

## **RIGHTS OF NON-MUSLIMS IN THE PERSPECTIVE OF ISLAMIC SHARIA**

**By: Dr. Hafiz Abdur Rahim \***

The Islamic state is under obligation to provide and ensure protection to the Non-Muslims, as much as to the Muslims, in respect of their life, honor and property. The problem is important and requires elucidation, which is being taken up in the present subject through references to the Holy Quran, the Hadith and the practice of the pious caliphs.

### **Islamic Sharia (Law) as Savior of Humanity**

It is the distinctive merit of Islam alone that it has ordered its followers to act nobly not only towards those non-Muslim with them. Indeed, Islam recognizes and fixes up the rights of the aliens it does not merely conventionally but in a very positive and emphatic form. It lays down the injunctions and threatens the violators with dire punishment.

### **Allah SWT. Says in the Holy Quran:**

﴿ ولا يجر منكم شأن قوم على أن لا تعدلوا اعدلوا هو أقرب للتقوى  
واتقوا الله إن الله خبير بما تعملون ﴾ (1)

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\* Assistant Professor, B.Z University, Multan, Department of Arabic.

nor the infants, nor the woman folk. Do not break trust. Do not mutilate and disfigure the bodies of your dead enemies."

Another Hadith forbids the Killing of monks and hermits engaged in worship in their monasteries and hermitages.

This confines the permission of killing to those able-bodied males alone who actually enter the battlefield to fight.

It is related that, during a battle, the Holy Prophet (peace be on him) found the body of murdered woman on the battlefield. He was sorely grieved, denounced the act in emphatic terms and warned against any future recurrence. This was attitude, although his enemies were unscrupulous and cruel even to the extent of cannibalism.

### **Non-Muslim citizens of the Islamic State:**

The Holy prophet (ﷺ) has exhorted his followers to practice absolute and perfect justice with regard to all non-Muslims residing in the Islamic state, whether they are Citizens or Resident Aliens. For instance, he says :-

"إلا من ظلم معاهدا أو انتقصه أو كلفه فوق طاقته أو أخذ منه شيئا بغير طيب نفس فأنا حجيجه يوم القيامة" (4)

(1)"Beware! Whoever among Muslims does injustice to a (non-Muslims) covenantee (in any way) or burdens him beyond anything belonging to him without his hearty consent I will plead on his (i.e. the Non-Muslim's) behalf

(6)"Muslims are under obligation to observe all such terms as are founded on truth (and justice)."

"لعلكم تقاتلون قوما فتنظرون عليهم فيقونكم دون أنفسهم وأبنائهم  
فيصالحونكم على صلح فلا تصيبوا منهم فوق ذلك فانه لا يصلح لكم" (10)

(7)"May be, you will have the opportunity of engaging in war with (an enemy) people whom you will overpower. They will enter into a treaty with you concerning their property and their offspring. Thereafter; do not take any thing firm their possession beyond that which has been stipulated in the treaty."

" من أمن رجلا على دمه ثم قتله فأنا بريء من القاتل وإن كان المقتول  
كافرا" (11)

(8) Whoever (among Muslims) gives protection of life to another person and Kills him thereafter, I would not like to have anything to do with him (i.e. the murderer) even although the murdered person is a non-Muslim."

" حسن العهد من الإيمان " (12)

(9) Fulfillment of the covenant in the best manner is a part of Faith. "

" إذا فتحتم مصر فاستوصوا بأهلها خيرا فإن لكم منهم صهر وذمة" (13)

" When you conquer Egypt, treat the Egyptians well, because you shall be bound to term by your covenant as well as matrimonial alliances.

Protection to life, Honor and Property Pledge given by Omar the Great to the People of Palestine:

" بسم الله الرحمن الرحيم هذا ما أعطى عبد الله عمر أمير المؤمنين لأهل إيليا من الأمان أماناً لأنفسهم وأموالهم ، ولكنائسهم، وصلبانهم سقيمها وبربئها وسائر ملتها ... " (15)

"In the Name of Allah, the Beneficent the Merciful. This is the Pledge of Protection granted to the people of Palestine by Omar, the Servant of Allah and Leader of the Faithful. This protection is for all their co-religionists and relates to their lives, property, churches and crosses, be they in bad condition or good (In this way that) their churches shall not be turned into dwelling houses, nor shall they be pulled down. No injury shall be done to them or to their enclosures, or to their courses, attached properties. No restriction shall be imposed regarding their religious ceremonies and none of their people shall be harmed in any way. No Jew shall be permitted to stay along with them.(16) Whatever is in this document is guaranteed in the name of Allah and His Messenger and the Caliphs and the Muslims in general on condition that the people Pay the Jizyah regularly. This document is witnessed by Khaild bin Walid. Umr bin Al-Aas, Abdur Rahman bin 'Awf and Mu'awiyah bin Abi Sufyan. Dated A. H.15."

One important thing to be noted is that the Pledges given to the non-Muslims by the Islamic State were not like the " Paper "guarantees which the so-called civilized governments of the present day give to people on different counts. Their strict observance and fulfillment was a matter of utmost

"أيما شيخ ضعف عن العمل أو أصابته آفة من الآفات وكان غنيا فافتقر وصار أهل دينه يتصدقون عليه طرحت جزيته...." (19)

"Whoever from among the old people shall become incapable of earning his lively hood because of his old age or because of some calamity, or shall be reduced to poverty to an extent which renders him dependent upon the charity of his co-religionists, he shall be exempted from the Jizyah (i.e. the protection Tax) And not only that. He and his dependents shall be paid stipends from the State treasury of the Muslims so long as they reside within the jurisdiction of the Islamic State."

One day, when coming out of a Omar the Great saw a Christian begging for alms, the Caliph approached him, enquired from him about his affairs and remarked: "It is against justice that while we realised the tax from you when were young and capable of earning, we keep away from helping you have grown old". Saying this, he immediately ordered that a regular pension sufficient to maintain him comfortably should be paid to him for life from the State-treasury.

### **Unparalleled Dispensation of Justice:**

Anas relates that once a Coptic non-Muslim came to Omar the Great and said : "I have come to seek your protection against injustice ." "Be not afraid ! you are under strong protection," came the reply. Thereupon the Capt submitted his complaint in the following words: I and the

was virtually an assurance of protection, in which case his murder was a heinous sin.

One day, when during the Syrian war, Omar the Great camped at Jabiyah, a non-Muslim came to him and complained that some Muslims had picked up grapes from his vineyard with out his permission. Coming out of his camp instantaneously, the Caliph found a Muslim coming out of the vineyard with some grapes on his shield and said to him in a severely harsh tone: "You too have started committing such foul deeds". The person pleaded that he had been led to it solely because of his extreme hunger. There upon Omar got the owner of vineyard compensated for his grapes to an extent, which satisfied him. (21)

Once a farmer of Syria complained to Omar the Great that the Muslim army had destroyed his crop during its march through his field. The Caliph paid him ten thousand Dinars from the State Treasury by way of compensation.

A person once informed Omar the Great that the yield of a certain land was much higher than what had been assessed in connection with its taxation and that consequently the amount of the tax should be increased. The reply of the Caliph was: "The land has come under administration through a peace-treaty. Therefore we cannot raise the amount of the tax beyond that which had been stipulated in the treaty, how ever much the produce of the land might increase.(23)

Realising the truth of the old man's statement, Heraclius resolved to move out of Syria. But he was overwhelmed with the representations and appeals made to him by his co-religionists from every nook and corner of the country, and had to make up his mind ultimately to face the Muslims. Consequently, he pooled all the resources of the Empire, made extensive military preparations, formed a huge army and ordered it to march against the small contingent of Muslim troops stationed at Hims.

Hadrat Abu Ubaidah the Chief of the Muslim administration at Hims, had known all that before-hand. Impressed deeply with the blessed deeply with blessings which the Muslim administration had conferred upon them, Christians themselves were resolved to help him and had been bringing secret information to him; and they informed him in time when the huge army of Heraclius marched from its base towards that city. The Muslim general had to take decision. He called his counsellors to a conference. One important aspect of the situation was that almost the entire population was composed of Christians, who, in spite of the blessings which the Muslim administration had brought to them, were in danger of being swayed by sentiments of religious affinity with the invading army. Hence, it was regarded impolitic for the Muslim soldiers to leave behind their families at the mercy of the Christians while themselves facing the enemy outside. It meant nothing less than endangering the lives of those women and children.

**Treacherous non-Muslim Citizens treated Generously :**

Situated on the frontiers of Syria and the Byzantine Empire, ruled respectively by Muslims and Christian, there was a town called Arbassoos. It had come under the Muslims through a peace-treaty. But in spite of the pledge which its Christian residents had given, they used to act as traitors and were in the habit of passing on secret information to the enemy on the other side of the border. Umair bin Sa'd the Governor of Arbassoos, finally informed Omar the Great about it. In reply the Caliph sent to him the following instructions:

"Assess the value of all their assets, their lands and their cattle, pay to them double of that amount, and ask them to migrate (comfortably) from there. In case they do not agree to it, give them one Year's time, and exile them thereafter." (25)

It was, in fact, the nobility of Muslim conduct in general the puritanical fairness and justice in administration that had endeared the Muslims to the non-Muslims to such an extent that the latter desired to be governed by the former in preference to their own co-religionists. Thus it is related that when Amr bin Al-As, the conqueror of Egypt, was on his way to Fustat after the Conquest, seventy thousand Christians assembled along with their priests at Tarranah to accord him a hearty welcome. With the ceremonial stuffs in their hands and with one voice, they proclaimed their loyalty and their sincere desire to co-



"الأمان على أنفسهم وأموالهم وشرائعهم" (29)

"They are hereby granted protection with regard to their lives, their property and their religious laws and observances."

- (4) The non-Muslims of Mocar were guaranteed their freedom in the following words:

"الأمان على أنفسهم وأموالهم وشرائعهم" (30)

"This Charter guarantees to them protection in respect of their property, their lives, their communal existence and their religious customs and observances."

### **Consultation with Non-Muslim Citizens in Matters of Administration:**

It was the practice of Omar the Great that in all administrative matters, which concerned the non-Muslim citizens, he would not take any step without consulting them. Thus, when he had to organize the land-administration of the newly conquered Iraq, he invited the non-Muslim chiefs from the country to Madinah and conferred with them. Similarly, as regards Egypt, he often consulted Maquqas.(31)

In fact, he was so careful in dispensing justice to the non-Muslim that he had made it his practice to invite non-Muslim leaders from the dominions and ask them whether their communities had any grievances. Thus, for instance, he would do when the tax-collectors realized the land-revenues from the people of Iraq. (32)

### **Four Categories of non-Muslims:**

The jurists of Islam have classified the non-Muslims into four categories, viz: (1) Ahl-uz-Zimmah; (2) Musta'min; (3) Mu'ohid or Haleef;

### **Harbi. حربي**

(1) Ahl-uz-Zimmah. Those non-Muslims who pledge their loyalty to the Islamic State and adopt its citizenship are known by this term, which implies that Muslims are under obligation not only to abstain from doing them any harm but also to afford them positive protection.

The Ahl-uz-Zimmah may acquire their status in either of the two ways, viz., they may either be (1) those who have submitted to the Islamic State after the conquest of their country through a war and have

adopted its citizenship; or (2) those who have acquired such citizenship, not after a war, but through peaceful agreement, just as the people of Najran and the Banu Taghlib tribe did during regimes of the Holy Prophet ﷺ and Omar the Great respectively. Both of these groups stand on equal footing with the Muslims in respect of all the general rights and obligations of citizenship. They are, however, exempted from military service, in lieu of which they are required to pay a very light tax. This tax is payable by the members of the second group strictly in accordance with the terms and conditions of the agreement which they make with the Islamic State at the time of acquiring its citizenship, and

remain immune; (5) it shall be obligation of the Islamic State to protect his life, honour and property in the same way as it protects those of its Muslim and non-Muslim citizens. (34)

### **3- Mu'ahid or Haleef.** المعاهد أو الحليف.

This term applies to the non-Muslim citizens of a non-Muslim State, which makes a No-War pact with the Islamic State. The Islamic law, in this connection, is that Muslims shall be under obligation to adhere strictly to the terms of the pact in letter and in spirit, and shall not in any way employ the modern fashionable methods of evasion and violation. The holy Prophet Muhammad ﷺ said:-

”من كان بينه وبين قوم عهد فلا يشد عقدة ولا يهلها حتى ينقضي أمدها، أو ينبذ إليه على سوء“ (35)

”Whoever enters into a pact with a people should neither relax that pact nor tighten it until its term expires or it is thrown back to them on terms of equality i.e., it is revoked without injury to either party.”

Once Amir Mu'awiyah entered into a no-war pact with the Romans. During the period of the suspension of hostilities, however, he ordered his army to the frontier, planning to march into the enemy territory as soon as the term of the pact expired. The day came and the Amir ordered his troops to march. But just at that moment he heard a voice from behind: "stop, ye

the word of Allah; and afterward escort him to his place of safety. That is because they are the people who know not.

The for the places of worship of all religions Mosques, Churches and synagogues Allah SWT Says:

﴿ ولولا دفع الله الناس بعضهم ببعض لهدمت صوامع وبيع وصلوات  
ومساجد يذكر فيها اسم الله كثيرا ولينصرن الله من ينصره إن الله لقوي  
عزيز ﴾ (38)

"..... For had it not been for Allah's repelling some men by means of others, cloisters and Churches and Oratories and Mosques, wherein the name of Allah is often mentioned. Would assuredly have been pulled down. Allah helps one who helps him. Allah is strong, Almighty".

## Rights of Non-Muslims In the Perspective of Islamic Sharia

18. al-Marghinani, Imam Abd-al-Hasan Burhan-ud-Din Ali B. Abi Bakr B. Abdul-Jalil Farghani, al-Hidayah, Babul Musta'min wal Jizyah.
19. Imam Abu Yusuf, Kitabul Kharaj P. No. 80.
20. al-Islam Roohul Madina, P. No. 121.
21. al-Hindi, Kanzul Ummal Vol. II, P. No. 299.
22. Imam Abu Yusuf, Kitabul Kharaj P. No. 68.
23. al-Hindi, Kanzul Ummal Vol. II, P. No. 313.
24. Ibid; Imam Abu Yusuf, Kitabul Kharaj P. No. 111, Al Balazuri, Futuhul Buldan, P. No. 129, Ed. Europe.
25. Ibid.
26. al-Islam Roohul Madina, P. No. 112.
27. al-Tabari, Abu Ja'Far Muhammad B. Jarir, Ta'rikh, kitabul Jihad, Leiden.
28. Ibid.
29. Ibid.
30. Shibli, Allam Nu'mani, Al-Farooq, P. No. 474, India
31. Ibid.
32. Ibid.
33. These details are to be found in books of Islamic Law like al-Hidayah and its comentary Fathul Qodir, Vol. II, P. No. 368.
34. al-Marghinani, al-Hidayah, Babul Musta'min.
35. Abu Dawud, Sunan, Kitabul Jihad, Hadith No. 2759, al-Hindi, Kanzul Ummal, Vol. II P. No. 270.
36. Abu Dawud, Sunan, Kitabul Jihad.
37. The Holy Qur'an, al-Taubah, Surah IX, Verse 6.
38. Ibid. al-Hujj, Surah XXII, Verse 40.