

## **The Impossible Task of Leaving Islam in Malaysia**

Lina Joy, born an ethnic Malay Muslim, appealed to the nation's highest court to be recognized as a Christian, the faith of her Indian boyfriend. The forty-three-year-old Joy took up the Catholic faith in 1990, was baptized eight years later, and changed her name from Azlina Jailani to Lina Joy in 1999. The next year, Joy sought to remove the word "Islam" from her identification card—that way, she could legally marry her boyfriend—but the lower civil courts ruled that only sharia courts could officially sanction her conversion. Under sharia law in Malaysia, Joy could face criminal prosecution for apostasy, punishable by imprisonment, a hefty fine, or time spent at a "rehabilitation" camp. She fled into hiding worried for her safety. Malaysia, though a multi-confessional state whose constitution guarantees religious freedoms, has seen rising religious tensions in recent years between its Muslim Malay majority (about 60 percent of its population) and its mostly Indian and Chinese Hindu, Buddhist, and Christian minorities. Hundreds of Muslim demonstrators flanked the federal court building during the decision, shouting "God is great."

The Lina Joy case had a considerable impact on individuals who wished to leave Islam in Malaysia, as they could no longer go to the civil courts for this and had to apply instead to the Sharia Court, thus exposing themselves to the risk of legal action.

(Read about the case here: [Case study on Apostasy](#))

## **Apostasy Laws in Muslim Majority Countries**

Half of the world's 49 Muslim-majority nations criminalize apostasy; moreover, all nations with apostasy laws on the books are majority Muslim, except for India and Nigeria. In 12 of the 13 nations that maintain the death penalty for apostasy and blasphemy, the national constitutions designate Islam as the official religion, and the vast majority of civilians identify as Muslims. ([Death Penalty for Apostasy](#))

## **Q2:256 and the Freedom of Religion**

Apostasy laws are clearly a restriction on freedom of religion. Yet, if one looks at the verse 2:256 in the Quran, the proclamation is clear - "There is no compulsion in religion." There are multiple narrations that give a context to this revelation and all of them involve Muslim parents seeking to compel their adult children to become Muslims. For the deeply patriarchal context of the 9th century world, it is truly a radical idea that 2:256 sets forth. Quran shows the proper way to propagate faith: "Invite to the way of your Lord with wisdom and good instruction, and argue with them in a way that is best. Indeed, your Lord is most knowing of who has strayed from His way, and He is most knowing of who is [rightly] guided." Q16:125

But does this mean that the Quran has a different standard for those seeking to convert to a different religion from Islam, that is, the people who repudiate Islam? Clearly, we find that it is not so. In 2:217, those who revert from belief to disbelief are told that their deeds would become worthless in the hereafter, but there is no mention of any earthly punishments. Similarly, 4:137 says: "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," again, without mentioning any earthly punishments to be meted out to them. Also, Q18:29 says: "The truth is from your Lord, so whoever wills - let him believe; and whoever wills - let him disbelieve."

### **So, what explains punishments for apostasy in premodern Islamic world?**

Apostasy, the generic act of renouncing or leaving one's religion, is *ridda* or *irtidād* in Arabic. In the time of the Prophet Muhammad ﷺ and the early Muslim community, the Arabic noun *ridda* and the verb for engaging in it were understood not as meaning a personal choice of changing one's religion but as the *public act of political secession from the Muslim community*. Along the same lines, the problem with *ridda* in Islam was not that a person was exercising their freedom of conscience and choosing to no longer follow the religion. The problem was when such a decision became a public act with political implications.

To understand what *ridda* meant in the premodern Islamic civilization, we have to understand two things. First, the role of religion in the premodern world (not just in the Islamic realm) was very different from its role in the post enlightenment western order that predominates today. Religion was seen as essential and occupied a central role in how the political and social order was imagined and legitimized, which means that rebellion towards a certain political order would involve a rebellion against a religious order. Similarly, any new religious idea that unsettles the status quo of an established religious order would also unsettle the political order. This explains the fierce opposition that Prophet Muhammad faced in Makkah.

The Islamic empire that emerged as Muslim political influence spread developed its own concepts of "the order of the world under heaven" where Islam was central. Unlike previous prophets, this last prophet had been sent to all communities, and his message rectified the errors that had crept into the revealed teachings brought by earlier prophets. What was best for human beings was clear: the worship of the one God and following the religion of Muhammad ﷺ, which would promote "felicity in both abodes (this world and the next)". But the Quran and the Prophet ﷺ also gave people the right to reject this path and continue practicing their religion under Muslim rule. As Muslim scholars and rulers understood it, their mission was clear: extend the rule of Islam and God's law as far as possible not so that everyone could be forcibly converted to Islam (this hardly ever occurred) but so "the word of God would be

supreme” (a famous Hadith) and so that as many people as possible could live within God’s final order under heaven.

The second thing to understand here is that there are three sets of laws under shariah (as jurists understand it)- first, which is the largest component, involves laws that are up to individual Muslims to follow in their own lives out of the purview of courts; second, those that are implemented by judges and courts; third, laws set by the ruler or political authority based on the best interests of society. Apostasy laws in Islam belong to the third group.

When these two facts are kept in mind, it becomes clear why classical scholars of law listed *ridda* under chapters dealing with rebellion or interstate politics and not under criminal law. It was strictly the purview of the ruler (thus a matter of *siyasa* or public policy) who had the final say on who was a *murtadd* (apostate) and if he/she would be punished (hanafi law excluded women from any convictions of apostasy).

Even though hadiths are quoted to support the punishment of death for apostasy (that was the standard punishment in all classical schools of sunni and shite islam), modern scholars have begun to focus more on the context of those hadiths, and show that all of those statements from the Prophet involved situations where a person left Islam and joined enemy ranks that were hostile to the the muslims (and involved in a war with them). There is no reliable evidence that the Prophet ever executed anyone for apostasy (as was observed by the famous scholar of 12th century Cordoba, Ibn al-Talla). The treaty of Hudaibiyya is another strong example from the Prophet’s life that shows his complete tolerance for those leaving Islam.

(Read the [complete article](#) by Jonathan Brown on the history and practice of apostasy laws as well as questions on its modern relevance. He concludes by saying that if apostasy laws were meant to protect the integrity of Muslim societies, it has the very opposite effect today, and becomes a cause for driving people away from religion.)

## **Reflections**

The Universal Declaration of Human Rights states that “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, ... either alone or in community with others and in public or private...” (Article 18). Yet Article 29 of the same declaration mandates that the human rights it sets forth can be restricted for purposes of “meeting the just requirements of morality, public order and the general welfare in a democratic society.” Religious freedom is incredibly important, but it can be restricted. Discuss if there is any scope for apostasy laws to exist in order to maintain public order and general welfare.