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Faith and Freedom: The Qur'anic Notion of Freedom of Religion vs. the Act of Changing Religion and Thoughts on the Implications for Malaysia

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Academic Editor: Moojan Momen

Received: 23 December 2015; Accepted: 27 June 2016; Published: 8 July 2016

Abstract: The issue of freedom of religion has always been situated at the intersection between human rights, personal freedom of choice, religious belief and apostasy. While freedom supporters argue that one is free to choose his or her religion, including changing religion, the Qur'an has made it clear that Islam allows changing of religion so long as it is from any religion to Islam and not from Islam to another religion. Apostatizing from Islam is one of the gravest enormities cautioned with eternal punishment. In interpreting the meaning of freedom of religion and restricting it from the "freedom" to change religion, Muslim scholars have been careful to draw a line distinguishing between the two. This article examines the different interpretations given by scholars on the issue of freedom of religion according to the Qur'an. By using historical and thematic analysis, the writers evaluate the *mufasssirins'* (scholars of exegesis) views on the related Qur'anic verses. Interpretations of the classical Islamic legal sources are also examined to identify their opinions on the consequences of leaving Islam, followed by contemporary opinions. The objective is to show the development and changes, if any, in the approaches taken regarding the limitations of freedom of religion. This will enlighten the ways to handle the issue of apostasy, as it is seen as a highly divisive and controversial issue, and to highlight an ideal approach for Malaysia.

Keywords: freedom of religion; apostasy; human rights; Islam; Malaysia; legal pluralism

1. Introduction

Over the past few decades, the issue of religious freedom has been an area of interest among scholars and is situated at the intersections of human rights, personal freedom of choice, gender discrimination, punishment and apostasy [1–4]. When it comes to standards of human rights, particularly in the wake of a global trend of religious freedom and when the Western concept and international treaty are being used as the benchmark, Islam seems to be the only religion that restricts changing of religion and punishes the converts.

There is a long history of development in the interpretation of the main sources of Islam and Islamic jurisprudence that has taken place since the classical Islamic law was introduced. This development started during the Prophet's (peace be upon him) time and progressed to changes that can be traced from the caliphs' practices, then to the classical jurists' interpretation through *ijtihad* (independent reasoning) and, finally, to the contemporary scholars who saw the need to move towards Islamization of the law in a secular state or harmonization of both civil and Shariah law. This exercise of *ijtihad* by competent Muslim scholars highlights the dynamism of the Shariah and has

seen various changes of injunctions (*hukm*) according to times and places. One of these injunctions relates to religious freedom and apostasy.

The geographical background of discussion pertaining to the issue of apostasy should start from pre- and post-Islamic Arabia. According to historical records, the major religions in pre-Islamic Arabia were heathens, Judaism and Christianity, even though there were many other minority religious groups [5]. It was within this multi-faith world of pre-Islamic Arabia that witnessed the origin of apostasy (changing religion), and the coming of Islam further enhanced this “threat”. This article seeks to examine the Qur’anic philosophy and Prophetic sources regarding the notion of freedom of religion in order to understand the origin and to evaluate the interpretations by classical and contemporary scholars. Al-Qur’an, which was revealed between 610 and 632 A.D. to Muhammad (pbuh), and Hadith are the two main sources of Islam, followed by *ijma’* (consensus of the *fuqaha*, i.e., Muslim jurists) and *qiyas* (analogy). It should be highlighted that the issue addressed in this article is individual apostasy or personal choice of religion, referring to a change in an individual’s doctrinal belief, without any association with rebellion against the Muslim community or against its legitimate political leadership. The objective is to show the development and changes in interpretation that have taken place in order to comprehend the principles and the reality in order to blend between idealism and pragmatism. By doing so, we will be able to understand the right approach to be taken to resolve the issue of apostasy in contemporary situations and provide an understanding of how Islam protects religion or *hifz al-din* as one of the *Maqasid al-Sharia* (rendered into English as the “universal aim of the Islamic law”).

2. Freedom of Religion in the Qur’an and the Prophetic Sunnah: Core Elements and Concepts

For Muslims, faith is not merely a matter of ritual and creed within the private sphere, but pervades into the public realm. A cornerstone for a Muslim is *tawhid*, believing in the oneness of Allah. Being a Muslim means putting the belief in Allah and His guidance at the forefront of all activities. Islam is clear on the principle of freedom of belief. There is also a clear difference between the freedom of religion and the prohibition of changing religion. The notion of freedom of religion is primarily based on many verses in the Qur’an and the hadiths of the Prophet. In interpreting the meaning of freedom of religion and restricting it from the so-called freedom to change religion, Muslim scholars have been very careful, and as suggested by Peletz, doctrinal debates about issues such as apostasy are considered dangerous and are thus largely limited [6]. Although the Qur’an clearly establishes the freedom of religion, changing religion from Islam to another is strictly prohibited and is considered a major sin without temporal punishment, as will be shown later in the discussion. The issue to be determined is, if it is to be treated as a crime against religion, is it incumbent on the authority to impose punishment on the apostates and what are the punishments stipulated by the Qur’an and Sunnah. Therefore, the question to be asked is what is apostasy and how does it relate to the notion of religious tolerance or freedom as stipulated in the Qur’an.

Apostasy, originating from the Greek word *apostasia*, means the renunciation or abandonment of one’s political or religious belief ([7], p. 5131). By apostasy, we mean an act by Muslims, either by birth or by conversion, to renounce or totally reject Islam, whether or not they subsequently embrace another religion. In Arabic, *riddah* and *irtidad* are two terms used for apostasy. Renouncing or turning away from Islam can be materialized through expression of unbelief either through words, deeds or intention seriously enough to constitute apostasy. Syaikhzadeh (d. 1667), a Hanafi scholar in his book *Majma’ al-Anhur* (The Intersections of the Seas), quoted by Peters [8], outlined the following examples of apostasy:

- i Relating to Allah: to deny Allah’s divinity; to conceive of Allah as a woman or a child; to attribute partners to Allah; to hold Jesus for the son of Allah or to conceive of Allah as part of the trinity;
- ii Relating to Prophet and Angels: to deny the Prophethood of Muhammad (pbuh), to assert that prophets are in error; to consider oneself a prophet;
- iii Relating to the Qur’an: to deny that the Qur’an is the words of Allah;

- iv Relating to science (*'ilm*) and many more: if the acts are confined to mockery, it may amount to blasphemy or heresy, not apostasy.

Discussing the concept of freedom of religion and its limitation must start from the Qur'an, since it is the foundational source of belief, law and ethics. The authentic Sunnah (the saying and action of the Prophet Muhammad (pbuh) is treated as the binding source for clarifying the meaning of the Qur'an. The interpretations offered by Muslim scholars and *mufassirin* were also sought to understand what connotes freedom of religion. The conceptual framework of religious freedom will be shown through four topics discussed below based on the Qur'an and Sunnah.

2.1. Freedom of Belief

There are many relevant verses identified in the Qur'an that mandate the freedom of what to believe and worship. The first one, which clearly defines the concept of religious freedom, is in *Surah al-Kafirun* (109:2–6) when Allah revealed the verse asking Muhammad (pbuh) to convey it to non-believers (*kafirun*):

I worship not that which you worship, nor will you worship that which I worship. And I will not worship that which you have been wanted to worship, nor will you worship that which I worship. To you be your way, and to me mine.

This passage was revealed in Mecca, where polytheism dominated and ancient deities were worshipped at the Kaabah. Allah, as the new God, was alien to them and different from what their ancestors had believed. This passage came down to explain that Muhammad can neither force nor be forced to follow the beliefs of his ancestors and, whatever is worshipped by one, is exclusive and could not be mixed with one another. There was no such thing as worshipping *al-Latt*, *al-Uzza* or *Manat* (the names of deities mentioned in the Qur'an (53:19–20)) in the morning and Allah in the afternoon. Ibn Kathir (d. 1373) in his *Tafsir* recalled that the Jews inherited their religion from the Christians and vice versa. However, Ahmad Ibn Hanbal (d. 855A.D), also quoted by Ibn Kathir, views that there should not be such mutual change because there is a hadith narrated by Amru Ibn Shuaib from his father and his grandfather that the Prophet (pbuh) said to the effect: "People of two (different) religions do not inherit each other." [9].

Many *mufassirin* conclude that this verse gives clear direction to the meaning of religious freedom. Al-Tabari (d. 923 AD) states that one lives with his or her religion forever, just like a Muslim who will remain Muslim for the rest of his/her life [10]. Al-Qurtubi (d. 1273) gives his view that there is an element of threat when the Qur'an says, "For you is your deed and for us is ours". It indicates that the reward of your religion is individually yours, and for Muslims, there are also rewards for their good deeds [11] in a sense that that one must not combine two religions or believe in two Gods at once.

2.2. Religion is a Person's Own Choice and Concern

The Qur'an recognizes complete freedom of belief. It is full of verses showing that belief in whatever religion is a person's own concern and that he or she is given the choice of adopting one religion or another. The Qur'an excludes compulsion in choosing what to believe. If one accepts the truth, it is for his or her own good, and if he or she sticks to error, it is to his or her own detriment. In Qur'an 2:256, Allah says to the effect:

"Let there be no compulsion in religion. The right way is indeed clearly distinct from error."

Referring to the occasion of revelation, it is reported that this verse was revealed when unbelievers in Makkah waged war against Muslims in 4 After *Hijrah* (A.H), some companions asked the Prophet's permission to compel children who had embraced Judaism to enter Islam, thereby preventing them from living with the Jews. The Prophet (pbuh) refused to allow them to do so. This verse implies that no one is compelled to embrace Islam and to leave his or her original religion. In fact, the Holy Qur'an

excludes compulsion from the sphere of religion. In 10:99, God says: If your Lord had wanted it, everyone on earth would believe, all of them. So will you force people to become believers?" According to Ibn Kathir (d. 1373), this is because faith is something that one can choose. All depends on the will of God; if he wants someone to choose Islam, he will. Even though differences of interpretation of this verse can be traced back from medieval to modern times and on rare occasions, historically witnessing the political influence in forced conversion, it can be concluded that this verse is meant for a general affirmation of religious freedom. Al-Sa'di (d. 1956) shares the same view that there is no need for anybody to force others on the issue of religion [12,13]. In 18:29, Allah also says:

"The truth is from your Lord; so let him who please believe and let him who please disbelieve."

Freedom of religion is a person's own concern, and therefore, there is no need to force others in choosing the religion. In Qur'an, 17:7, Allah says:

"If you do good, you do good for yourselves; and if you do evil, you do it to yourselves."

Additionally, in another verse, 6:104:

"There has come to you enlightenment from your Lord. So whoever will see does so for the benefit of his soul, and whoever is blind, does harm against it. And (say) I am not a guardian over you."

Another passage that is clear in God's assessment of people's choice is at 22:17:

"Those who believe (in the Qur'an) and those who follow the Jewish (scriptures), and the Sabians, Christians, Magians and Polytheists—God will judge between them on the Day of Judgement: for God is witness of all things."

2.3. Natural Order of Things

In verse 6:104, Allah says to this effect: "Clear proofs have indeed come to you from your Lord: so whoever sees, it is for his own good; and whoever is blind, it is to his own harm. And I am not a keeper over you." The Qur'an also explains that it is the natural order of things that while some people believe others do not, and no human being can or should apply compulsion to others in this regard. All nations are addressed in 5:48: "For every one of you, we appointed a law and a way. And if Allah had pleased, He would have made you a single people (or one religious community), but that He might try you in what He gave you. So vie one with another in virtuous deeds. To Allah you will all return, so He will inform you of that wherein you differed."

2.4. Human Nature (*Fitrah*)

The *Sunnah* of the Prophet (pbuh) plays an important role in elaborating and interpreting the Qur'anic verses. In this matter, one of the related hadiths is narrated by Muslim (d. 261 A.H.) where the Prophet said: "Every child is born based on the natural disposition (*fitrah*). Either his parents make him a Jew, Christian, or a Magian." [14] This means that freedom is part of human nature.

It is clear that al-Qur'an protects the freedom of religion, in which one is free to choose his or her belief, and no one is forced to embrace or leave religion. However, the extent of freedom of religion does not include the right to renounce Islam, as clearly understood from the threat of eternal punishment for those who leave Islam after believing in it. Once a person embraces Islam, he or she must remain steadfast to it because Allah declares that they will not be forgiven if they lapse into unbelief (*kufir*) after believing (*iman*). Whether apostates are punished for renouncing Islam temporarily is a matter of great debate.

3. Qur'anic Description on Changing Religion or Apostasy: A Case of Divine Retribution

Although the Qur'an clearly establishes the freedom of religion, the verses discussed under this section show that changing religion is a major sin with no forgiveness for such an act. In order to

understand the position of apostasy, we need to look at the terms referred to in the Qur'an. There are many verses in the Qur'an that speak about people voluntarily reverting from belief after believing in Islam, but the Qur'an does not state any specific punishment, but rather the condemnation for such an act is in the hereafter. For example, Qur'an, 4:137 mentions that those who fall under the act of unbelief (*kufir*) after believing will not be pardoned:

Indeed, those who have believed then disbelieved, then believed, then disbelieved, and then increased in disbelief—never will Allah forgive them, nor will He guide them to a way.

In 3:90, Allah says to the effect:

Indeed, those who reject the message after their belief and then increase in disbelief—never will their [claimed] repentance be accepted, and they are the ones astray.

In *Surah al-Imran* 3:81–82: Allah mention the word *tawalla* (turn away):

And [recall, O People of the Scripture], when Allah took the covenant of the prophets, [saying], "Whatever I give you of the Scripture and wisdom and then there comes to you a messenger confirming what is with you, you [must] believe in him and support him." [Allah] said, "Have you acknowledged and taken upon My commitment?" They said, "We have acknowledged it." He said, "Then bear witness, and I am with you among the witnesses. And whoever turned away after that—they were the defiantly disobedient."

Another word describing the act of defection from religion is *yartadd* (revert, which is similar to apostate). In Qur'an, 5:54, it is mentioned that:

O you who have believed, whoever of you should revert from his religion—Allah will bring forth [in place of them] a person He will love and who will love Him [who are] humble toward the believers, powerful against the disbelievers; they strive in the cause of Allah and do not fear the blame of a critic. That is the favour of Allah; He bestows it upon whom He wills. And Allah is all-Encompassing and Knowledgeable.

In 2:217, the Qur'an refers to the war being inflicted upon Muslims by their opponents based in Makkah:

And whoever of you reverts from his religion [in disbelief] and dies while he is a disbeliever—for those, their deeds have become worthless in this world and the Hereafter, and those are the companions of the Fire, they will abide therein eternally.

From all of these verses, it can be understood that even though the Qur'an did mention reverting to the former belief after believing in Islam, the Qur'an only mentioned it as a sin and not a crime prescribed with specific punishment. Changing religion or apostasy is a despicable act rendering condemnation in the hereafter; meaning that those who turn away from Islam after taking the oath of *shahadah* declaring (and believing) that there is no God but Allah and that Muhammad (pbuh) is the Prophet will not be forgiven. Now, we shall look at what the *Sunnah* has to say on this matter.

4. Prophetic Traditions on Changing Religion

The *Sunnah* of Prophet Muhammad, be it his words or actions, serve as a clarification and further elaboration of the Qur'an, which is the foundational source of Islam. Thus, there should not be any contradiction, disagreement or inconsistency between the two. Based on the science of hadith developed in the early days of Islam, the hadiths are categorized based on specific criteria, including the strength of narration, ranging from the most reliable, which is called authentic hadith (*hadith sahih*), to the least reliable, called weak hadith (*hadith daif*). The authentic *sunnah* (*hadith sahih* verified as authentic through chains of convincing narration) is a binding source of elaboration of Qur'anic verses. There are at least two hadiths signifying apostasy. One is narrated by Ikrimah (d. 724), who reported

from Abdullah Ibn Abbas that the Prophet said to the effect: “Whoever changes his religion, put him to death” ([15], p. 577; [16], p. 104).

The status of this hadith is worthy of discussion before embarking into further discussion on apostasy. The traditionalist (*ahl al-hadith*) claim that this hadith is not authentic. The narration of the above hadith is *ahad* (solitary, meaning that it was narrated by one person only) and, thus, cannot be relied upon as a solid authority in the light of general sanction for those leaving Islam. This hadith is also classified as *mursal* (one with incomplete narration). Furthermore, no explanation of the circumstances that might have occasioned this hadith can be found, although it is believed that the event behind the revelation of this hadith was said to be related to the act of treason and rebellion. Certain historical events were taking place during the lifetime of the Prophet and during the era of Abu Bakar. Therefore, this hadith should not be understood in a general sense as a punishment for simple apostasy.

From another perspective, Christian scholars like Lamarti in 2008 observed that this hadith could be said to have been influenced by the Jews and Christians, and it was revealed during the time where people of different denominations changed their religion one after another. Moreover, the so-called oral culture was prevalent in Hijaz and particularly dominant among the Jewish people. The hadith was said to have been influenced by the Jewish saying that it was necessary to kill anyone who left Judaism [17]. When the Prophet (pbuh) said that, “whoever changes his religion, put him to death”, this would have meant that any person with any religion and not restricted to Islam and Muslims only. Otherwise the hadith would have specifically mentioned that whoever among Muslims changes his religion, put him to death.” The holy book of the Jews mentions that, “the apostates is to be put to death.” ([18], p. 14).

Another hadith stated in the *Sahih of al-Bukhari*, *Sahih of Muslim* and *Sunan al-Nasa’i* is narrated by the authority of Ibn Mas’ud (d. 34 A.H.), to the effect that: “The blood of a Muslim who bears witness that there is no God but Allah and that I am the Prophet is forbidden (i.e., cannot be shed), except one of these three persons: intentional murderer, married adulterer and those who leave his religion and depart from the society.” [19,20].

This hadith clearly mentions that the death penalty is imposed on the apostate who does not only leave the religion of Islam, but also departs from the Muslim community. Another authority that can be relied on is the historical evidence narrated in *Sahih al-Bukhari* about an incident taking place during the life of the Prophet (pbuh). It was reported that some people came to Madinah and became Muslims. They became ill, so Muhammad sent them to the place where the camels were sheltered and told them to drink the camel’s urine and milk as a remedy. They followed his advice and recovered, but subsequently, they killed the shepherd guarding the camels and stole the herd. In the morning, Muhammad heard what the men had done and ordered their capture. Before noon, the men were captured and brought before Muhammad. He ordered that their hands and feet be cut off and their eyes gouged out with hot pokers. They were then thrown on jagged rocks, their pleas for water ignored and they died of thirst. One of the Companions said: “They were thieves and murderers who abandoned Islam and reverted to paganism, thus attacking Allah and Muhammad.” ([21], p. 281).

It was also reported that the death of the Prophet in 632 AD (11 A.H), had left a vacuum in the relatively “young” Muslim community in Madinah that he started to build eleven years before. The era had seen the Arabs apostatized either individually or collectively. It was reported at that time that the hypocrisy increased, and the Jews and Christians began to rise up [22]. Al-Bukhari narrated a story of a certain Jew who accepted Islam, but then reverted to his original faith. Muadz saw the man with Abu Musa and asked: What has this man done? Abu Musa answered: He accepted Islam, but then reverted to Judaism. Muadz then said: It is the verdict of Allah and Muhammad that he be put to death and I am not going to sit down unless you kill him.” ([20], p. 313).

Apostasy is a sin according to various verses in the Qur’an, and only two hadiths or verbal traditions made it a crime, particularly in the specific context of treason and rebellion. Certain historical events taking place during the lifetime of the Prophet and during the era of Abu Bakar had obviously

shown that fatal actions were taken in the specific context of rebellion or oppression that brought harm to the society and not merely for leaving Islam. The two traditions discussed above belong to the *ahad* category, which relied only on one narrator. Even if we want to rely on them both, it still contradicts the Qur'an, which does not mention any temporal punishment for changing religion.

The traditionalist (*ahl al-hadith*) claim that this narration of the above hadith is *ahad* (solitary, narrated by only one person) and thus cannot be generalized and relied upon as a solid authority. While it is clear that apostasy is a sin according to various verses in the Qur'an and only two hadiths mentioned punishment, particularly in the context of treason and rebellion. Perhaps the observation made by Al-Alwani, an expert in Islamic legal theory and a member of the Organization of Islamic Cooperation's Islamic Fiqh Academy, can be used to sum up this position:

“When Muslim jurists (without mentioning who) saw that the Qur'an contains nothing that could be viewed as a legally prescribed punishment for apostasy, and that the Sunnah is also devoid of any such penalty, and that the freedom to choose what one will believe is a supreme value of Islam set forth in nearly two hundred verses of the Qur'an, they supported their claim that the apostate must be put to death—which they viewed as resting on a consensus of the Prophet's Companions—by resorting to an incomplete-transmitted hadith and a number of traditions, which is not free from questionable elements.” ([18], p. 10).

Then, how do classical Muslim jurists interpret this issue, bearing in mind that one of the universal aims of the Islamic law is to protect the religion. The issue to be determined is whether it is punishable with a prescribed penalty or in the case of simple apostasy by any punishment, after we understand that the source for prescribed penalty for apostasy is confined to those who rebel against Islam after leaving the religion.

5. The Exegetes, Islamic Jurisprudence and Classical Jurists' View on the Penalty for Apostasy

While it is clear that apostasy is of the gravest enormity according to the Qur'an and the two hadiths declared a capital punishment for apostasy that can be associated with rebellion, the question is how classical Muslim jurists interpret the suitable approach to be taken against individual apostates who are not related to rebellion against Islam. They are also not a political threat to the society, but more inclined towards leaving Islam for personal reasons; whether they should be discreetly released and it to be considered a matter between them and God or if they should be taken into custody and have the punishment imposed on them.

The jurists unanimously agreed that the approaches taken on apostates must be strict. The approach taken by the Shafie's school of thought is based on the Qur'anic approach discouraging polytheism, stating that no Muslim life can lawfully be taken except in one of three cases: the reversion to unbelief after coming to faith, adulterers and murderers. Imam al-Shafie approached the issue of apostasy in light of the four earlier mentioned Qur'anic verses (8:39, 9:35, 2:217, 39:65). His followers like al-Nawawi, as stated in his book *Rawdah al-Talibin*, strongly agree with him. The Hanbali sect who gave a blanket interpretation stated that the apostate should be killed for his or unbelief, not as a divinely ordained punishment, but based on the hadith “If anyone changes his religion, put him to death.” Now, the question is whether apostates should or should not be asked to repent before the execution can take place, and second: whether a female apostate can be killed or not. The Hanafi sect, named after Abu Hanifah al-Nu'man Ibn Thabit (d. 767), holds that it is necessary to put the adult male apostate to death, based on the hadith and the consensus that existed among the Prophet's companions concerning the necessity of waging war on apostates during the Caliphate of Abu Bakr as a way to prevent social chaos ([14], p. 14). According to the Maliki sect, represented by Ibn Rushd al-Qurtubi (d. 1198) in his book *Bidayah al-Mujtahid wa Nihayah al-Muqtasid*, apostates, man or woman, must be put to death.

Traditional jurists like Ibrahim al-Nakhaie (d. 95 A.H) and Sufyan al-Thauri (d. 162 A.H) held that an apostate should be persuaded to return to Islam, but should never be condemned to

death ([22], p. 91). Abu al-Walid al-Baji (d. 494 A.H) also observes that apostasy is a sin that carries no prescribed penalty and that such a sin may only be punished under discretionary punishments [23].

Centuries later, jurists like al-Shawkani (d. 1834) and Ibn Taymiyyah (d. 1328) scrutinized the so-called “war of apostasy” taking place between 632 and 633 CE during the era of the first caliphate Abu Bakar (632–634 CE). They observed that the causes behind the series of war combating the apostasy were based on political reasons when facing the opposition from certain groups of Muslims who openly objected to paying alms (*zakat*) and threatened to denounce Islam after the death of the Prophet [24,25].

Various scholars from different schools of thought have based their view on the solitary *ahad* hadith narrated by al-Bukhari to justify the capital punishment. Only later jurists took the effort to understand the contextual interpretation of the hadith and the surrounding factors involved with the killing of apostates. If we analyze the pre-modern juristic opinions on this matter, the choice of a Muslim to convert out of Islam was generally seen as an act that may offend and weaken the Muslim community, therefore worthy of death penalty. The contemporary situation might be different.

6. Contemporary Discourse on the Position of Apostasy and Its Temporal Consequences

The above strict interpretation of killing the apostate is in need of re-interpretation together with the understanding of the socio-political structure of modern society. Therefore, a revision of the traditional approach to Islamic law is required to adopt a new position, while religious texts remain as the main sources of Islamic law and jurisprudence. The Qur’an clearly protects the freedom of religion, and it is not debatable. However, the debate took place and re-interpretations were given to the *ahad* hadith. Pre-modern Islamic jurists seem to maintain a view that changing religion does not merit a death penalty, because the Qur’an says that it merely merits total damnation in the afterlife. Yet, the premise used in the argument for state intervention in apostasy case is public interest and the protection of religion, since one of the universal aims of the Islamic law is to protect the religion. It was this interpretation that led to the development of the notion that a Muslim should not be allowed to apostatize ([26], p. 169).

Many contemporary scholars have been quoted arguing that leaving Islam and rejecting the guidance of the Qur’an is more of a spiritual offense, and the punishment will only be meted out in the hereafter [27,28]. According to Mohamad Hashim Kamali, the Founding Chairman of the International Institute of Advanced Islamic Studies in Malaysia, this observation is supported by the fact that the Prophet never put anyone to death for a mere renunciation of the faith. Indeed, there were cases when certain individuals apostatized after professing Islam, yet the Prophet did not penalize them, let alone condemn them to death. He further comments that, “The hadith clarifies that the apostate must also boycott the community and challenge its legitimate leadership, in order to be subjected to the death penalty.” ([23], p. 150).

Said Ramadan al-Buti is of the view that the sanction for apostates is imposed upon those who openly denounce the conversion. If the conversion out of Islam was discreetly done, then the sanction cannot be applied unto them [29]. In addition, the application of the death penalty can be considered contrary to verses 16:106–109 of the Qur’an, which state that:

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 a dreadful penalty. This is because they love the life of this world better than the hereafter: and Allah will not guide those who reject faith. Those are they whose hearts, ears and eyes Allah has sealed up, and they take no heed. Without doubt, in the hereafter they will perish.

This verse can be read to mean that God will punish the apostate in the afterlife; therefore, no punishment needs to be carried out on Earth. We find opinions of liberal Muslim thinkers like Abdullah Saeed and Hasan Saeed ([26], p. 56) worth mentioning when they comment that, “The overall picture

that emerges from a variety of verses in different contexts in the Qur'an is that apostasy is a 'sin' for which there is no temporal punishment. These Qur'anic verses and hadith passages are referring to criminals who waged war against the early Muslim community in the ancient Arab, and not to any apostates."

The former Secretary General of the International Union for Muslim Scholars (*Majma' Fiqh*), Salim al-Awa, representing the guild of Islamic scholarship remarks, "We do not find in the texts of the noble Qur'an related to apostasy any temporal punishment [specified] for the apostate. However, we find therein repeated threats and strong warnings of punishment in the Hereafter. Apostasy in the view of the Qur'an is a major sin, even though Qur'anic verses do not impose a temporal punishment." ([30], p. 55). Al-Awa also argues that the death penalty in the hadith is not designed for apostasy per se, but for high treason, that is when apostasy is accompanied by hostility and rebellion against the community and its legitimate leadership. This view is shared by other contemporary scholars. Shabbir Akhtar, for instance, writes in his book, "In Muhammad's day, private apostasy was commonplace; the Qur'an specifies no temporal penalty for it." ([31], p. 96). For these Muslim scholars, there is a world of difference between mere apostates who renounce Islam and those who actively raise military campaigns against the Muslim community. The injunction to punish 'apostates' in the Qur'an and hadith refer to the latter, not the former.

Sheikh Hamad Bin Khalifa Al Thani, Professor of Contemporary Islamic Studies at Oxford University, commented that:

"Many around the Prophet changed religions. But he never did anything against them. There was an early Muslim, Ubaydallah ibn Jahsh, who went with the first emigrants from Mecca to Abyssinia. He converted to Christianity and stayed, but remained close to Muslims. He divorced his wife, but he was not killed. It is different for someone who becomes a Muslim during a war with the purpose of betraying Muslims. They are committing treason. This is why the context is so important because the Prophet never killed anyone for merely changing religion. From the very beginning, Muslim scholars understood this. Islam does not prevent someone from changing religion because you feel that this is not right for you, or if you are not happy." ([26], p. 95)

This understanding coheres well with other prominent Muslim scholar who took a similar stand, like Mahmud Shaltut, the Grand Imam of Al-Azhar University from 1958–1963. The Council on American-Islamic Relations' public statement, drafted with the consultation of the Fiqh Council of North America, states the same position:

"Islam advocates both freedom of religion and freedom of conscience, a position supported by verses in the Qur'an. Religious decisions should be matters of personal choice, not a cause for state intervention. Faith imposed by force is not true belief, but coercion. Islam has no need to compel belief in its divine truth. As the Qur'an states: "Truth stands out clear from error. Therefore, whoever rejects evil and believes in God has grasped the most trustworthy hand-hold that never breaks." (2:256).

Based on the discussion above, it is clear that contemporary scholars are of the opinion that the choice of religion is a personal matter, and the state should stay away from any kind of intervention. Therefore, does this mean that practically, Muslims can renounce their faith if they want to and states cannot do anything about it?

7. Punishment for Apostasy: Selected Cause Célèbre Cases

There are different approaches taken by several Muslim countries to adjudicate the issue of apostasy. Most often, approaches or sanctions decided in these cases have to do with the scope of power, the nature of the legal system and the sect (*madhhab*) followed by those particular countries. There are countries that consider the Shariah as the fundamental law that pervades all areas of life, due to the fact

that they have absolute jurisdiction to implement and regulate Islamic law in total. A survey on some of the high profile cases around the globe shows that the strict approach was taken by certain countries due to the gravity of influence derived from the so-called idealism posed by those found guilty of apostasy. In 1985, Sudan's President Jaafar Numeiri enforced rulings by instructing the execution of a political reformer Mahmud Muhammad Taha who was found guilty of apostasy. Taha, the writer of a controversial book, *Second Message*, was seen as a threat to the established social order with his years of efforts in reforming the conception of Islam and re-interpretation of the Qur'an [32]. In England, when a renowned writer, Salman Rushdie published his infamous *Satanic Verses*, it provoked protests from Muslims in several countries. He was accused of committing blasphemy, ridiculing Islam and apostasy. Rushdie, confessing himself as a lapsed Muslim, a hard-line atheist and later a renewed Muslim, wrote contemptuous accounts against Islam, the Prophet and the Qur'an. The then Supreme Leader of the Islamic Republic of Iran, Ayatullah Ruhollah Khomeini, ordered his execution despite the fact that he is a British national [33]. In Egypt, the case of Nasr Abu Zayd was under international spotlight when he was found guilty of apostasy; his marriage was annulled, and he later went on exile in The Netherlands [34–37]. The Court of Cassation has ruled in the Abu Zayd case, inter alia, as below:

The purpose of entering Islam is to abide by its rules, including those of apostasy...The rules for apostasy are no more than measures to keep a Muslim in his Islam, distinguishing him from others . . . This is what also happens in other religious laws with regard to their followers: they demand continuous loyalty to them. Once an individual joins in, he is to abide by its rules which can expel or segregate him if he violates their fundamental principles which he embraced . . . Certain religious laws . . . consider a difference of religion an impediment to marriage which prevents its conclusion, and they consequently impose separation or divorce. The same applies when one of the spouses embraces another religion. This does not violate the freedom of belief [34].

Another case was in Afghanistan, concerning Abdul Rahman Abdul Manan who converted to Christianity and was subsequently separated from his wife, lost the custody battle of his children and was imprisoned for life. However, he was freed from prison after a court dropped charges of apostasy against him, quoting lack of evidence and suspected mental illness. Due to the pressure from world leaders, he was then given political asylum in Italy ([18], p. 3).

From the four highly-publicized cases above, it is clear that that the strict approach was taken by the authority due to the gravity of the effect on public opinion. Their conviction, except for the last case, was not based on the act of denouncing Islam per se, but rather through prolonged activities of oppression, disharmony and derailment from the mainstream Islamic leadership, political power and public order. It was not simply giving up Islam, but rather creating a mockery of religion, challenging the Qur'an and the basic teachings of Islam. One thing all of these cases have in common is that all of them were born Muslims. In the Malaysian context, which will be discussed later, almost all apostasy cases involve new converts (*mualaf*) who want to renounce Islam and return to their original religion after the marriage break-up defeats their purpose of remaining as Muslims.

The next section looks at how Malaysia as a nation inspired by Islam constitutionally makes it as the religion of the country, constructs the Islamic law as part of the national legal system and uses the Islamic approach to deal with the issue of apostasy. It is interesting to note that while the religious institutions insist on the fundamental teaching of Islam as laid down in the Quran, that apostasy is strictly prohibited, pressures are there that it must be solved according to the law.

8. Coping with Freedom of Religion and Apostasy: The Malaysian Scenario

Malaysia is known as a moderate Muslim country, and the society is multi-religious, multi-ethnic and culturally diverse. It is a country that has a hybrid system of civil and Shariah laws. The supreme law in Malaysia is the Federal Constitution, promulgated since 1957. Islam is enshrined in the Federal Constitution as the religion of the country. As far as religious freedom is concerned, it is clearly stated

in the Federal Constitution through Article 3 (1) that “Islam is the religion of the Federation, but other religions may be practiced in peace and harmony in any part of the Federation.” Article 11 (1) states that every person has the right to profess and practice his or her religion and, subject to Clause (4), to propagate it. Clause (4) states that law can be made to control or restrict the propagation or any religious doctrine or belief against Muslim.

Although Malaysia is one of the signatory countries to various international treaties, including the Universal Declaration of Human Rights 1948, the government took the stance of reserving certain provisions related to absolute freedom of religion, particularly Article 18, which provides as follows: “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.” Considering that the Qur’anic injunction prohibits Muslims from leaving Islam as discussed in the earlier part of this article, Malaysia is also taking a prohibitive approach in this matter by having a law that prohibits leaving Islam and also in some aspects, for example, a person has already declared himself or herself as no longer a Muslim, a confirmation to determine the status of religion has to be done at the Shariah Court. According to the Department of Islamic Development of Malaysia (*Jabatan Kemajuan Islam Malaysia* or JAKIM), apostasy or changing religion is not within the framework of human rights in Islam [38].

The Islamic laws, which are state-based laws, are the main laws administering Islamic matters, including the affairs of conversion into Islam and the converts. One part under The Administration of Islamic Law Enactment (AILE) provides the procedures for conversion into Islam. With this, a unit handling the affairs of the new-converts was formed under the states’ Religious Department. The function of this Unit is to register all new converts and look after their well-being by providing them with support and religious education in order to strengthen the conviction. According to Registrar of *Mualafs* in the Federal Territory’s Religious Department (*Jabatan Agama Islam Wilayah Persekutuan* or JAWI), religious classes are conducted every month, and the new converts are also given financial aid from the zakat institution every time they attend the classes [39]. Those with strong conviction may remain in Islam, but some others may wish to leave and revoke their registration as new converts.

The issue of Muslim converts and Malay-Muslims applying to renounce Islam has created a challenge to mainstream Islam. According to the Islamic law in Malaysia, a Muslim is not allowed to leave Islam as his or her religion unless he or she obtains such declaration from the Shariah High Court. All new converts are registered with the Religious Department under the Office of the *Mualaf* Registrars. If a convert wants to leave Islam, it has to be done through an application to the Shariah Court to obtain a declaration that he or she is no longer a Muslim. It cannot be done through a unilateral pronouncement or self-declaration. This confirmation is necessary to avoid unnecessary implications, such as the dissolution of marriage, the division of *harta sepencharian* (the jointly-acquired property during marriage), guardianship, property and custody of the children. If he or she is a Malay, who is defined as a person who professes the religion of Islam, speaks the Malay language and conforms to the Malay custom, a further implication may see him or her losing the status of Malay and *bumiputera* (native). If he or she owns a Malay reserve title of land, the title could also be revoked [40].

Due to the sensitivity of the issue, no national statistics on the number of “apostates” were released. It was only highlighted a few years back when the Minister in the Prime Minister’s Department revealed that between the years 2000 and 2010, there were approximately 686 petitions to leave Islam received by the Shariah Courts throughout the country [41]. From that amount, about 135 cases (20%) were granted permission to leave Islam. The state of Sabah recorded the highest approvals with 238 cases out of which 67 applications (28%) were approved. However, research found that cases in Sabah are not genuine cases of the “application to leave Islam”, but rather, are applications to correct the erroneous status of religion stated in the identity card. This finding was made by Pengiran Ismail Pengiran Musa and Siti Zubaidah Ismail in 2015. For example, in the case of Soliah Kambiris, of Dusun tribe, she was not a Muslim at all, but was mistakenly registered as

“Islam” by the National Registration Department on her identity card. From 118 case files studied, Pengiran Ismail and Siti Zubaidah found that only 18 are genuine applications from the new converts to leave Islam. Only two cases were approved [42]. In the Federal Territory, it was found that most of the applications to leave Islam came from the so-called “converts of convenience”, that is those who converted into Islam just to get married. When the marriage fails and their religious conviction was not strong enough to remain as Muslims, they sought the way out. According to Nik Norliza Nik Kamaluddin, an officer at the Religious Department of the Federal Territory (JAWI), this is the main reason given by them when counselled [43].

9. The Petition to Leave Islam: Considerable Legal Diversity

As discussed before, all converts are formally registered under the Registrar of *Mualafs*. When becoming a *mualaf* and remaining as a non-practicing Muslim are no longer convenient, the annulment of the registration is sought. However, it cannot be validly done through a unilateral statement or self-declaration. A declaration of no longer professing the religion of Islam must be obtained from the state’s Shariah Court. The outcome might be different from one state to another. If we look at the state laws, there is no single approach to deal with the issue of conversion out of Islam. Some states have diversified provisions, while others do not have any mechanism, resulting in the aggrieved party seeking remedy from the civil instead of the Shariah Court. The diversity of law is discussed below:

a States with provisions under Shariah laws

There are numerous approaches taken by the state laws when dealing with the apostasy cases as follows:

- i Leaving Islam is considered as an offence of “attempted apostasy”. The offence is provided in the states of Sabah, Terengganu, Malacca, Perak, Kelantan and Pahang. If convicted, the accused can be detained for the purpose of repentance up to six months in the religious rehabilitation center. In the case of *Priyathaseny and Others v. Religious Enforcement Officer of Perak Religious Department* [44], the plaintiff was a Malay and a Muslim. She renounced Islam, adopted Hinduism, changed her name, married a Hindu man through a customary marriage and gave birth to two children. She was arrested and charged with two offences in the Shariah Court in Malacca, one for insulting Islam through her act of conversion and two for cohabitation outside of lawful Muslim wedlock with a non-Muslim. She was convicted and sent for rehabilitation for six months. She then sought a declaration at the Civil Court that she was a Hindu and that her constitutional rights had been violated. The High Court held that the core issue to be determined was whether the plaintiff was still a Muslim despite her alleged conversion. The Court went on to decide that this issue should be determined by the Shariah Court. It appears that in cases like this, the Civil Court was reluctant to answer the constitutional issue of whether the right to freedom of religion was violated or not.
- ii Leaving Islam is strictly prohibited in the state of Kelantan which provides that no Muslim can declare himself or herself as no longer being a Muslim until such declaration is confirmed by the Shariah Court [45]. This means that an application has to be made to the Court. Before the declaration can be made, the person also has to go through the repentance process up to thirty six months. However, there is no elaborated process for that until now.
- iii Procedures to seek the annulment of the status of Islam is provided by the state of Negeri Sembilan since 2003 where an *ex-parte* application to seek the remedy must be submitted to the Shariah Court. The Court will adjourn the case, typically for a certain period until a counselling or repentance report from the Registrar of *Mualaf* is produced. The procedure provides for a maximum of a 90-day repentance process to be conducted. The report will then be submitted to the Shariah Court to decide on whether the application to leave Islam is allowed or rejected [46].

- iv Application can be made to the Shariah High Court to determine the status of religion like in the states of Penang, Kedah, Johor and Selangor. In the case of “missing husband”, Siti Fatimah Tan binti Abdullah v. Majlis Agama Islam Pulau Pinang, the petitioner converted into Islam to marry an Iranian man who abandoned her after their marriage. The testimony given by witnesses confirmed that she never practiced Islam and remained as a Buddhist throughout her marriage. Her application to leave Islam was approved by the Shariah High Court in 2006.
- b. States which neither have laws for conversion out of Islam nor expressed provisions regarding jurisdiction for the Shariah Court to deal with the matter, like in Perlis, Johore, Sarawak and the Federal Territory.

These states seem to be adopting the “implied power approach” that they have the inherent jurisdiction based on the subject matter listed under the State List of the Federal Constitution mentioned earlier in the article. By implication, it also means that states, through the Shariah Court, have the power to deal with the conversion out of Islam. This was what happened in *Tongiah Jumali v. The State Government of Johor* [47], involving a born Muslim who had converted to Christianity and married a non-Muslim. She claimed in the Civil High Court that her marriage was valid, but the question was whether her conversion out of Islam was valid and who should determine the issue. The High Court affirmed that the Shariah Court in the Federal Territory should decide on the matter even without any expressed provisions under any law.

In these states, an earlier dispute was related to determine which court had the jurisdiction to deal with converts seeking reversion. The “subject-matter” approach was earlier decided in the *Soon Singh v. Pertubuhan Kebajikan Islam Malaysia (PERKIM)* case in the Federal Territory when the Civil High Court held that the Shariah Court has the power to decide on the conversion despite not having any written law to deal with the matter (see below for further discussion of this case) [48]. Until now, the application to leave Islam in the Federal Territory is made to the Islamic Religious Department, then it will be heard before the Shariah Court. The Islamic Religious Council then will be named as the respondent in the case.

Due to the lacunae in those states, it is not surprising to see that, at least before 2007, cases pertaining to the application to leave Islam were brought to the Civil High Court and not the Shariah Court, to decide on the matter. The issue of freedom of religion as a constitutional right was brought before the Civil Court, challenging the so-called power and jurisdiction of the state’s Islamic law pertaining to (un)right to change religion. Disputes of jurisdiction can be clearly seen from the decisions of cases discussed below and how different approaches were taken by the Civil Court prior to a conclusive stance in 2007.

10. Civil Court, Conversion, Freedom of Religion: Wrong Court, Right Decision

Prior to 2007, cases were brought to the Civil Court because there was no provision under the Administration of Islamic Law Act 1993 (AILA 1993) in the Federal Territory, one of the states in Malaysia. Then began the dispute of the interpretation of which court had the jurisdiction to hear such applications. Two approaches were taken by the Civil Court: first, the “subject-matter” approach, where the judge decided that it is the inherent jurisdiction of a Shariah Court to deal with the matter, even though there has not been any expressed provisions pertaining to it under the AILA 1993; second, the “remedy prayed for” approach whereby, if the remedy prayed for is not available in any expressed provisions for the Shariah Court to decide, then the matter was within the Civil Court to decide. In the 1996 case of *Lim Chan Seng v. Islamic Religious Council of Penang, Abdul Hamid J.* held that the Civil Court has the jurisdiction to hear the matter since the power of the Shariah Court to do so was not enumerated under the State List of the Federal Constitution [49]. Furthermore, even if the jurisdiction is said to be inherently falling under the Shariah Court, the State Legislative Assembly must first enact the law. Until that is done, the matter stays with the Civil Court. Then came the decision of the Federal

Court, the highest court, in Soon Singh, as mentioned above, overturning the decision of Lim Chan Seng. Mohd Dzaidin, Federal Court Judge, made this conclusion on page 503 [48]:

... [T]he jurisdiction of the Syariah court to deal with the conversion out of Islam, although not expressly provided in the State Enactments can be read into them by implication derived from the provisions concerning the conversion into Islam. It is a general rule of construction that if the meaning of a statute is not plain, it is permissible in certain cases to have recourse to a construction by implication and the court may draw inferences or supply the obvious omissions."

Following the decision of Soon Singh in 1999, it was then upheld in *Kamariah bte Ali v. The Kelantan State Government* that a Muslim cannot declare herself or himself as no longer a Muslim without the Shariah Court's confirmation that she or he has left Islam [50]. This decision was later followed in the celebrated case of *Lina Joy v. Majlis Agama Islam Wilayah Persekutuan* [51]. Lina Joy, formerly Azlina Jailani, a born Muslim of Malay parentage, changed her name to Lina Joy following her conversion to Christianity. She brought an action against the National Registration Department for failure to entertain her request to take out the word Islam from her identity card. The latter rejected her request pending her submission of a confirmation letter from the Shariah Court that she is no longer a Muslim. The Federal Court affirmed that a Muslim remains a Muslim until the Shariah Court decided on the contrary. Ironically, after nearly nine years, the AILA 1993 has not been amended with any clear provisions for conversion out of Islam. The cases of Lina Joy and Tongiah Jumali should be a wake-up call for the Federal Territory, Johor and similar states to construct the amendment to the laws so as to include proper procedures for the application to leave Islam.

11. The Dilemma of Freedom of Religion: From Disputes of Jurisdiction to Negotiation the Way out

Ever since the landmark case of Lina Joy, there has been no more contestation on the issue of freedom of religion involving Muslim converts in the Civil Court. The determination of religious or whether one is allowed to change the status of religion will be decided by the Shariah Court. Many scholars have suggested numerous approaches to be taken by the relevant authorities, including to make uniform the law between states and/or to enact new laws for those states without specific provisions [3,52–54]. The most important amendment is on how and what are the procedures for the Shariah Court to follow once the application is submitted. Should the Negeri Sembilan law be made a model for the whole of Malaysia or should the act of changing religion be criminalized as attempted apostasy? That has yet to be seen. There are also calls for a death sentence for converts by pro-*hudud* politicians,¹ while religious leaders are adamant that no conversion out of Islam should be allowed and a persuasive approach must be taken to ensure they remain Muslims. Professor Shad Saleem Faruqi, a constitutional expert, looks at it as a cause of tension in Malaysian politics surrounding the never-ending Islamic state debate [55].

While conversion into Islam is applauded as part of the successful call to Islam (*da'wah*), the conversion out of Islam, particularly among the new converts, is seen as a mockery to the religion, particularly when conversion is used as a "ticket" to get married. Most of the cases that are discussed are those who convert into Islam out of convenience for the purpose of marriage. Against the backdrop of the cases and scenarios discussed, perhaps the suitable terminology for the issue is the annulment of the status of Islam, rather than the offence of apostasy. The term apostasy is not appropriate since there

¹ Pro-*hudud* politicians are politicians who advocate Islamic politics in Malaysia and mostly are from the state of Kelantan, which is governed by Parti Islam se-Malaysia (PAS), an opposition party from the federal government. They have been campaigning for the implementation of Islamic criminal law and capital punishment as a true indication for Islamic states. *Hudud* punishments ranging from flogging to the death sentence are for crimes like adultery, drinking liquor, defamation, highway robbery, rebellion and theft. However, only federal laws have the power to provide for capital punishment, not the state Islamic law.

are no holistic substantive provisions referring to the true concept of apostasy in the Malaysian Islamic laws. What more is the diversity of law in different states. The Muftis of the Federal Territory, Sabah, Sarawak and Pahang had made their opinion public that the punitive approach is not suitable to solve the issue of changing Islam among the Muslim converts in Malaysia. Instead, the religious authority should have proper rules regarding rehabilitation. The repentance or persuasion-to-return-to-Islam approach is the suitable approach rather than criminalizing the act of changing the religion. However, at the end, there are always two possibilities, either the person would remain a Muslim or leave the religion. Malaysia is not only lacking in the legal uniformity, but the proper management of converts is also yet to be seen.

12. Conclusions

The purpose of this article is to provide the essence of Islamic principles of religious freedom and apostasy and to examine how Malaysia copes with the issue of apostasy while freedom of religion is explicitly guaranteed by the Federal Constitution. In the Qur'an, the notion of freedom of religion is very clear. Religious tolerance and non-compulsion to Islam are the essence of freedom of religion. However, this freedom does not include the freedom to reject Islam after believing, because Muslims have a duty to uphold the faith. Changing religion from Islam to others is condemned by the Qur'an and shall incur the wrath of God in the hereafter. Throughout the past history of Islam, Prophet Muhammad (pbuh) did not take any action against those who left Islam. In fact, after the Prophet's death, incidents of apostasy worthy of death punishment were due to political reasons accompanied by the act of treason. Apostasy of that nature was seen as a grave threat to the state and public order. It is against this backdrop that Malaysian authority continue to assess the moderate way to solve the issue of conversion out of Islam. For non-Muslims, the right to abandon one's faith and choose another religion is a private matter and a part of the religious liberty within the constitutional framework. For Muslims, it will be a case for the Shariah Court to decide, usually after a report of a counselling session involving the potential converts. In a current situation involving converts of convenience, who subsequently intend to renounce Islam due to the failure of a marital relationship, they should be reminded that the Qur'an condemns those who renounce Islam after believing in it and should be advised to remain Muslims. Renouncing Islam, whether by born Muslims or converts of convenience, is a violation of the Qur'anic injunction that renders punishment from Allah alone.

While renouncing Islam is legally permissible in Malaysia, it must be done through the Shariah Courts. The task of the Shariah Court is to ensure whether the Islamization process properly took place and whether the counselling session is successful to make them return to Islam. Despite all the hanky-panky with the states' Islamic laws as shown by the cases discussed earlier, the Shariah Court has the jurisdiction and discretionary power to determine the matter. If the Shariah Court approves the application to leave Islam, then the registration as Muslim will be abrogated, and the word "Islam" can be taken out of the identity card. What is not clear is the rules and procedures to be followed by all the Shariah Courts. The biggest challenge is to see a legal uniformity and proper procedures for the holistic management of converts in Malaysia, and for that, the consensus from all states' lawmakers and Muftis to agree on what the religious authority must do in assisting the Shariah Court to decide on the matter is necessary. There is still uncertainty and a lack of courage to uniform or nationalize the law. In our view, a distinction should be drawn between the "divine," which is immutable, and "doctrine", which is developed by Muslim jurists and may change with the change in time and place. Is pronouncing a person as no longer Muslim a sin in the eyes of Allah? Is this what the Muftis, judges and religious authority in Malaysia are afraid of? With strict rules and procedures and a repentance process that has to be followed, must it be seen as opening the floodgates for the so-called "fragile Muslims" to leave the religion? The punitive approach is not the way out. Perhaps, Malaysia can consider the wise word of the former Grand Imam of Al-Azhar, Sheikh Muhammad Sayyed Tantawi (d. 2010), who is of the opinion that "action should not be taken against them on the

basis that they renounced Islam. Only when they insult Islam or try to destroy the religion, one should act (against them)" [56].

Acknowledgments: We would like to thank the University of Malaya for the Research Grant RG392/11HNE/2012-2014 from which a part of the findings contributed to this article.

Author Contributions: This article is based on collective writing by both authors and is a result of their research.

Conflicts of Interest: The authors declare no conflict of interest.

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