dissolved by suspicion, doubt, or arbitrary individual proclamations (Ibn Qudamah, 1968).

As a consequence of takfir which entails declaring another individual a disbeliever if the accusation is substantiated, the person will officially be classified as having committed disbelief (kufr) or apostasy (murtad). Etymologically, the term murtad originates from the Arabic word riddah, which fundamentally denotes the act of returning or reverting from one state to another (Bustani, 1987). In linguistic terminology, it describes the general transition of moving away from something toward something else; however, within technical Islamic jurisprudence, it specifically refers to the act of turning away from Islam toward another religion, whether executed through internal intent, physical action, or verbal declaration (Bultaji, 1991; Sabiq, 1995). Consequently, an apostate is defined as an individual who willingly reverts to disbelief after having formally accepted and embraced the Islamic faith (Bultaji, 1991; Sabiq, 1995).

An individual or a collective group can be legally classified as an apostate by committing polytheism (shirk) through their beliefs, speech, or actions, or by explicitly rejecting Islam and its foundational pillars (Bultaji, 1991; Sabiq, 1995). This legal status is also triggered by denying universally established Islamic rulings derived from definitive textual evidences (nas-nas qatʿi) encompassing matters of creed (aqidah), jurisprudence (shariah), or ethics (akhlak) as well as holding the belief that ruling by divine law is non-obligatory (Bultaji, 1991; Sabiq, 1995). Furthermore, explicitly rejecting the Quran and divine revelation completely removes a person from the fold of Islam (Bultaji, 1991; Sabiq, 1995). Within the legal framework of apostasy, two concurrent elements must be fulfilled: the overt material act of leaving Islam such as committing acts of shirk like prostrating to entities other than Allah and the deliberate, conscious intent to perform that act (Sabiq, 1995).

The Historical Background of Takfir

The primary catalyst for the proliferation of takfir (excommunication) ideology was the state-sponsored repression directed at Islamic organizations by Egyptian authorities between 1965 and 1967 (al-Bahansawi, 1994). This period was characterized by state tolerance toward communist factions alongside the mainstreaming of secular-liberal doctrines most notably articulated by Salama Musa (1887–1958) which advocated Westernization and the marginalization of religious principles. Official hostility toward practicing Muslims, juxtaposed with systemic support for liberal and secular movements, steered the state apparatus away from religious precepts. Consequently, these dynamics fostered the ideological premise that such regimes and their adherents had abandoned Islamic orthodoxy, effectively rendering them apostates (kuffār) by virtue of their alignment with non-Islamic interests (al-Qaradawi, 1985).

The genesis of modern radical Islamist thought is intrinsically linked to the theoretical framework of Sayyid Qutb, whose landmark text *Maʿalim fi al-Tariq* (Milestones) systematically delegitimized both political rulers

and contemporary societies (Cable, 1988). While Qutb himself stopped short of issuing an explicit, mass takfir (excommunication) targeting individual citizens, his ideological architecture effectively established its intellectual scaffolding. He posited that authentic Islam had been functionally extinct for centuries, having been supplanted by a modern resurgence of pagan jahiliyyah (pre-Islamic ignorance) (Raza et. al., 2021).

Within this analytical model, any societal or political order that fails to govern exclusively by Sharia is classified as inherently non-Islamic, a conceptual maneuver that stripped putatively Muslim governments of their religious legitimacy (Rabi, 1984). Qutb's diagnosis of apostasy relied on the premise that adopting man-made laws over divine governance constituted a total rejection of the faith. This systemic critique was further exacerbated by state-level grievances, specifically the ruling regimes' geopolitical collusion with Western colonial powers to undermine Islam, their institutional enforcement of secular policies, and their state-sanctioned backing of moral vices like public dance parties and the consumption of alcohol (al-Qaradawi, 1985; Raza et. al., 2021).

This history gave birth to takfir ideology, particularly among oppressed prisoners, before spreading further into Egyptian society (al-Bahansawi 1989). This continued until 1967, when the same accusations were leveled against the regime of President Gamal Abdel Nasser, who was viewed as tyrannical and cruel toward his people, leading his government to be declared kafir (disbelieving). They also considered citizens who supported the government to be apostates, holding that anyone who did not declare them kafir was an infidel as well (Surur 1988). From this faction emerged Jama'at al-Takfir wa al-Hijra.

The proliferation of takfir ideology was further catalyzed by an international conspiracy designed to dismantle the Muslim Brotherhood (al-Ikhwan al-Muslimun), an organization that originally championed a more moderate iteration of Islamic thought (al-Bahansawi, 1989; 1994). This structural fragmentation triggered widespread infighting across the Muslim world, characterized by rival factions weaponizing accusations of apostasy (takfir) against those with dissenting views. This divisive mindset extended far beyond the traditional friction between citizens and state authorities; it permeated interactions between individuals, associations, religious organizations, and even sovereign Muslim nations. Ultimately, the pervasive spread of this ideology fractured the foundational spirit of Islamic brotherhood, creating profound social alienation that manifested in extreme exclusionary practices, such as refusing to consume meat or food prepared by any party accused of disbelief

The Implication of Takfir towards Ibadah and Muamalah

Consequent to the aforementioned discourse, the theological mechanism of takfir (the pronouncement of excommunication from Islam) carries profound legal ramifications that fundamentally destabilize both an individual's esoteric spiritual practice ('ibadah) and exoteric civil standing (muamalah) (Kadir, 2020; El-Muhammady & Zein, 2025). In Islamic jurisprudence, sound faith (iman) operates as an indispensable ontological prerequisite for the validity of all ritualistic acts; hence, a legally validated verdict of takfir effectively renders an individual's 'ibadah spiritually and legally void. Concurrently, this status shift severely disrupts the domain of muamalah, which delineates the parameters of social, matrimonial, and financial transactions within the Muslim polity (Ministry of Awqaf and Islamic Affairs of Kuwait, 1993). The granular legal manifestations of this disruption are systematically analyzed below:

Implications on the Systemic Sanctity of Human Life and Financial Agency

When the act of apostasy (riddah) is confirmed through a valid judicial process and mechanism, it directly imposes drastic structural implications on the physical safety and financial autonomy of the offender under classical Sharia provisions (Badar et al., 2017; Kadir, 2020). Because apostasy is considered an absolute severance from the bond of loyalty to the foundational formation of the Islamic ummah (community), the majority of fuqaha (jurists) classify this act as a major crime that carries the death penalty. This action is based on the decrees of Islamic jurisprudence that permit hadd (prescribed) punishment to be inflicted for the offense of changing one's religion. This strict legal consequence is imposed due to a direct violation of Allah's command, to which obedience is absolutely mandatory for every Muslim without exception. The act of opposing Sharia law is also considered a clear treason and is classified as the greatest of sins. Consequently,

the execution of the death penalty is characterized as a resolute solution because the act of apostasy itself constitutes a form of humiliation against the sanctity of Islam, while simultaneously degrading the individual's status as a servant of Allah (El-Muhammady & Zein, 2025; Nakissa, 2026).

At first, the majority of jurists including the Shafi'is, Hanafis, Malikis, and standard Hanbali positions, hold that an individual's property rights are not completely erased the exact moment they fall into apostasy (Ibn Rushd, 1982). Instead, their financial ownership is suspended and hinges entirely on their final outcome. If the individual repents and returns to Islam, their full property rights are retroactively validated and restored. If they die or are executed while persisting in apostasy, their ownership is terminated, and their accumulated assets are transferred to the public treasury as state wealth (*fay'*). Ibn Qudamah (1968) reinforces this by arguing that because there is a continuous possibility of the individual returning to Islam, their core ownership remains technically intact but restricted, similar to the asset constraints placed on a patient facing a terminal illness.

In contrast, an alternative juristic position championed by Abu Bakr al-Hanbali and Abu Ishaq al-Shirazi asserts that apostasy causes the immediate and absolute forfeiture of all property rights. They argue that since the protection of an individual's life and property is explicitly derived from their status as a Muslim, the collapse of that religious status instantly strips away the legal protection (*'iṣmah*) covering their wealth (Ibn Qudamah, 1968). To support this view, they cite historical precedents from the era of the Rightly Guided Caliphs, specifically highlighting the policies of Caliph Abu Bakr during the *riddah* wars, where the properties of apostates were immediately seized as public spoils (*fay'*) without waiting for personal deaths or formal estate distributions (Ibn Hisham, n.d.).

Implications on Domestic Relations and Marital Dissolution

The implication of excommunication (*takfir*) for an existing marriage creates an immediate and profound legal challenge within Islamic family law. Classical Islamic jurisprudence generally holds that a valid marriage cannot continue where a Muslim woman is married to a non-Muslim man, as religious compatibility constitutes a fundamental requirement for the continuation of the marital relationship (El-Muhammady & Zein, 2025). This principle is illustrated by the case of Zaynab bint Muḥammad and her husband, Abū al-ʿĀṣ ibn al-Rabīʿ. They were married before the advent of Islam. After Zaynab embraced Islam and migrated to Madinah, while her husband remained a polytheist in Makkah, their difference in religion resulted in their separation under Islamic law (Badar, et. al., 2017). The Prophet Muḥammad (peace be upon him) recognized that the marital bond could not continue under these circumstances and legally separated them until Abū al-ʿĀṣ later accepted Islam, after which their marriage was restored. This historical precedent demonstrates that a change in religious status may have direct legal consequences for the validity and continuity of a marriage, making the issue of excommunication particularly significant in Islamic family law (Ibn Hisham, n.d.; Nakissa, 2026).

If one spouse is conclusively determined to have committed apostasy or is legally declared to have left the fold of Islam before the marriage has been consummated, the marriage contract is automatically dissolved without the need for a judicial decree of divorce. On this issue, the four major Sunni schools of Islamic jurisprudence are in consensus that the dissolution takes effect immediately, as the marriage has not yet been consummated and no complete marital relationship has been established (Kadir, 2020; Nakissa, 2026).

The financial consequences of this dissolution depend on the party responsible for the apostasy. If the husband is the one who commits apostasy or is legally declared an apostate, he remains liable to pay the wife one-half of the stipulated dower (*mahr*), consistent with the legal consequences of a marriage dissolved before consummation through his own action. Conversely, if the wife is the one who commits apostasy or is legally declared to have left Islam, she forfeits her entitlement to the dower because the dissolution results from her own legal act, which invalidates the continuation of the marriage (Ibn Rushd, 1982).

When apostasy occurs after the marriage has been physically consummated, the juristic schools split into two major interpretive camps regarding the timeline of the dissolution:

The Suspensory Stance (Shafi'is and Mainstream Hanbalis): This position dictates that the marriage contract is not instantly broken. Instead, the marital tie is placed in a state of legal suspension (*tawaqquf*) until the wife's waiting period (*'iddah*) is completed. If the apostate spouse repents and returns to Islam before the expiration of the *'iddah*, the marriage remains intact and continues seamlessly without requiring a new contract or dowry. If the waiting period lapses without repentance, the marriage is recognized as dissolved retroactively from the exact date the apostasy first occurred (Badar, et. al., 2017; Sulong, 2025).

The Immediate Dissolution Stance (Hanafis and Malikis): This view holds that the difference in religion causes an absolute, immediate separation (*faskh 'ajil*) the very moment the apostasy is confirmed, regardless of whether consummation has occurred. They argue that an active state of apostasy is completely incompatible with the structural existence of an Islamic marriage contract, meaning the relationship must end immediately without waiting for the timeline of the *'iddah* to clear (Ibn Qudamah, 1968; Ibn Rushd, 1982).

These primary rulings directly impact subsidiary domestic rights. In cases of post-consummation apostasy where the marriage is suspended, the husband remains financially responsible for providing housing and basic maintenance (*nafaqah*) during the waiting period if he is the one who apostatized, as the disruption came from his side. However, if the wife is the party who fell into apostasy, her right to maintenance is completely severed, as her religious status is viewed as a form of non-physical insubordination (*nushūz*) that prevents regular marital life (El-Muhammady & Zein, 2025).

Furthermore, auxiliary marital institutions like the estrangement oath (*zihār*) and the formal imprecation process (*li'ān*) lose their operational validity upon a confirmed excommunication. Because both *zihār* and *li'ān* are specialized legal procedures that depend entirely on the existence of a valid, active Islamic marriage contract, they cannot be initiated or maintained once the underlying contract is dissolved or permanently broken by a decree of *takfīr* (Ministry of Awqaf and Islamic Affairs of Kuwait, 1993).

Implications on Civic Testimony and Fiduciary Disqualification

Within public and civil law, a judicial decree of *takfīr* destroys an individual's civic standing by removing their moral rectitude (*'adālah*), which serves as the foundational requirement for holding public trust or delivering valid legal testimony (*shahādah*) in an Islamic court. Jurists across all major schools agree that the profession of Islam is an essential requirement for witness capacity in matters affecting Muslims (El-Muhammady & Zein, 2025). Because the act of apostasy is viewed as a supreme form of deception against God, it erases the trust required for a court to accept an individual's statements regarding the rights of others. Consequently, any legal testimony offered by an excommunicated person becomes instantly void and inadmissible (Badar, et. al., 2017).

This loss of rectitude also causes the immediate evaporation of legal guardianship (*wilāyah*), across both private family matters and public administrative roles. In the private sphere, an excommunicated individual is stripped of their power to act as a marital guardian (*walī*) for their children or relatives. If an apostate father attempts to execute a marriage contract for his Muslim daughter, the contract is completely invalid (*bāṭil*) due to the absolute breakdown of religious alignment between the guardian and the ward (Ibn Qudamah, 1968; Kadir, 2020). This legal consensus is rooted in the Quranic text from Surah At-Tawbah (9:71), which establishes that "the believers, men and women, are allies (*awliya'*) of one another.". Consequently, a non-Muslim completely lacks the legal authority (*wilayah*) to act as a guardian for a Muslim in any capacity, whether concerning marriage contracts or asset management (al-Zuhaili, 2011).

Conversely, a Muslim is similarly barred from exercising guardianship over a non-Muslim. Therefore, should a biological father and his daughter differ in religion, his right to guardianship is immediately voided under Islamic law, and this legal authority transfers directly to the state-appointed judge (*wali hakim*). This disqualification applies equally to public guardianships, including judicial appointments, state financial oversight, and higher administrative offices, as an excommunicated individual lacks the legal capacity to exercise valid authority over a Muslim population (Nakissa, 2026).

Implications on Post-Mortem Rites and Estate Devolution

The practical impact of takfir extends even beyond an individual's life, enforcing severe restrictions on how their body is treated after death and how their remaining estate is distributed.

First, a decree of excommunication alters the rules governing food safety and animal slaughter (dhakāh). While the Quran explicitly permits Muslims to consume meat slaughtered by People of the Book (Jews and Christians), this permission does not extend to an excommunicated individual (El-Muhammady & Zein, 2025). Even if an apostate adopts Judaism or Christianity after leaving Islam, the clear majority of jurists including the Hanafi, Maliki, and Shafi'i schools rule that their slaughtered meat remains strictly prohibited (ḥarām) (Ibn Rushd, 1982). They reason that an apostate is not considered a true member of any recognized scriptural community; rather, they are classified as an individual who has actively rejected the faith, meaning their slaughter can never produce ritually clean food.

Second, upon the death of an excommunicated individual, they are entirely excluded from the standard Islamic post-mortem rituals normally accorded to Muslims (Badar et al., 2017; El-Muhammady & Zein, 2025). This exclusion applies strictly to the mandatory rites of ritual washing (ghusl), shrouding (takfīn), and the funeral prayer (ṣalāt al-janāzah). Because these practices are regarded as acts of spiritual honor and purification reserved exclusively for adherents of the faith, the funeral prayer functions as an intercession for divine forgiveness that cannot scripturally be offered for someone who died outside Islam. Consequently, it is legally forbidden (ḥarām) for the Muslim community to perform these rites for a confirmed apostate. Furthermore, the deceased cannot be interred in a Muslim cemetery. Islamic jurists emphasize that the spiritual sanctity of Muslim burial grounds must be preserved, thereby requiring burial segregation to maintain these established religious boundaries (Nakissa, 2026).

Finally, in estate distribution, a confirmed state of excommunication acts as an absolute barrier to inheritance (manī' al-irṭh) due to the foundational difference in religion. Under the established rule that individuals of two different religions cannot inherit from one another, an excommunicated person cannot inherit any assets from their Muslim relatives (Badar, et. al., 2017; Sulong & Mahad Musa, 2019). Regarding the distribution of the apostate's own estate, the juristic schools split into distinct paths. The Maliki and Shafi'i schools rule that the entire estate must be seized by the public treasury as state wealth (fay') (Ibn Rushd, 1982). Conversely, Abu Hanifah offers a split approach, ruling that assets acquired while the person was a Muslim pass to their Muslim heirs, whereas any wealth generated after their apostasy is confiscated by the state.

The Provision of Qatar Law on Takfir

The State of Qatar incorporates these foundational Islamic legal principles directly into its modern statutory framework. Article 1 of the Permanent Constitution of Qatar declares Islam to be the official religion of the State and establishes Islamic Sharia as the principal source of legislation, followed by Sub-section 2 that stated:

“2. Where there is no statutory provision, the Judge shall rule according to the relevant provision of the Islamic Shariah, if any. Otherwise the Judge shall rule according to the customary practice. In the absence of such customary practices the Judge shall rule in accordance with the rules of justice.”

Obviously, this constitutional principle is operationalized by Article 1(2) of the Civil Code (Law No. 22 of 2004), which requires judges, in the absence of an applicable statutory provision, to decide cases according to the relevant principles of Islamic Sharia. Only where Sharia provides no applicable rule may the court resort to customary practice, and ultimately to the rules of justice. Within family law, this constitutional mandate is put into practice through the Qatari Family Law (Law No. 22 of 2006). Rather than referencing the term takfir as an abstract theological concept, Qatari law focuses on its statutory equivalent apostasy (riddah) and defines its explicit effects on civil status and family relationships.

The Qatari Family Law details the impact of apostasy on marriage across several explicit provisions:

- Article 153: This article addresses cases where apostasy occurs before the physical consummation of the marriage, stating that the marital contract is dissolved immediately the moment one or both spouses leave Islam (State of Qatar, 2006). The effect of this automatic and immediate separation is based on the views of the Hanbali School of Jurisprudence, which serves as the primary reference source for Qatar's Family Law (Bantekas & Al-Ahmed, 2023; Muslih et al., 2024; State of Qatar, 2006). According to this school, the annulment of a marriage prior to consummation does not require the woman to observe an 'iddah (waiting period) (State of Qatar, 2006). This provision applies without gender prejudice. It encompasses acts of apostasy committed by the husband, the wife, or both parties simultaneously. As soon as the status of apostasy is established against either party prior to consummation, the marital bond is severed immediately (State of Qatar, 2006).
- Article 154: This article governs apostasy that occurs after the marriage has been consummated. It dictates that the judge must formalize a separation between the spouses, but only after providing a court-mandated warning period that lasts until the expiration of the wife's waiting period. This timeline serves as a final opportunity for the individual to repent and return to Islam; if the period ends without a return, the judicial separation becomes permanent. Under Article 154 of Qatar's Family Law, the apostasy of a spouse in a consummated marriage does not result in immediate annulment but requires judicial intervention and a mandatory grace period—equivalent to the Iddat allowing the individual an opportunity to repent (State of Qatar, 2006). Rooted primarily in Hanbali Islamic jurisprudence, which is the legislated foundational school of thought for Qatar's Family Law (Bantekas & Al-Ahmed, 2023; Muslih et al., 2024), this mechanism reflects a delicate balance between strictly maintaining religious boundaries within marriage and preserving the established family unit. By providing this temporal rehabilitative window rather than an instantaneous dissolution, Islamic legal principles demonstrate a structural preference for safeguarding the marital contract and familial stability where possible.
- Article 155: Under Article 155 of Qatar's Family Law, if a non-Muslim wife converts to Islam before or after the consummation of the marriage, the continuity of her marriage is contingent upon her husband's conversion (State of Qatar, 2006). The law mandates that the judge offer the husband a grace period equivalent to the Iddat waiting period to embrace Islam; should he persist in his refusal, the court is legally required to decree their separation (State of Qatar, 2006). From the perspective of Hanbali Islamic jurisprudence, which forms the primary legislative basis for Qatar's Family Law, this provision enforces the strict prohibition against a Muslim woman remaining married to a non-Muslim man (Bantekas & Al-Ahmed, 2023; Muslih et al., 2024; State of Qatar, 2006). However, by granting a temporal rehabilitative window rather than an immediate annulment, Islamic legal principles attempt to provide an opportunity to align the family's religious foundation with the new faith, demonstrating a structural preference for safeguarding the marital contract where possible. Additionally, the law stipulates that the marriage remains valid if the husband converts to Islam and the wife is Christian or Jewish, as this aligns with permissible interfaith dynamics (State of Qatar, 2006).

Beyond the dissolution of the marital contract, Qatar's statutory framework extends the legal consequences of apostasy to severely restrict other fundamental family and financial rights. Among these matters are:

- Child Custody (Ḥaḍānah): Under Article 175 of Qatar's Family Law, religious adherence is a determining factor in child custody. While the statute allows a non-Muslim mother to retain custody of her child until the age of seven provided there is no fear that the child might embrace a religion other than Islam this concession is explicitly denied to a mother who is an apostate (State of Qatar, 2006). From a legal standpoint, the law treats active apostasy as an absolute disqualification that threatens the child's religious upbringing, resulting in the immediate forfeiture of custodial rights (State of Qatar, 2006).
- Estate Law and Wills (Waṣīyyah): The legal ramifications of apostasy also sever rights to financial bequests. Pursuant to Article 238(6), any legacy or will becomes void if either the testator (the benefactor making the will) or the legatee (the beneficiary) renounces Islam (State of Qatar, 2006). The statute offers only one legal remedy to salvage the validity of the bequest: the apostate individual must actively repent and return to the Islamic faith before death (State of Qatar, 2006).
- Inheritance Rights: Aligning with classical Islamic jurisprudence, Qatari law completely prohibits the transfer of inheritance across different faiths. Article 248 dictates that any difference in religion serves as

an absolute barrier to entitlement in inheritance (State of Qatar, 2006). Consequently, an individual who has committed apostasy is legally excommunicated from the succession line and blocked from inheriting any share of a Muslim relative's estate (State of Qatar, 2006)

Analysis the Practise of Shariah in the Country

The contemporary legal system of Qatar demonstrates a deliberate harmonization of classical Sharia principles with modern statutory governance, particularly concerning civil status and excommunication (apostasy). The state has formalized the mechanisms dealing with takfir within its judiciary, ensuring that marital and property rights are governed by structured legal processes rather than arbitrary individual actions (State of Qatar, 2006). This structured governance is anchored by Article 3 of Qatar's Family Law, which mandates courts to consult the Hanbali school of jurisprudence for unresolved or complex matters (Bantekas & Al-Ahmed, 2023; State of Qatar, 2006). This ensures that the state's legal decisions remain deeply rooted in classical Islamic scholarship while operating through a predictable court system.

Under this Hanbali-guided framework, acts of apostasy trigger immediate civil consequences, but the law integrates specific judicial oversight and repentance periods reflecting the caution of classical jurists. The law distinguishes marriages based on physical consummation (State of Qatar, 2006). Under Article 153, if apostasy occurs before consummation, the marital bond is severed immediately without any waiting period (State of Qatar, 2006). Conversely, Article 154 requires judicial intervention and grants a mandatory grace period for repentance equivalent to the Iddat for consummated marriages, offering individuals a transitional buffer to resolve their legal status before permanent changes are made to their family structure (State of Qatar, 2006). Similarly, Article 155 applies this judicial grace period to non-Muslim husbands whose wives convert to Islam, mandating separation only if the husband persists in his refusal to convert within the given timeframe (State of Qatar, 2006).

Beyond marital dissolution, Qatar's centralized judicial approach extends strict religious disqualifications to other fundamental family and property rights to safeguard religious homogeneity. In matters of child custody (hadhanah), Article 175 dictates that while a non-Muslim mother may conditionally retain custody until the child is seven, an apostate mother faces absolute disqualification and immediate loss of custody rights due to the perceived threat to the child's Islamic upbringing (State of Qatar, 2006). In estate law, Article 238 explicitly voids any financial bequest or will (wasīyyah) if either the testator or the beneficiary falls into apostasy, unless they repent and return to Islam (State of Qatar, 2006). Furthermore, Article 248 strictly bars individuals from inheriting across different religions, effectively ensuring that an excommunicated individual is legally blocked from inheriting any portion of a Muslim relative's estate (State of Qatar, 2006).

From the perspective of international law, these state-mandated losses of civil, custodial, and property rights are critically viewed as coercive penal sanctions. Reports by the US Commission on International Religious Freedom (USCIRF) classify these provisions as "anti-conversion laws" that violate foundational human rights doctrines (Church, Hammack, & Grellier, n.d.). Specifically, Article 18 of the Universal Declaration of Human Rights and Article 18(1) of the International Covenant on Civil and Political Rights unequivocally guarantee the absolute freedom of individuals to adopt or change their religion without state coercion or the threat of discriminatory civil penalties (Church, Hammack, & Grellier, n.d.).

When comparing this framework to other Islamic jurisdictions, Qatar's conservative application of Sharia principles presents distinct contrasts, particularly with Malaysia's approach to family law and children's rights. While Qatar maintains a system heavily influenced by strict Sharia interpretations that prioritize religious homogeneity, Malaysia operates a highly effective dual legal system integrating both Islamic and civil law (Muslih et al., 2024). Malaysia's mixed framework provides greater flexibility and robust enforcement mechanisms for post-divorce rights, utilizing specialized institutions like the Family Support Division (BSK) to handle court-ordered maintenance and enforce child rights effectively (Muslih et al., 2024). Furthermore, Malaysia's approach emphasizes the "best interests of the child" through broad public policy and civil frameworks that allow for child participation in legal processes, contrasting sharply with Qatar's system which relies on strict religious disqualifications in custody and inheritance matters (Muslih et al., 2024).

CONCLUSION

The practice of takfir represents a sensitive, highly consequential judicial determination in Islamic jurisprudence with profound implications for an individual's religious standing, acts of worship ('ibādāt), and civil transactions (mu'āmalāt). Although classical Ahl al-Sunnah wa al-Jamā'ah scholarship established strict conditions (shurūt) and legal impediments (mawānī') to exercise judicial restraint, takfir has been repeatedly weaponized by modern extremist organizations like ISIS and al-Qaeda to delegitimize dissenters and incite violence. Unchecked excommunication destabilizes the unity of the Muslim ummah and disrupts fundamental civil protections.

This study demonstrates how the State of Qatar mitigates arbitrary excommunication by formalizing the doctrine of apostasy (riddah) within an institutionalized statutory framework. Grounded in Article 1 of the Permanent Constitution and Article 3 of the Qatari Family Law (Law No. 22 of 2006), the legal system standardizes Hanbali jurisprudence into structured court procedures. Qatar utilizes mandatory judicial grace periods ('iddah) under Article 154 to prevent arbitrary marital dissolution and provide opportunities for reconciliation. However, persisting in apostasy triggers immediate civil consequences, including total forfeiture of child custody (ḥaḍānah), the voiding of financial bequests, and inheritance disqualifications.

While Qatar's centralized judicial approach successfully suppresses vigilante extremism and maintains legal predictability, its severe civil restrictions create ongoing friction with international human rights standards regarding individual freedom of belief, such as Article 18 of the Universal Declaration of Human Rights. Ultimately, maintaining formal judicial oversight and classical juristic caution remains essential to safeguarding societal stability, rule of law, and the integrity of the ummah.

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