

## **ANALYSIS OF UNDERSTANDING HADITH TOWARDS THE LEGITIMATION OF THE DEATH CRIMINAL FOR APOSTASY**

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**Abstract:** The discourse on the implementation of punishment for apostates still become critical and problematic debates among Islamic scholars. This debate is motivated by the existence of hadith texts which explicitly narrate that the criminal sanction for apostates is the death penalty. This study aims to analyze the death penalty for apostates based on hadith texts. This research is normative research with a text approach and hadith context. The data source uses hadith texts related to the death penalty for apostates “*man baddala dinahu fa uqtulub*” and uses descriptive qualitative analysis. The study confirms that the implementation of the hadiths regarding the death penalty for apostates is closely related to the context of space and time when these hadiths were revealed. Based on the sociohistorical perspective, the death penalty for apostates is not a criminal sanction applied to their apostasy. However, these sanctions are carried out for criminal acts such as intentional murder and hate speech or lies in the name of Islam so as to disrupt the stability of the security of society and the state. Thus, the hadith texts regarding the death penalty cannot be used as legal legitimacy to punish the apostasy act.

**Keywords:** Legitimacy, Hadith, Islamic Criminal, Death Penalty, Apostasy

**Abstrak:** Diskursus penerapan pidana bagi pelaku murtad masih meniscayakan perdebatan kritis dan problematis di kalangan ulama klasik maupun kontemporer. Perdebatan ini dilatarbelakangi adanya teks-teks hadits yang menarasikan secara eksplisit bahwa sanksi pidana bagi pelaku murtad adalah hukuman mati. Penelitian ini bertujuan untuk menganalisis tindak pidana mati bagi pelaku murtad berdasarkan teks-teks hadits. Penelitian ini merupakan penelitian normatif dengan pendekatan teks dan konteks hadits. Sumber data menggunakan teks-teks hadits hukuman mati bagi murtad “*man baddala dinahu fa uqtulub*” dan kemudian analisis data menggunakan analisis kualitatif deskriptif. Hasil penelitian ini menegaskan bahwa penerapan hadits-hadits tentang hukuman mati bagi pelaku murtad sangat erat kaitannya dengan konteks ruang dan waktu di masa turunnya hadits-hadits tersebut. Menurut perspektif sosiohistoris, sanksi pidana mati bagi pelaku murtad dalam teks-teks hadits bukanlah sebagai sanksi yang diterapkan atas kemurdatannya. Namun, sanksi tersebut diterapkan atas tindakan kriminalnya yakni pembunuhan yang disengaja dan ujaran kebencian atau kebohongan atas nama Islam sehingga mengganggu stabilitas keamanan masyarakat dan negara. Dengan demikian, teks-teks hadits yang berbicara tentang hukuman pidana mati tidak dapat dijadikan legitimasi hukum dan pertimbangan untuk memberikan sanksi pidana mati perbuatan murtad.

**Kata Kunci:** Legitimasi, Hadits, Pidana Islam, Pidana Mati, Murtad.

## INTRODUCTION

The discourse on the death penalty for someone who leaves Islam is an interesting discussion. Serious debate among scholars is caused by the existence of a hadith texts regarding the threat of capital punishment for apostates. The hadith has become a serious study because it seems contrary to the values of freedom for a person in choosing his religion, as confirmed in the Qur'an.<sup>1</sup>

A person who leaves Islam or apostates in the study of *fiqh al-jināyah* is a crime that is classified as *jarimah budud*. *Jarimah budud* is enforced absolutely on the texts without any policy given by the competent leader or government. The imposition of sanctions for perpetrators who leave Islam is intended so that everyone who has entered Islam does not easily commit arbitrary acts for the benefit of religion and the people. As benefit which is the core and goal to be achieved from a policy to protect religion, soul, lineage, mind and property. When viewed from a classification perspective, the application of *jarimah* for perpetrators who

leave Islam is a form of realization of protection for the Islamic religion.

Abdullah Ahmed an-Na'im stated that the crime of *jarimah budud* is limited to four, namely *sariqah*, *zina*, *qadhaf*, and *hirabah* while the act of *riddah* cannot be classified as *jarimah budud* because it is contrary to human rights in the form of the right to life and freedom of religion that have been guaranteed in the Qur'an (2: 256).<sup>2</sup> However, according to Faisal's research, the classification of capital punishment in Islam includes four types, namely adultery, premeditated murder, *qisas* and *riddah*. In addition to these four crimes, Islam also imposes the death penalty for *ta'zir*. This *ta'zir* such death penalty is enforced if desired for the sake of public interest such as espionage and very dangerous recidivists. So, state law enforcers need to limit the types of crimes that fall into the category of capital punishment with *ta'zir*.<sup>3</sup>

Apostasy from a legal perspective can be categorized to be a crime because it includes the notion of a criminal act, namely an act that violates or violates the law and threatens the rights of others. Crimes that

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<sup>1</sup> Muhammad Ansor, "Islam Awal, Riddah, Dan Praksis Kebebasan Beragama: Reinterpretasi Hadis Man Baddal Dinah Faqtuluh," *Mutawatir* 5, no. 2 (2015), doi:<https://doi.org/10.15642/mutawatir.2015.5.2.273-296>, p. 274.

<sup>2</sup> Imroatul Azizah, "Sanksi Riddah Perspektif Maqasid Al-Shari'ah," *Al-Daulah* 5, no. 2 (2015),

doi:<https://doi.org/10.15642/ad.2015.5.2.588-611>, p. 594-595.

<sup>3</sup> Faisal, "Sistem Pidana Mati Menurut Hukum Positif Dan Hukum Islam," *Legalite. Jurnal Perundang-Undangan Dan Hukum Pidana Islam* 1, no. 1 (2016): 81-100, <https://journal.iainlangsa.ac.id/index.php/legalite/article/view/293>, p. 87-89.

violate the law have been determined by Allah SWT in the Qur'an and the Prophet Muhammad SAW in the hadith. It is said to threaten the rights of others because it disturbs the (general) comfort of Muslims due to apostasy. Therefore, this act is punishable by the death penalty. In the perspective of Islamic Law (Sharia), as previously explained, apostasy is categorized as *jarimah hudud* whose punishment is determined by Allah SWT. Zainuddin quoted Abû Zahrah as saying that hudud is a punishment that is determined by the arguments of the Qur'an and the Hadith of the Prophet SAW regarding the problem of crimes that contain elements of violating or resisting.<sup>4</sup>

According to Abdullah Saeed, it is appropriate to place the act of *riddah* as a form of sin and not a criminal act. This is as the view of the Qur'an which supports freedom of religion and belief.<sup>5</sup> There are so many Qur'an texts that give the message that anyone has the right to choose their religion and belief without any coercion to convert to Islam. This becomes problematic, namely Islam allows someone to enter into his religion, but does not provide an exit. If this is considered true, then Islam seems to apply a double standard

in religion, it is permissible to enter Islam but not to leave it.

The existence of provisions for criminal penalties for people who leave Islam in the texts of hadith leaves a serious problem and a re-question, namely whether Islam strictly enforces the death penalty for apostates? Is it not against the values of Islam itself which brings benefit and prevents damage, upholds truth, justice and human rights. This criminal punishment does have a legal basis based on the text of the hadith of the Prophet Muhammad. The hadith that is often used as the basis for such judgment is the redaction of the word "*man baddala dinahu fa uqtulub*". However, in understanding the hadith, it is not possible to only look at the textual editorials, but it is necessary to conduct an in-depth and holistic study through appropriate hadith understanding methods.

Several previous studies have discussed the death penalty for apostates. To position the research position currently being studied, the authors conduct a literature review so that the research results have new value and significance in the scientific treasures. Ansor stated that the implementation of the death penalty for apostates in the early days of Islam tended

<sup>4</sup> Zainuddin, Bustamar, and Mualimin Mochammad Sahid, "The Philosophy of Criminal Act of Apostasy (Murtad) in Islamic Law," in *Contemporary and Emerging Issues in Syariah and Law*, ed. Dina Imam Supaat, Ahmad Zaki Salleh, and Zahari Mahad

Musa (Selangor: Universiti Sains Islam Malaysia Press, 2019), p. 226.

<sup>5</sup> Ach Musif, "Pemikiran Islam Kontemporer Abdullah Saeed Dan Implementasinya Dalam Persoalan Murtad," *Ulumuna* 19, no. 1 (2015), p. 89-90.

to be political. Criminal punishment for perpetrators of *riddah* is not in accordance with the principles and teachings of Islam which gives the individual the right to choose his religion and belief.<sup>6</sup> In the Indonesian context, Nurwahidah stated that in some criminal acts it is necessary to have the death penalty. However, he did not discuss the act of apostasy as a criminal act.<sup>7</sup> This is confirmed by a study conducted by Rizal that the death penalty for several criminal acts is in accordance with the concept of sharia in the Indonesian context, in fact he classifies the act of apostasy as a form of principal crime whose sanction is the death penalty. He explained that apostasy can lead to ideological contamination.<sup>8</sup> According to research by Azweed et al in Malaysia, cases of apostasy have become a sensitive issue that has the potential to cause social tensions and disrupt the stability of state security and a multi-religious society. In this case, Ja'far in his study emphasized that the application of the death penalty law is able to strengthen moral values, justice and human values to maintain public order and peace.<sup>9</sup> This is

different from the research of Muhammadun et al which states that the death penalty for apostates is no longer relevant to be applied in today's contemporary era. He added that the death penalty in Indonesia is not applied for acts of *riddah* but for rebellion that threatens the stability of the country.<sup>10</sup> From the previous studies, similarities can be seen in the study of the death penalty for apostates, it's just that the approaches and perspectives used are different. The similarity that is quite relevant is the research of Muhammad et al, only the difference is in the perspective used. Based on the previous relevant literature review, the current research is carried out as an effort to fill the research gap related to the understanding of hadith as the legitimacy of the death penalty for apostates.

## **METHOD**

This research is a normative research with text approach and hadith context. Sources of primer data in the study are hadiths regarding the death penalty for apostates, and secondary data are the additional books

<sup>6</sup> Ansor, "Islam Awal, Riddah, Dan Praksis Kebebasan Beragama: Reinterpretasi Hadis Man Baddal Dinah Faqtluh."

<sup>7</sup> Nurwahidah, "Eksekusi Hukuman Mati Di Indonesia (Tinjauan Hukum Pidana Islam)," *Syariah Jurnal Hukum Dan Pemikiran* 14, no. 1 (2014): 1–13, doi:10.18592/syariah.v14i1.65.

<sup>8</sup> M Rizal, "Penerapan Hukuman Pidana Mati Perspektif Hukum Islam Di Indonesia," *Nurani: Jurnal Kajian Syariah Dan Masyarakat* 15, no. 1 (2015): 101–16, doi:https://doi.org/10.19109/nurani.v15i1.277.

<sup>9</sup> A. Khumedi Ja'far, "Hukuman Mati Atas Delik Pembunuhan Menurut Hukum Pidana Islam Dan Hukum Pidana Positif," *Al'Adalah* XII, no. 2 (2014): 397–408, doi:https://doi.org/10.24042/adalah.v12i2.194.

<sup>10</sup> Muhammadun, Oman Fathurrohman, and Idris Ahmad Rifai, "Death Penalty for Apostasy: The Perspective of Hadith and Positive Law," *Jurnal Indo-Islamika: Kajian Interdisipliner Islam Indonesia* 11, no. 1 (2021): 1–20.

such as *Syarb Sabīh Bukhārī li ibn al-Baṭṭāl*, *Syarb Sunan at-Tirmīzī*, *syarb al-Nawāwī*, and scientific literatures such journal articles and encyclopedias. These hadiths are limited to the hadith editors who narrate that “*man baddala dīnahu fa uqtulūb*” from various hadith literature, they are:

(1) Hadith of Al-Bukhārī, number 3017, chapter of *Lā Yu`azzib bi `Aẓāb Allāh* in the book of *al-Jāmi`al-Musnad as-Ṣaḥīb al-Mukhtaṣar min Umūr Rasūlillāh `alaibi wa Sallām wa Sunanihi wa Ayyāmihī*.<sup>11</sup>

(2) Hadith of Abū Dāwūd, number 4351, chapter of *al-Hukm fī man irtaddā* in the book of *Sunan Abī Dāwūd*.<sup>12</sup>

(3) Hadith of At-Tirmīzī, number 1458, chapter of *mā jā-a fī al-Murtaddī* in the book of *al-Jāmi`al-Kabīr Sunan at-Tirmīzī*.<sup>13</sup>

(4) Hadiths of An-Nasā`ī, number 4059, chapter of *al-Hukm fī al-Murtadd* in the book of *al-Mujtabā min as-Sunan as-Sughrā an-Nasā`ī*.<sup>14</sup>

The data collection technique used the literature and documentation study, and the data is analyzed by the descriptive qualitative analysis with three concurrent flows of action; data reduction, data display, and conclusions and verifications.<sup>15</sup>

## RESULTS AND DISCUSSION

### 1. Definition of *Riddah* and the Related Hadith Texts

*Riddah* or apostasy is etymologically derived from the arabic word: *radda-yaruddu-riddan*, which means to return and turn back. To turn back is to return to the previous religion. Idiomatically the word *ridda* is followed by the letters ‘*an*, ‘*alā*, *min* as in the sentences *yaruddu ‘an dīnikum*, *yaruddu ‘alā a’qābikum* and *yaruddu min ba’di imānikum kuffāra*. Morphologically, the term apostasy is the form of the subject, namely *ism fā’il* which is rooted from the word *irtadda* which means to transfer or return. This kind of understanding is generally used in the form of returning an answer or returning home. *Riddah* can also be interpreted as retreating and returning to the back or returning to the original path. The word can be found in the Qur’an surah *al-māidah* verse 21

“يَقَوْمِ ادْخُلُوا الْأَرْضَ الْمُقَدَّسَةَ الَّتِي كَتَبَ اللَّهُ لَكُمْ وَلَا تَرْتَدُّوا عَلَىٰ أَدْبَارِكُمْ فَتَنْقَلِبُوا خَاسِرِينَ (المائدة: ٢١)”

“O my people, enter the Holy Land which Allah has assigned to you and do not turn back (from fighting in Allah 's cause) and (thus) become losers.” (5: 21)

<sup>11</sup> Muhammad bin Ismail Abu Abdullah Al-Bukhari Al-Ja’fi, *Al-Jami’ Al-Musnad As-Shahib Al-Mukhtasar Min Umur Rasulillah Alaibi Wa Sallam Wa Sunanihi Wa Ayyamihī* (Dar Thuq An-Najah, 1442).

<sup>12</sup> Abu Daud Sulaiman bin Asy’at bin Ishad, *Sunan Abi Daud* (Beirut: Maktabah al-Ashriyyah, n.d.).

<sup>13</sup> Muhammad bin Isa bin Saurah bin Musa bin Al-Dahhak At-Tirmidzi, *Al Jami’ Al-Kabir Sunan Al-Tirmidzi*, Jilid 3 (Dar al-Gurrah al-Islami, 1998).

<sup>14</sup> Abu Abdurrahman Ahmad bin Syu’aib bin Ali bin Al-Khurasan Al-Nasa’i, *Al-Mujtaba Min as-Sunan-as-Sunan as-Sugbra Al-Nasa’i*, 2nd Editio (Aleppo: Maktab al-Matbu’ah al-Islamiyah, 1986).

<sup>15</sup> Bruce L Berg, *Qualitative Research Methods for the Social Sciences*, 4th ed. (United State of America: Pearson Education, 2001), p. 40-41.

The Islamic jurisprudence scholars also give different meanings of *riddah*, including the scholars among the four schools of thought, as follows:<sup>16</sup>

- a. The Hanafi school, as stated by al-Kasani, defines *riddah* as a verbal statement of disbelief. Riddah is the act of someone who turns away after professing faith in the form of denial, such as leaving the obligatory prayers and fasting.
- b. Mazhab Maliki, as conveyed by Ibn `Arafah, interprets *riddah* as a statement out of Islam after making the shahada and performing the rituals of worship. The form of *riddah* that is exemplified is like insulting the prophet and the angels.
- c. The Shafi'i school, as explained by al-Ghazâlî, that *riddah* is saying about speech accompanied by insults, disobedience and actions that lead to forms of disbelief, such as worshipping idols.
- d. the Hanbali school, defined *riddah* as leaving someone from Islam and returning to being an infidel, such as denying the obligation to pray.

Based on the information explained by the scholars, it can be said that *riddah* is the act of someone who comes out of Islam, whether it is done with the intention of kufr, speech or deed. This means that it is not only said that a person has changed his religion, but also refuses to believe in every pillar of faith and refuses to carry out Islamic religious orders.<sup>17</sup> Thus, the term apostasy can be either explicit which means really insulting Islam, or implicitly, namely utterances that are not in accordance with theological consensus or with the articles of axiomatic beliefs.<sup>18</sup>

In the early days of classical Islam, apostasy became the main "enemy" that the local government deserved to fight. Apostasy is considered a form of betrayal of the state and alliances with the enemies of Islam, so the role of the state is needed in taking firm action against this act. In addition, apostasy as a crime against religion is analogous to a form of high-level treason against the state and endangers the survival of society and causes instability in the state order.<sup>19</sup>

To focus the discussion of the hadith in this paper, the author focuses on the the

<sup>16</sup> Asrori Asrori, "Kajian Ma'anil Hadits Tentang Hukuman Mati Bagi Orang Murtad," *Hikmah: Journal of Islamic Studies* 14, no. 2 (2018): 160, <https://doi.org/10.47466/hikmah.v14i2.111>, h. 164-165.

<sup>17</sup> Agaji Ja'far Abdullahi, "Riddah (Apostasy) in Islamic Jurisprudence: The Views of The Jurists," *South Asian Journal of Social Sciences and Humanities* 2, no. 3 (2021): 96-104, <https://doi.org/DOI:>

<http://doi.org/10.48165/sajssh.2021.2306> 96, h. 98.

<sup>18</sup> Rudolph Peters and Gert J.J. De Vries, "Apostasy in Islam," *Welt Des Islams* 17, no. 1/4 (1976): 1-25, <https://doi.org/10.1163/157006076X00017>, p. 3.

<sup>19</sup> Muhammad Ali, Liu Yi Deng, and Muhammad Khabeer Khalid, "Apostasy and Blasphemy," *Journal of Liberal Arts and Humanities (JLAH)* 2, no. 6 (2021): 7-11, doi:10.48150/jlah.v2no6.2021.a2, p. 9.

hadiths that state the death penalty for apostates with the keywords “*man baddala dinahu fa uqtulub*” which the author has summarized. Based on a search of hadith texts with the keywords “*man baddala dinahu fa uqtulub*”, the author found 12 relevant hadiths, as follows:

#### 1. Hadith narrated by Al-Bukhârî

Hadith Number 3017

“حَدَّثَنَا عَلِيُّ بْنُ عَبْدِ اللَّهِ، حَدَّثَنَا سُفْيَانُ، عَنْ أَيُّوبَ، عَنْ عِكْرِمَةَ، أَنَّ عَلِيًّا رَضِيَ اللَّهُ عَنْهُ، حَرَّقَ قَوْمًا، فَبَلَغَ ابْنَ عَبَّاسٍ فَقَالَ: لَوْ كُنْتُ أَنَا لَمْ أُحْرِقْهُمْ لِأَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لَا تُعَذِّبُوا بِعَذَابِ اللَّهِ» [ص:62]، وَلَقَتْنُهُمْ كَمَا قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ»<sup>20</sup>

“Has told us 'Alî ibn 'Abdillah, told us Sufyân, from 'Ikrimah he said 'Alî radhiyallâhu 'anhu once burned a *ẓindîq* infidel, then it reached Ibn`Abbâs, and he said: Indeed I have never burned them because of the prohibition of Rasulullah (Peace Be Upon Him). "Do not punish them with the punishment of Allah". And I killed them because of the words of Rasulullah SAW. “Whoever changes his religion, then kill him.””

Hadith Number 6922

“حَدَّثَنَا أَبُو التُّعْمَانِ مُحَمَّدُ بْنُ الْفَضْلِ، حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ، عَنْ أَيُّوبَ، عَنْ عِكْرِمَةَ، قَالَ: أُنِيَ عَلِيُّ رَضِيَ اللَّهُ عَنْهُ، بِرِنَادِقَةٍ فَأَحْرَقْتُهُمْ،

فَبَلَغَ ذَلِكَ ابْنَ عَبَّاسٍ، فَقَالَ: لَوْ كُنْتُ أَنَا لَمْ أُحْرِقْهُمْ، لِنَهْيِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «لَا تُعَذِّبُوا بِعَذَابِ اللَّهِ» وَلَقَتْنُهُمْ، لِقَوْلِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ»<sup>21</sup>

“Has told us Abû Nu`mân ibn al-Fadl, has told us Hammâd ibn Zaid, from Ayyub, from 'Ikrimah he said 'Alî radhiyallâhu 'anhu once burned an unbeliever *ẓindîq*, then it reached Ibn`Abbâs, and he said: I have never burned them because of the prohibition of Rasulullah SAW. "Do not punish them with Allah's punishment". And I killed them because of the words of the Prophet Muhammad. "Whoever changes his religion, then kill him.”

2. Hadith narrated by Abû Dâwûd, Number 4351

“حَدَّثَنَا أَحْمَدُ بْنُ مُحَمَّدٍ بْنُ حَنْبَلٍ، حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ، أَخْبَرَنَا أَيُّوبَ، عَنْ عِكْرِمَةَ، أَنَّ عَلِيًّا، عَلَيْهِ السَّلَامُ أَحْرَقَ نَاسًا ارْتَدُّوا عَنِ الْإِسْلَامِ، فَبَلَغَ ذَلِكَ ابْنَ عَبَّاسٍ، فَقَالَ: لَمْ أَكُنْ لِأَحْرِقْهُمْ بِالنَّارِ، إِنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لَا تُعَذِّبُوا بِعَذَابِ اللَّهِ»، وَكُنْتُ قَاتِلَهُمْ بِقَوْلِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَإِنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ»، فَبَلَغَ ذَلِكَ عَلِيًّا عَلَيْهِ السَّلَامُ، فَقَالَ: وَيْحَ ابْنَ عَبَّاسٍ»<sup>22</sup>

“Ahmad ibn Muhammâd has told us, Ismâ'il ibn Ibrâhîm has told us, Ayyûb has told us, from 'Ikrimah, that Alî ibn Abî T`âlib once burned someone who was out of

<sup>20</sup> Muhammad bin Ismail Abu Abdillah Al-Bukhari Al-Ja'fi, *Al-Jami' Al-Musnad As-Shabih Al-Mukhtasar Min Umur Rasulillab Alaibi Wa Sallam Wa Sunanibi Wa Ayyamibi* (Dar Thuq An-Najah, 1442), p. 15.

<sup>21</sup> Muhammad bin Ismail Abu Abdillah Al-Bukhari Al-Ja'fi, *Al-Jami' Al-Musnad As-Shabih Al-Mukhtasar*

*Min Umur Rasulillab Alaibi Wa Sallam Wa Sunanibi Wa Ayyamibi* (Dar Thuq An-Najah, 1442), p. 15.

<sup>22</sup> Abu Daud Sulaiman bin Asy'at bin Ishad, *Sunan Abi Daud* (Beirut: Maktabah al-Ashriyyah, n.d.), p. 126.

Islam. So, convey the news to Ibn`Abbâs, then he said: I never burned them in fact the Messenger of Allah said "do not punish them with the punishment of Allah", and I killed them because of the words of the Prophet Muhammad: "Whoever changes his religion, then kill him. he". So it came to Ali and said "O Ibn`Abbâs."

3. Hadith narrated by At-Tirmîzî, Number 1458

“حَدَّثَنَا أَحْمَدُ بْنُ عَبْدِ الصَّيْبِيِّ الْبَصْرِيُّ، قَالَ: حَدَّثَنَا عَبْدُ الْوَهَّابِ التَّمَمِيُّ، قَالَ: حَدَّثَنَا أَيُّوبُ، عَنْ عِكْرِمَةَ، أَنَّ عَلِيًّا حَرَّقَ قَوْمًا ارْتَدُّوا عَنِ الْإِسْلَامِ، فَبَلَغَ ذَلِكَ ابْنَ عَبَّاسٍ، فَقَالَ: لَوْ كُنْتُ أَنَا لَقَتَلْتُهُمْ بِقَوْلِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ. وَلَمْ أَكُنْ لِأُحَرِّقَهُمْ لِقَوْلِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: لَا تُعَذِّبُوا بَعْدَابِ اللَّهِ، فَبَلَغَ ذَلِكَ عَلِيًّا، فَقَالَ: صَدَقَ ابْنُ عَبَّاسٍ”<sup>23</sup>

“Has told us Ahmad ibn `Abdah ad-Ďabbî al-Başrî, has told us Abd al-Wahhâb as-Ŝaqafî has told us Ayyûb from `Ikrimah that 'Alî once burned a people who apostatized from Islam, it reached Ibn`Abbâs, he said; Had it been me, I would have killed him, as the Prophet sallallaahu 'alaihi wasallam said: "Whoever changes his religion (apostate), then kill him." And I will not burn them, because of the words of the Prophet sallallaahu 'alaihi wasallam: "Do not punish with Allah's

punishment." It also reached Ali, he said: Ibn`Abbâs is right.”

“قَالَ أَبُو عِيْسَى هَذَا حَدِيثٌ صَحِيحٌ حَسَنٌ وَالْعَمَلُ عَلَى هَذَا عِنْدَ أَهْلِ الْعِلْمِ فِي الْمُرْتَدِّ وَاحْتَلَفُوا فِي الْمَرْأَةِ إِذَا ارْتَدَّتْ عَنِ الْإِسْلَامِ فَقَالَتْ طَائِفَةٌ مِنْ أَهْلِ الْعِلْمِ تُقْتَلُ وَهُوَ قَوْلُ الْأَوْزَاعِيِّ وَأَحْمَدَ وَإِسْحَقَ وَقَالَتْ طَائِفَةٌ مِنْهُمْ تُجْبَسُ وَلَا تُقْتَلُ وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وَعَبْدِهِ مِنْ أَهْلِ الْكُوفَةِ”<sup>24</sup>

“Abû `Isâ said that this hadith is authentic and is a guideline for charity according to the scholars in the matter of apostasy, but they disagree about a woman if she apostates from Islam. Some groups of scholars are of the opinion; He (should) be killed, this is the opinion of al-Awzâ`î, Ahmad and Ishâq. While some of them argue; He (should) be imprisoned and not (should) be killed, this is the opinion of Sufyân as-Ŝaurî and others from the scholars of Kufa.”

4. Hadiths narrated by An-Nasâ`î Number 4059

“أَخْبَرَنَا عِمْرَانُ بْنُ مُوسَى قَالَ: حَدَّثَنَا عَبْدُ الْوَارِثِ قَالَ: حَدَّثَنَا أَيُّوبُ، عَنْ عِكْرِمَةَ قَالَ: قَالَ ابْنُ عَبَّاسٍ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ»<sup>25</sup>

“Reported to us `Imrân ibn Mûsâ, he said: `Abd al-Warîs told us, he said, from `Ikrimah, he said: Ibn`Abbâs said: The

<sup>23</sup> Muhammad bin Isa bin Saurah bin Musa bin Al-Dahhak At-Tirmidzi, *Al Jamî' Al-Kabir Sunan Al-Tirmidzi*, Jilid 3 (Dar al-Gurrah al-Islami, 1998), p. 111.

<sup>24</sup> Muhammad bin Isa bin Saurah bin Musa bin Al-Dahhak At-Tirmidzi, *Al Jamî' Al-Kabir Sunan Al-*

*Tirmidzi*, Jilid 3 (Dar al-Gurrah al-Islami, 1998), p. 111.

<sup>25</sup> Abu Abdurrahman Ahmad bin Syu`aib bin Ali bin Al-Khurasan Al-Nasa`i, *Al-Mujtabi Min as-Sunan-as-Sunan as-Sughra Al-Nasa'i*, 2nd Edition (Aleppo: Maktab al-Matbu`ah al-Islamiyah, 1986), p. 104.



Messenger of Allah said: "Whoever changes his religion, kill him."

Number 4060

«أَخْبَرَنَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ الْمُبَارَكِ قَالَ: حَدَّثَنَا أَبُو هِشَامٍ قَالَ: حَدَّثَنَا وَهَيْبٌ قَالَ: حَدَّثَنَا أَيُّوبُ، عَنْ عِكْرِمَةَ، أَنَّ نَاسًا ارْتَدُّوا عَنِ الْإِسْلَامِ، فَحَرَقَهُمْ عَلِيُّ بْنُ النَّارِ، قَالَ ابْنُ عَبَّاسٍ: لَوْ كُنْتُ أَنَا لَمْ أُحَرِّقْهُمْ، قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «لَا تُعَذِّبُوا بِعَذَابِ اللَّهِ أَحَدًا، وَلَوْ كُنْتُ أَنَا لَقَتَلْتُهُمْ» قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ»<sup>26</sup>

“Has informed us Muhammad ibn `Abd Allâh ibn al-Mubâarak, he said: Has told us Abû Hisyâm, he said: has told us Wuhaib, he said: has told us Ayyûb, from `Ikrimah, that there is a people who came out of Islam, then `Alî burned it with fire, Ibn `Abbâs said: If it were me then I would not burn them, as the Prophet SAW said "Do not punish (torture) anyone with Allah's punishment, if it is me, then I will kill they". Rasulullah SAW said, “Whoever changes his religion, kill him.””

Number 4061

«أَخْبَرَنَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ الْمُبَارَكِ قَالَ: حَدَّثَنَا مُحَمَّدُ بْنُ بَكْرِ قَالَ: أَنْبَأَنَا ابْنُ جُرَيْجٍ قَالَ: أَنْبَأَنَا إِسْمَاعِيلُ، عَنْ مَعْمَرٍ، عَنْ أَيُّوبَ، عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ»<sup>27</sup>

“Has told us Mahmûd ibn Ghailân, he said: has told us Muhammad ibn Bakr, he said: has told us Ibn Juraih, he said: has told us Isma`il, from Ma`mar, from Ayyûb, from `Ikrimah from Ibn `Abbâs, he said: The Messenger of Allah said, "Whoever changes his religion, kill him.”

Number 4062

«أَخْبَرَنِي هِلَالُ بْنُ الْعَلَاءِ قَالَ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ عَبْدِ اللَّهِ بْنِ زُرَّارَةَ قَالَ: حَدَّثَنَا عَبَّادُ بْنُ الْعَوَّامِ قَالَ: حَدَّثَنَا سَعِيدٌ، عَنْ قَتَادَةَ، عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ»<sup>28</sup>

“Has informed me, Hilâl ibn `Alâ, he said: has told us, `Ismâ`il ibn `Abd Allâh ibn Zurârah, he said: has told us, `Abbâd from al-`Awwâm, he said: has told us Sa`id from Qatâdah, from `Ikrimah from Ibn `Abbâs, he said: The Messenger of Allah said “Whoever changes his religion, kill him.”

Number 4063

«أَخْبَرَنَا مُوسَى بْنُ عَبْدِ الرَّحْمَنِ قَالَ: حَدَّثَنَا مُحَمَّدُ بْنُ بَشِيرٍ قَالَ: حَدَّثَنَا سَعِيدٌ، عَنْ قَتَادَةَ، عَنْ الْحُسَيْنِ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ» قَالَ أَبُو عَبْدِ الرَّحْمَنِ: «وَهَذَا أَوْلَى بِالصَّوَابِ مِنْ حَدِيثِ عَبَّادٍ»<sup>29</sup>

“Has informed us, Mûsâ ibn `Abd ar-Rahmân, he said: has told us Mumammad ibn Bisyr, he said: has told us

<sup>26</sup> Abu Abdurrahman Ahmad bin Syu`aib bin Ali bin Al-Khurasan Al-Nasa'i, *Al-Mujtabi Min as-Sunan-as-Sunan as-Sughra Al-Nasa'i*,..., p. 104.

<sup>27</sup> Abu Abdurrahman Ahmad bin Syu`aib bin Ali bin Al-Khurasan Al-Nasa'i, *Al-Mujtabi Min as-Sunan-as-Sunan as-Sughra Al-Nasa'i*,..., p. 104.

<sup>28</sup> Abu Abdurrahman Ahmad bin Syu`aib bin Ali bin Al-Khurasan Al-Nasa'i, *Al-Mujtabi Min as-Sunan-as-Sunan as-Sughra Al-Nasa'i*,..., p. 104.

<sup>29</sup> Abu Abdurrahman Ahmad bin Syu`aib bin Ali bin Al-Khurasan Al-Nasa'i, *Al-Mujtabi Min as-Sunan-as-Sunan as-Sughra Al-Nasa'i*,..., p. 104.

Sa'îd from Qatâdah from al-Hasan, he said: The Messenger of Allah said "whoever changes his religion, then kill him." Abû `Abd ar-Rahmân said: "It is more important in truth than the hadith (delivered) `Abbâs."'''

Number 4064

«أَخْبَرَنَا الْحُسَيْنُ بْنُ عَيْسَى، عَنْ عَبْدِ الصَّمَدِ قَالَ: حَدَّثَنَا هِشَامٌ، عَنْ قَتَادَةَ، عَنْ أَنَسٍ، أَنَّ ابْنَ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ»<sup>30</sup>

"Has informed to us, al-Husayn bin 'Isa, from 'Abd as-Shamad, he said: He has told us Hisyâm, from Qatâdah from Anas, that Ibn`Abbâs said: The Messenger of Allah said: "Whoever changes his religion, kill him."'''

Number 4065

«أَخْبَرَنَا مُحَمَّدُ بْنُ الْمُثَنَّى قَالَ: حَدَّثَنَا عَبْدُ الصَّمَدِ قَالَ: حَدَّثَنَا هِشَامٌ، عَنْ قَتَادَةَ، عَنْ أَنَسٍ، أَنَّ عَلِيًّا أَبِي بَنَاسٍ مِنَ الرِّطِّ يَجْعِدُونَ وَتَنَا فَأَخْرَجَهُمْ، قَالَ ابْنُ عَبَّاسٍ: إِذَا قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ»<sup>31</sup>

"Has told us Muhammâd ibn al-Mu'sannâ, he said: told us Abd aṣ-Ṣamad, he said: had told us Hisyâm, from Qatâdah from Anas that `Alî confronted the people from az-Zûṭ who worshiped idols, then he burned them, Ibn`Abbâs said: verily the

Messenger of Allah said, "Whoever changes his religion, kill him."'''

Based on the explanation of the hadiths mentioned above, the narrators of the hadith affirm that whoever changes or changes his religion, he must be killed. Textually, the hadith does not provide negotiation or choice for someone who has left Islam. The hadith texts are the legal basis for imposing capital punishment for apostates, even classified as a form of legal crime or *jarimah budud*.

## 2. The Final Result of *Sanad* Criticism

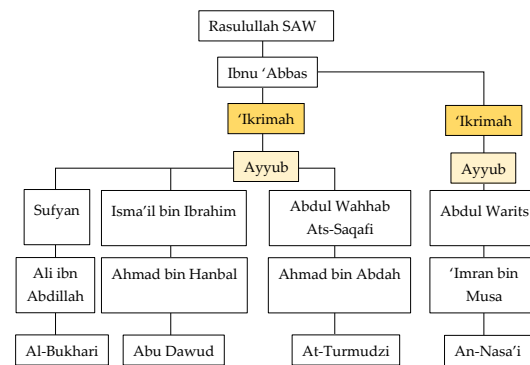


Figure 1. The Connection of Hadith Transmitters

According to Jawdat Sa'îd as quoted by Abd. Moqsith, this hadith needs to be analyzed, especially in terms of the credibility and integrity of the narrators. This hadith was only narrated from `Abd Allâh ibn `Abbâs then to 'Ikrimah and then spread to others.<sup>32</sup> Ṭâha Jâbir al-Ulwâni said

<sup>30</sup> Abu Abdurrahman Ahmad bin Syu'aib bin Ali bin Al-Khurasan Al-Nasa'i, *Al-Mujtabi Min as-Sunan-as-Sunan as-Sugbra Al-Nasa'i*,..., p. 104.

<sup>31</sup> Abu Abdurrahman Ahmad bin Syu'aib bin Ali bin Al-Khurasan Al-Nasa'i, *Al-Mujtabi Min as-Sunan-as-Sunan as-Sugbra Al-Nasa'i*,..., p. 104.

<sup>32</sup> Abd. Moqsith, "Tafsir Atas Hukum Murtad Dalam Islam," *AHKAM: Jurnal Ilmu Syariah* 13, no. 2 (2013), p. 288.

that this hadith needs to be re-examined because there are problems with the integrity of the narrators, namely 'Ikrimah and Ayyûb. 'Ikrimah was a slave belonging to Ibn`Abbâs until the death of Ibn`Abbâs, many hadiths were issued by him from Ibn`Abbâs, especially in terms of interpretation. When Ibn`Abbâs died, 'Ikrimah became a family inheritance and was then released. `Alî ibn `Abd Allâh ibn `Abbâs once accused 'Ikrimah of forgery and lies in the name of Ibn`Abbâs and then chained the hands and feet of 'Ikrimah. `Alî ibn `Abd Allâh then locked 'Ikrimah in his cattle pen, so the people asked 'Ali bin 'Abdillah. He replied that 'Ikrimah had lied in the name of his father, Ibn`Abbâs. Ibn SIRRÎN classified 'Ikrimah as a despicable person (*majrûb*), he said that 'Ikrimah is a liar. Ibn Abû `Zi`ib said that the hadiths conveyed by 'Ikrimah cannot be used as evidence. Sa`îd ibn Jubair said "you narrated the hadiths from 'Ikrimah which if I were in that person's position, I would not have narrated the hadiths from 'Ikrimah". Then Sa`îd ibn al-Mu`ayyâb advised to be careful of 'Ikrimah because he would never have his neck wrapped in a rope. Al-Mu`ayyâb told his slave, Burd, not to lie in his name as 'Ikrimah lied in the name of his master, Ibn`Abbâs. The same thing was said by Ibn`Umar to his slave, Nâfi`.

The scholars of hadith criticized Al-Bukhârî for having narrated the hadith that was conveyed from the path of 'Ikrimah. Ibn aṣ-Ṣalâh who said that Al-Bukhârî had argued based on the class of people who were considered *majrûb* such as 'Ikrimah. This is not what Muslim ibn al-Hajjâj does, because he has avoided the hadiths narrated by 'Ikrimah because they are considered *majrûb* unless there is no other hadith that supports it. Likewise Mâlik ibn Anas who rejects the hadiths from 'Ikrimah except for one hadith as said by Ahmad ibn Hanbal. Ibn Sa`âd said that Mâlik hated to hear the name 'Ikrimah. As for Ayyûb, he was known for his *ḡubûd* and always put forward his good prejudices, in this case to 'Ikrimah, even defended him. It is not known why Ayyûb defended 'Ikrimah, whether it was because of Ayyûb's zeal or because he didn't really mind the concept of *jarb wa ta`dîl*. While the hadith being discussed is about punishments and sanctions related to human life, not about *fadhâil al-amâl*. Ṭâha Jâbir al-Ulwâni suspects that the cause of this hadith becoming famous and widely narrated by people such as Hammâd, Sufyân and `Abd al-Wâris is caused of Ayyûb in the hadith is known as a *ḡubûd* person.<sup>33</sup> Even though this hadith is considered not up to the degree of *mutawâtir*, but only at the degree of *ahad*

<sup>33</sup> Sofyan A.P Kau and Zulkarnain Sulaeman, "Kritik Terhadap Epistemologi Fikih Murtaḡ,"

*AHKAM: Jurnal Ilmu Ṣyariab* 16, no. 1 (2016): 51–60, doi:10.15408/ajis.v16i1.2895, p. 54.

because the terms and elements are not sufficient for the degree of *mutawatir*.<sup>34</sup>

### 3. The Final Result of *Matan's* Criticism

If you look closely at the hadith, it is explained that for those who leave Islam in all conditions, their blood is lawful and their throats be headed (killed) and some of the companions say they are forgiven if they repent, but if they don't, they are killed. The majority of scholars agree on this, although some scholars state that repentance is accepted for no more than 1 hour and only once, others say for 1 month. Other scholars explain for 3 days as `Umar ibn Khaṭṭâb, `Usmân ibn `Affân, `Alî ibn Abî Ṭâlib and Ibn Mas`ûd did. In book of *Syarb Sunan at-Tirmîzi* it is also explained to imprison 3 days, if he returns then he is accepted and if not then kill him.<sup>35</sup> Tengku Muhammad Hasbi Ash-Shiddieqy stated that the hadith explicitly does explain the necessity to kill people who change their religion, but it is not strong enough to legitimize the provisions of criminal penalties for apostates, actually choosing a religion or rejecting a religion is a person's principle towards a religion that he considered good and right. He emphasized the need for *ta`lil al-hadîts* on criminal hadiths for apostates, because the meaning of being obligated to be killed for someone

who leaves Islam is not just exchanging the beliefs of the previous religion to another religion, but also the existence of elements of crime committed by other people. This has disturbed the peace and comfort of the country. He added that criminal penalties for apostates cannot be punished directly but through the decisions and considerations of the judge in court.

As explained in *Syarb Sahîb Bukhârî li ibn al-Baṭṭâl* it is stated that `Umar ibn Khaṭṭâb never killed a person who left Islam, but imprisoned him for three days and was given food every day. This is done so that the perpetrators who leave Islam are given the opportunity to repent as the intent of this hadith is that if the perpetrator of *riddah* does not repent. Aṭ-Ṭahâwî stated that the criminal punishment for apostasy should be carried out without waiting for their permission, he explained that repentance for an apostate can be done if he leaves Islam without realizing it, but if he does it intentionally then repentance does not apply to him.<sup>36</sup>

قَالَ: أُنِّي عَلِيٌّ رَضِيَ اللَّهُ عَنْهُ، بِرِنَادِقَةٍ فَأَحْرَقَهُمْ

If seen through the hadith text, it can be understood that `Alî ibn Abî Ṭâlib had tortured by burning the *zindîq* who were presented to him. This sparked controversy

<sup>34</sup>Sofyan A.P Kau and Zulkarnain Sulaeman, "Kritik Terhadap Epistemologi Fikih Murtaḍ,"... p. 54

<sup>35</sup> Muhammad Anwarsyah bin Mu`zom al-Kisymiri Al-Hindi, *Al-'Urf Al-Syadq Syarb Sunan Al-Turmudzi* (Beirut: Dar al-Turats al-'Arabi, 2004), p. 144.

<sup>36</sup> Ibn Battal Abu Al-Hasan, *Syarb Shabîh Al-Bukhârî Li Ibn Al-Baṭṭâl*, Juz 8. (Riyadh: Maktabah al-Rusyd, 2003), p. 572.

among scholars, whether it was true that Ali had burned a group of people with fire. In *at-Tambid li mâ fî al-Muwatta' min al-Ma'ani wa al-Asanid* written by Ibn 'Abd al-Bârr it is explained that 'Alî ibn Abî 'Tâlib did not necessarily torture and burn the people, but killed first and then is burned. According to Abû Yûsuf that they returned to apostasy when they had repented.<sup>37</sup> In *syarh al-Nawâni* it is stated that scholars sometimes agree that apostates must be killed but differ in their opinion in accepting their repentance whether it is obligatory or just liking their repentance.<sup>38</sup>

M. Quraish Shihab said that although there were editorials of hadiths that forbade changing religions, it needed to be seen as a form of wisdom in managing a society at that time. Because it may be that the policy applies only to certain people, not to others. Shihab emphasized that the prohibition on religious conversion as narrated in the hadith is contextual and not universal, so it cannot be used as a general standard that

applies in every condition and situation, space and time.<sup>39</sup> This means that it is still possible to apply punishment for apostates when a situation, condition and action are found that are contextually similar to those at that time.

This hadith is considered contradictory to the text of the Qur'an which does not discuss the existence of a death penalty or other sanctions regarding perpetrators who leave Islam. Muhammad al-Ghazali stated that this hadith was rejected on considering to contrary the Qur'an in terms of the validity of the hadith. Khaled M. Abou el-Fadhl argues that methodically, if there are texts between the Qur'an and Hadith that contradict each other, the hadith can be rejected because the source of the Qur'an is higher.<sup>40</sup> Al-Adhabî emphasized that hadith scholars agree that any hadith that contradicts the Qur'an cannot be used as evidence and is rejected. This is because it is impossible for the Qur'an as the word of God to be guaranteed from every falsehood

<sup>37</sup> Abu 'Umar Yusuf bin Abdillah bin Muhammad bin Abd al-Barr bin 'Ashim al-Namiri Al-Qurthubi, *Al-Tambid Lima Fi Al-Muwatta' Min Al-Ma'ani Wa Al-Asanid*, Jilid 5 (Maroko: Wizarah 'Umum al-Awqaf wa al-Syu'uni al-Islamiyah, 1387), p. 311.

<sup>38</sup> Abu Zakariya Muhyiddin Yahya bin Syarf An-Nawawi, *Al-Minhaj Syarh Shabih Muslim Bin Al-Hajjah*, 12th ed. (Beirut: Dar Ihya al-Turats al-'Arabi, 1392), p. 208. Also see, Al-Hindi, *Al-'Urf Al-Syadz Syarh Sunan Al-Turmudzi*,... p. 144.

<sup>39</sup> Abd. Moqsith, "Tafsir Atas Hukum Murta'd Dalam Islam," *AHKAM : Jurnal Ilmu Syariah* 13, no. 2 (2013): 283–94, doi:10.15408/ajis.v13i2.940, p. 289. The context of hadith writing is very important to understand because there are differences behind the descent of a hadith such as social, cultural,

political and value systems factors. A complete and comprehensive understanding of a hadith provides answers to today's problems in accordance with the social and cultural context. See, Muhammad Alfatih Suryadilaga, "Kontekstualisasi Hadis Dalam Kehidupan Berbangsa Dan Bernegara," *Kalam* 11, no. 1 (2017): 215–34, doi:http://dx.doi.org/10.24042/klm.v11i1.904, p. 219.

<sup>40</sup> Akrimi Matswah, "Hermeneutika Negosiatif Khaled M. Abou El Fadl Terhadap Hadis Nabi," *Jurnal Addin* 7, no. 2 (2013): 249–272, https://journal.iainkudus.ac.id/index.php/Addin/article/view/578/591, p. 251. Also see, Ahmad Suhendra, "Hermeneutika Hadis Khaled M. Abou El Fadl," *Mutawatir* 5, no. 2 (2016), p. 348.



behind the hadith regarding punishment for apostasy.

There are many narrations that explain the events of punishment given to perpetrators who left Islam, including the case of `Abd Allâh ibn as-Sarh. He is the author of the revelation of the Prophet Muhammad who has tried to distort the verses of the Qur'an several times. Abî Sarh apostatized and this was known to the Prophet Muhammad but was not killed because of the amnesty given by the Prophet Muhammad due to a request from his Muslim family. The next story is about a group of `Ukul tribes. A Hadith narrates about a group of people from the Ukul tribe who had converted to Islam came to the city of Medina, at that time the climate there was so extreme that it caused illness. Then they came to the Messenger of Allah to ask for milk so that they would return to health. Then the Messenger of Allah sent them to guard the camels outside the city of Medina. They were allowed to stay there and drink camel's milk until they were fat and healthy again. However, after they were healthy again, they took over the well and killed the herders, drove the animals away and even became infidels again. After receiving such news, the Messenger of Allah sent troops to

find and kill them.<sup>43</sup> Likewise, the 'Urainah tribe who was punished for disrupting the local community order had even killed other people. Yemenite Jews who were killed for apostasy and disrupting the social order were also executed by the companions of Abû Mûsâ on the orders of Mu`âz ibn Jabbâl.

This action is quite contradictory because the Jew did not commit murder, which is analogous to the case of `Abd Allâh ibn as-Sarh who received the amnesty of the Prophet Muhammad. In fact, if we look at the case of Abî Sarh, it is more serious because he was a revelation writer, unlike the case of the Jews, who was only an ordinary human being.<sup>44</sup> It is quite complicated when the case of apostasy is faced with Islamic sources that state freedom of religion as stated in the Qur'an QS. al-Baqarah verse 56. Therefore, the hadiths regarding the existence of criminal cases for apostates need to be looked at specifically and comprehensively, especially behind the meaning of the hadith text and the reasons for the existence of the hadith. When viewed from the two cases, it appears that the Prophet did not immediately apply the death penalty for apostates and was even granted amnesty, in contrast to Mu`âz

<sup>43</sup> Ocktoberinsyah, "Apostasy in Islam: Historical And Legal Perspectives," *Asy-Syir'ah: Jurnal Ilmu Syariah Dan Hukum* 49, no. 1 (2015): 145–59, doi:<http://dx.doi.org/10.14421/asy-syir'ah.2015.%25x>, p. 152.

<sup>44</sup> Ja'far Assagaf, "Kontekstualisasi Hukum Murtaad Dalam Perspektif Sejarah Sosial Hadis," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 14, no. 1 (2014), <https://doi.org/10.18326/ijtihad.v14i1.21-39>, p. 34.

ibn Jabbâl who sentenced apostates to death who caused chaos and hostility.<sup>45</sup>

Based on the history of the death penalty for apostates, there are at least four people who are subject to capital punishment, namely Huwairid for disturbing Zainab, the daughter of the Prophet Muhammad when traveling from Mecca to Medina. Besides Huwairid, there were two people (don't know their names) who had converted to Islam but committed a crime by killing people in the city of Medina and then fled to the city of Mecca, where he became an infidel again with two of Ibn Khattal's slaves. In the books of *at-Thabâqat al-kubrâ* and *Ansâb al-Ayyrâf* it is stated that the number of defendants sentenced to death penalty is ten people. Rasulullah SAW ordered to chase and catch them even though they were hiding behind the cloth covering the Kaaba. The ten people mentioned are from the male group: `Ikrimah ibn Jahl, Habbâr ibn al-Aswâd, `Abd Allâh ibn Sa`âd ibn as-Sarh, Muqais ibn Sahabah al-Laysî, Huwairis ibn Nuqaid, `Abd Allâh ibn Hilâl ibn Khaṭṭâl al-Adramî. As for the women group, namely Hindun ibn `Utbah, Sarh Maulât Amr ibn Hisyâm, Firtâna and Quraibah.<sup>46</sup>

The order to kill them was caused by the provocation that was spread to the

polytheists to the Muslims to disturb and fight the Muslims. Even Muqais al-Laysî had killed one of the ansar, `Aqîlah al-Anṣârî, because al-Anṣârî had killed al-Laysî's brother, Hasyim ibn Ṣabah ibn Hazn. In the story it is mentioned that al-Anṣârî accidentally killed because he thought Ibn Hazn was a polytheist even though Ibn Hazn had converted to Islam. Hearing this news, Muqais went to the Prophet to ask for justice for his brother's death. Then, Rasulullah (Peace Be Upon Him) punished al-Anṣârî to pay diyat and Muqais took the money and then he converted to Islam. However, after the incident, Muqais did not remain silent but persecuted al-Anṣârî to death and fled in a state of apostasy. Another murder incident was also carried out by `Abd Allâh ibn Khaṭṭâl against his assistant. Ibn Khaṭṭâl asked his servant to cook a goat and left his servant to sleep. As soon as he awoke from his sleep, he saw that his servant had not carried out his orders. This made Ibn Khaṭṭâl angry and abused his servant until he died and he returned to apostasy.<sup>47</sup>

Referring to the incident of criminal sanctions being applied to someone who leaves Islam, it seems clear that the freedom guaranteed by Allah in the Qur'an has perfectly emphasized that there is no

<sup>45</sup> Ja'far Assagaf, "Kontekstualisasi Hukum Murtad Dalam Perspektif Sejarah Sosial Hadis,"..., p. 34-35.

<sup>46</sup> Sofyan A.P Kau and Zulkarnain Sulaeman, "Kritik Terhadap Epistemologi Fikih Murtad,"..., p. 56.

<sup>47</sup> Sofyan A.P Kau and Zulkarnain Sulaeman, "Kritik Terhadap Epistemologi Fikih Murtad,"..., 45.



compulsion for anyone to embrace and believe in Islam. In many surah of Qur'an also said that the principle of freedom to embrace a religion has been consistently applied since the time of the Prophet Muhammad. The existence of criminal sanctions for them is due to elements outside of the apostate act committed. Apostasy is not a consideration that is used as the basis for the enactment of criminal penalties, but crimes and other crimes committed against Muslims and the Islamic state at that time. Actions such as betrayal, lies, murder and provocations have disrupted the stability and security of the nation and state. Even in the context of war, not a few returned to become enemies of Islam and instead attacked Islam after knowing the secrets of Muslim troops during the war. Therefore, as explained in history that no one is subject to criminal sanctions for leaving Islam, unless that person has committed a crime and disturbed the stability of the state and social society.<sup>48</sup>

According to Islamic jurisprudence scholars as seen from the historical context, it is appropriate to carry out the death penalty for apostates because at that time there were often wars between Muslims and

infidels. Perpetrators who leave their religion and their troops can endanger religion and the stability of the state. It can even be categorized as an act of treason like the present. Based on the punishment applied to apostates, it is more appropriate if it is categorized as a form of civil offense or a public crime, not part of a religious offense.<sup>49</sup> There are different views regarding the act of apostasy. In the historical context, all major religions in the world have recognized the act of apostasy as a crime or still consider it a crime. For some religions and societies with the development of modernism, the act of apostasy may no longer be a crime but is still considered a sin according to religion.<sup>50</sup>

## CONCLUSION

Islam is a religion that maintains peace, safety and security for all human beings. Freedom of religion is a right that is owned by everyone, so a person's decision to enter a religion or leave a religion is also a right that cannot be forced from and by others. The policy of criminal penalties for perpetrators who leave the religion of Islam as confirmed in the texts of the hadith cannot be used as legal legitimacy by only looking at the outward appearance of the

<sup>48</sup> Abd Rahman Dahlan, "Murtad: Antara Hukuman Mati Dan Kebebasan Beragama (Kajian Hadis Dengan Pendekatan Tematik)," *Miqot* 32, no. 2 (2008), p. 158-159.

<sup>49</sup> Sherazad Hamit, "Apostasy and the Notion of Religious Freedom in Islam," *Macalester Islam*

*Journal* 1, no. 2 (2006): 31-38, <http://digitalcommons.macalester.edu/islam>, p. 4.

<sup>50</sup> Muhammad Ali, Liu Yi Deng, and Muhammad Khabeer Khalid, "Apostasy and Blasphemy," *Journal of Liberal Arts and Humanities (JLAH)* 2, no. 6 (2021): 7-11, doi:10.48150/jlah.v2no6.2021.a2, p. 9.

text, even though it explicitly emphasizes that anyone who changes their religion must be killed. If you look at the chain, it turns out that the narrators are considered problematic, in addition, this hadith only reaches the degree of ahad, not mutawatir. A review of a hadith regarding the crime of apostasy is also very closely related to the context of space and time at that time, in the era of Islam still maintaining a religion that continues to grow to spread peace. The hadith regarding punishment for apostates was enforced at that time, not only because he came out of Islam who was impressed that Islam curbed religious freedom. The punishment is basically enforced because in general the perpetrators who leave Islam have not only committed kufr against religion, but have committed crimes and criminal acts by committing murder, spreading hatred and lies in the name of Islam, thereby causing damage and disturbing the stability of society and state security.

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