

## **Refining the Misconception of Apostasy in Islam**

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### **Introduction**

Freedom of religion is frequently misunderstood by many and this includes the issue on apostasy. The misunderstanding of public and even Muslims community on the concept and legal position of apostasy has negated the image of Islam as a religion of peace. This is not surprising as there are numerous negative allegations upon the religion of Islam such as condemning it as barbaric and incompatible with modernity and human rights. This serious misconception should be rectified and in fact, it is a religious duty for every Muslim to portray a true picture of Islam and to response on any allegation and negative arguments upon this issue.

In view of this negative phenomenon, this article aims to refine the misconception of apostasy in Islam and attempts to response the previous two articles published by the New Mandala entitled '*An Exploration of the Concept of Apostasy in Islam*' by Joshua Woo Sze Zeng and '*Malaysian Muslims Responses to Conversion*' by Norani Bakar whereby the former heavily relies on the essay written by Abdullah Saeed entitled '*Freedom of Religion, Apostasy, and Islam*' and the online resources and the latter highlights the Malaysian Muslims response to apostasy with reference to HIMPUN initiative by several non-governmental organizations.

Before presenting my arguments on the issue of apostasy in Islam, it is important to note that ABIM was not involved with the HIMPUN initiative. It is worth to emphasize here that ABIM has been very consistent with its stand to promote healthy discussion, interfaith dialogue and intellectual discourse rather than advocating any confrontation or provocation. With the aim of refining the misconception of apostasy in Islam, the preceding discussion in this article will consist of the position of the law of apostasy in other religions; the position of Islam in guaranteeing the freedom of religion, the limitation on freedom of religion, framework for implementation and finally the concluding remarks.

### **Apostasy is Not Unique to Islam only**

The offence of apostasy is not unique to Islam and applicable to the Muslim community alone. The other religions such as Christian and Judaism also have their own legal mechanism to resolve problems on apostasy. In fact, both religions clearly declared apostasy as public offense and punishable by law. For instance in Deuteronomy 13:6-11, the stipulated punishment for an offence of apostasy is death penalty. This indicates that apostasy is not unique and exclusive to Islam but other major religions in the world also considers apostasy as a serious offence which is contrary to their basic religious epistemological foundation.

## **Islam Guarantees Freedom of Religion**

Islam is the religion of peace and it protects the basic individual rights and these include freedom of religion. Islam treats freedom of religion as a matter of right. Every individual has the right and free to choose his religion either Islam or any other religions that he likes. This is unconditional freedom guaranteed by Islam. To evidence this, *al-Quran* strongly repudiates religious coercion as stated in (10:99) "*Had your Lord so willed, all the inhabitants of the earth would have accepted faith altogether. Would you then coerce people to become people of faith*". In another verse (2: 256), Allah says "Let there be no coercion in religion.

## **Freedom of Religion is not absolute**

Nevertheless, the situation is different once an individual is a Muslim. The right and freedom of religion is not absolute. As a matter of fact, the notion of absolute freedom itself is against the principle of natural justice. The freedom of religion should not be abused and any elements of irresponsible religious anarchy that may lead to religious disharmony should not be allowed. This is because Islam considers religious freedom as a matter faith and not as legal or political issues. In this instance, in order to protect the sanctity of this religion, Islam has laid down specific sanction on the matter of apostasy.

## ***Fiqhi* Issues shall not be the Reason of Negating the Compatibility of Islam with the Fundamental Right of Religious Freedom**

The difference of opinion amongst the Muslim jurists should not be the reason of baseless allegation on the compatibility of Islamic law with human rights particularly freedom of religion. At this point, Professor Cherif Bassiouni known as 'Father of International Criminal Law' in his article entitled '*Crimes and Criminal Process*' makes an interesting observation where he concludes that "*the basic principles of Islamic criminal justice and the accused's rights are well articulated and developed in the various jurisprudential schools, and some are more liberal than others. They correspond to many international human rights standards*".

As always happened and in fact it is a natural process to have different views upon any legal or *fiqhi* issues and this includes the punishment for apostasy. The first school of thought views that apostasy is an offence against the God as well as an act of treachery against the Muslim society. This view has a strong legal basis as it is supported by several Prophet's traditions including the practice of Prophet's companions. Interestingly, it is observed that the apostasy was never a real problem for the Muslim community in term of its implementation and theoretical issues as the people executed for apostasy in Islamic history were very few. Muslims as well as non-Muslim community for so long naturally accepted the law on apostasy as a necessary deterrent sanction and it ceases to be unusual or improper.

The opponent of this view on the other hand considers death penalty is not the absolute sanction for apostasy. In arguing this, they raise the issue of reliability of *al sunnah* that has been made as legal basis for death penalty for apostasy. As Islam does not regard *ijtihad* as fixed and must be followed, the authority has a freedom to choose either to take the view of the first school of thought or to take a liberal and more flexible approach in resolving the apostasy issues. At this juncture, the authority must take into

consideration of all aspects including *fiqhi* issues, *maslahah* of the people, sanctity of the religion as well as the will of Muslim community.

Actually, even if the authority adopts the view that the punishment for apostasy is death penalty, there are strict legal requirements to be complied with either in term of law of evidence or conditions and pillars to convict any wrong doer for apostasy. This is in line with the Prophet's tradition: "*guard against (idra'u) maximum penalties (Hudud) by means of uncertainties (shubuhah)*". For instance, the charge of apostasy can only be established by the testimony of two just witnesses and the prosecutor must clearly specify the nature of apostasy, whether it was through word or deed. The wrong doer can only be penalized for apostasy if the prosecutor can establish the case beyond reasonable doubt. Furthermore, the court may only pronounce the judgment after it grants sufficient time for the wrong doer for repentance. In this instance, Islam does not simply provide severe punishment for any offence without imposing strict legal requirements which is in parallel with the universal principles of justice.

### **Concluding Remarks**

In the context of globalization and the current phenomenon of human rights activism, the issue of apostasy is actually not a theological or theoretical or *fiqhi* issues but rather political. It is found that this issue has been heavily politicized as an ideological weapon to get the support of the public particularly by secular humanists including many Western-oriented Muslim intellectual. If the element of politics can be put aside, the apostasy in Islam will not be an issue either in the aspect of human rights or fundamental freedom of an individual. For instance, the report on '*Human Rights in Islam*' by the Asian-African Legal Consultative Organization vividly affirms that Islamic criminal law including law on apostasy has an inherent body of law for preventing crime and thereby protecting human rights and fundamental freedoms of the people.

The preceding discussion concludes that Islam has a strong and solid theoretical and epistemological foundation for apostasy. The issue on apostasy does not negate the compatibility of Islam with human rights and in fact, Islam strongly protects fundamental freedom of the people. The debate and arguments on the law of apostasy in Islam is often superficial, marked by political intentions as well as religious prejudices. As a consequence, unnecessary issues and arguments are discussed and the key elements of such a debate are neglected and finally lead to confusion and misconception. The only mean we need to resolve this issue is an honest scholarly-led debate based on facts, textual injunctions analyses and focused on the real issues rather than blindly beating around the bush.