

Religious Transition from Islam to Non-Islam: Legality, Sanctions, and Procedures in Indonesia and Malaysia

Deris Arista SAPUTRA¹

¹Faculty of Islamic Studies and Social Sciences, University Sultan Azlan Shah, Malaysia

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Corresponding Author:

Deris Arista Saputra

Email:

derisaristasaputra@gmail.com

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Abstract:

Purpose:

The urgency of this topic lies in the increasing tension between religious norms, individual constitutional rights, and the implementation of positive law, which is often ambiguous or repressive. This study aims to systematically analyze and compare the legal aspects, sanctions, and administrative procedures of conversion from Islam in both countries.

Methodology:

This study uses a qualitative approach with a normative-comparative method, utilizing secondary data in the form of legal regulations, court decisions, and current academic literature. The analysis is carried out through document studies and content analysis of the national legal framework and religious institutions that play a role.

Findings:

The results of the study show that Malaysia has a more structured legal system through the Sharia Court in regulating applications to leave Islam, although the procedures tend to be restrictive and accompanied by administrative or criminal sanctions. On the other hand, Indonesia adopts a more flexible administrative approach but is vulnerable to legal uncertainty and social pressure.

Implication:

The conclusion of this study states that protection of the right to convert requires clear regulations, fair institutions, and inclusive social support. This study suggests the development of future empirical studies to explore the experiences of individual converts and the dynamics of legal implementation at the local level.

INTRODUCTION

Religious transition from Islam to another religion, or what is commonly called apostasy, is a very complex issue in the legal and social landscape of Muslim-majority countries such as Indonesia and Malaysia. Although the constitutions of both countries explicitly guarantee freedom of religion—Article 29 of the 1945 Constitution in Indonesia and Article 11 of the 1957 Federal Constitution of Malaysia—in practice, the process of converting from Islam is often faced with legal obstacles, social pressures, and institutional sanctions.

In Indonesia, normatively, no law explicitly prohibits conversion from Islam. However, the implementation of the blasphemy article in the Criminal Code (KUHP), especially Article 156a, is often used to suppress individuals who are considered to have committed acts that tarnish Islam, including conversion (Crouch, 2011). Recording changes in religion on population documents is regulated in Presidential Regulation Number 96 of 2018 concerning Requirements and Procedures for Population Registration and Civil Registration, which does not explicitly require the approval of religious institutions. However, in practice, this administrative process can be hampered by conservative interpretations of local officials or community pressure (Nasir, 2020).

Meanwhile, Malaysia implements a dual legal system that divides jurisdiction between sharia law and civil law. The Sharia Court has authority over Muslim affairs, including religious conversion. In this context, Muslim individuals who wish to leave Islam are required to submit an official application to the Sharia Court in their area. However, the process tends to be complicated and is often marked by rejection, and in some cases, applicants are required to attend counseling sessions or "faith rehabilitation" (Mohiuddin, 2023; Adil, 2007). In this context, failure to comply with Sharia law provisions can result in administrative detention or prolonged social stigma (Hamayotsu, 2012).

In terms of legality, fundamental differences emerge between the two countries: Indonesia adopts an administrative and secular approach despite socio-religious pressures, while Malaysia positions conversion as a religious legal issue with high state control over Muslims. Not only that, there are also differences in aspects of sanctions and institutional recognition. In Malaysia, the state's Sharia criminal law can impose prison sentences or fines for cases of apostasy or the spread of heresy (Blanch, 2015), while Indonesia relies more on social sanctions or the use of blasphemy articles.

The religious transition procedure also shows inequality. In Indonesia, the procedure relies on submitting a change of population data to the Civil Registration Office without the need for intervention by a religious court. In Malaysia, by contrast, the Sharia Court is the only official route, and applications can be rejected even if the applicant has not practiced Islam for a long time.

This issue is very important to examine because it concerns the fundamental freedoms of individuals and the harmony between national laws and international human rights standards. Unfortunately, the available literature is still limited and tends to be partial, so there has been no comprehensive study that directly compares the legal framework, sanctions, and procedures for conversion in Indonesia and Malaysia in the current context.

This article aims to provide an in-depth comparative analysis of the regulation and implementation of conversion from Islam to non-Islam in both countries. Focus is given to the legal aspects, legal sanctions, and administrative procedures that individuals undergo during religious transition. With a normative-comparative and multidisciplinary approach, this study is expected to enrich academic discourse and provide policy recommendations that uphold the principles of justice and human rights.

Legal Framework for Conversion and Apostasy in Indonesia and Malaysia. A study of the legal framework for conversion from Islam in Indonesia and Malaysia shows fundamental differences. Indonesia does not have an explicit law governing apostasy, but there is strong pressure from the blasphemy article in the Criminal Code and repressive social perceptions of apostasy (Yulianah, Taufiq, & Solihah, 2024). In contrast, Malaysia implements a dualistic legal system that gives the Sharia Court exclusive authority to approve or reject applications to leave Islam (Hamzah, Mokhtar, & Masyaa'il, 2021).

Legal and Administrative Procedures. The conversion procedure in Indonesia is administrative, through Dukcapil, without formal intervention from religious institutions (Nasir, 2020). However, in Malaysia, a Muslim must submit a formal application to the Sharia Court and is often required to undergo religious guidance before a decision is made (Samuri & Khan, 2020). This shows the difference in paradigm between the administrative secular approach and the juridical-religious approach.

Sanctions and Social Consequences. Although de jure apostasy is not criminalized in Indonesia, social sanctions such as ostracization, loss of inheritance rights, and even legal threats through the blasphemy article remain significant risks (Nasrullah, Farman, & Hidayat, 2023). Malaysia, through its state Sharia criminal law, can legally impose fines or imprisonment on the basis of apostasy (Seo, 2023).

Overlapping Jurisdictions. Seo's (2023) study highlights how Malaysian citizens can be caught in "legal limbo" due to the differences between civil law and Islamic law in conversion cases. This jurisdictional ambiguity can prolong the legal uncertainty for individuals undergoing religious transition.

Issues of Marriage and Legal Identity. One of the serious impacts of religious conversion is on marital status and civil rights. Studies in Malaysia show that converts who leave Islam lose their rights in the Sharia family law system and often experience legal complications in divorce or child custody (Samurai & Khan, 2020). In Indonesia, religious conversion can also affect the legality of existing interfaith marriages (Nasir, 2020).

Conflict between Human Rights and Religious Norms. Recent literature suggests a growing tension between international human rights standards and the application of domestic religious laws in Malaysia and Indonesia. Studies by Seo (2023) and Khanif (2020) assert that Malaysia is more restrictive than Indonesia in

accommodating freedom of religious conversion, indicating a regressive trend towards the fulfillment of civil rights.

Media and Public Opinion. A study by Abdullah, Sahad, and Mohamad (2024) highlights how media coverage of the apostasy issue in Malaysia shapes public opinion and narrows the space for freedom of belief. The representation of apostasy as a threat to the Muslim community exacerbates the stigma and social pressure on individuals who want to leave Islam.

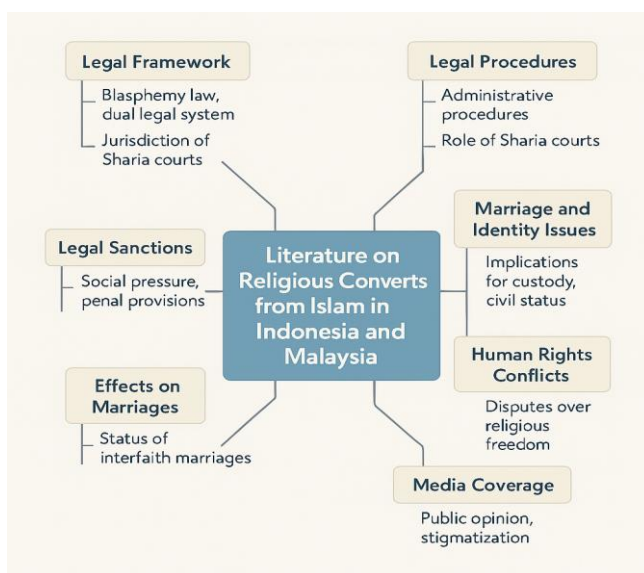


Figure 1. Conceptual Framework

METHODS

This study uses a qualitative method with a normative-comparative approach. This method was chosen because the main focus of the study is on the analysis of legal texts, official documents, and state policies related to religious conversion. The normative approach is used to trace the legal norms contained in the laws and regulations in Indonesia and Malaysia, while the comparative approach aims to compare the content and implementation of the laws of the two countries in dealing with the issue of apostasy or religious transition from Islam to another religion (Hamzah et al., 2021).

The data sources in this study are secondary data that include legal documents, government regulations, religious fatwas, court decisions, and relevant academic journal articles and books. All data were collected through literature studies. This allows researchers to understand the legal and social context without the need for direct interviews but still prioritizes in-depth analysis of applicable policies and regulations (Yufriadi, Ngardi, & Parut, 2024).

Data collection techniques were carried out by reviewing legal literature and official documents, such as the Population Administration Law in Indonesia and the Sharia Crime Enakmen in Malaysia. Apart from that, the study also uses research reports, recent scientific articles (2020–2025), and the results of decisions by the Sharia Court and civil courts to see how the law is applied in practice (Seo, 2023).

The data were analyzed using content analysis, where the content of regulations and legal decisions were examined to find key themes related to legality, sanctions, and conversion procedures. The researchers also compared how each country positions religious freedom within its national legal framework. The results of this

analysis will describe the strengths and weaknesses of the legal approach in each country as well as potential improvements for human rights protection.

This method is appropriate for the study because it clearly describes the legal structure that regulates the issue of apostasy and religious transition. In addition, the use of a normative approach and documentary data ensures legal validity and academic consistency and allows readers to understand this issue comprehensively without empirical bias (Creswell & Poth, 2018). Thus, this study can provide a real contribution to the formulation of policies based on justice and inclusivity.

RESULTS AND DISCUSSION

This study found significant differences in the legal approach to conversion from Islam to other religions between Indonesia and Malaysia. In Indonesia, there is no formal constitutional prohibition against apostasy, and conversion can be done by submitting a data change to the Population and Civil Registration Service (Dukcapil). However, Article 156a of the Criminal Code on blasphemy is still a tool for criminalizing converts who change religions, and social pressure on individuals who apostatize is quite high (Yulianah et al., 2024).

In contrast, in Malaysia, the religious transition from Islam is subject to Sharia law, which the Sharia Court strictly implements. The legal process for leaving Islam requires a formal application to the Sharia Court, which often rejects the request or requires the individual to attend a creed rehabilitation session. Some states even impose sanctions in the form of fines or imprisonment against perpetrators of apostasy in accordance with the Enakmen Jenayah Syariah (Hamzah et al., 2021).

Administratively, Indonesia is more relaxed because it does not require permission from a religious court for changes in religion on an ID card. Meanwhile, Malaysia requires a Sharia Court decision for all changes in religious status on official documents. This procedure is often time-consuming and shows an institutional tendency to maintain an individual's Islamic status.

In terms of the role of religious institutions, striking differences are also found. In Malaysia, Islamic institutions have great legal and administrative authority in determining the validity of the process of leaving Islam. Meanwhile, in Indonesia, although religious institutions do not directly have the authority to determine the validity of conversion, their influence remains great through social pressure and conservative interpretations at the local level (Nasir, 2020).



Figure 2. Comparison of Religious Transition in Indonesia and Malaysia

The social implications of conversion are also significant. In both countries, apostates often experience stigmatization, social exclusion, and disruption of civil rights such as inheritance rights and child custody. In

Malaysia, there have even been cases where apostates have had to undergo administrative detention in a faith rehabilitation center (Seo, 2023). This creates conditions of legal uncertainty and neglect of human rights.

The main findings of this study indicate that the legal approach to apostasy in Indonesia and Malaysia reflects two models of state governance of religion: hybrid secular-religious in Indonesia and dominant Islamic law in Malaysia. In the context of state-religion relations theory, Malaysia's approach is more like a "state religion" model, while Indonesia is in an ambivalent position between secularism and religious influence (Khanif, 2020).

This difference has a major impact on the implementation of the right to freedom of religion. Although both countries constitutionally guarantee freedom of religion, the implementation of the law shows limitations and inconsistencies with international human rights principles. In this context, this study supports previous studies by Crouch (2011), which state that the blasphemy article in Indonesia is often used to suppress minority religious expressions.

The implications of these findings suggest the need for harmonization between national laws and international human rights standards, especially in guaranteeing the individual's right to change beliefs freely. In addition, the involvement of religious institutions in the civil sphere must be reconsidered so as not to undermine the principle of individual freedom and the integrity of state law.

Factors influencing these outcomes include the strong influence of identity politics, the power of religious institutions, and resistance to religious pluralism in society. Differences in the interpretation of "religious freedom" among state and non-state actors contribute to strengthening resistance to policy change.

This study has limitations in the empirical dimension because it does not involve direct interviews with victims or perpetrators of religious transition. In addition, the comparison is made at the macro level of law and has not explored variations in policy implementation in each administrative region in both countries.

As a follow-up, future research could involve a sociological-legal approach with interviews with individuals who have undergone conversion, as well as a more detailed analysis of court decisions. This would enrich the understanding of how legal norms are applied in practice and how social influences mediate the process.

CONCLUSION

This study shows that regulations on religious transition from Islam to non-Islam in Indonesia and Malaysia show significant differences in their legal approaches and implementation. Malaysia implements a more systematic and formal Sharia-based legal system through the Sharia Court, with strict procedural obligations for Muslim individuals who wish to convert from Islam. Meanwhile, Indonesia is more administratively relaxed but creates legal uncertainty due to social pressure and the potential for criminalization through the blasphemy law. The researcher views Malaysia's approach, although restrictive, as offering more consistent legal clarity because it maintains the role of the state and religious institutions in maintaining social stability and religious authority.

The findings of this study broaden our understanding of how Muslim-majority states navigate between religious freedom and the protection of majority religious norms. The findings contribute to the literature on religious law and human rights in Southeast Asia by highlighting that the exercise of the right to convert cannot be separated from the dynamics of identity politics, religious authority, and dualistic legal structures. Malaysia's approach of requiring the intervention of the Sharia Court provides a more assertive institutional control and is normatively accountable within the framework of a state that makes Islam the official religion.

The absence of empirical data from direct sources such as converts or court officials limits this study. Therefore, in-depth exploration through sociological or ethnographic approaches is needed to understand the personal and social experiential dimensions of the religious transition process. Future research is also recommended to examine further the regional dynamics within Malaysia and Indonesia, as well as observe the development of jurisprudence in apostate cases to enrich academic discourse and inclusive and realistic legal policies.

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