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Riddah (Apostasy) in Islamic Jurisprudence: The Views of The

Jurists

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ABSTRACT

Islam is a religion that recognizes the freedom of thought and faith. That is why there is no single incidence where force is used so as to convert others throughout the history. Thus, any person feels and willingly accepts it, is not allowed to go out, i.e. to commit 'riddah' (apostasy). This paper is an attempt to highlight on 'riddah', its conditions before it is established; mode of its evidence(s); its punishment and the mode of execution; based on the nusus as well as the opinions of the Fuqaha (jurists). Thereupon, the paper postulates that the basic aim and objective behind the punishment of apostasy is the preservation of Islamic faith, because the whole bedrock of the religion (Islam) and its laws rests on faith. So, by committing the crime (of apostasy) many issues are involved: the issue of withdrawal from the dominion of the Almighty God, there is blasphemy; heresy; and mockery to Islamic community. Considering all these, the crime (of apostasy) is made punishable in order to close all avenues that will humiliate the blessed nation of Islam.

KEYWORDS

Apostasy, Islamic Jurisprudence, Juristic Views

INTRODUCTION

The religion of Islam recognizes freedom of both thought and faith. That is why it is stated in the Glorious Qur'an that:

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Let there be no compulsion in religion (*al-Baqarah*, 2:256)

That is why in the history of Islam, there is no single incidence or case where force is used in order to convert people. Therefore, any person who feels and or willingly accepts the religion (of Islam) is not allowed to go out, that is to commit *Riddah* (apostasy). Bambale (1999) aptly stated that:

"Apostasy is classified among the seven major crimes that may be committed by any Muslim. One basic aim and objective of the Shari'ah behind the punishment of the apostasy is the preservation of the Islamic faith, because the whole bedrock of Islam and *Shari'ah* rests on faith. By committing the crime of *Riddah* (Apostasy) a lot of issues are involved. There is the withdrawal from the dominion of Allah (S.W.T.'s) blasphemy, heresy and mockery to Islamic community. Viewing all these, the crime of *Riddah* (Apostasy) is made punishable so as to close all doors that will debase the sacred nation of the Islam" (p. 172).

Definition of Apostasy (Riddah)

The Arabic equivalence for apostasy according to al-Maghribi (2008) and Siddiq (1979) is *Riddah* or *Irtidad* from the root *Radd* which, among other connotations means to retract, to retire, to withdrawn from or fall back from. In the context of Islamic jurisprudence, it is equated with renunciation or abandonment of Islam by one who professes Islamic faith (Khalil, 2004). The apostate is called *Murtadd*. They further express that:

"According to Muslim jurists, apostasy may be committed with reference to belief, word or deed, or even by failure to observe certain obligatory practices" (p. 325).

El-Awa (1998:49) states that the Arabic word for apostasy is "*Riddah*" or "*Irtidad*", which literally means "turning back". According to him, the former is usually used to signify turning back from Islam to another religion or to unbelief, while the latter has this meaning in addition to others, a person who forsakes Islam for unbelief or for another religion is called *Murtadd*.

Doi (2007) says that al-*Riddah* means rejection of the religion of Islam in favour of any other religion either through an action or through words of the mouth. The act of apostasy thus puts an end to one's adherence to Islam. He further explains it is:

"When one rejects the fundamental principles of faith (*Iman*) like faith in the Existence of Allah or the Messengership of His Prophet Muhammad as contained in the creedal statement of Islam, the *Kalimah* al-*Shahadah*. Similarly, the rejection of the belief in the Qur'an as the Book of Allah or the belief of the message contained in it, other belief in the Day of Resurrection, or Reward and the Punishment of Allah will all amount to apostasy" (p. 265).

Similarly, al-Ajuz (1969:249) adds that the rejection of the obligatory ritual practices like *Salat* (prayers), *Zakat* (giving out poor dues), *Siyam* (fasting of the month of Ramadan), as well as *Hajj* (Pilgrimage) will also amount to acts of *Irtidad*. Likewise, one initiates the practices of non-Muslims in their prayers, etc. it will be considered as an act of *Riddah*.

Ibn Rushd (1996:552) and Bambale (1999:173) agreed that, the Arabic equivalent for Apostasy is *'Riddah'* or *'Irtidad'* derived from the root *'Radda'*, which means to retreat, to retire, to withdraw from or pull back from. They further define *Riddah* from the legal perspective, as the renunciation or abandonment of the Islamic faith by one who profess it to any other religion. The person who forsakes Islam for unbelief or for another religion is called a *Murtadd*.

Abi al-Azhari (n.d : 278), al-Ribataniy (n.d: 371) and Bambale (1999:174) further explains that, the crime of apostasy is committed with reference to belief, words or deeds, or even failure to observe certain obligatory practices or the tenets of Islam. Some are the following:

- a) The saying of words in contradiction or denying openly the fundamental teachings of Islam, i.e. the five pillars of Islam.
- b) Throwing the Glorious Qur'an in filth.
- c) Abuse or say Noble Prophet Muhammad (S.A.W.) is not the last Prophet or abuse of other Prophets of Allah before Muhammad.
- d) To say the unlawful is lawful like *Zina* (adultery or fornication), wine drinking, or eating of pork meat, etc.
- e) To allege being a Prophet of Allah, or of receiving revelation from Allah etc.

From the above discussions it can be said that *Riddah* is the dis-association from Islam either with the intention of *Kufr* (atheism) or with the words of *Kufr* or with an act of *Kufr*. In Islamic law, it means turning from Islam after being a Muslim. Not only does it occur when a person declares his

conversion to some non-Islamic religion, but also when he refuses to believe in any and every basic article of faith.

Thus, the term "*Irtidad*" (apostasy) has been used in both the Glorious Qur'an and the prophetic traditions. The Glorious Qur'an says:

چڳڳ ڱڱڱڱ ں ں ڻ ڻ ڏ ڏ هُ هُ م ۽ ٻھ ه ه ه ے چالبقرة: ۲۱۷

"And whosoever turns his back from his religion and dies as an unbeliever, it is they whose works would be vain in the world and the hereafter, and they are the companions of Hell Fire, and therein shall they abide forever" (al-Baqarah, 2:217).

Considering the above verse, Islam sees *Riddah* as a very heinous offence and has recommended capital punishment for it, the details of which can be found in the prophetic traditions and practices followed by the four rightly guided caliphs. The Glorious Qur'an further says:

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"How Allah shall guide those who reject faith after they accepted it and bore witness that the Messenger (of Allah) was true and clear signs had come unto them? But Allah guides not the people unjust. Of such the reward is that on them (rests) the curse of Allah, of His Angels and of all mankind" (Al-Imran, pp. 86-87).

Conditions before the Crime of Riddah is Established

Before the crime of *Riddah* is established and the person becomes condemned as a *Murtad*, certain conditions must be fulfilled. These conditions are enumerated as follows:

- 1. The person concerned (i.e. the culprit) must be an adult that is he must have attained majority.
- 2. He must be sane, that is must be in full possession of his senses.
- 3. He must have acted voluntarily if he is to be condemned as an apostate. Thus, if a person commits apostasy under compulsion, he is not liable to *Hadd* punishment. This is corroborated by an incident that occurred during the time of the noble Prophet (S.A.W.). One of his Companions, namely Ammar bn Yasir was made to utter words of unbelief under compulsion. Despite that Allah (S.W.T.) revealed the following Qur'anic verses to confirm Ammar's faith in Islam:

چڍ ڌ ڌ ڎ ڎ ڎ ڎ ڽ ژ ڕ ؕ ڑ ک ک ک ک گ گ گ گ چ النحل: ١٠٦

"Whosoever rejects faith in Allah after believing in Him, except under compulsion while his heart remains firm in faith – but such as open their breast to disbelief, on them is wrath from Allah and theirs will be a dreadful penalty" (*an-Nahl*, p.106).

Mode of Evidence of Apostasy

In *Riddah*, the mental element, i.e. state of mind of a culprit is essential to the establishment of the crime. It is then not lawful to attribute apostasy to a person where he still believes himself to be a Muslim. It is in line with this that Maliki school holds that if ninety-nine percent of one's practices and statements indicate disbelief while one percent of it shows belief in Islam, the culprit should still be regarded as Muslim. According to Khalil (2004:326), the crime of apostasy is proved by the evidence of two competent witnesses who must be explicit and precise in showing that the accused person is guilty of the apostasy by virtue of such and such a declaration or by doing so and so.

He further states that the other method of proof is by the confession of the accused himself, which has to be voluntary. Even where witnesses testify that the accused did not say something amounting to apostasy, the accused will be called upon to corroborate it, and where he does this the case is dismissed. But, where he says things to the contrary, i.e. he mentions that he said something amounting to apostasy, it will be regarded as a confession and punishment will be carried out accordingly.

Punishment for Apostasy

Riddah is mentioned in the Glorious Qur'an in thirteen places (verses) contained in different *Suwar* (chapters). But in none of these verses can one find any mention of punishment to be inflicted in this world. On the contrary, all that these verses contain is the assurance that the apostate will be punished in the Hereafter. It is pertinent that some of the examples of these verses be demonstrated here so as to justify the above statement. Qur'an, 2:217 states:

چې ې گ گ گ گ ں ں ڻ ڻ ڈ ڈ ۂ ۂہ ہ ٻ ہھ ، ھ ہ ے چ البقرۃ: ۲۱۷

"And whosoever turns his back from his religion and dies as an unbeliever, it is they whose works would be vain in the world and the Hereafter, and they are the companions of Hell-Fire, and therein shall they abide forever" (al-Baqarah, p. 217).

Lastly, in another verse, the Glorious Qur'an says:

چچچچچچ چ د د د د د د د د ر ر ر ر ک ک ک ک ک گ گ گ گ چ النحل: ۱۰٦

"Anyone who, after accepting faith in Allah, utters unbelief, except under compulsion, his heart remaining firm in faith, but such as open their breast to unbelief, on them is wrath from Allah, and theirs will be dreadful chastisement" (al-Nahl, p. 106).

As said earlier, in none of these verses of the Glorious Qur'an can one find any mention of punishment to be meted here in this world. However, Islam sees it as a very grave offence and has recommended capital punishment for it, the details of which can be found in the *Ahadith* of the Nobel Prophet (S.A.W.) and the practices followed by his four Rightly Guided Caliphs. Therefore, punishment for *Riddah* is preserved in the following traditions of the Prophet (S.A.W.):

عن ابن عباس رضي الله عنه، قال: قال رسول الله صلى الله عليه وسلم: من بدل دينه فاقتلوه (إمام البخاري، P.149 vol. 4).

"On the authority of Ibn Abbas (May Allah be pleased with him), said: The Messenger of Allah (S.A.W.) said: Whosoever changes his religion (from Islam to anything else), put him to death" (*Imam* Bukhari, p. 149).

Another prophetic tradition which is commonly used in discussing the subject is reported by Ibn Mas'ud and transmitted by *Imam* Bukhari, Muslim and Abu-Dawud is as follows:

حدثنا عبد الله بن مسعود قال: قال رسول الله صلى الله عليه وسلم: لا يحل دم امرء مسلم يشهد أن لا إله إلا الله وأني رسول الله إلا بإحدى ثلاثة: النفس بالنفس، والثيب الزاني، والتارك لدينه المفارق للجماعة (إمام البخارى، , Vol. 9, P. 11 إمام مسلم، Nol. 3, P. 898، و أبو داود، Vol. 2, P. 1247).

"Abdullah bn Mas'ud reported Allah's Messenger (peace be upon him) saying: It is not permissible to take the life of a Muslim who bears testimony to the fact that there is no god but Allah and I am the Messenger of Allah, but one of the three cases: a life for life, the married adulterer, and the deserter of his religion (Islam), abandoning the community" (*Imam* Bukhari, p.11, *Imam* Muslim, p. 898 and Abu Dawud, p. 1247).

Putting the above traditions into cognizance in the case *Riddah*, no distinction is made between a Muslim born of Muslim parents and a convertee. Similarly, there is no difference between accepting Judaism or Christianity, atheism or idol – worshipping or any other non-Islamic faith. There is also no difference between a free man and a slave in regard to the punishment of *Riddah*. According to *Imam* Malik, the punishment of apostasy is death sentence. Since apostasy is basically a state of mind, the culprit will be given the opportunity to reconsider his position and repent to Allah. He should be given a chance to make repentance within a period of three days. If he mends his ways within this period, he will be asked to pronounce the *Kalimah* – i.e. "there is no god but Allah, and Muhammad is His Messenger". Therefore, asking the apostate to repent was stipulated by *Imam* Malik as a condition prior to his execution on the bases of what was related from Umar (R.A.) the second Caliph as in Ibn Rushd, (1996:552) and al-Jaziri (2004: 328):

وروى عن سيدنا عمر بن الخطاب رضى الله تعالى عنه أن رجلاً أتاه من قبل أبى موسى الأشعرى، فقال له "هل من معربة خير؟ فقال: نعم، رجل إرتد عن الإسلام فقتلناه، فقال له: هلا حبستموه فى بيت ثلاثة أيام، وأطعمتموه فى كل يوم رغيفًا، لعله يتوب، ثم قال: اللهم إنى لم أحضر، ولم أمر، ولم أرض". فتبرى سيدنى عمر من فعلهم يقتضى وجوب الإمهال ثلاثة أيام قبل موت المرتد، فإن تاب ونطق بالشهادتين أو كلمة التوحيد، خل سبيله، وإن لم يتب وجب قتله بالسيف فورًا.

"It was reported from Umar bn Khattab (R.A.) that a man from Abu-Musa al-Ash'ari came and said to Umar: Is there any benefit with regard to asking question? Umar (R.A.) then said to him yes, the man then said: A man became apostate we then killed him. Umar then said to him (man): Why did you not lock him in a room up to three days; giving him food may be he repent? The man said (to Umar): Really, I did not do that and I did not order (any one) to do. Umar (R.A.) then show his dismay with the decision taken by the man of not given him a grace of three days..." (p. 328).

The above tradition, therefore, indicates the reason why *Imam* Malik said an apostate should be given three days as a grace for him to repent that is to re-testify that there is no god but Allah and Muhammad is His Messenger. But if he refuses after the expiration of three days he is to be killed with a sward immediately.

To sum it up here, there are two divergent opinions on the punishment of death sentence for *Riddah*. The first one is that of the classical schools of Maliki and others in which there is unanimity of opinions, that the punishment for *Riddah* is death. This applies to all cases. Scholars based their decisions on the tradition which says "Slay those who change their religion" (Ibn Rushd, 1996:552).

Mode of Execution

Imam Malik as in Ibn Rushd (1996:552) opines that a male apostate if he becomes captive before his declaration of war is to be persecuted, this is because of the following statement of the Prophet (S.A.W.):

... عن مالك عن زيد بن أسلم، أن رسول الله صلى الله عليه وسلم قال: من غير دينه فاضربوا عنقه (إمام مالك، 61 – Vol. 2, P. 758).

"... Narrated from Malik on the authority of Zaid Bin Aslam that the Messenger of Allah (P.B.U.H) said: Whoever changes his religion (i.e. Islam) cut off his neck" (*Imam* Malik, pp. 758 - 61).

CONCLUSION

To sum up here, considering the fore-going discussions together with the explanations given by the jurists, Islam sees *Riddah* as a very- heinous offence and has recommended capital punishment for it. The details which could be found in the Prophetic traditions and practices followed by the rightly guided caliphs. Even though, the religion of Islam recognizes both freedom of thought and faith, man has to be careful of his actions and utterances.

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