

THE LEGAL STATUS OF RELIGIOUS MINORITIES IN ISLAM: A HISTORICAL PERSPECTIVE

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Abstract

This paper deals with the concept of Dhimmi (non-Muslims living in an Islamic state) and the laws formulated for them in Islam, which lie at the centre of the intellectual discourses on the Islamic legal and political system vis-à-vis the issues of tolerance, democracy, and human rights. The teachings of Islam, as revealed to the Prophet Muhammad (*Hadrat Muhammad Rasūlullah Khātam un Nabīyyīn Ṣallallahu ‘alaihi wa ‘alā ‘Ālihi wa Aṣḥābihi wa Ṣallam*) provide complete guidance for attaining success and glory in this world and the hereafter. As a comprehensive way of life, Islam encompasses a unique socio-economic and political system. It deals with all private and public life aspects and local and international affairs. However, the status and treatment of minorities in Muslim societies (especially in the context of Islamic law) have been of special concern to Muslim and non-Muslim scholars alike. It has also been a much-debated subject among Orientalists, who have created many misinterpretations regarding it. In light of these problems, this paper has attempted to establish a discourse on a three-fold level: it has argued that laws about minorities in

Islam are based on the concept of justice, how these laws are significant in the emancipation of humanity in general, and the minorities (non-Muslims living in an Islamic state) in particular has been highlighted; and the relevant Quranic verses, Prophetic traditions, and, the Muslim statesmen's practices and juristic views regulating the principles of how Muslims are supposed to interact with non-Muslims have been examined as well. To achieve these objectives, descriptive, analytical, and exploratory methods have been followed throughout the paper.

Keywords: *Minority Rights, Islamic Law, Orientalists, Dhimmi.*

1. Introduction

The tenets of Islam enshrine all-encompassing mercy for all human beings - Muslims and non-Muslims alike. In the Qur'an, the Prophet is described as being merciful to all humankind, commanded by Allah to deliver the divine message of Islam to the entire humanity. Allah created human beings and endowed them with dignity that elevated their status above all His other creatures.¹ He blessed them with a religion that guarantees full rights to its adherents and those who do not follow it as long as they maintain peaceful coexistence and adhere to what has been agreed with them. Even if their actions contradict this peaceful cohabitation and they break their covenants and agreements, they will still be treated in a manner conducive to upholding the societal framework and integrity. It is, therefore, not surprising to witness the historical display of people belonging to various other faiths living with full civic rights and in complete security under Muslim rule throughout history in India, Palestine, Andalusia, or any other territory. The golden period of Jewish history and diaspora in terms of stabilization and advancement of learning was declared to be the era in which they lived under the Muslim *Khilafah*. Non-Muslims residing in Muslim communities were offered a happy and prosperous life, assured security for their lives and properties, and given the title *ahl al-dhimmah*, which designated individuals with whom Muslims had an agreement or responsibility for their safety and security of their property. Its basic guidelines were laid by the Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātam un Nabiyyīn Ṣallallahu 'alaihi wa 'alā 'Ālihi wa Aṣḥābihi wa Ṣallam*) in the early years of the Muslim community in Medina, where he established a city-state and formed a blueprint of the Muslims' interfaith relations with Christians and Jews (among many other adherents of different religions). Allowing diverse religious groups to develop their spiritual and material aspects under Islamic rule was made possible through pledges, documents, and mutual agreements that granted privileges to different religious groups. What follows is an examination of the prescripts adopted or drafted from the period of establishment of Islamic society in Medina right up to the

expansion of the Islamic empire during the era of Caliph ‘Umar from a historical and legal perspective.

2. Research Methodology

The paper has followed descriptive, explorative, and analytical methods to achieve the objectives. The study is based on primary and secondary sources, comprising Arabic, Urdu, and English literature. Based on these sources and using descriptive and analytical methods, the study provides detailed descriptions and systematic evaluations of the available data about the subject under study.

3. Research Objectives

The present study attempts to establish a discourse on a three-fold level: it argues that laws about minorities in Islam are based on the concept of justice; how these laws are significant in the emancipation of humankind in general and the minorities (non-Muslims living in an Islamic state) in particular; it also examines the relevant Quranic verses, Prophetic traditions, and, the Muslim statesmen’s practices and juristic views regulating the principles regarding the required interaction of Muslims with non-Muslims.

4. Discussion

4.1. The Concept of *al-Dhimmah*

According to *Lisān al-‘Arab*, the term *dhimma* is derived from the Arabic word *الذمة*, which means “covenant, contract (*‘Aqd*), protection, guarantee, custody, sanctity, and duty”.² In Islam, religious minorities are referred to as *Dhimmi*, short for *ahl al-dhimma*, or people of the *dhimma*. This phrase became synonymous with 'People of the Book', originally used to designate the followers of Christianity and Judaism. However, in its technical sense, the term *al-dhimma* would mean ‘protection’ and was often used as a short form of *dhimmat Allah wa-rasūlih*, or “(under the) protection of God and His Prophet”.³ Originally, this concept had a divine connotation or a meaning that could be directly related to the authority of God. With the passage of time and the progression of classical scholarship, it mutated into a technical-legal term, consequently losing its transcendental dimension.⁴ Due to these developments, *ahl al-dhimma* (people of the *dhimma*), has become a legal term and is no longer used as a reference to the beneficiaries of divine protection. A discussion revolving around the etymology of this word is no less important, as it determines the significance of the people of the *dhimma* who, in essence, are the very people promised to be protected on behalf of God and His Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātām un Nabīyyīn Ṣallallahu ‘alaihi wa ‘alā ‘Ālihi wa Aṣḥābihi wa Ṣallam*) – an enormous responsibility. This protected status was awarded to the People of the Book (a category that,

according to many scholars, includes Zoroastrians and others) who agreed to pay the *jizyah*, or poll tax, through a contract, instead of that protection.⁵ In sum, the concept of the people of the *dhimmah* was based on non-Muslim religious minorities who paid a nominal tax that exempted them from military service. The classical Muslim state's authority and territorial integrity relied on its capability to deliver two precious resources to its subjects: justice and security.⁶ In the technical sense, Christians, Jews, and other minorities were not the citizens of the Muslim state; they were seen as outsiders who enjoyed the protection of the state, leading to the title of *dhimmah*, or protected people.⁷ This protection was assured in several ways, one of which was by providing them with legal and internal autonomy – meaning they could observe their religious practices without any interference – and protection at times of war. Despite such a clear and uncompromising theoretical framework, there have been instances throughout history where that protection was under threat, and the ruling power engaged in the persecution and oppression of religious minorities.⁸ However, history has never recorded this persecution on a widespread, systematic, and global level, especially if the maltreatment of Christians in the Islamic world was to be compared with that in the late Roman Empire.⁹

The hostile situations that occasionally arose were not directly related to Islamic law principles but were the result of a confluence of social, political, and economic factors. Therefore, although Christians occasionally experienced suffering at the hands of Muslims, it was more often the result of several interlinked factors linked to the desire for power than it was a result of Christians' beliefs or identities as Christians.¹⁰

5. Historical Foundations

5.1. The Charter of Medina

Upon his migration to Medina from Makkah, Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātam un Nabiyyīn Ṣallallahu ‘alaihi wa ‘alā Ālihi wa Aṣḥābihi wa Ṣallam*) embarked on his mission of laying strong foundations for the novel interfaith relations among the Muslim and non-Muslim inhabitants of the first Islamic State in Medina. He duly proceeded by applying the principle of respectable mutual relations and cooperation. There was a sizeable Jewish community in Medina, the Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātam un Nabiyyīn Ṣallallahu ‘alaihi wa ‘alā Ālihi wa Aṣḥābihi wa Ṣallam*) had a document drawn up which outlined the duties of the immigrants (*al-Muhājirūn*) and the helpers (*al-Anṣār*), in which he also made an agreement between them and the Jews. This agreement safeguarded the Jews' rights as non-Muslim citizens of the Islamic State. As a result of this, the Prophet (*Ḥaḍrat Muhammad*

Rasūlullah Khātām un Nabīyyīn Ṣallallāhu ‘alaihi wa ‘alā ‘Ālihi wa Aṣḥābihi wa Ṣallam) was successful in establishing a multi-religious, diverse political, and social community grounded on a set of universal principles which were organized in the ‘constitution of Medina (*Ṣaḥīfat al-Madīnah*).¹¹

The Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātām un Nabīyyīn Ṣallallāhu ‘alaihi wa ‘alā ‘Ālihi wa Aṣḥābihi wa Ṣallam*) and his followers in Medina made a significant political contribution by framing a constitution to govern the state's internal and exterior affairs. The Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātām un Nabīyyīn Ṣallallāhu ‘alaihi wa ‘alā ‘Ālihi wa Aṣḥābihi wa Ṣallam*) achieved this groundbreaking and extraordinary feat in the very first year of his arrival in Medina. For the success of such a daunting and sensitive task, which covered the civil, judicial, and political elements of the state, including defense and alliances, it needed to be approved by the leaders of eleven Jewish inhabitant tribes who lived in the heart of Medina, leaders of other Arab tribes in and around the city, and by the Muslims. The resulting constitution was centered on cooperation upon virtuous deeds, maintaining piety, and prohibiting evil.¹²

Considered to be the first-ever written constitution in the world,¹³ The document specified the reciprocal obligations in the following manner:

‘In the name of Allah, the Compassionate, the Merciful; this is a prescript from Muhammad, the Prophet (governing the relations) between the believers and the Muslims of *Quraysh* and *Yathrib* and those who are to follow and join them... The Jews shall contribute to the cost of war so long as they are fighting alongside the believers. The Jews of the Banu ‘Awf are one community with the believers (the Jews upon their religion and the Muslims upon their own), their freemen, and their people, except those whose conduct is unjust and sinful, for the damage they cause shall only afflict them and their families. This also applies to the Jews of the *Banu al-Najjar*, *Banu al-Ḥārith*, *Banu Sa‘ida*, *Banu Jusham*, *Banu al-Aws*, *Banu Tha‘labah*, and the Jaffna, a clan of the *Tha‘labah* and the *Banu al-Shutayba*. None of them shall go out to war except with the permission of Muhammad, but no one shall be prevented from taking revenge for a wound. He who slays a man without warning slays himself and his household unless it has wronged him, for Allah will accept that. The Jews must bear their expenses, and the Muslims their own.

Each must help the other against anyone who attacks the people of this document. They must seek mutual advice and

consultation; their loyalty will protect them against treachery. A man is not liable for his ally's misdeeds. The wronged must be helped. The Jews must pay with the believers as long as the war lasts. Yathrib shall be a sanctuary for the people of this document. A stranger under protection shall be his host doing no harm and committing no crime. A woman shall only be given protection with the consent of her family. If any dispute or controversy likely to cause trouble should arise, it must be referred to Allah and Muhammad, the Messenger of Allah. Allah accepts what is nearest to piety and goodness in this document. Quraysh and their helpers shall not be given protection. The contracting parties are bound to help one another against any attack on Yathrib. If they are called to make peace and maintain it, they must do so; and if they make a similar demand on the Muslims, it must be carried out except in the case of a holy war. Every one shall have his portion cut out from the side to which he belongs. Allah approves of this document. This deed will not protect the unjust and the sinner. The man who goes forth to fight and the man who stays at home in the city are safe unless he has been unjust and has sinned. Allah is the protector of the pious and Allah-fearing man, and Muhammad is the Messenger of Allah.¹⁴

The various laws outlined in this Madinan Constitution were primarily created to uphold harmony and cooperation, safeguard the lives and property of Medina's citizens, thwarting injustice and aggression regardless of a person's tribal or religious affiliations, and guarantee freedom of movement and religion. It supported justice, goodness, and the struggle against evil while strengthening community defense against intruders. For a long time, Jews and Muslims coexisted in harmony. Safi ur Rehman Mubarakpuri commented on this treaty and emphasized that it was part of a larger framework of inter-Muslim ties. He underlined the most significant clauses of the treaty in twelve key bullets:¹⁵

1. The Jews of Banu 'Awf comprise one community with believers. The Jews will have the right to profess their religion, and the Muslims, their own.
2. The Jews and the Muslims shall assume responsibility for their respective expenditures.
3. If attacked by an external enemy party, each shall be obliged to come to the assistance of the other ally.
4. The parties shall counsel each other. Righteousness shall serve as the basis for all ties, from which sin will be excluded.
5. Neither shall indulge in actions that infringe upon the rights of the other.

6. The party that has been wronged must be assisted.
7. The Jews shall have to contribute towards the war's expenses as long as they are fighting alongside the Muslims.
8. The sanctuary of Medina shall remain sacred and inviolable for all who join this treaty.
9. In a dispute between the parties to this agreement, Allah, the Highest, and His messenger shall have the authority to adjudicate.
10. The parties to this pact will boycott Quraysh commercially and not provide them with any aid.
11. All the parties shall assist in defending Medina, in case of a foreign attack, in their respective areas.
12. This treaty does not preclude either party from seeking legal retribution.

Muhammad Said Ramadan al-Būṭī, a leading modern Syrian jurist, endeavored to expound upon the significance of this constitution by referring to an important clause: *'The Jews of the Banu 'Awf are one community with the believers (the Jews having their religion and the Muslims their own), and their freemen except those who behave unjustly and sinfully, for they hurt none but themselves.'* He remarked that this is a clear and forthright text showing that the Islamic State (of Medina) was based on a mutual conglomerate between two groups, Muslims and Jews.¹⁶ Its nature was such that no one could be excluded except those whose conduct was unjust. Its beauty lies in the sub-clause *'except those who'* applies not only to the Jews but also to anyone who is a resident of Medina. He maintains that when the constitution of Medina stated, *'The Jews of the Banu 'Awf are one community with the believers'*, it did not imply that they were essentially a part of the Muslim community. If that were the case, it would mean their identity had been merged with the Islamic State. However, the appropriate meaning is that the constitution gave them the right and freedom to be an independent and autonomous community within the Islamic State. Furthermore, al-Būṭī asserts that other clauses in this constitution emphasize equal treatment to all the inhabitants of the Islamic State regarding duties and rights, none of which are derivatives of religious diversities.

Muhammad Hamidullah went a step ahead, arguing that by accepting the terms of this constitution, the autonomous Jewish villages willingly acceded to the confederal Madinan State and, as a result, acknowledged Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātam un Nabīyyīn Ṣallallahu 'alaihi wa 'alā 'Ālihi wa Aṣḥābihi wa Ṣallam*) as their supreme political leader. This could imply that the non-Muslim subjects possessed the right to vote in the election of the head of the Muslim State.¹⁷

One of the remarkable and striking features of the constitution of Medina is that it allowed the rules of justice a place over and above religious solidarity and asserted the right of the victim of injustice and aggression to amelioration, regardless of his tribal or religious affiliation. Of course, any newly established State ought to work hard to bring together all its inhabitants regardless of the diversity in religion, race, or color to ensure the perpetuation and solidity of the State. El-'Awaisi opines that Islam firmly rejects the existence of any conflict which may be based on eliminating the other party so that the victor could have the stage solely to himself.¹⁸ He quotes the following verse from the Qur'an as his evidence:

*'O mankind, We have created you from a male and a female and made you into races and tribes, so that you may identify one another.'*¹⁹

He further adds:

'Confirming this idea, Islam favored another method, namely Tadāfu' or counterbalance, as a measure of adjusting positions using movements instead of conflict. This conflict-free method is what Islam sees as a way of preserving a non-Islamic presence in this life. Tadāfu' helps to preserve Islam's sacred places and also the sacred sites of others.'

The Qur'an²⁰ declares:

'And if Allah had not counterbalanced (Daf'u) some people's deeds by others, there surely would have been pulled down monasteries, churches, synagogues, and mosques, in which the name of Allah is commemorated in abundant measure'.

Thus, from an Islamic point of view, *Tadāfu'* is the means of preserving the plurality of sacred places and by extension, the plurality of religions'.²¹

A life of peace based on respect for one another is also one of Islam's essential goals. The actions of Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātām un Nabīyyīn Ṣallallahu 'alaihi wa 'alā 'Ālihi wa Aṣḥābihi wa Ṣallam*) have the same moral standing as his other deeds in a plural society. Islam's commitment to religious diversity is intended to be relevant whenever Muslims coexist with followers of other faiths.²²

In light of the above remarks, it can be said that the Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātām un Nabīyyīn Ṣallallahu 'alaihi wa 'alā 'Ālihi wa Aṣḥābihi wa Ṣallam*)'s treatment of the

People of the Book, in this case, the Jews, exhibited religious tolerance and judiciousness. This constitution laid the basis for envisioning a practical and viable pattern of future relations in an Islamic State between Muslims and non-Muslims. The foundational principle of this relationship was religious tolerance and non-interference in the personal affairs of the non-Muslim groups. It acknowledged the freedom of religion for all citizens. It made the non-Muslim inhabitants of Medina equal partners with their Muslim counterparts in both the material involvement and prosperity of the Islamic State.

When a group of Muslim intellectuals gathered in Morocco to discuss how religious minorities are treated in the Muslim world, this treaty was also in the news at the time. The conference underlined the need to hold contemporary Muslim leaders responsible for their actions and the need for minorities to be treated with the ethics and fairness articulated by the Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātām un Nabīyyīn Ṣallallahu ‘alaihi wa ‘alā ‘Ālihi wa Aṣḥābihi wa Ṣallam*) in the Medina Charter.²³

5.2. The Pact of ‘Umar

The second and the more historically impactful document is the pact of ‘Umar ibn al-Khattab (*Raḍī Allah ‘anhu*), or *al-Shurūṭ al-‘Umarīyyah*, a list of agreements between Caliph ‘Umar and the people of Syria.²⁴ Due to this pact, most of the "controversial issues" related to non-Muslim minorities are traced back. Later scholars subdivided the contract into many sub-themes. Still, it may be effectively summed up as fostering Christian and Jewish self-government and legal autonomy while requiring their help against state adversaries when necessary. The gradations of this pact are important to discuss because, as will be elucidated in the following discussion, Muslim scholars based many of their legal arguments regarding religious minorities on it. A noteworthy example to cite in this regard is the compendious work of Imam Ibn al-Qayyim titled *Aḥkām ahl al-dhimmah*. Spanning nearly two thousand pages, it is considered the most comprehensive treatise on the regulations concerning religious minorities.²⁵ The Pact of 'Umar is one of the most frequently mentioned sources by Ibn al-Qayyim in this huge legal treatise, to which he devotes a substantial amount of examination. In addition, he mentions that the Pact had become so well-known among scholars that it was deemed unnecessary to cite its *sanad*, or chain of narration.²⁶

Many Islamophobes and Orientalists, who quickly point to the pact's laws as damning proof of Muslims' intolerance towards non-Muslims, have abused them severely. One of the numerous alleged examples that their "discrimination rules" are based on an effort to degrade non-Muslims is the requirement that Christians and

Jews dress differently from Muslims,²⁷ but such a gross misrepresentation and unqualified generalization merits a deep and contextual study.

Albrecht Noth, who analyzed the pact of 'Umar, asserts that these regulations were implemented for a long-term mutual coexistence between Muslims and non-Muslims and could never seek to persecute non-Muslims as such.²⁸ In a parallel manner, the pact primarily dealt with and protected what he calls the "sensitivities of Muslims" and was not aimed at the victimization of religious minorities.²⁹ Seen in its proper historical perspective, the reality of the matter is that the Muslims were at war with their enemies and entered new territory as a minority. When the Muslim army entered a newly conquered land, employing justifiable war, the inhabitants of that land were presented with one of the three options, according to the *Hadith* of the Prophet (*Ḥadīrat Muḥammad Rasūlullāh Khātām un Nabīyyīn Ṣallallāhu 'alāihi wa 'alā 'Ālihi wa Aṣḥābihi wa Ṣallam*): embrace Islam, surrender through treaty and become a *dhimmi*, or leave the land.³⁰ Naturally, in most cases, the people agreed to remain upon their religions as Christians, Jews, or Zoroastrians in exchange for protection and agreeing to abide by the rules of their respective treaties. For all practical purposes, the Muslims were initially outnumbered, so there was an immediate need to take extra precautions to ensure their political and military authority would not be thrown down the gauntlet. Such an environment also posed a serious threat to the still-developing Muslim community.³¹ Examining the ordinances in light of all these inevitable factors can make it easy to comprehend that the Pact would have favored the Muslims as they now governed the land.

The nature of these laws can be discussed using a variety of methods. First, a more comprehensive analysis of the purportedly "discrimination laws" is required. One such is the idea of the "ghiyar element," which refers to the idea that non-Muslims must dress differently. Milka Levy-Rubin has offered historical proof that distinct dress regulations were popular during this time as a symbol of one's social standing throughout the Sassanian Empire. On the other hand, the history of these dress codes is much more fascinating. Both Christians and Jews were required to wear the *zunnar*, or belt, which was a well-known item of clothing.³² Being Greek in origin, the belt was foreign to Arab Muslims, who presumably encountered it only after the Islamic Empire had expanded into the Byzantine lands. The belt was a commonplace item of clothing among non-Muslims. Consequently, the Pact of 'Umar obliged them to wear what they had always been accustomed to. Noth further contends that the other *ghiyār* elements also incorporated the customs that the non-Muslims were already known to have followed. Thus, he postulates

that non-Muslims were not being compelled or humiliated to wear discriminatory clothes; rather, it was ensuring they did not copy the Muslims in their dress.³³ Moreover, even then, it was not discriminatory because the Prophet (*Ḥadrat Muhammad Rasūlullah Khātam un Nabīyyīn Ṣallallahu ‘alaihi wa ‘alā Ālihi wa Aṣḥābihi wa Ṣallam*) had commanded the Muslims not to imitate the non-Muslims in their dress or way of living, so in effect, this law was a two-way street.³⁴ Some scholars have even proposed that the main purpose of creating these physical distinctions coincided with making the administration run smoothly so that a non-Muslim would not be punished for selling wine or the *jizyah* tax would not be collected from a Muslim as the collector could get confused regarding who was Muslim and who was not due to the similarity of their appearances.³⁵

The Pact of Umar's originality can be seen in its high standards for a mixed community of Muslims and non-Muslims. Regulations that guarantee religious legal autonomy form the basis of the Pact.³⁶ Its implications are far-reaching. Several religious groups, each with its own law and religious leaders, coexisted in the early Islamic society. By no means was this a common historical occurrence. In Hellenistic societies and under Roman rule, most emperors who preceded Constantine persecuted Christians. People did not have the option of living autonomously.³⁷ Permitting religious communities to adhere to distinct bodies of law fostered divisions between them.³⁸ This was also absorbed in the Muslim government, which did not actively interfere with these systems and thus allowed them to develop uninterruptedly.³⁹ For Muslims, the *Sharī‘ah* incorporates their creed and religious laws. So the authorization granted to the religious minorities to freely abide by their respective legal codes is one of the strongest expressions of tolerance found in the Pact of ‘Umar. The Pact's positive features have also been acknowledged by many Christians and Jews, as mentioned below.

Legal scholars and historians generally agree that legislation can be used as a form of social control, which explains why Christian and Jewish communities at that time cherished the authority of enforcing their religious regulations.⁴⁰ Nestorians, a Christian sect, provide an example of the absence of Muslim influence in community affairs. Marriages in this group of Nestorians were only legalized through civil courts before the synod of George I in the late 7th century CE gave the church the authority to legalize these marriages in the presence of a Christian judge.⁴¹

The Nestorians desired that judges be selected with the community's consent at the time, but the Muslim rulers appointed judges on their behalf. Imam Abu Hanifah (d. 767) consequently gave them the freedom to choose their own judges. This shows that these

communities wanted to preserve their religious liberty and that the Muslim administration did not interfere in the religious affairs of other groups.⁴²

For Christians and Jews, this autonomy brought the option of seeking legal guidance from the Muslim courts. This became a serious concern for the Christian and Jewish religious leaders, who saw it threatening their judicial authority. Their contention was not completely exaggerated. Seeing the followers of their congregations turn away from their respective courts to seek justice from the *qādīs* (Muslim judges) was enough to raise their misgivings since it had the potential to strip these elites of their social and legal power.

Suppose community members are not going to their leaders for religious guidance. In that case, it is impossible to command them to uphold their religion's ideals and inspire them to create a culture of normative behaviour. Religious leaders went to considerable pains to ensure that their communities were obedient to preserve their influence. For instance, Jewish women in the Umayyad period risked losing their property rights if they sought a divorce in rabbinical courts. Thus it is only logical that many turned to Muslim courts to obtain a divorce and avoid losing their property rights.⁴³ This prompted many rabbis to issue a new decree which allowed women to sue for divorce without forfeiting their property rights. As a result, more Jewish women remained within their communities and maintained religious autonomy.

It is worth noting that the regulations for minorities were implemented in a community defined by its religious identity. People associated themselves with their religious communities, considering the latter as their "national" identity markers. Neophyte Edelby points out that the uniqueness of Semites among ancient nations lies in the fact that they never conceived of any system of a social organization other than theocracy, where God was the sole source of law.⁴⁴ For a long time, the only social groups in the East were those based on religious affiliation. Islam, in particular, argues Edelby, views religions as national identities equivalent to nationality because, to every nation, God has sent a Messenger.⁴⁵ Either way, in the modern context, whenever there is a debate regarding laws regulating minorities, they are seen as a form of religious discrimination. Religion was the only conceivable form of distinctive workable identity in that era. In other words, the regulations were not made necessary by someone Jewish or Christian. Rather, it happened because, before the rise of the nation-state, religion was the only distinctive marker of identity.

6. Jizyah: History and Nature

In the early days of Islam, this tax was not levied on anyone in the Muslim State, either in Medina or elsewhere. There is a difference of opinion between Muslim scholars regarding the actual date *Jizyah* was prescribed. Ibn al-Qayyim mentions that *Jizyah* was not taken from the non-Muslims before the revelation of the *Jizyah* verse in the year 8 A.H.⁴⁶ Abu 'Ubayd and Ibn Kathīr consider 9 A.H. the year of the revelation of the above verse through which Allah ordained it. The verse of the Qur'an which legalizes the concept of *Jizyah* is as follows:

*'Fight those People of the Book who do not believe in Allah, nor the Last Day, and do not take as unlawful what Allah and His Messenger have declared as unlawful, and do not profess the Faith of Truth; (fight them) until they pay jizyah with their own hands while they are subdued.'*⁴⁷

Neither the Qur'an nor the Sunnah of the Prophet (*Ḥaḍrat Muhammad Rasūlullah Khātam un Nabīyyīn Ṣallallahu 'alaihi wa 'alā 'Ālihi wa Aṣḥābihi wa Ṣallam*) set any fixed rate for the *Jizyah*. The jurists, therefore, held varied opinions as to its amount.⁴⁸ According to Abu Ḥanīfah, the rate was 48 *dirhams* for the upper-class, 24 *dirhams* for the middle class, and 12 *dirhams* for the underprivileged farmer who earned his livelihood by working in the fields. He specified this tax's minimum and maximum cap and did not entertain any further discussion.⁴⁹ The *Hanabilah* followed the opinion of Caliph 'Umar. In principle, they agreed with the *Hanafis* but permitted an increase and decrease in the amount according to the people's economic situation.⁵⁰ Imam Al-Shafi'ī did not stipulate the maximum limit.⁵¹ He recommended one dinar annually, the Arabian gold *dinar* of the Muslim States. On the other hand, Imam Malik preferred the rate of 40 *dirhams* if the *Dhimmi* was poor (*ahl al wariq*). However, if he was rich (*Ahl al dhahab*), it would be 4 *dinars*.⁵² Therefore, the difference in his case is based on the use of silver and gold currencies. He was also not in favour of increasing this amount. Imam Abu Yusuf stated that the Islamic State has the right to take from the non-Muslims only that which was mutually fixed at the time of peace-making. All treaty terms should be strictly adhered to, and no addition or subtraction be permitted.⁵³

Historically speaking, the amount stated by jurists was trivial and had to be paid annually. *Jizyah* varied in amount and sufficient exemptions were made for the poor, females, children, slaves, monks, and hermits.⁵⁴

These discrepancies in sums stated by the jurists suggested that the absence of a fixed rate allowed for flexibility depending on

the time, place, and related economic factors. The *Jizyah* was obligated to try to balance the various amounts indicated above and determine the amount following people's salaries.⁵⁵

Al-Buti has interestingly opined that the *Jizyah* given to the Islamic State by non-Muslims is similar to the *Zakāh*, the amount paid by Muslims to the Islamic State.⁵⁶ The only difference is that Muslims pay *Zakāh* as a form of worship, considering it part of their religious duties. In contrast, *Dhimmi*s pay *Jizyah*, which is used in strengthening the state's defense, as a token of fulfilling their pact with the Muslim State, a duty to the State which protects and shelters them.

Al-Buti believes that using the term *Jizyah* for this tax or compensation is not essentially derived from a religious verdict or an Islamic directive. He cites the example of 'Umar Ibn al-Khattab with the Christians of Banu Taghlib in support of his argument. They asked 'Umar to take *Jizyah* from them under the name of *Ṣadaqah*, even if this meant doubling the money of *Jizyah*. Moreover, as a result, most scholars among the *Shafi'ī's*, *Hanafīs*, and *Hanbalis* agreed that it is acceptable to take *Jizyah* from *Dhimmi* under the name of *Zakāh*, provided that the amount is doubled.⁵⁷

7. Interpretation of the *Jizyah* verse

'With willing submission' (*'an Yadain*), taken from the last part of the verse in which *jizyah* is mentioned, literally means 'from the hand'. This term has been interpreted in various ways. Al-Zamakhshari commented upon it, saying that two meanings could be attributed to this term. Firstly, the hand could be interpreted as a symbol of power or authority. Secondly, it can be explained as a courtesy from the Muslims to the *Dhimmi*s by saving them from any external aggression.⁵⁸ Al-Razi agreed with him in this analysis.⁵⁹ Al-Qurṭubi quotes several meanings in his interpretation of the term. He attributes a statement to Ibn 'Abbas where the latter has said that the term refers to personally paying the money to the *Jizyah* collector and not sending it by someone else.⁶⁰ The exegesis of Al-Tabari is simple as he defines the term by saying that *Jizyah* is given from the hand of the *Dhimmi* to the hand of the collector.⁶¹ Abu Bakr Ibn al-'Arabi mentions fifteen possible connotations, which include: giving the money with a feeling of humiliation, under a pledge, or being rich to be able to pay it, coming in-person to pay the *Jizyah* and not sending it through someone else, not to thank or pray for the *Dhimmi* when he pays it, etc.⁶²

The ability to pay the *Jizyah* is indicated by the hand in one of its meanings; as such, it should not be taken from those who cannot afford it. Therefore, children, old, those in need, and women are

exempt. In actuality, the scripture does not pertain to people who are not engaged in any hostilities against Muslims in its literal sense. It alludes to a signal of peace, a display of civil submission, or an act of interregional harmony. *Jizyah* denotes the end of combat in this meaning.⁶³

Similarly, Muslim scholars have had varying interpretations regarding the meaning of the subdued (*Ṣāghirūn*) in the above verse. Some have interpreted it to mean *Jizyah* is to be taken from the *Dhimmi*s with belittling and disgrace.⁶⁴ However, other scholars consider it to symbolize submission to the Muslim political authority, not humiliation. Therefore, the payment of *Jizyah* signifies adherence to the Islamic State, and the State, in return, assumes the responsibility of supporting and protecting them. For example, al-Shafī'ī and Ibn al-Qayyim opined that 'subdued' (*Ṣāghirūn*) means to accept the laws of Islam that regulate the conduct of the *Dhimmi*s.⁶⁵ Ibn Ḥazm explains this term by stating that the laws of Islam will apply to them and that the *Dhimmi* must not openly express his disbelief or do anything incompatible with Islam.⁶⁶ Al-Nawawī and Ibn al-Qayyim repudiated the aspect of humiliation. They declared that such behavior could not be substantiated in the Qur'an, the Prophet's tradition, or even his companions' practice.⁶⁷ Al-Nawawī further adds that *Jizyah* must be taken in a kind and respectable manner, like taking debt from someone.

Abu Yusuf deliberated the compassion in taking the *Jizyah* in these words:

*'No one from the dhimmis should be thrashed while extracting Jizyah from them; nor should they be made to stand in the sun or persecuted in any manner. Instead, kindness should be shown to them. They are to be restrained till they pay what is incumbent upon them and must not be released from this detention until Jizyah is taken from them in full.'*⁶⁸

Al-Buti asserts that as long as non-Muslims submit to the State's rule in the same way that Muslims do, neither group will be burdened by Muslim rule. None of them would be excused from *Jizyah* if it were regarded as a humiliation for the non-Muslims' lack of belief.⁶⁹ This is apparent in Imam Abu Yusuf's reply to Caliph Harun al-Rashid:

Jizyah will not be charged from a destitute to whom charity is given, nor from blind people who have no provision or any work, nor will it be charged from a Dhimmi to whom charity is given nor from one who sits (at home due to disability). But

if they are prosperous, then it will be charged to them. Similar will be the case for blind people. Likewise, Jizyah would be charged by the monks who live in a monastery but are prosperous. But if they are poor people to whom prosperous co-religious people give charity, Jizyah will not be charged them. Jizyah is also leviable on the people of synagogues if they declare their whole property as a trust for monasteries, monks, and workers. Even then, Jizyah will be charged from them and the required amount will be charged to the caretakers of the monastery. But if they deny having received these donations and swear by Allah to this effect and take an oath in the manner in which their co-religious people take an oath that they have not received anything from the trust, then they will be left alone. Jizyah will not be levied from them.⁷⁰

Furthermore, immediately after the Muslim conquest of *al-Hirā* by Khalid Ibn al-Walid (*Raḍi Allah ‘anhu*), he wrote a letter to Caliph Abu Bakr (*Raḍi Allah ‘anhu*) informing him of how he had applied the *Jizyah* tax and exempted the poor, old, and handicapped non-Muslims from the payment of *Jizyah*. In his letter, he said:

I counted the male population, they were seven thousand. On further examination, I found that one thousand of them were permanently sick and unfit. So, I excluded them from the imposition of *Jizyah* and those susceptible to *Jizyah* thus remained six thousand people. I have granted them the right that when a man becomes unfit to work because of old age, or is afflicted by a calamity, or one who was rich but became poor to the extent that he requires the charity of his religion, I shall exempt him from the *Jizyah* and he and his family will be supported by the Muslim treasury utilizing allowances as long as he lives in the Muslim territory.⁷¹

The Islamic *Shari‘ah* is fundamentally transcendental and sublime beyond all material considerations, hence there can be no doubt that Islam will never impose *Jizyah* as compensation for non-Muslims’ rejection in Allah. Once the Dhimma agreement is finalised, that person—whether they belong to the ethnic majority or the ethnic minority—immediately acquires citizenship in the Islamic State and all the fundamental rights Muslims are entitled to. According to Al-Buti, the term "minority" has very little usage among jurists and is not found in the sources of Islamic *Shari‘ah*. He adds that this terminology is present in and derived from the western societies that sought to distinguish between their populations on the lines of ethnicity. In addition, he emphasizes that this concept, in this specific sense, has no place in Islamic law and is antithetical to the

essence of Islam, as it unjustly separates the State's population into first- and second-class citizens. Therefore, everybody in the Islamic State is entitled to equal citizenship rights, despite the differences in their religions or population size. The concept of first- and second-class citizens does not exist in Islamic Law.⁷²

Despite this, numerous non-Muslim writers have stated that non-Muslims living under the Islamic State were treated as second-class citizens.⁷³, while others have gone further, alleging that non-Muslims were not only treated as second-class citizens but as third-class citizens. In the words of Abraham and Haddad:

‘In an Islamic State, Islam is the ideology of the State and, therefore, there is no room for those who are outside the State’s ideology in the government, they are seen as third-class citizens or aliens and possibly dangerous creatures whose loyalty is questioned and always suspect.’⁷⁴

Abraham and Haddad established their erroneous view by selectively referring to the status of *Dhimmis* recorded in the Islamic law literature, i.e., *Dhimmis* are not allowed to be the head of State (Caliph) or judges.⁷⁵

To put it mildly, their clumsy claim contradicts itself. They first acknowledged that the Islamic State holds a certain set of views. An Islamic State is more particularly founded on a concept or worldview, in this case Islam. The State's head of state must therefore be a Muslim. According to Al-Mawardi, a leadership role in Islam is "mandated to succeed the Prophethood and intended to protect the *Dīn* (religion) and administer the affairs of the world."⁷⁶ Therefore, the position of a Caliph, besides being political, or for that matter, a judge, is a religious position and one of the conditions that it needs to fulfill is that the leader should be Muslim. Hence, in Islam, the head of the State is the head of the religion. This explains why a non-Muslim subject cannot be elected head of a Muslim State. The caliph or judge must be a well-educated and religious person; his position entails giving orders and solving problems between the common masses according to the Islamic rules with which he should be sufficiently familiar. Moreover, even Muslims are not entitled to become Caliphs except under certain conditions that must be satisfied.⁷⁷

However, this provision in no way implies that non-Muslims cannot collaborate with the Muslim community, hold public office, or be disenfranchised from the political and administrative life of the State. In his book "The Caliphs and their non-Muslim Subjects," Tritton cited numerous instances where Muslims appointed People of

the Book to various administrative positions.⁷⁸ Moreover, both Al-Māwardī, a *Shafi'ī* jurist, and Al-Farra', a *Hanbalī* jurist did not hesitate to support the opinion that the Caliph can appoint non-Muslim subjects as ministers and members of executive councils.⁷⁹ Therefore, excluding non-Muslims from the post of State leadership is not discrimination. Rather it is in itself eligibility for the post. Therefore, the above writers' conclusion is completely incorrect since non-Muslims have never been classified as second or third-class citizens.

8. Conclusion

In the preceding pages, the concept and framework of the rights and responsibilities of religious minorities have been discussed by trying to keep many contextual, historical, and axiological parameters in mind, without which there is a serious chance of falling into gross generalizations. It has been shown that throughout history, there has been a productive and lively debate on the laws regulating the relationships between Muslims and non-Muslims; however, the manifestations and consequent implementation of these regulations were largely dependent on the judgment of the contemporary ruler in his respective political, economic, and social milieu. It is evident from our discourse that the *dhimmi* paradigm that was established at an early stage of the Islamic civilization was consequently flexible and was responsible for giving rise to tolerant and mutually cooperative societies. In modern times, many scholars have shown an increased tendency to move beyond the narrative of “tolerance” since the notion of minority citizenship has often been accused of leading to some forms of discrimination. Hence, prominent scholars, whose contribution has been highlighted, like Yusuf al-Qaraḍāwī, Rashid al-Ghannushi, Tariq Ramadan, and Abdul Majid al-Najjar have taken crucial steps toward creating a “fiqh of citizenship” in Muslim-ruled nations that advocates equal rights for Muslims and non-Muslims by adopting modern forms of the citizenry.

Questions such as, ‘if this model was a plausible and arguably more natural form of tolerance, why has Islamic history been tainted by accusations of brutality toward religious minorities?’ have also been answered in this paper by arguing that such a query is in need of being placed in its proper contextual position which will become clear only after asking certain fundamental questions like what is our prism of evaluating the Muslim treatment of religious minorities in the first place; who authored the text that is being used as a reference for this discussion; at what time were they writing; and what social or political circumstances could have introduced biases into their description of the history, etc.

Through this paper, we have also outlined some recent historical events that have become a point of contention. We aim that a proper understanding of such events or occurrences, when understood from their proper temporal and spatial perspective, is much more nuanced than what is commonly perceived. These events are worthy of being seen as a symbol of Islam's universal and broader principles and not as something parochial or irrelevant. Consequently, it is recommended that while entertaining any rising concerns over Islamic approaches to tolerance and the minority question, the political and social ideologies that have contributed to our thought process must be taken into cognizance. Such a breakthrough can only be achieved if the notion that liberty and tolerance can universally be defined as having a singular form throughout the changing contours of space-time is challenged.

Notes and Reference:

¹ *The Holy Qur'an, surah 17:ayat 70*, Translated by Mufti Muhammad Taqi Usmani (Karachi: Maktaba Ma'ariful Quran, 2010).

² Ibn Manzūr, Muḥammad ibn Mukarram, *Lisan al-'Arab* (Beirut: Dār Sādir, 1990), Vol. 15, p. 111.

³ Milka Levy-Rubin, *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence* (New York: Cambridge University Press, 2011).

⁴ Ayoub, Mahmoud, "Dhimma in Qur'an and Hadith (with Commentary)," *Arab Studies Quarterly* 5, no. 2 (Spring 1983):172-191.

⁵ Ibn Qayyim al-Jawziyyah, *Aḥkām ahl al-Dhimmah*, ed. Yusūf al-Bakrī & Aḥmad al-'Arārūrī (Dammām: Dār Ramādī lil-Nashr, 1997), 79.

⁶ Goitein, S.D., "Minority Self-rule and Government Control in Islam," *Studia Islamica*, no. 31 (1970):102.

⁷ *Ibid.*, p. 105.

⁸ Cahen, Claude, *Dhimma*, in *Encyclopaedia of Islam*, 2nd ed. P. Bearman, C.E. Bosworth, E. van Donzel, and W.P. Heinrichs (Leiden: Brill, 1965).

⁹ Griffith, Sidney, *The Church in the Shadow of the Mosque: Christians and Muslims in the World of Islam* (New Jersey: Princeton University Press, 2009), 148.

¹⁰ *Ibid.*, p. 148.

¹¹ Badre-Eddine Ezziti, "The Historical Development of Constitutional Islamic Religious Text of the legal status of non-Muslims in Islam," *International Journal of Innovation and Applied Studies* 23, no. 3 (January 2018): 293.

¹² El-'Awaisi, Abd al-Fattah, "Umar's Assurance of Safety to the People of Aelia (Jerusalem): A Critical- Analytical Study of the Historical Sources," *Journal of Islamic Jerusalem Studies* 3, no. 2 (2000): 64.

¹³ Hamidullah, Muhammad, *The First Written Constitution in the World* (New Delhi: Nasir Books, n.d.).

¹⁴ Ibn Hisham, Abdul Malik, *Al-Sīrah al-Nabawīyyah*, ed. Lajnah al-Taḥqīq bi Mua'ssasāt al-Huda (Egypt: Dar al-Taqwa, 1999): vol. 2, 108-110.

¹⁵ Mubarakpuri, Safi ur-Rehman, *Al-Raḥīq al-Makhtūm* (Riyadh, Dar-us-Salam Publications, 1996): 197-198.

¹⁶ Al-Buti, Muhammad Sa'id Ramadan, "Mu'āmalāt al-Dawlah al-Islāmiyyah li Ghayr al-Muslimīn: Al-Quds Namūdhajan," *Journal of Islamic Jerusalem Studies* 3, no. 1 (Winter 1999): 4-5.

¹⁷ Hamidullah, Muhammad, *Introduction to Islam* (Cairo: El-Falah, 1997), 289.

¹⁸ El-'Awaisi, *op. cit.*, p. 62.

- ¹⁹ *The Holy Qur'an, surah 49: ayat 13.*
- ²⁰ *The Holy Qur'an, surah 22: ayat 40.*
- ²¹ El-'Awaisi., *op. cit.*, pp. 62-63.
- ²² Abu-Munshar, Maher Younes, *A Historical Study of Muslim Treatment of Christians in Islamic Jerusalem at the Time of 'Umar ibn al-Khattab and Salah al-din with special reference to Islamic Value of Justice*, Ph.D. thesis (Dundee: University of Abertay, 2003): 49.
- ²³ Wikipedia, the free encyclopedia "Morocco Declaration" accessed 29 January 2022, www.marrakeshdeclaration.org.
- ²⁴ Tritton, A.S., *The Caliphs and their Non-Muslim Subjects* (London: Frank Cass and Company Ltd., 1970): 8.
- ²⁵ Ibn al-Qayyim. *op.cit.*, p. 17.
- ²⁶ Levy-Rubin, *op.cit.*, p.59.
- ²⁷ Tesneem Alkiek, "Religious Minorities Under Muslim Rule," (Yaqeen Institute for Islamic Research, accessed August 5, 2021, <https://yaqeeninstitute.org/read/paper/religious-minorities-under-muslim-rule>).
- ²⁸ Noth, Albrecht, *Problems of Differentiation between Muslims and non-Muslims: Re-Reading the 'Ordinances of 'Umar' (Al-Shurūṭ al-'Umarīyya) in Muslims and Others in Early Islamic Society*, ed. Robert Hoyland, *The Formation of the Classical Islamic World* (Farnham: Ashgate Publishing Company, 2004).
- ²⁹ *Ibid.*, p. 105.
- ³⁰ Ibn al-Qayyim, *op.cit.*, p. 87.
- ³¹ Noth, *op.cit.*, p. 122.
- ³² *Ibid.*, p. 115.
- ³³ *Ibid.*, pp. 116-7.
- ³⁴ *Ibid.*, p. 119.
- ³⁵ Cahen, *op. cit.*
- ³⁶ Alkiek, *op.cit.*, p. 9.
- ³⁷ Morony, Michael, *Religious Communities in Late Sasanian and Early Muslim Iraq*, in *Muslims and Others in Early Islamic Society*, ed. Robert Hoyland (London: Routledge, 2004).
- ³⁸ Uriel, I. Simonsohn, *A Common Justice: The Legal Alliances of Christians and Jews under Early Islam* (Philadelphia: University of Pennsylvania Press, 2011): 5.
- ³⁹ Morony, *op. cit.*, p. 9.
- ⁴⁰ Simonsohn, *op.cit.*, pp. 10-11.
- ⁴¹ Morony, *op.cit.*, p. 13.
- ⁴² Alkiek, *op.cit.*, p. 11.
- ⁴³ Morony, *op.cit.*, p. 11.
- ⁴⁴ Edelby, Neophyte, "The Legislative Autonomy of Christians in the Islamic World," in *Muslims and Others in Early Islamic Society*, ed. Robert Hoyland (England: Routledge, 2004), 44.
- ⁴⁵ *Ibid.*, p. 45.
- ⁴⁶ Ibn Qayyim al-Jawziyya, *Zād al-Ma'ād fi Hadyi Khayr al-'Ibād* (Cairo: al-Maktabah al-Qayyimah, 1989): vol. 3, 370.
- ⁴⁷ *The Holy Qur'an, surah 9: ayat 29.*
- ⁴⁸ Al-Mawardi, Abu al-Hasan, *Al-Aḥkām al-Sulṭāniyyah: The Laws of Islamic Governance*. trans. Asadullah Yate (London: Ta-Ha Publishers Ltd., 1996): 209-210.
- ⁴⁹ Ibn Juzayy, Abu al-Qasim, *Al-Qawānīn al-Fiqhiyyah: The Judgements of Fiqh*, trans. Asadullah Yate (Bradford: Diwan Press, 2019):135-137.
- ⁵⁰ *Ibid.*, pp. 135-137.
- ⁵¹ *Ibid.*, pp. 135-137, see Al-Mawardi, *Al-Aḥkām al-Sulṭāniyyah, op. cit.*, p. 210.
- ⁵² Malik Ibn Anas, *Al-Muwatta' bi riwayat Muhammad Ibn al-Hasan al-Shaybani*, (Beirut: Dar al-Yarmuk, 1995):112, Hadlth No: 333, Ibn Juzay, *Al-Qawānīn al-Fiqhiyyah, op. cit.*, pp. 135-137.
- ⁵³ Abu Yusuf, *Kitab al-Kharaj, op. cit.*, pp. 122-126.
- ⁵⁴ *Ibid.*, pp. 122-123,
- ⁵⁵ Abu-Munshar, *op.cit.*, p. 75.
- ⁵⁶ Al-Buti, *op.cit.*, p. 8-9.

- ⁵⁷ Ibid., p. 9.
- ⁵⁸ Al-Zamakhshari, Abu al-Qasim, *Tafsir al-Kashhaf*, ed. Shahin M, Manshurat Muhammad, & 'Ali Baydun (Beirut: Dar al-Kutub al-ilmiya, 1995): vol. 2, 254.
- ⁵⁹ Al-Razi, Fakhr al-Din, *al-Tafsir al-Kabir* (Beirut: Dar al-Kutub al-ilmiya, 1990): vol. 8, 25.
- ⁶⁰ Al-Qurtubi, Abu 'Abdullah Muhammad, *al-Jami' li Ahkam al-Qur'an* (Beirut: Dar al-Fikr, 1998): vol. 4, 49.
- ⁶¹ Al-Tabari, Abu Ja'far Muhammad Ibn Jarir, *Jami' al-Bayan fi Ta'wil al-Qur'an* (Beirut: Dar al-Kutub al-ilmiyya, 1999): vol. 6, 349.
- ⁶² Ibn al-Arabi, Abu Bakr Muhammad, *Ahkam al-Qur'an*, ed. Muhammad 'Ata (Beirut: Dar al-Kutub al-ilmiya, 1996): vol. 2, 479-480.
- ⁶³ Abu-Munshar, *op.cit.*, p. 77.
- ⁶⁴ Al-Zamakhshari, *op. cit.*, vol. 2, p 254, Al-Qurtubi, *al-Jami'*, *op. cit.*, Vol 4, p. 49, Al Tabari, *Tafsir al-Tabari*, *op. cit.*, vol. 6, p.349, Al-Razi, *al-Tafsir al-Kabir*, *op. cit.*, Vol. 8, p. 25.
- ⁶⁵ Al-Shafi'i, Muhammad Ibn Idris, *Kitab al-Umm* (Beirut, Dar al-Kutub al-ilmiya, 1993): vol. 4, 249.
- ⁶⁶ Ibn Hazm, Abu Muhammad 'Ali Ibn Ahmad, *Al-Muhalla bil Ather*, ed. Sulaiman al-Bindari (Beirut: Dar Al-Kutub al-ilmiya, 1984): vol. 5, 414.
- ⁶⁷ Al-Nawawi, Yahya ibn Sharaf, *Rawdat al-Talibin*, ed. Zuhair al-Shawesh (Beirut, Dar al-Kutub al-ilmiya, 1998): vol.7, 503-504.
- ⁶⁸ Abu Yusuf, *Kitab ul-Kharaj (Islamic Revenue Code)*, trans. Abid Ali, ed. Abdul Hameed Siddiqi (Lahore: Islamic Book Centre, 1979): 248.
- ⁶⁹ Abu-Munshar, *op.cit.*, p. 79.
- ⁷⁰ Abu Yusuf, *op. cit.*, pp. 246-247.
- ⁷¹ Ibid, pp. 143-144.
- ⁷² Al-Buti, *op. cit.*, p. 6.
- ⁷³ Hamilton, Bernard, *The Christian World of the Middle Ages* (Cheltenham: The History Press, 2003): 216.
- ⁷⁴ Abraham, A.J & Haddad, G., *The Warriors of God: Jihad (Holy War) and the Fundamentalists of Islam*, (Florida: Wyndham Hall Press, 1989): 14.
- ⁷⁵ Ibid., p. 14.
- ⁷⁶ Al-Mawardi, *op.cit.*, p. 10.
- ⁷⁷ Ibid, p.12, Abu Ya'la Muhammad Ibn al-Husain Al-Farra', *al-Ahkam as-Sultaniyyah*, Corrected and commented by Muhammad Hamid al-Faqi (Beirut: Dar al-Fikr, 1974): 20.
- ⁷⁸ Tritton, *op.cit.*, pp. 118-136
- ⁷⁹ Al-Farra', *op. cit.*, p.32.