

APOSTASY PUNISHMENT IN ISLAMIC SCHOLARLY DISCOURSE: PERSPECTIVES AND IMPLICATIONS IN THE MALAYSIAN CONTEXT

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ABSTRACT

This study explores the current academic debate on the punishment for apostasy within Islamic scholarship, focusing specifically on the Malaysian context. Traditionally, classical fiqh literature has prescribed the death penalty for apostasy, based on the view that renouncing Islam is both a theological error and a threat to community security and political stability. However, modern Muslim scholars are increasingly questioning this stance, arguing that it contradicts Qur'anic principles of freedom of belief and human dignity. The issue addressed in this study is the tension between classical legal positions, emerging reformist perspectives, and the existing legal framework in Malaysia, where laws vary from punitive measures in some states, such as Pahang, to counselling-based approaches in Negeri Sembilan. This research aims to analyse contemporary reinterpretations of the punishment for apostasy and assess their implications for Malaysia's pluralist legal system. It particularly evaluates the viewpoints of three influential reformist scholars, Abdul Mutaal al-Soidi, Taha Jabir Al-Alwani, and Ahmad al-Raisūnī, who oppose capital punishment by emphasising the principles of Maqasid al-Shariah, including the protection of intellect, dignity, and freedom of belief. Methodologically, the study employs qualitative content analysis of primary legal texts, complemented by semi-structured interviews with officials from the Federal Territories Mufti Office and practising Syariah lawyers. Findings reveal a strong theoretical basis for reinterpreting apostasy as a matter of personal conscience rather than political rebellion, and for advocating a shift from coercive legal measures to education and dialogue. While classical jurists linked apostasy to political treason due to the sociopolitical realities of early Muslim societies, contemporary nation-states operate within different legal, constitutional and human rights frameworks. This makes a punitive approach less compatible with modern governance and more aligned with historical contingencies rather than universal principles. The study makes a global contribution by proposing an Islamic legal reform framework aligned with constitutional rights and international human rights standards, demonstrating how Islamic jurisprudence can evolve while maintaining its ethical foundations.

Introduction

Religious freedom is a vital subject in contemporary human rights discourse, frequently intersecting with theological and legal matters within religious organisations. Apostasy in Islam, defined as the intentional renunciation of one's faith, remains a profoundly complex issue. Historically, traditional legal interpretations endorsed the death penalty for apostasy; however, this perspective has increasingly been challenged by contemporary human rights concepts and evolving Muslim scholarship (Rokhmadi et al., 2023). A notable case is that of Armin Navabi (2014), who became an atheist after leaving Islam and subsequently received death threats. He later moved to a Western country for protection. The international outcry highlighted the disparity between Islamic legal principles and the United Nations' criteria for religious freedom. Although Navabi was eventually granted asylum in Europe, his ordeal provoked broader debate about Islam's stance on freedom of conscience (Razali et al., 2021). He further warned that Muslims in several Asian countries, including Malaysia, often feel unsafe renouncing their faith due to the real threats of violence and legal consequences.

Such high-profile events have led many Malaysians to perceive Islam as excessively severe, particularly in the assumption that it requires the death penalty for apostates. This misconception has fuelled misunderstandings about the faith and galvanised local feminist movements to advocate for reform of Qur'anic-based apostasy legislation (Rokhmadi et al., 2023). This study examines the reinterpreting views of three modern Islamic scholars: Abdul Mutaal al-Soidi (1894-1966), Taha Jabir Al-Alwani (1935-2016) and Ahmad al-Raisūnī (b. 1963), in relation to Malaysia's Syariah legal system. Each scholar opposes the automatic imposition of capital punishment for apostasy, instead emphasising Qur'anic injunctions on the inviolability of individual conviction, the prohibition of coercion and ultimate accountability in the hereafter (Al-Ninowy & Alshamy, 2023). The authors draw on classical jurisprudence, Malaysia's state-level Syariah laws, and the Federal Constitution's provisions on religious freedom to support their claims. This framework provides a sound basis for amending Malaysian apostasy laws in line with human rights standards and the *maqāṣid al-shari‘ah*, which aim to safeguard faith, intellect, and dignity.

Methodologically, this research employs textual analysis and semi-structured interviews with Islamic authorities in Malaysia to clarify how these scholars formulate alternative theological positions. Its contribution lies in outlining the theological foundations for reconciling apostasy with religious freedom. It also assesses the applicability of these perspectives for potential legal reforms in Malaysia, rooted in both fidelity to Islamic principles and pragmatic policy considerations.

The Malaysian situation represents a significant case study, given the coexistence of two legal systems: Islamic law for Muslims and civil law for all citizens. This dual framework complicates the handling of apostasy in a manner that adequately respects religious freedom (Noor & Lee, 2023). The complexity of the issues is further heightened by the enactment of state-level legislation prescribing various penalties for apostasy, including fines, imprisonment and mandated rehabilitation programmes. These provisions have attracted criticism from human rights advocates, who argue that they contravene constitutional protections of individual liberty and freedom of religion (Rusli & Abdul Kadir, 2022; Hamidah et al., 2017). The matter remains especially sensitive within the Malaysian Muslim community, where apostasy is widely regarded as both socially taboo and politically contentious (Nik Wajis, 2018).

The challenges encountered by *mu'allaf* (converts to Islam) who contemplate leaving the faith, such as insufficient knowledge of Islam, lack of religious commitment, and familial pressures, further complicate the discourse surrounding apostasy punishments in Malaysia (Rusli & Kadir, 2022). Although the Malaysian legal framework formally allows for religious freedom, the practical reality for Muslims seeking to change their religion is often marked by legal ambiguities and significant social and administrative obstacles (Morgan & Sulong, 2020). This study therefore aims to examine diverse perspectives on the punishment for apostasy within Islamic academic debate and to assess their implications, particularly in the Malaysian context, by considering both traditional interpretations and contemporary challenges.

Literature Review

The punishment for apostasy has long been a central issue in Islamic law, addressed by both classical jurists and contemporary scholars. This literature review synthesises classical legal thought and modern reinterpretations to provide the scholarly background for this study, with particular emphasis on the diversity of viewpoints and the ongoing debate over punishment prior to the imposition of the death penalty. The purpose is to provide a comprehensive outline of the field of study.

A study by Jauhari et al., (2023) highlights the differing views among jurists in the Hanafi and Shāfi‘ī Schools concerning the apostasy status of children who have not yet reached puberty and their rights to inherit property heirs. This study employs a qualitative descriptive methodology, utilising a literature review to gather perspectives from scholars in both schools. According to the Hanafi School, apostasy before puberty is valid, and such individuals are therefore ineligible to inherit property. This ruling is derived from reports in the *sirah*, specifically, “And for us that ‘Alī (r.a.) embraced Islam during his childhood, and the Prophet confirmed his Islam, and his confession of such is well known”. (Jauhari et al., 2023).

The discourse of ‘Alī indicates that those who have attained puberty are required to fulfil their religious obligations. Consequently, the Hanafi School maintains that youngsters who have reached puberty are accountable for their Islam and their apostasy. The Hanafi School further asserts that if such children apostasize, the ruling remains valid, regardless of whether they embraced Islam independently or merely followed their parents' faith. As a result, they are prohibited from marrying Muslims and from inheriting property. In this interpretation, apostate children are considered legally valid in their apostasy once they reach the age of *mumayyiz* (discernment) (Jauhari et al., 2023).

This position contrasts with that of the Shāfi‘ī School, which maintains that children who have not attained puberty cannot be penalised for apostasy and remain entitled to inherit property. The evidence cited in this regard is a hadith recorded in al-Bukhārī:

Translation: The writing of deeds is lifted from three (kinds of) people: from the sleeping person until he awakens, from the child until he reaches adulthood, and from the mentally disabled person until he regains sanity.

(al-Bukhari, 1994, Hadith No. 4403)

The Shāfi‘ī School interprets this hadith as evidence that children are not yet accountable for their actions and are therefore not subject to *taklīf* (legal responsibility). Consequently, minors remain free from sin as they lack sufficient comprehension of Islamic law. The Shāfi‘ī School further holds that all types of charitable acts undertaken by young children are not binding, whether conducted through *wakālah* (guardianship) or direct transfer, regardless of the significance of the subject matter. This extends to acts expressed as pledges or declarations, and applies whether the child is of limited understanding or displays intelligence.

On this basis, a child is not regarded as a *mukallaf* (legally accountable person), and is therefore exempt from *taklīf*, while still retaining the right to inherit from his Muslim relatives, as no impediments to inheritance (*māni‘ al-irth*) exist between the child and his heirs (Al-Bukhari, 1994.).

The Hanafi School considers apostasy by a *mumayyiz* youngster (one who has reached the age of discernment) to be valid, thereby excluding such individuals from inheriting from Muslim relatives or marrying within the faith. This position reflects a rigorous enforcement of legal responsibility linked to personal agency, even among minors. Conversely, the Shāfi‘ī School maintains that children prior to puberty are exempt from *taklīf* (legal responsibility) and cannot be penalised for apostasy. The justification is grounded in the principle that full legal and moral accountability in Islam depends upon intellectual maturity and a comprehensive understanding of religious duties (Morgan & Sulong, 2020).

This disagreement illustrates fundamental jurisprudential philosophies. The Ḥanafī perspective conforms to a traditional framework that emphasises communal boundaries and legal deterrence. In contrast, the Shāfi‘ī perspective presents a jurisprudential flexibility more closely aligned with contemporary values of individual rights and freedom of thought, particularly in relation to minors. This study confines its examination to the issue of apostasy among children within the Hanafi and Shafi‘ī schools. The broader consequences for apostasy for heirs and successors fall outside the scope of this discussion.

This historical disparity highlights the intricate relationship between legal capacity, religious duty, and punitive measures within Islamic legal scholarship, particularly in relation to the age at which individuals are considered fully accountable for their faith choices (Morgan & Sulong, 2020). The ongoing scholarly discussion on apostasy among minors further illustrates the ongoing debates within Islamic jurisprudence concerning religious freedom, particularly when contrasted with contemporary viewpoints that advocate for greater individual autonomy within Islamic frameworks (Saeed, 2017).

Prominent scholars such as Ṭaha Jābir al-‘Alwānī, for instance, contest traditional punitive interpretations by asserting that foundational Islamic texts prioritise freedom of belief, framing apostasy as a matter solely between the individual and God, unless it involves acts of treason (al-Alwani, 2011). This perspective suggests that historical applications of severe penalties for apostasy were frequently contingent upon specific contexts, primarily addressing instances of political rebellion or sedition rather than mere shifts in personal conviction (Ali, 2011). Moreover, some contemporary reformist scholars argue that the Qur’ān does not mandate temporal punishments for apostasy, arguing that such penalties emerged from later jurisprudential developments influenced by socio-political circumstances rather than explicit divine injunctions (Akbar & Saeed, 2020). This process of reevaluation is regarded as essential for reconsidering classical Islamic rulings on apostasy in the present era (Akbar, 2018).

Despite these evolving perspectives, the traditional stance, which frequently prescribes the death penalty for apostasy, continues to dominate many scholarly and legal interpretations (Rokhmadi et al., 2023). Indeed, the prevailing view among Muslim jurists, particularly within Sunni traditions, classifies apostasy as a capital offence, often with a prescribed grace period for repentance (Akbar & Saeed, 2020).

This traditional perspective is often grounded in interpretations of specific hadiths and scholarly consensus, which have historically informed rulings on apostasy across various Islamic societies (Mujib & Hamim, 2021). However, recent scholarship has begun to critically re-examine these interpretations, questioning the direct textual basis for such severe penalties in the Qur’ān, which predominantly emphasises divine retribution in the afterlife rather than temporal punishments for apostasy (Baker, 2018; Nik Wajis, 2018). This divergence in interpretation underscores the enduring tension between traditional jurisprudential approaches and contemporary reformist perspectives on the application of classical Islamic law in modern contexts, particularly concerning individual liberties and human rights (Čustović, 2025; Dewi et al., 2024). This study does not elaborate further on the penalties that Islamic scholars advocate for apostates.

Rokhmadi et al., (2023) assert that the concept of apostasy in Islamic jurisprudence has been examined through various methodologies by scholars from antiquity to the present. This demonstrates that the issue of apostasy among Muslims has persisted throughout history and is not a contemporary phenomenon. They contend that the examination of apostasy within the framework of Islamic jurisprudence must be analysed through the perspectives of diverse contemporary Islamic scholars to achieve a more comprehensive understanding. Nonetheless, their discourse focuses primarily on the historical context of apostasy punishment in Islam and the theological framework of religious freedom. Their study does not address punishments for apostasy other than the death penalty. Importantly, their work highlights a gap that this current study seeks to address: the need for a detailed analysis of jurisprudential mechanisms and interpretative models that enable non-lethal responses to apostasy.

From a Malaysian perspective, studies by Muhammad et al., (2018) and those by Samudin and Mohd Chabidi (2023), investigate emerging patterns of apostasy and the corresponding institutional responses. In Malaysia, the rate of apostasy within the Muslim community is reportedly increasing year after year. Their findings attribute this trend to inadequate religious education, socioeconomic challenges and familial or marital conflicts. Significantly, both studies emphasise the absence of a consistent legal framework and the uneven application of apostasy-related laws among Malaysian states. This

heterogeneous legal landscape highlights the urgent need for a more standardised, comprehensive and rehabilitative approach to apostasy within Malaysia's Islamic law system. Muslims should clearly define the boundaries within the Islamic faith and seek guidance from religious authorities on such matters. Nonetheless, research by Samudin and Mohd Chabidi (2023) demonstrates that the question of leaving Islam remains unsettled as the authorities have yet to provide a precise and uniform response.

An overview of current studies on apostasy indicates a growing trend within Muslim communities, particularly in Malaysia, where individuals leave the faith due to personal, socio-economic, or ideological factors. Classical jurisprudence across the four Sunni schools traditionally prescribes the death penalty for apostasy; however, these discussions often lack detailed elaboration on the procedural and ethical dimensions that precede such a sentence (Rokhmad et al., 2023). Notably, little attention has been given to the conditions under which apostasy is punishable in Islamic law, as well as to the possibility of alternative and non-lethal responses. This study seeks to address these gaps by examining the perspectives of Abdul Mutaal al-Ṣoidi, Taha Jabir al-Alwani and Ahmad al-Raisūnī, and by linking their interpretations to Malaysia's legal framework. This approach provides a more integrated and analytically rigorous framework for re-evaluating apostasy punishment in contemporary Muslim societies.

Methodology

This study employs a qualitative research design, combining content analysis and interviews, to examine contemporary Islamic scholarly discourse regarding the punishment for apostasy. Content analysis was applied to textual resources and theological arguments articulated by selected Islamic scholars. The directed approach is appropriate as it begins with established theoretical frameworks (i.e., classical jurisprudence) and explores how contemporary scholars reinterpret these within current socio-legal contexts (Lutfi et al., 2022). Specifically, this methodology facilitates an in-depth understanding of the conceptual shifts and hermeneutical strategies employed by scholars who advocate for a more nuanced and compassionate approach to apostasy, moving beyond the traditional emphasis on capital punishment (Zahed, 2021). The primary content analysed in this research consists of key texts on apostasy authored by these scholars, including *al-Hurriyyah al-Dīniyyah fī al-Islām* (Al-Soidi, 2012), *Lā Ikrāha fī al-Dīn* (Al-Alwani, 2011) and *al-Kulliyāt al-Asāsiyyah li al-Shari‘ah al-Islāmiyyah* (Al-Raisuni, 2010).

This study focuses on three scholars: Abdul Mutaal al-Soidi, Taha Jabir Al-Alwani, and Ahmad al-Raisūnī. They were chosen using purposive sampling (Mujib & Hamim, 2021). The selection criteria encompassed recognised academic credentials in Islamic jurisprudence, affiliation with reputable institutions (e.g., al-Azhar University, International Institute of Islamic Thought), and published works that explicitly contest the conventional ruling on capital punishment for (Musa, 2024).

The study also incorporated data from a semi-structured interview with a representative from the Federal Territories Mufti Office in Malaysia, as well as a practising Syarie lawyer. This interview offered valuable insights into perceptions and the management of apostasy within the Malaysian legal and religious frameworks. The integration of doctrinal content analysis and expert interviews enabled a comprehensive understanding of reformist perspectives on apostasy punishment (Morgan & Sulong, 2020). This methodological approach thus establishes a vital connection between theoretical argumentation and practical policy implications, particularly in the Malaysian context.

Results and Findings

This analysis presents perspectives that provide a comprehensive overview of contemporary debates surrounding apostasy and legal reforms. This section outlines explicitly the arguments advanced by scholars who oppose the death penalty, examining their reinterpretations of pertinent Qur'ānic verses and Prophetic traditions. In addition, it examines the broader implications of their interpretations for contemporary Islamic legal thought. It assesses their potential impact on policies concerning religious freedom and the treatment of apostates in Muslim-majority countries, particularly Malaysia (Morgan & Sulong, 2020).

The Qur'ān Does Not Prescribe any Worldly Punishment for Apostasy

Apostasy, in an Islamic context, refers to a Muslim's rejection of Islam, an act termed *irtidād* (reverting) or *riddah* (Morgan & Sulong, 2020). The person who engages in this act is referred to as a *murtad* (Rokhmadi et al., 2023). The concept of *riddah* has been historically interpreted in diverse ways across the various Islamic schools of thought, ranging from simple disbelief to active rebellion against the Islamic state. However, the broader theological understanding of *riddah* extends beyond a mere change in religious affiliation to encompass any verbal or behavioural rejection of fundamental Islamic tenets (Rofiq, 2023). The legal and theological ramifications of *riddah* are profound, given their implications for individual salvation and communal order within Islamic jurisprudence (Morgan & Sulong, 2020).

Taha Jabir al-Alwani has addressed the issue, noting that the Qur'ān does not reference worldly punishment for apostates, including coercion to return to Islam or execution if they persist in their apostasy (Al-Alwani, 2011). Allah (SWT) stated, which translates to:

Translation: Moreover, whoever among you apostatises (turns away) from his religion (Islam), then dies. At the same time, he remains a disbeliever, then those who are corrupted will perish because of their (good) deeds in this world and in the hereafter, and they are the people of Hell, abide they in it (forever).

(Surah Al-Baqarah, 2:217)

The verses concerning *riddah* and *irtidād* do not specify any worldly punishment. They neither explicitly nor implicitly suggest that it is mandatory to compel an apostate to revert to Islam or to execute him if he refuses. According to al-Alwani, the Qur'an affirms that faith cannot be imposed, nor can individuals be forced to change beliefs they have adopted, since conviction is a matter strictly between humans and God (Al-Alwani, 2011).

Similarly, Al-Soidi (2012) argues that apostasy should incur worldly penalties only when it constitutes public sedition, thereby safeguarding communal faith (*hifz al-dīn*) and social cohesion (*hifz al-naql*), while also upholding individual dignity (*hifz al-nafs*) and reason (*hifz al-'aql*) by exempting private changes of belief from *hudūd* sanctions. This jurisprudential restraint aligns with the Qur'ānic silence on earthly punishment for apostasy, addressing a legal gap in a manner consistent with both divine revelation and the objectives of the *maqāṣid al-sharī'ah* (Alias et al., 2024).

Religion is Not Established Based on Coercion

Religious life and coercion are inherently incompatible. This assertion is strongly supported by al-Raisūnī (2010), who emphasises that compulsion produces only hypocrisy, which is both false and condemnable. Those compelled to apostatise do not do so genuinely, any more than those coerced into belief are true believers. As the Qur'ān affirms:

Translation: There shall be no compulsion in (acceptance of) the religion. The right course has become distinct from the wrong.

(Surah Al-Baqarah, 2:256)

Al-Raisūnī (2010) explains in *al-Kulliyāt al-Asāsiyyah li al-Sharī'ah al-Islāmiyyah* that this verse highlights the distinction between the absence of compulsion and the permissibility (*ibāhah*) of disbelief (*kufr*). The imperative form (*fa-l-yakfur*) should not be read as a command to disbelieve, but as a rhetorical device affirming freedom of choice. Therefore, the principle of "not forcing someone to Islam" must not be misinterpreted as endorsing apostasy. This verse, if properly understood, actually negates coercion without legitimising disbelief.

In Islamic law, coercion invalidates acts such as marriage, divorce, and commercial transactions; by extension, matters of creed and faith also require sincerity to be valid (Al-Raisuni, 2010). If intervention in religious matters is required, ultimate authority rests solely with Allah (SWT), who grants human beings' freedom of choice. As the Qur'ān declares:

Translation: Moreover, (it is not your responsibility, O Muhammad, to make all mankind believe), if your Lord wills, all the people on earth will believe. (Do not be sad about the stubbornness of those who disbelieve; if God does not will) Then, should you also want to force people to become believers?.

(Surah Yunus, 10:99)

Freedom of choice is thus a divine gift, for coercion endangers only falsehood, hypocrisy and resentment towards Islam and its adherents (Al-Raisuni, 2010). Al-Soidi (2012) further argues that compelling the apostates to revert to Islam falls within the scope of this Qur'ānic prohibition. Just as non-Muslims cannot be forced to embrace Islam, apostates cannot be coerced to return. Belief must arise from conviction, and coercion cannot influence the heart's confidence. Islam, therefore, upholds the principle of religious freedom as one of its core values, while encouraging preaching (*da'wah*) through wisdom and sound instruction, rather than through the imposition of penalties such as death, incarceration, or other forms of forced reversion.

The pronunciation of *ikrāh* (compulsion) in Arabic is expressed in the grammatical form of *nakirah* (indefinite noun), in contrast to *ma'rifah* (definite noun). In Arabic linguistics, *nakirah* conveys generality, whereas *ma'rifah* denotes specificity (Fidayanti et al., 2024). Accordingly, the Qur'ānic prohibition of *ikrāh* encompasses a wide range of coercive practices, including both forcing non-Muslims into Islam and compelling Muslims to leave their faith (Al-Soidi, 2012).

From a *Shari'ah* perspective, *ikrāh* refers to coercion that undermines the free will and intent necessary for moral and legal accountability (*taklīf*). For an act such as conversion, repentance, or reversion to be valid, Islamic law requires *niyyah* (sincere intention), which is nullified under duress (Tabassum et al., 2020). Forced conversion, coerced repentance, or compelled declarations of faith are therefore void.

The Qur'ānic prohibition of *ikrāh* is intrinsically linked to the Islamic principle of religious freedom, affirming that belief should arise from conviction rather than compulsion. Misinterpreting this verse as permitting disbelief (*kufr*) is a fundamental error. The permissive directive (*fa-l-yakfur*, "then let him disbelieve") is not an endorsement of apostasy but a rhetorical device underscoring individual accountability. Correctly understood, it affirms freedom of belief while rejecting the notion that Islam endorses apostasy or promotes abandonment of the faith.

The Prophet Muhammad (PBUH) Did Not Execute Individuals Solely for Apostasy

Al-Soidi (2012) discusses in the sirah an incident involving a man's accusation of unfairness against the Prophet (peace be upon him). This occurred following the Battle of Hunayn in the eighth year of the Hijrah, when the men expressed dissatisfaction with a gift distributed by the Prophet. According to narrations in *Ṣahīh al-Bukhārī* (1994) and Muslim (2002), 'Abdullah bin Mas'ud recounts:

Translation: At the end of the Hunayn war, the Prophet (pbuh) gave priority to certain individuals in the distribution of the spoils. He gave al-Aqra' bin Habis 100 camels and likewise 'Uyainah. On that day, he lavished gifts upon several Arab dignitaries. A man then said: "For God's sake, this division is not fair and does not seek God's pleasure. I said: "For God's sake, I will inform Prophet (pbuh)". When I conveyed this, the Prophet (pbuh) said: "Who can be fair if Allah and His Messenger are not just? Indeed, Allah SWT had mercy on Musa (a.s.) when he was hurt more than this, yet he remained patient.

(Al-Bukhari, 1994, Hadith No. 3150 & Muslim, 2002, Hadith No. 1062)

The man's accusation against the Prophet (PBUH) in the matter of justice amounted to *kufr* and apostasy. However, the Prophet (PBUH) did not instruct his companions to execute him (Al-Bukhari, n.d.). The narrative does not indicate that the man repented, yet he was neither executed nor imprisoned, nor compelled to repent. Al-Sai'di infers from this event that apostates are not compelled into repentance; instead, they should be counselled with wisdom and sound reminders, just as non-Muslims are invited to Islam through *da'wah* (Al-Soidi, 2012). Al-Raisuni (2010) similarly emphasises the Prophet's mercy (*rahmah*) towards those who erred, reinforcing the *maqāṣid al-sharī'ah* principle of compassionate justice. These facts demonstrate that apostasy alone was not deemed sufficient grounds for execution. Capital

punishment was applied only when other offences, such as rebellion or defamation of Islam, accompanied apostasy.

The differences among al-Soidi, Al-Alwani, and al-Raisūnī stem from methodological variations in their interpretations of the Qur'an, Hadith, and classical jurisprudence (*uṣūl al-fiqh*) (Musa, 2024) traditional jurists frequently equate apostasy with rebellion, influenced partly by Prophetic traditions such as:

Translation: Whoever changes his religion, kill him.

(Al-Bukhari, 1994, Hadith No. 6922)

Reformist scholars contend, however, that such hadith should be interpreted contextually rather than literally. They note that many traditions prescribing capital punishment were revealed in wartime or in situations where apostasy posed an existential threat to the early Muslim community (Rokhmadi et al., 2023). This reevaluation suggests that the application of severe penalties was historically contingent upon sedition or hostility against the nascent Islamic polity, rather than merely a private conversion to a different faith (Mohamed Adil, 2007). Such contextual interpretation established a critical distinction between religious dissent and treason, positing that only the latter warranted capital punishment (Rofiq, 2023).

Theologically, contemporary scholars argue that these hadith necessitate contextualisation rather than a literal application. Juridically, scholars like al-Sa'idi emphasise intent, context, and harm, aligning their interpretations with the *maqāsid al-sharī'ah* (objectives of Islamic law), particularly the preservation of life (*hifz al-nafs*), religion (*hifz al-dīn*), and social order (*hifz al-naql*) (Abdul Mutalib et al., 2023). This approach implies that the traditional death penalty for apostasy may represent a jurisprudential overextension not fully supported by the foundational texts when viewed through a holistic lens that prioritises human rights and freedom of conscience (Rokhmadi et al., 2023).

By contrast, traditionalist interpretations continue to prioritise textual fidelity and juristic consensus (*ijmā'*), perceiving apostasy as both theological betrayal and political offence. This perspective often underscores *ijmā'* as a decisive source of law, citing the consensus of early Islamic jurists on the death penalty, particularly for adult male apostates, as evidence of its enduring validity (Nik Wajis, 2018). Advocates of this position also frequently cite the need to safeguard the collective identity and theological purity of the Muslim community, framing apostasy as a destabilising act that undermines the integrity of Islam (Rofiq, 2023). Furthermore, they cite the historical implementation of capital punishment across Islamic caliphates and legal schools as confirmation of its legitimacy and necessity for religious cohesion (Sumardi et al., 2022). Traditionalists often argue that while conversion to Islam is voluntary, leaving it constitutes a breach of a divine covenant and public defiance, warranting severe consequences, irrespective of overt political threat (Zahed, 2021).

In sum, these divergent readings demonstrate that the contention is not over the religious implications of apostasy per se, but instead on the appropriate legal responses, whether through punishment, persuasion, or reform.

Apostasy Accompanied by Additional Crimes

The death penalty for apostates is not exclusively applied to cases of apostasy. Al-Alwani posits that the classical penalties for apostasy arose within a context of political sedition rather than being based solely on theological considerations. He maintains that private apostasy should not result in corporal punishment but should instead be addressed through counselling (*ta'dīb*) and *da'wah* to rectify misunderstandings. This approach upholds *hifz al-'aql* (preservation of intellect) and *hifz al-nafs* (preservation of life), while maintaining religious integrity. It reflects a restorative model of justice in which repentance and reintegration are prioritised (Al-Alwani, 2011).

On the other hand, capital punishment was traditionally prescribed when apostasy was compounded by other serious crimes such as murder, armed rebellion against the Muslim community or joining the enemy forces (Al-Raisuni, 2010). This position is grounded in a Prophetic tradition:

Translation: The blood of a Muslim is not permissible except in three cases: A married person commits adultery, one who commits murder and one who apostatises and separates from the congregation.

(Al-Bukhari, 1994, Hadith No. 6878 and Muslim, 2002, Hadith No. 1676)

Al-Raisūnī (2010) interprets the phrase "separate from the congregation" (*yufāriqu al-jamā'ah*) as denoting rebellion, sedition or active support for hostile forces. While Al-Raisūnī (2010) maintains the traditional consensus permitting capital punishment for persistent apostates, he introduces significant qualifications. He argues that apostates should be given repeated chances to repent, in line with the *maqāṣid* objectives of preserving life (*hifz al-nafs*) and reason (*hifz al-‘aql*). He therefore restricts capital punishment to cases where apostasy is both public and politically subversive, thereby balancing *hifz al-dīn* with the minimisation of harm.

Historically, the imposition of the death penalty for apostasy was shaped by the atmosphere of treachery surrounding the apostate movements against the Muslim community. Such movements were not limited to private disbelief but combined apostasy with rebellion, fraud and sedition. Classical jurists thus applied the penalty to protect communal cohesion and political stability (Mujib & Hamim, 2021). This dual condition, apostasy and rebellion, suggests that the punishment was designed as a safeguard against compounded offences undermining public order, rather than as an automatic penalty for disbelief.

From a contemporary perspective, this distinction is highly significant. In modern nation-states, where constitutional protections uphold freedom of belief and public order is regulated through civil law, apostasy as an individual act may not meet the legal threshold for capital punishment. Accordingly, scholars such as Al-Raisuni advocate for a contextually sensitive application of Islamic law that distinguishes between internal conviction and external aggression, prioritising reconciliation, education, and social integration over coercive measures.

These differences in scholarly opinions do not arise from denying the seriousness of apostasy, but from contrasting interpretive frameworks. Traditional jurists emphasise textual literalism and early consensus (*ijmā'*), while contemporary scholars employ the *maqāṣid al-shari‘ah*, situational analysis and present-day realities to reassess historical rulings (Mujib & Hamim, 2021). Collectively, these findings highlight a crucial shift in the discourse: from a rigid legalism towards dynamic jurisprudential reasoning that integrates ethical, social, and political dimensions. This reorientation is particularly relevant in diverse societies like Malaysia, where managing religious diversity necessitates striking a balance between doctrinal fidelity and civic tolerance.

Discussion

Proposals for the Implementation of Laws on Apostasy Among Muslims in Malaysia

Malaysia provides constitutional guarantees of religious freedom for its population, which comprises ethnic and religious groups. This is enshrined in Article 11(1) of the Federal Constitution, which guarantees the right of every individual to profess and practice their religion, subject to certain restrictions on its propagation and dissemination. The Constitution also extends these protections to non-citizens of Malaysia. However, the propagation of religions other than Islam to Muslims is prohibited under both federal and state legislation (Masum & Ahmad, 2013). Therefore, the freedom to adopt another religion by choice is restricted in relation to Muslims.

According to Daud (2001), Article 11(1) of the Federal Constitution cannot be invoked by Muslims as a legal basis for converting to another faith. Nonetheless, the Shariah courts hold jurisdiction to adjudicate cases involving Muslims who seek to renounce Islam. This is supported by an interview with informant 1, the Officer of the Aqidah Consultation Unit at the Federal Territories Mufti Office, who previously handled cases involving Muslims petitioning to leave Islam.

Table 1. Interview Transcription (Informant 1, 13 July 2023)

Key Factor	Summary of Factor	Direct Informant Insight
Alternative Punishments	References to punishments other than the death penalty	“support other punishments, apart from the death penalty”
Death Penalty Conditions	Conditions under which the death penalty applies	“The blood of a Muslim is halal except... adultery, murder and apostasy”
Hadith Evidence	Use of hadīth texts to justify legal rulings	“(al-Bukhari: 6878, Muslim:1676)”
Combined Crimes	Apostasy is tied to other crimes (rebellion, fighting, aiding the enemy)	“apostasy... combined with two other crimes. Leaving the congregation means rebelling...”
Preventive Measures	Steps to prevent apostasy before legal measures (e.g., counselling, social support)	“study the factors... help him solve the issue”
Rehabilitation Support	Post-apostasy interventions (counselling, job assistance, guidance)	“guidance and counselling until he rises again... give him a suitable job”

The interviews confirmed that many Islamic scholars reject the imposition of the death penalty for apostasy unless it is accompanied by actions that endanger the Muslim community. Factors leading to apostasy, such as psychological distress, familial tensions, or socio-economic hardship, must be taken into account, and the Muslim communities should assist individuals to resolve these challenges so that they might return to Islam. In the Malaysian context, a rehabilitative and supportive approach was emphasised. Informant 1 highlighted that apostates are repeatedly counselled and offered guidance before any punitive measures are considered. Their struggles are investigated holistically, and interventions may include counselling, spiritual mentoring, or employment support. As he stated, “we study the factors... help him solve the issue... offer guidance and counselling until he rises again... even give him a suitable job”.

These findings demonstrate that Malaysian religious authorities, while upholding scriptural principles, prioritise restorative measures in apostasy cases. This institutional preference for support and reintegration over punitive sanctions reflects a broader shift towards contextual and compassionate interpretations of Islamic law. It also parallels modern penal theory, which emphasises rehabilitation and social reintegration over retribution, particularly within a human rights framework (Sumardi et al., 2022; Nur et al., 2020). In addition, the official enactments relating to apostasy were further examined through requests to the relevant state religious departments and contextualised by interviews with a Syarie lawyer from Zulkifli Yong Azmi & Co.

As shown in Table 2, only seven states in Malaysia explicitly criminalise apostasy under Shariah criminal law offence. Meanwhile, other states, including Selangor, Johor, Kedah, Penang and others, have not enacted specific provisions, raising questions regarding legal uniformity and the administration of religion at the national level (Latif, 2024). These variations underscore the ongoing debate in Malaysia regarding the most suitable legal response to apostasy, with state enactments ranging from punitive measures to rehabilitative interventions (Rusli & Abdul Kadir, 2022). Furthermore, as Syariah lawyer Zulkifli Yong Azmi has noted:

“The decentralised enactment process enables each state to set its own criteria for defining and managing apostasy cases, resulting in legal uncertainty and uneven access to rehabilitative support across the country” (Syariah Lawyer, 2023), Control and Restriction of the Propagation of Non-Islamic Religions (Kedah) Enactment, 1988, Control and Restriction of the Propagation of Non-Islamic Religions (Kelantan) Enactment, 1981, Control and Restriction of the Propagation of Non-Islamic Religions to Muslims (Malacca) Enactment, 1988, Control and Restriction (Propagation of Non-Islamic Religions Among Muslims) (Negeri Sembilan), Enactment, 1991).

Table 2. Offence of Apostasy and Punishments in Different States according to Islamic Religious Departments Malaysia (2023)

State	Enactment	Section	Form of Punishment
Terengganu	Syariah Criminal Offenses (Takzir) (Terengganu) Enactment 2001	Section 7 claims non-Muslims	<ol style="list-style-type: none"> 1. The fine does not exceed RM5000 2. Incarceration for a duration not exceeding three years 3. Both
Kelantan	Enactment of the Council of Islamic Religion and Malay Customs of Kelantan 1994	Section 102 confirmation of a Muslim	<ol style="list-style-type: none"> 1. Detained at the Islamic Guidance Centre for a duration not exceeding 36 months. 2. Asked to repent according to Islamic law
Melaka & Sabah	Syariah Offences Enactment (State of Melaka) 1991	Section 66: Attempted Apostasy	<ol style="list-style-type: none"> 1. Detained at the Islamic Guidance Centre for a duration not exceeding six months 2. Asked to repent according to Islamic law
Negeri Sembilan	Syariah Criminal Offences Enactment (2003)	Section 119: Renunciation of Islam	<ol style="list-style-type: none"> 1. Was referred by a Mufti to participate in religious counselling over a period of approximately one year 2. Asked to repent according to Islamic law
Perak	Criminal Enactment (Sharia) 1992	Section 13: Acts or words of apostasy	<ol style="list-style-type: none"> 1. The fine does not exceed RM3000 2. Imprisonment not exceeding two years
Pahang	Syariah Criminal Offences Enactment 2013	Section 9: Attempt to leave the religion of Islam	<ol style="list-style-type: none"> 1. The fine does not exceed RM5000 2. Incarceration for a duration not exceeding three years 3. Six lashes or combination

In practice, apostate offenders are often referred to guidance and counselling centres before being returned to their respective families. However, punishment for apostasy remains inconsistent across Malaysia and requires reform to address the growing number of applications to leave Islam. Apostates should be monitored and supported to identify the underlying reasons for their departure from the faith and provided with appropriate assistance. This inconsistency primarily arises from the decentralised structure of Islamic law in Malaysia. The Federal Constitution allocates responsibility for religious affairs to state governments through their respective Islamic Religious Councils (Omar et al., 2020). Accordingly, the formulation and enforcement of Shariah laws, including those related to apostasy, fall within state jurisdiction, resulting in significant disparity. For example, a Muslim in Kelantan may be detained in an Islamic guidance centre for up to 36 months, while in Perak the penalty may involve a fine or imprisonment of no more than two years. Such discrepancies foster perceptions of arbitrariness and undermine confidence in the fairness of religious governance (Omar et al., 2020).

In states such as Pahang and Terengganu, apostasy may be penalised with fines, imprisonment, or corporal punishment, indicating a more punitive stance. While such measures may deter apostasy in the short term, they also risk fuelling resentment or disillusionment among individuals facing theological or social crises. In contrast, Negeri Sembilan adopts a rehabilitative approach centred on counselling and reintegration, in line with international human rights standards and Islamic principles of religious freedom (Masum & Ahmad, 2013). In these jurisdictions, Shariah courts typically initiate cases through reports from family members, religious officials or applicants seeking formal renunciation. The courts then conduct the *istitābah* (repentance) process, where the individuals are urged to return to Islam. Another example is Perlis, where judges are instructed to document refusal only after thoroughly considering the testimony and counselling (Noor & Lee, 2023). Most states, therefore, adopt a non-punitive model emphasising *nasīḥah* (sincere advice) and *tazkiyah* (spiritual purification). However, the effectiveness of this approach is contingent upon the availability of trained counsellors, adequate facilities and follow-up support (Tabassum et al., 2020).

Several measures are recommended to improve the current system for managing apostasy cases in Malaysia. First, greater national consistency is required. While respecting state autonomy, a standardised federal framework would ensure uniform procedures across all jurisdictions (Samuri & Quraishi, 2014). Second, transparency in Shariah court proceedings should be enhanced (Wahyudi et al., 2023). Publishing court rulings on apostasy would promote accountability and enhance the public's understanding of judicial reasoning. Third, a more holistic support system should be introduced alongside counselling efforts. Psychological services, financial assistance, and social reintegration initiatives are necessary to address the multifaceted factors, such as familial conflict, economic hardship, or emotional trauma, that often drive individuals toward apostasy (Ozcan et al., 2021). Fourth, public education campaigns promoting religious literacy, addressing theological doubts and clarifying the principles of religious freedom could mitigate misconceptions and reduce apostasy cases arising from ignorance or misinformation (Agbaria, 2024).

Ultimately, empirical research is crucial for informing evidence-based policy (Bukhari et al., 2024). There is a need for systematic studies to analyse apostasy trends, the underlying motivations, and the outcomes of current rehabilitation strategies. Such data would not only support more effective interventions but also inform future legislative and institutional reforms aimed at striking a balance between religious integrity, compassion, and justice.

Conclusion

The approaches of scholars such as Abdul Mutaal al-Soidi, Taha Jabir Al-Alwani, and Ahmad al-Raisūnī on the issue of religious freedom diverge significantly from the dominant positions in Islamic jurisprudence. The prevailing view among classical jurists, reflected in the consensus (*Ijmā*) of many scholars, has long been that an apostate should be executed. In contrast, these reformist scholars argue that apostates should not automatically face the death penalty. Instead, capital punishment applies only when apostasy is accompanied by rebellion against the Islamic polity or collaboration with the enemies of the Muslim community. Their interpretations are grounded in a re-evaluation of Qur'ānic principles, particularly the verse *lā ikrāha fī al-dīn* ("There is no compulsion in religion"), as well as in recognition of the contemporary socio-political context, where religious identity no longer equates to political allegiance.

Meanwhile, from a theological perspective, freedom of religion does not imply that Muslims possess the right to renounce Islam. Instead, these scholars emphasise personal accountability, human dignity and the contextualisation of legal rulings through the *maqāsid al-sharī'ah*. They highlight that early rulings on apostasy emerged in contexts where apostasy was often equated with treason. On this basis, they advocate for a more compassionate, pedagogical, and reconciliatory approach, prioritising guidance and rehabilitation over punitive measures. In modern Islamic societies, including Malaysia, such perspectives present a viable pathway for reconciling traditional jurisprudence with contemporary legal and human rights frameworks. Islam continues to prohibit Muslims from renouncing their faith while simultaneously affirming the right of non-Muslims to practice their religion without coercion. Apostasy remains a criminal offence under Islamic law, but in Malaysia, its legal treatment is fragmented and inconsistent. Only a few states, such as Kelantan, Terengganu and Pahang, have enacted specific Shariah criminal laws governing apostasy, while others lack clear legislation or rely on informal procedures. These inconsistencies reflect the decentralised structure of Malaysia's dual legal system, in which states exercise authority over Islamic matters. The absence of a standardised framework leads to uneven enforcement and public uncertainty. In practice, Shariah courts often implement *istītābah* (seeking repentance) and direct individuals to religious rehabilitation centres, rather than imposing punitive sanctions. While consistent with Islam's emphasis on mercy, this rehabilitative model suffers from inadequate post-rehabilitation support and variable implementation across states.

The Malaysian federal government has not enacted nationwide legislation on apostasy, likely due to sensitivities involving religious freedom, state-federal jurisdictional boundaries, and ethnic politics. Nevertheless, more transparent and more consistent Shariah laws on apostasy are required, developed through collaboration between state Islamic authorities and federal guidelines. Such effort should be supported by *da'wah* organisations, an enhanced counselling mechanism, and sustained investigation into the root causes of apostasy. These measures would uphold the integrity of Islamic law while promoting

legal clarity, institutional accountability, and constructive engagement with individuals experiencing spiritual doubts or crises.

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