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## INTRODUCTION

**T**his present study is based on a more extensive study on this important subject and includes two discussions of particular importance. One of these is a chapter which deals with the words spoken by the Prophet as transmitted to us in relevant Prophetic hadiths and traditions\*<sup>1</sup> attributed to his Companions. This discussion serves as a follow-up to the preceding chapter about apostasy in the practice-based Sunnah, that is, in the Prophet's actions. In this way, all of the evidence taken together serves to evaluate if there is or there is not a clearly specified, legally prescribed punishment in Islam for the crime of altering one's religious beliefs so long as no other criminal action is associated with it.

One section of the book is devoted to a discussion of the various juristic schools of thought, particularly in view of the fact that the majority of Muslim jurists have based their claim that the apostate must be put to death on the verbal Sunnah and consensus. For this reason, it is necessary to examine these schools of thought one by one and gain a detailed familiarity with their claims, as well as the evidence on which such claims are based. Upon closer examination, it became apparent that the crime with which these jurists were dealing was not the one with which we are concerned here. That is to say, they were discussing a compound crime which involved political, legal and social elements such that an apostate's change of religion or religious belief was the outcome of a change in his attitude toward the Muslim community, and hence, toward the society, the political leadership, and the systems and laws which the community

had adopted. In short, it was the result of a complete change of affiliation and loyalty.

In discussing the claim to a consensus concerning the necessity of putting the apostate to death, this study aims to make clear that there has, in fact, been no consensus concerning the existence of a legally prescribed punishment, set down in the Qur'an and clarified in the Sunnah, for apostasy in the sense in which this term is being used. Rather, in Islam, human beings possess the freedom to choose the religion by means of which they will worship God. It is a freedom with which God Almighty has entrusted us, and it is this freedom which serves as the basis for human responsibility. After all, someone who has no choice is outside the realm of accountability and bears no responsibility for what he or she does. To the extent that one's freedom of choice is diminished, one's responsibility is likewise diminished. Hence, everything that God has enjoined upon human beings or forbidden to them, He has bound to their God-given abilities, potentials and freedom of choice: "God does not burden any human being with more than He has given him – [and it may be that] God will grant, after hardship, ease" (65:7).

God Almighty has thus made what human beings seek subject to their free wills:

And say, "The truth [has now come] from your Sustainer; let, then, him who wills, believe in it, and let him who wills, reject it." Verily, for all who sin against themselves [by rejecting Our truth] We have readied a fire whose billowing folds will encompass them from all sides; and if they beg for water, they will be given water [hot] like molten lead, which will scald their faces; how dreadful a drink, and how evil a place to rest! (18:29)

As such, He has made the human will fully effective in the realm of choice:

Unto him who cares for [no more than the enjoyment of] this fleeting life, We readily grant thereof as much as We please, [giving] to whomever it is Our will [to give]; but in the end We consign him to

[the suffering of] hell, which he will have to endure disgraced and disowned! But as for those who care for the [good of the] life to come, and strive for it as it ought to be striven for and are [true] believers withal – they are the ones whose striving finds favor [with God]! (17:18–19)

In the realm of human responsibility, God Almighty has made a distinction between the punishment merited by an error and that which is merited for a deliberate act, just as He draws a distinction between an error resulting from negligence and one that results from a conscious intention, and between persisting in an error and continuing to commit it, and turning away from it and repenting of it. All these things, among others, confirm the freedom enjoyed by human beings with respect to their wills, intentions, thoughts, expressions and actions. This will become increasingly clear in the course of this study, which is presented here as an example of the type of serious review needed in order to purify our heritage of the accretions with which it has become burdened over the course of certain historical periods and due to a variety of causes.

#### METHODOLOGY

The methodology most appropriate to this study is one which combines the conventional philosophical approach, the analytical approach, and the inductive, historical approach, yet without disregarding the traditional approaches to the study of Islamic textual sciences and other fields of knowledge which have been adhered to since the era in which the Islamic sciences first began to be recorded.

In the realm of Qur'anic interpretation, this study relies on what has been established by Muslim scholars who specialize in this field based on its particular principles and methods. Similarly, in weighing and judging hadiths, it adheres to the methods used by hadith scholars. In the realm of basic principles and foundations, it deals with the Qur'an as the foundational source for all rulings: "Judgment rests with God alone" (12:40). In other words, the principle of the authority of Scripture is considered paramount. The

Sunnah it is treated as the source which clarifies the meaning of the Qur'an in a binding manner. At the same time, claims to the existence of a consensus on matters concerning which it has been established that there was disagreement among the Companions are not accepted. After all, 'consensus' is the consensus of the Companions.

In seeking to determine the meanings of linguistic terms which appear in the Qur'an, the first criterion will be the Qur'an's own usage of such terms. The second criterion will be the Prophet's explanatory statements in the Sunnah, and the third will be the Arabs' customary usage of such terms in their various dialects, literary styles and rhetoric. By following this order of priority, one ensures that Arabs' linguistic usages of terms are not allowed to determine the meanings of the Qur'an. More broadly speaking, this study observes the governing values and intents of Islamic law in their capacity as universals, that is, as sources of light by which the path is illumined for those seeking the truth in their attempts to determine the meanings of particular texts.

#### THE STUDY'S LIMITATIONS AND FUNDAMENTAL PURPOSE

When jurists engage in the practice of independent interpretation, or *ijtihad*,\* they generally begin by extracting (a) the basis of the legal ruling to be determined, (b) isolating or distinguishing this basis from other possible bases, and then (c) verifying this basis (*tahqiq al-manat*). When the issue of concern is one around which controversy or disagreement exists such that there are relevant texts from the Islamic written corpus which appear to be contradictory or in opposition to one another, such scholars begin by "clearing the playing field", as it were, that is, by clarifying what their purposes are, and what they are not.

The fundamental issue addressed in this study is individual apostasy, that is to say, a change in an individual's doctrinal beliefs and whatever modification to which this change leads in thought, conceptions and behavior. In such a case, the individual concerned has not associated the act of changing his doctrinal beliefs with rebellion

against the community or its statutes, nor against its legitimate leadership, whether political or religious. He has not engaged in highway robbery or taken up arms against the community; nor has he joined the community's enemies or betrayed the community in any way. All he has done is to change his doctrinal position as a result of uncertainties and factors which have led him to doubt the community's overall doctrine or some of its pillars or foundations. Unable to resist such doubts and suspicions, he has succumbed to them and allowed them to influence him. Yet rather than becoming a public advocate of his newly adopted position, he has kept his apostasy to himself.

Granting that such an individual has indeed committed apostasy and denied the truth of Islam, the question is: Has God established death as the legally sanctioned punishment for such a person, with or without the community's first having urged him to repent? And is it, therefore, the duty of the Muslim community, represented by its rulers, to carry out this penalty by putting him to death for no reason but that he has changed his beliefs? And is this the case even if the change in this person's beliefs has not been accompanied by any other crime such as those we have mentioned? If some member of the Muslim community were to kill this individual, would he be exempt from punishment or retaliation for anything other than having taken the law into his own hands? Similarly, is it the Muslim community's duty to compel this person and others like him to return to Islam by force? Or does the Qur'an deny the legitimacy of such compulsion? Further: Has there been unanimous agreement since the dawn of Islam that it is the Muslim community's duty to put the apostate to death? Or has this view been the subject of disagreement that has not been brought sufficiently to light?

If one accepts the view that the apostate must be put to death, does this mean that the mere denial of Islam is sufficient legal cause for carrying out the death penalty? In other words, is apostasy to be viewed as a mere departure from Islam, or as an act of aggression against it? Do the majority of those who support the death penalty for apostasy view it as a political crime, or as belonging to the category of felonies, in which case its punishment will take on the character of a legally prescribed penalty? Moreover, assuming that it is a

legally prescribed penalty and that, as is stated explicitly in authoritative Islamic texts, the legally prescribed penalties serve to atone for a person's sin, then is the death penalty for apostasy to be considered a form of purification or atonement?

These are the basic questions addressed in this study. In so doing, this study adheres to the methodology outlined above, asking the Most High for guidance to the most truthful point of view, for it is He alone who grants success.

The aim of this study is to provide a model for the type of revision by means of which one can place Islamic tradition under the authority of the Qur'an, thereby bringing it into full conformity with Qur'anic teachings.