

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

SURVEY OF ISLAMIC RULING ON APOSTASY: IN THE CONTEXT OF FREEDOM OF RELIGION

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Abstract

Apostasy in Arabic word is referred to *Riddah* or *Irtidad*; which means “to retreat, to retire, to withdraw from or fall back from . Thus, In Islamic Law it is declared that apostasy is going away from Islam or leaving Religion of Islam to another religion or ism which is not acceptable by Allah. However, if someone changes his religion from Judaism into Christianity, he or she will not be considered as apostate according to the teaching of Islam, due to very simple reason that Islam considers itself perfect religion and whatever beliefs are beside it considered as false or *ḍalālah* . Allah says in the holy Qur’ān “Indeed, the religion in the sight of Allah is only Islam. Therefore, this paper will highlight meaning of apostasy, elements which bring someone into apostasy. Muslim Jurists and Scholars have discussed it in detail. Normally, it is divided in three types; which are apostasy of conviction, apostasy of sayings and apostasy of action. This paper will also highlight the conditions of Apostate and also view of different Muslim Jurists or *madhāhib* on apostasy.

Key words : Apostasy, Islam, Muslim Jurist, madhhab, and Dalālah

The Meaning of Apostasy:

The word equivalent to apostasy in Arabic is *Riddah* or *Irtidad*; which means “to retreat, to retire, to withdraw from or fall back from”³. According to majority of Islamic Jurists, apostasy means renunciation of Islam by one who believes in Islamic Monotheism. The writer of the book *Ahkam Al-Murtad Fi Al-Sharia’ Al-Islamiyah: Dirash Muqaranah*, Sammarai has preferred the definition of Sha’fi scholar Qalyubi due to its

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³ Rahman, S. A., **Punishment of Apostasy in Islam**, (Kuala Lumpur: The Other Press Sdn. Bhd., 2006), P 1.

comprehensiveness. Qalyubi defines it as “interrupting one’s Islam by an intention of disbelieving or by a blasphemous act or by a disbelieving saying, whether or not it was said mockingly, or out of stubbornness or out of conviction”⁴. Thus, it is declared that apostasy is going away from Islam to another religion or ism but if someone changes his religion from Judaism to Christianity, he will not be considered as apostate in Islam, due to very simple reason that Islam considers itself perfect religion and whatever beliefs are beside it they are false. Allah says in Quran “Indeed, the religion in the sight of Allah is Islam.”⁵ and says in another verse that “whoever accepts any other religion beside Islam will not be accepted”⁶.

The Matters Lead to Apostasy:

It is very important to be aware of the matters which can lead a Muslim to apostasy. Scholars have discussed it in detail. Normally, it is divided in three types; which are apostasy of conviction, apostasy of sayings and apostasy of action. Briefly, it could be mentioned as follow:

1: Those who associate anyone beside Allah in worship or refuse Him or reject any of his established attributes or add which is not mentioned in Sharia’ or discard what Allah has assured like Paradise, and the life of hereafter etc. are committing apostasy⁷. The Holy Quran is a book of Allah the Almighty and it has reached to us on majority basis from generation to generation, that’s why whoever rejects it totally or partly he is committing blasphemy⁸. The person who considers Prophet Muhammad (peace be upon him) liar in his prophetic or he had not delivered his message he will be considered apostate⁹. The person who believes on the permissibility of things which are considered prohibited in Islam on the basis of consensus like permissibility of adultery or drinking wine¹⁰. These acts are based on the apostasy of beliefs.

2: The person who insults Allah, he is committing apostasy and this person’s repentance is valid according to Imam Abu-Hanifah¹¹. Ibn-Muflih has put condition that he should not apostatize more than three times¹². Ibn-Tamiyah has underlined the reasons of accepting repentance from the person who abuses Allah because it is pure disbelieving and it is right of Allah. The repentance performed out of origin blasphemy or temporary is disapproving the death penalty and it is confirmed that Christians abuse Allah by saying

⁴ Sammarai, Nu’man Abd. Al-Razzaq, **Ahkam Al-Murtad Fi Al-Sharia’ Al-Islamiyah: Dirasah Muqaranah**, (Riyadh: Darul Ulum for publishing and distributing, 1983), 2nd Edition, P 37 - 39.

⁵ Qura’n : 3/19.

⁶ Qura’n : 3/85.

⁷ Ibn Qudamah, Muwaffaquddin Abdullah bin Ahmad, **Al-Mughni** (Publisher: Thaqafah al-Islamiyah), Vol. 8, P 565.

⁸ Hijawi, Sharafuddin Musa, **Al-Iqna**, (Al-matba’ Al-azhariyah, 1351 H), Vol. 4, P 297.

⁹ Ibn-Abidin, Mohd. Ameen, **Hashiyatu Raddil Mukhtar**, (Second Edition: 1386 H), Vol. 4, P 223.

¹⁰ Mughni: 584/8.

¹¹ Ibn Muflih, Mohd. Bin Abdullah, **Al-Furu’** (Darul Kutub Al-misriyah), Vol. 2, P 160.

¹² Al-Furu: 160/2.

he is one of three and Allah knew that He will leave his right from repented person that He Almighty is over from all negatives and nothing disgrace his personality while the abuse to Prophet is attributing something to human and human is place of dignity and disrespect. From here it is cleared that the person who abuses Prophet Muhammad (peace be upon him), he also committing apostasy and his repentance is invalid according majority of scholars. More than that Taqiudding Subki claims about consensus of Scholars on the matter of abusing Prophet (peace be upon him) that the person who abused would be killed without repentance¹³.

3: Actions have very much role too for committing apostasy like if someone disgraces Holy Quran and throws it on dirty place or mocks with Qura'n and same goes to Prophetic Tradition because it indicates corrupt conviction. Scholars also agreed on person to be apostate who prostrates for any idols or sun or moon or he joked obviously on any matter of religion¹⁴.

4: Islam is a religion of action. It asks its followers to practice certain rituals, thus if someone refuses to practice it, he would be considered apostate. For example a person who says that nothing is in Islam like praying five times or nothing is in Islam like paying Zakat; such person is no longer Muslim because these matters are obvious teaching of Islam and it's known to everyone. If someone leaves praying due to laziness according to majority he will be killed but the Hanafi School of thought considers it as (Ta'zir) matters whose penalty is not mentioned in Qura'n and Hadith, so it depends on the ruler of time that what kind of punishment should be given to him in order to bring him back to prayer willingly¹⁵.

The Conditions Apply to be Apostate:

There are three basic and important conditions to count or say some one apostate and they are puberty, intelligence, and liberty. A child below puberty age, if he apostatizes, the law of apostasy would be inapplicable on him to practice according to some jurists because this action is harmful for him and below puberty jurists allow only beneficial matters for him, while some jurists say that law of apostasy would be executed on him because when his Islam is accepted at that age guessing his sound wisdom, he would be considered apostate on same basis but execution will take place after reaching puberty, if disagrees to come back to Islam. Ibn A'bideen, Hnafi scholar says his apostasy is right if his Islam was by himself or by following his parents and if he apostatizes before puberty his wife will be prohibited on him and he will not be inherited but he will not be killed

¹³ Samra'e : 81.

¹⁴ Samra'e : 101.

¹⁵ Samra'e : 103 – 104

because he is not from the group whom punishment is executed on but he would be beaten and prisoner¹⁶. The being sound of mind is another condition to title someone apostate that's why the fool (*Majnoon*) or person out of mind his apostasy is invalid. Imam Sha'fie writes in this regard "If someone without intoxicating loses his wise, his guardians will not prison him, and if he dies in that situation he will not be abandoned from inheritance, because his apostasy occurred at the moment where writing is stopped¹⁷". This reason very obviously of not being accountable of his action and deeds because he lose his wisdom and at that point angels do not write about his deeds and Imam Sha'fie quotes raises another issue which is what if someone commits apostasy after getting intoxicated, thus some jurist specially Imam Abu Hanifa do not consider intoxication a matter to execute the law of apostasy¹⁸. Sarkhasi, a Hanafi scholar advocates this matter saying that apostate has the basis of conviction while we do know that intoxicated person do not believe what he says¹⁹. Some other jurist such as Imam Sha'fie considers intoxication a matter to execute the law of apostasy arguing that intoxicated person is liable to be punished of slandering because of blabbering, means he did not lose his mind at all and he has to be careful about his actions unlike sleeping and out of mind person. With regard to liberty and freedom all jurist almost did agree that forced person if he apostatizes will not be killed because Islam means submission wills to Almighty willingly, which is absence here, so it creates confusion, where punishment is abolished in Islam "Do not practice prescribed punishment at the time of misconception". Mohammad bin Al-hasan is one of great Hanafi jurist he claims that forced person if he renounces the Islam, he would be killed because apparently he was Muslim and Prophet (peace be upon him) said: "I am given order to fight people till they say there no worthy of worship except Allah, if they did so, their bloods and wealth's are protected except bihaqqiha". And he is committing the right, so its law would be executed.

Punishment for Apostasy in Islam:

Fundamentally, there are three views of scholars on the punishment of apostasy. The first view which is view of majority of scholars says that the punishment of apostasy in Islam is death. Second view of scholars who is that there is no punishment of apostasy in Islam and person has full freedom to choose the religion which he likes. The third opinion of scholars who have explanatory view some differentiates between the silent apostate and caller apostate says that the silent apostate (apostate who does convert from Islam but he does not invite others towards his new religion) has no penalty upon his apostasy while the caller apostate (apostate who converts from Islam and asks others to join his newly religion) will be given death penalty because he is damaging society and inviting others to his newly accepted faith and some says apostasy alone is not a matter of

¹⁶ Raddul Mukhtar : 257/4

¹⁷ Sammarai : P 50

¹⁸ Sarkhasi, Abu Bakr Mohd., *Al-mabsut*, (Al-Qahirah: Matba' al-sa'dah, 1324H), Vol. 10, P 123.

¹⁹ Al-mabsut : 123/10.

death but if it combines aggression against state or Islam. In coming lines these views and evidences will be discussed in detail.

Apostate should be killed:

Majority of scholars, especially the four famous jurists of Muslims Hanafi, Sha'fie, Maliki and Hanbali agreed that the punishment of apostate in Islam is death but they are differed in terms of his repentance that is it compulsory (wajib) or recommended (mustahab). According to Hanafi School he is liable to give a chance of repentance on recommended basis because he is familiar with Islam, so if he reverts to Islam, he is safe otherwise he has to face death and if he demands some time then he will be given three days²⁰. Maliki School of thought considers repentance as obligatory act and apostate must be given such opportunity till third days hoping his revert, if he comes back to Islam, he is Muslim and his soul is protected but if he refused to do so he will be killed²¹. Preferred opinion of Sha'fie that apostate will be given the chance of repentance as obligatory basis without any extension day, means after his apostasy, he will be presented Islam again, if he agrees to be Muslim again, he is most welcome but if he rejects it and stands as unbeliever he will be sentenced by death immediately²². Hanbali School has two opinions about repentance that it is recommended or obligatory, anyway he gives three days of extension if apostate does not accept Islam immediately, after three days if his condition is same, he will be killed²³. It is narrated by Hasan Al-basri that apostate will not be granted any chance of repentance and he will be killed at present but this opinion is very rare and being human it is possible that person can stuck with some misconceptions about Islam, so he must be given chance to repent²⁴, thus I do not agree on this view and narrated by Sufiyan Thauri that apostate should be given chance till forever²⁵; which is interpreted differently by scholars those who certain death penalty for apostasy says that it mean that opportunity of repentance should be granted till there is no hope of reverting or whenever he apostatizes he will be given chance of opportunity, no matter how many times he does, while scholars who sees no death penalty on apostasy in Islam says that if there is death penalty he should not be given such long period of time opportunity of repentance²⁶. However meaning is his opinion is that he will be asked for repentance forever.

Let's see the evidences by which these scholars are stating death penalty for apostasy. Their first evidence is the Hadith recorded by Bukhari that "Whoever changes his religion, kill him²⁷". This is very strong evidence for this group and it has several

²⁰ Al-Mabsut : 98/10.

²¹ Kharshi, Mohd. bin Abdullah, Sharh Alkharshi, (Bayrut: Darul Fikr), Vol. 8, P 65.

²² Shirazi, Ibrahim bin Ali, **Al-muhazzab**, Vol. 2 P 223.

²³ Murdawi, Alauddin Ali Bin Sulaiman, **Al-insaf fi M'rifati Al-rajih...**, (Matba' al-sunnah al-muhammadiyah, 1957), 1st Ed., Vol. 10, P 328.

²⁴ Sabbagh, Abu Nasr Abdul Syed, **Al-shamil**, (Darul Kutub), Vol. 6, P 100.

²⁵ Ibn-Taimiyah, Sarim Al-maslul, 317.

²⁶ Mukashafi, Taha Alkabashi, **Al-riddah wa Muhakamatu Mahmood Mohd. Taha**, (Khurtum: Darul Fikr), P 33 – 34.

²⁷ **Bukhari**, Kitab Al-jihad Fil Istatabatil Murtaddin.

supportive hadith in this meaning narrated by other companions, that's why opponent's argument of being this Hadith "Ahad" (hadith which has only one narrator in all period) is not stronger. Opponent also argues that this hadith is very common this could include non-Muslims as well, so if any Christian converts to Judaism, he will be kill too because Prophet (peace be upon him) is saying "Whoever" but this idea is based on wording meaning while its essence denies it because Prophet (pbuh) addressed this Hadith among his companions and they were Muslims, so it was obvious that the point of Prophet (pbuh) is Muslim not others religious people. For the sake of argument even we consider this Hadith general then Prophet (pbuh) should mention this in the treaty of Madinah but he did not do so as well he supposed to stop inviting others towards Islam because anyone changes his religion he would be killed. Another counter argument normally, found in books is that this contradicts with the verse says "there is no compulsion in religion". This will be discussed later.

Their second evidence is also a very strong Hadith recorded by Bukhari and Muslim. The hadith is "It is not permissible to shed any Muslim's blood except by of of three: adultery practiced by married one, someone killed other, and person leaves his religion, going away from group²⁸". This hadith is clearly deliberating that when a Muslim could be killed in Islam Law. This Hadith also specifying the meaning of above mentioned Hadith. In another hadith words come "blasphemy after Islam" which is clearing its meaning in other word but this is the Hadith which is used to differentiate between silent and inviter apostate, which will come later.

The third evidence of these scholars is the incident took place between Abu Musa Al-ashari and Ma'az bin Jabal, recorded by Bukhari and Muslim that Prophet (pbuh) asked Abu Musa to travel Yemen; later Mua'az followed him, when he reached Yemen, Abu Musa presented pillow and asked to come down from ride, while he saw one chained person there, questioned about it and said what is this? Then Abu Musa replied he was Jew, accepted Islam, and again he moved to Judaism. Ma'az said I will not sit unless this person is killed, the decision of Allah and his messenger²⁹". This is also very strong evidence on punishment of apostasy as death in Islam. This also indicates that this was practiced during Prophet Time, which is against of many who claim that this penalty was not executed Prophet Time.

The fourth evidence of scholars who prescribe death as penalty for apostate is the Hadith recorded by Baihqi about a woman whose name was Umm-e-Marwan she left Islam then Prophet (pbuh) ordered to present Islam on her, if she repents, then it is good, if not she should be sentenced by death³⁰. According to Hafiz Ibn Hajr this hadith is weak but in same meaning from different chain of narrators many hadith came which make this notion stronger like hadith narrated by Mua'az that whoever leaves Islam, invite him back, if he

²⁸ Bukhari,

²⁹ Bukhari,

³⁰ Baihqi

return back, it is good, else his neck will be cut out and whoever from woman apostatizes, invite her to Islam, if she comes back, it is fine, else her neck should be slaughtered³¹. Hafiz Ibn Hajr comments on this hadith that this is Hasan. In science of hadith it is known that if a hadith narrated in same meaning with different companion will support it and if it is weak will become Hasan and it is Hasan will become Sahih. This hadith also against the Hanafi School of thought which says that an apostate woman will not be killed as punishment but she will be put in prison. The basic evidence of this it the Hanafi Scholars measure this on the situation of war where woman is not allowed to killed while others scholars such as Maliki, Hanbali and Sha'fie considers it applicable to everyone without any exception of anyone, if all conditions are exist³².

The last evidence which I will mention about the scholars who believe that an apostate should be killed in Islamic Law is the consensus of Scholars and Jurists. Ibn Qudama says: "The scholars are agreed on the obligatory of killing an apostate and it has reported by Abu Bakr, Uthman, Ali, Ma'az, Abu Musa, Ibn Abbas, and Khalid etc. and no one has refused it thus it is consensus³³. This notion of consensus is objected by second group of scholars saying that there are many scholars who have different views on this issue, even according to one Hadith Umar disagree with the punishment of death which will be mentioned later but it could be said that this is rare opinion as Abdullah bin Ahmad Qadri says that it is rare view and it contradicts the texts and practices of ancestors³⁴.

Apostate does not have any prescribed punishment:

Scholars of this group have view that there is not clear evidence of death penalty in Islam, thus it should not be executed. Some of them are S. A. Rahman retired Chief Justice of Pakistan, after an analysis of the relevant texts of the Qur'an on apostasy concludes:

The position that emerges, after a survey of the relevant verses of the Quran, may be summed up by saying that not only is there no punishment for apostasy provided in the Book but that the Word of God clearly envisages the natural death of the apostate. He will be punished only in the Hereafter³⁵. The late Mahmud Shaltut, Shaykh al-Azhar says that it was practiced on crimes against the state and it is inferred from isolated hadith, thus prescribed punishment cannot be established on such foundation³⁶. Hashim Kamali says: "The Qura'n prescribes absolutely no temporal punishment for apostasy, nor has the Prophet (peace be upon him) sentenced anyone to death for it³⁷. These are some scholars who believe that there is no any prescribed penalty in Islam for apostasy.

³¹ Baihqj

³² Al-mabsut: 10/108 – 109.

³³ Al-mughni : 8/123.

³⁴ Qadri, Abdullah bin Ahmad, **Al-riddah Anil Islam**, (Jeddah: Maktaba Al-ilm), P 103.

³⁵ Rahman, S. A. : 54.

³⁶ Abdullah Saeed & Hassan Saeed, **Freedom of Religion, Apostasy and Islam**, (England: Ashgate Publ. Limtd. 2004), P 95.

³⁷ Kamali, Muhammad Hashim, **Islamic Law in Malaysia: Issues and Developments**, (Kuala Lumpur: Ilmiah Publishers, 2000), P 219.

Let's we see what are the evidences these scholars posses. The first evidence is the hadith reported by Anas that he said he came to Umar (May Allah be pleased with them), Umar asked what happened about six people of Bani Bakr who left Islam and joined the community of disbelievers? He said: Oh! Leader of believer's nation apostatized and met with disbelievers, there is nothing for them except death. Umar said: if I had cached them, I was not going to do with them what you did. I was going to present Islam upon him, if he repents, I will do accept it and if he does not repent then I will put him prison³⁸. The same opinion is holding Ibrahim Al-nakh'e and Sufiyan souri³⁹. If we contemplate on this incident, we find firstly that Umar is saying that if I had cached them, I had done this, which means it is his personal view as he had many others like that seeing the situation and indirectly its appearing that he is not denying the punishment at all as this group of scholar claim, thus if we have in one hand the hadith of Prophet (pbuh) and in another hadith a practice of companion, the rational says we should follow Prophet's saying as Qura'n asked us to do "Follow Allah and follow messenger" and if we have one companion is saying one thing and around 10 even more saying something else then also rational says we should go towards majority. If it is said that how such great companion Umar and other scholars will go beyond the prescribed punishment whose execution is obligatory if all condition are exist. So its answer is very simple that being human committing mistakes is not unusual. According to one science of hadith rule that when a person found differed in his action and saying, we should take what he said, thus we have many sayings of Umar (may Allah be pleased with him) where he orders to kill the apostate like a hadith recorded by Abdul Razzaq in his Musannaf that Ibn Masud caught the some people of Iraq who had converted from Islam to other religion, so he sent a letter to Umar about them then Umar replied that present upon them Islam if they agree let them go but if they refuse to do so kill them⁴⁰. Saying so means this evidence is very weak in order to disapprove the any punishment for apostasy in Islam.

The second evidence of these scholars is that Qura'n has mentioned the issue of apostasy at several places but it did not mention death as its penalty. This is very fact that Qura'n has mentioned many verses in regard to apostasy but did not mention its punishment but does being silent of Qur'an in this issue will lead to say that there is no punishment of apostasy in Islam. It not reasonable idea because there are many issues that Qur'an mentioned it but its details are found in hadith such as prayers, paying charity etc. and according to science of hadith we knew that hadith came normally for four purposes with regard to Quran. First is to certain the same ruling. Second it to deliberate some rule. Third is to specify which is common and to generalize which is specific. And fourth is it brings totally new rule which is not mentioned in the Qura'n. One Pakistani scholar has proved the punishment of apostasy in Qura'n with the incidents which occurred to Musa

³⁸ Musannaf Abdul Razzaq: 166/10.

³⁹ Musannaf Abdul Razzaq: 166/10.

⁴⁰ Musannaf: 169/10.

and Harun (May Allah's mercy be upon them) because when Musa went to the Tur mountain, he left Harun as guardian among his followers, during that time when Samiri has created idle, at the end they were asked to kill themselves in order to get your repentance accepted and they did so, thus whatever rules are given to the previous messengers they are also our rules unless Sharia' gives any new law about it⁴¹.

The third evidence of these scholars is that punishment of apostasy contradicts with the freedom of religion granted by Sharia' as Allah says "There is no compulsion in religion" and further says "Whoever wants to accept Islam, let him do and whoever wants to disbelieve, let him do so". It is true that Islam has granted the freedom of religion but it has to be asked that when this freedom has been granted whether before accepting Islam or even entering in Islam this freedom exists, thus scholars of second group say that this freedom remains event accepting of Islam while the scholars of first group say this freedom is granted before accepting Islam as Sha'rawi says that a person is free to choose Islam as his religion or not to choose, but once he accepts Islam, he is subject to all its requirements, and further he has no right of renouncement of Islam⁴². The latter stand is very reasonable because being Muslims we have to realize that Islam is not a ritual religion; rather it a way of life and it claims that is best and that is only can save mankind. Qura'n says that if you enter in Islam you enter fully with all of your conscious.

The fourth evidence of these scholars is that on the day of Conquered of Makkah, Prophet had allowed killing of certain people because of their offences, one of them was Abdullah bin Sa'd bin Sarah, he was one of the writer of verses of Qura'n when it was raveling on the Prophet, later he joined the polytheism once again and supported non-believers. On the day of conquering of Makkah, he hide himself at the home of Othman, he took him before Prophet and asked Prophet to have pledge with him. Prophet raised his head and saw towards him three times, every time he stopped himself to take pledge with him, at the third time he did it and told to his standing companions, no one was a rational among you that he should kill him when he saw me hesitating to take oath with him⁴³. This hadith seems very strong and shows that if death penalty is the prescribed punishment of apostasy, why Prophet forgave him while when Usama has appealed to forgive Makhzumiya in the matter of stealing, Prophet got angry and said "do you intercession in one of the prescribed punishments of Allah, by Allah if Fatimah daughter of Muhammad has stolen, I was going to cut her hand. However, by seeing Prophet order of his killing and again accreting it for his companions indicates that the punishment is head off but due to circumstances it could be changed which I will discuss later too but I do not find thing which indicates that there is not a punishment for apostasy and man is free to live in Islam or free to leave it as claimed by these scholars.

⁴¹ Tanzilurrahman, **Islam main Irtidad ki saza**, (Lahore: Qanuni Kutub Khana), P 34 – 35.

⁴² Mutawalli, al-Shar'awi, **Al-Fatawa**, (Beirut: Darul Awdah, 1983), P 149.

⁴³ Abu Da'ud, vol. 2, p. 599.

Explanatory View:

Currently, many scholars are saying such views that after contemplating the evidences mentioned in Shari'a we could conclude that an apostate who converts from Islam to another religion and does not invite others towards it nor he tries to say or write bad about Islam, such apostate should not be killed and an apostate who leaves Islam and ask others to do so or writes or says bad about Islam to the people, such person should be killed. Dr. Abdul Latif Abdul A'al says that "Punishment is executed not because of apostasy but it is combined with crime and transcend"⁴⁴. Salim Al Awa considers that this is not prescribed punishment; rather it is discretionary punishment where the leader of time has authority to fix according to situation and person⁴⁵. Dr. Yousuf Alqarzawi writes that what I see is that scholars had differentiated in the matter of innovation between lighter and greater as the differentiated among innovative people between inviter and non-inviter, same as it is we should differentiate in the matter of apostasy, for example the apostasy of Salman Rushdi is very big and he is one who inviting towards it by his tongue and pen thus we should follow the view of majority at this point otherwise we could follow the view of Nakh'ee and Thau'ri⁴⁶. These are some scholars who are trying to have a moderate view on the matter of apostasy.

Let's see what are evidences these scholars using to prove their viewpoints. The first evidence is Hadith narrated by Ibn Masud in which he says "Leaving his religion and joining the group", thus the argument is that it was enough for prophet to say that "Leaving his religion" when he added "Joining the group" mean it has additional meaning and that is he is conspiring and supporting non-Muslims against Muslim. That's why we should kill him but he is not doing any such thing, there is no need to kill him because this contradicts Islamic principle of freedom of religion that there is no compulsion in religion⁴⁷.

The second evidence is what Ibn Taimiyah says that Prophet accepted repentance of few apostate and ordered for some others to kill because they combine with their apostasy something which is harmful for Islam and Muslim, like his order of killing to the Maqees bin Hubabah on the day of conquering of Makkah because he had killed a Muslim and looted wealth and did not repent before he was caught. And Prophet ordered to kill the people of Uranin because they did same things too ... such he has differentiated between pure apostasy where repentance is accepted and apostasy mixed with the fighting against Allah and his messenger and trying to spread mischief in the earth such person's repentance not be accepted even before catching him⁴⁸. This view has been refuted by the scholars who believe that the punishment is death because if a person will try to threaten Muslim or

⁴⁴ Mohd. Abdul Latif Abdul A'al, *Uqubatul Idam*, (Darunnahzah Al-arabiyah), P 171 – 172.

⁴⁵ Awa, Mohd. Saleem, *Punishment in Islamic Law: A comparative Study* (Indianapolis: American Trust Publications, 1982), P 50.

⁴⁶ Qarzawi, Yousuf, *Al-riddah*, (), P 52.

⁴⁷ Mata'eni, Abdul Azeem Ibrahim, *Uqubatul Irtidad aniddin baina al-adillati al-sahriate wa shubhatil munkarin*, (Al-qahirah: Maktabah Wahabah, 1993), P 38 – 39.

⁴⁸ Ibn Taimiyah, Taqi Uddin Abil Abbas, *Al-sarim al-maslul ala shatim al-rasul*, 1st ed. P 368.

will try to spread mischief in society he will be killed on the basis of fighter against Allah and his messenger the punishment of hirabah, so there is no need to differentiate apostate in such category, further it could be categorized apostate non-fighter against Allah and his messenger will be killed and apostate fighter against Allah and his messenger will be granted the punishment of Hirabah as Imam Shoukani did⁴⁹.

The third evidence is incident of Abdullah bin Sad bin Abi Assarah, where Prophet has accepted his repentance. He neither killed him nor put him in prison. This means that apostasy is not a prescribed punishment but it is discretionary one, thus it is possible that one could be killed and one not be killed according to circumstances as Umar said that he could put the people of Bani Bakr in prison. These are the evidences of this group and we have seen every group's evidences.

The Preferred Opinion:

After discussing three opinions of scholars, some might could say four opinions one apostate should be killed, second apostate he does not need to face any punishment, third apostate would be killed at the time of transgression, and fourth one is his punishment is depend on the leader of time because it is discretionary punishment. However, I had divided all in three only because last two somehow is similar because to finalize that who is transgressor, opinion of present leader required, thus it is not fixed at every time. Anyway, the preferred opinion for us is attached with certain conditions:

The first thing which is beyond any doubt that apostasy is a great sin in Islam and it has punishment, thus I do not agree with the second opinion of scholars who claim that there is no punishment in Islam on apostasy and I also do not agree with the opinion of first group because of many evidences which contradicts what they are believing in it and to finalize a rule on any issue, it is recommended to combine all evidences related to particular issue then opinion should be expressed, so when we combined all its proofs we found different in nature so we cannot fix the punishment at every time. This means that I do agree with the opinion of third group scholars but I do agree by these following steps:

1: Death is the permanent and general rule of apostasy and this should be implemented at all time because as I have mentioned evidences and others which I did not mention here in this paper, if we see all we find that Prophet or his companion as well scholars of best period they used to rule by this and they used to implement death on person who apostatizes.

⁴⁹ Shoukani, Mohd. Bin Ali, **Nailul Awtar**, (Bayrut: Darul Jeel, 1973). Vol. 8, P 7.

2: There are some evidences where we find the death penalty is not executed, thus it is rare and the leader of time has authority to decide it for certain person but as general apostate should be killed.

3: This penalty should be executed by the state authority not by the individuals in the society in order to maintain peace and order in the society.

4: In our current scenario of world where every nation had obliged to respect the religious freedom, although it is not allowed to not apply death penalty on apostate who invites others towards it as well tries to propagate Islam in bad manner because we know these freedoms are bound to not affect others, while this kind of behavior is very sensitive issue for Muslims. This means at the time of pure Islamic State, this condition will not apply but rather would be applied 1st and sometimes 2nd point. And saying that is because I explained that in some times leader of particular time will have authority to pass law according to time, place and person, thus taking it in mind where we do not have Islamic State, it is recommended that we should abide rule which is in the favor of time till the extend where Shari' has granted permission. This issue is getting debated around the world and many accusing Islam as the religion of force and practicing inhumane punishments, thus if a person converts from Islam for his some personal reasons without creating any sensitive issue for others Muslim let him to do so unlike person who creates issues for Muslims and Islam, he should be killed because freedom is need to practiced in a limit where other do not get harm. This is challenge for Muslims and Islamic scholars that how they present Islam to the new generation as well to non-Muslims in order to ask them to practice Islam as their full of willingness and enthusiastic.

Freedom of Religion:

There is no doubt in our modern society where freedom has put society accountable one to another but this is also true that this freedom has led it to many dangerous stream as well. The bound of respect between elder and younger is dismissed. There are many respected traditions has been slaughtered by the knife of freedom. However, if we talk about religious freedom which is granted by Universal Declaration of Human Rights of 1948 stated "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance"⁵⁰. This is very clear freedom given to human being in the era of science and technology while it has granted 1400 century ago by Islam saying there is no compulsion in religion but as I have quoted it is before accepting Islam

⁵⁰ Article 29 (2), Universal Declaration of Human Rights.

but after accepting Islam; Islam does not allow anyone to leave it because of certain reasons:

1- Islam is the best religion and it is way of life. Since, it is way of life, how it would allow a person to leave it because it came to save human kind from injustice and the hell fire and there is no any system could provide better solution for society what Islam does. Islam is a religion of Allah and whoever practices other than that will not be accepted in the sight of Allah. Syed Sabiq says ‘Islam is a complete way of life. It is religion, state, rituals, leadership It is established on reason and wisdom, there is nothing in its beliefs and practices which contradicts with human nature or stops him to achieve his material and morality objectives. Whoever enters in it and recognized its nature, and tested its sweetness, if he leaves it and practices renouncement of Islam, actually he is out of reason and wisdom, and he is refusing the proof and evidence and he is deprived of pure nature and when a person reaches at that stage, his life should not be protected because his life does not have any noble goal⁵¹’

2- Islam is a system like many other systems and every system has some rules and regulations and person who accept it, he has to abide its rules. For example, a person wants to visit Malaysia, he has to consider the law of Malaysian customs and others as whole to enter in Malaysia and to be free in Malaysia but if anyone fails to abide Malaysian Law of Custom or other, will be considered offender and he is liable to face charges against him and in some offences he could be sentenced by death, and this is well accepted around the world without any issue of freedom of expression, freedom of living style etc. The same things go here in regards to Islam. Islam is very clear before it is accepted that it should be accepted in sound mind without any compulsion or fear of anyone because after that he/she has to live with it till death else he/she be executed by death penalty. That’s why we see many stories of people who wants to accept Islam and Prophet used to say no you understand it properly, if you agree from all its points then you are welcome, so why this should be questioned that there is no religious freedom in Islam. Syed Sabiq further says that opposing Islam or renouncing it is actually rebellion against it and for rebellion there is no punishment except on what conventional laws have agreed that is death whoever rebels against any state or its rulings⁵².

3- This law has adopted by Islam on the issue of apostasy because to safeguard the sentiments of religion and to ban the conspiracy of enemies because it could be used as mean to stop others to enter in Islam as the people of Jew were doing at the time of Prophet. Qura’n says “And one group of people of book said to believe in what is revealed on believers at morning and revert from it at evening, might they will return”.

⁵¹ Sabiq, Syed, **Fiqh al-Sunnah**, (Bayrut: Darul Kutub Al-arabiyah), Vol. 2, P 457.

⁵² Sabiq, Syed, **Fiqh al-Sunnah**, (Bayrut: Darul Kutub Al-arabiyah), Vol. 2, P 457

4- If Islam has allowed entering in Islam and going out according to wish of people, it will become silly thing that whenever someone sees benefit in Islam, he will accept it and when he sees that benefit is more in other religion, he might convert into it as it was motive of hypocrite people during the time of Prophet. Qura'n says “”. Imam Ibn Taimiya says ‘Killing an apostate is to protect the faith of believers and to protect Islam itself, Death will guard the religion from being played’⁵³.

5- The another factor is that it is religion of Allah the creator of human being. He knows what kind of punishment is suitable for what kind of offence. We human do not know what is going to happen to next second, if we see the history of these rights sought by western scholars and philosophers, it is not exceed even more that 300 years. In 1810 England were have death penalty on 220 offences. France in 1791 was posing death penalty on 32 offences⁵⁴. Moreover, they used to leave those bodies for month on roads, such humiliating way of killing; they were practicing, while Islam did not prescribe death penalty except on 6 to 7 offences and thought every single step of killing bound it very heavy conditions etc. and now they are opposing some Islamic rules. However, let me cite one example that we human how weak we are and how less knowledge we do posses. The Soviet Union has abandoned the death penalty in all offences in 1947 because of pressure of International Organization but just after three years in 50 it was compelled to practice death penalty on rebellion, spying and smuggling and in the offences of killing in 1954. In United States the state Washington had withdrawn death penalty in 1913 but it was compelled to practice it in 1919 because of increasing rate of crimes⁵⁵. Recently, Indian government seeing the increase of rape in country issued death penalty to four persons thinking that this will create fear in the people in committing such crimes⁵⁶.

These are the logics behind Islamic general rule of apostasy. However, as I wrote above that Islam does not compel anyone to accept Islam neither it intervene others religious matters. Only it invites people on logical base, if someone likes it, he is most welcome in Islam, if he does not like he could continue his religious activities. A Muslim is asked to behave in good manner and to practice justice with his non-Muslims neighbor or friends. Allah says ‘’.

Conclusion:

We have seen above the meaning of apostasy that is going out from Islam and we also seen that to be apostate three conditions of sound mind, choice, and puberty must be exist and also examined some acts which lead to apostasy. We found that scholars are having three

⁵³ Ibn Taimiyah, Taqi Uddin Abil Abbas, *Al-Fatawa Al- Kubrah*, (Matba' Al-qahirah), Vol. 20, P 103.

⁵⁴ Mohd. Baltaji, *Al-jinayat Wa uqubatuha fil Islam Wa Huququl Insan*, (Alq-qahirah: Darussalam, 2003), 1st Ed., P 79 – 80.

⁵⁵ Uqubatul F'daam : P 301 - 303

⁵⁶ Times of India,

opinions on punishment of apostasy in Islam. The first group setting up death as apostate's penalty arguing with the famous hadith 'whoever changes his religion, kill him'. The second group says there is no punishment of apostasy in Sharia' arguing that there is no evidence exists in Quran and Prophet did not kill Abdullah bin Abi Sad bin Abi Alsarrah; the person who used to write verses of Qura'n later he joined the blasphemy. The third group who has explanatory view in this regard some of them considers it discretionary punishment, while some others differentiate between silent and inviter apostate. Some of them combine other conditions of offences to be killed. However, preferred opinion is to me is that the general of rule of apostasy is death and that should be practiced at all time except in few cases where the leader of time sees something else and in this current time the person who apostatizes and invites others to his corrupted thought or propagates bad about Islam would be killed because he is teasing Muslims and his freedom giving pain to others, such freedom should be slaughtered while who converted with some personal reasons, let them free because we do not have Islamic State and he is not creating any sensitive issue for Islam and Muslim. At the end, I had discussed the matter of religious freedom sought by UN and other western states, and ended expressing the logics of giving death penalty on apostasy by Islam and showed that this is perfect punishment to safeguard religion as well to maintain peace and order in society, if we human try to fix punishments according to our thinking, we will be changing it time to time because our knowledge is limit. Finally, Islam is a religion which does not compel anybody to accept it but whoever accepts it; it requires his full conscious and conviction and it does not allow leaving it later.

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