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Religious Minorities under Muslim Rule

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Religious minorities are often depicted as oppressed and vulnerable victims of their Muslim rulers. This portrayal, however, is far from accurate. This brief paper seeks to reorient our understanding of the rights and responsibilities that religious minorities possessed under Muslim rule.

Introduction

In January of 2016, scholars from around the world gathered in Marrakesh, Morocco to discuss a very pressing concern: the status of religious minorities in Muslim-majority lands.¹ This issue has emerged to the forefront of international concerns thanks to the mortifying actions of ISIS, who have sought to kill, enslave, and exile others based on religious differences.² Over two hundred and fifty scholars, as a result, committed to attending the conference in order to reestablish environments of religious tolerance and peace. To do so, they returned to the basis of legal and historical texts – primarily the Charter of Medina that was contracted by the Prophet ﷺ between Muslims and other religious groups after he migrated to the city of Medina. These leaders from over one hundred and twenty countries and a wide variety of backgrounds concluded their conference with an official statement known as the *Marrakesh Declaration*, which denounced all forms of bigotry and intolerance and called for commitment to the principles of justice, freedom, and equality for all.

Historical and legal texts spanning centuries have debated issues related to non-Muslim minorities. Modern scholarship has swung in both directions, with some academics such as Bat Ye'or denouncing Islam as an oppressive religion that incites intolerance, and others such as Milka Levy-Rubin arguing that the agreements contracted by the early Muslims with minorities were far more

¹ www.marrakeshdeclaration.org.

² See for example:

<https://www.theguardian.com/world/2016/mar/15/isis-genocide-of-religious-minorities-us-house-statement>

progressive than the precedents set by their neighbors.³ Despite their contrasting viewpoints, these conversations are important in shaping the type of paradigm that can accommodate relations with religious minorities today.

This paper is not intended to highlight all of the legalities related to religious minorities, nor does it seek to defend the actions of Muslims or non-Muslims in regard to religious minorities; rather, it seeks to provide an overview of the topic at hand through contextualization. As this paper will demonstrate, there are varying scholarly opinions in addition to political, social, and economic circumstances that affect the discourse on religious minorities, making it nearly impossible to examine all of the factors in one book, let alone a single paper. Providing context to this discussion, however, will lead to a greater understanding of the topic as a whole and hopefully will provide resources that will clarify particular questionable instances that one may come across.

The Protected People

To begin, we need to first grasp the basic terminology relevant to the study of religious minorities. Religious minorities are known as *dhimmīs*, short for *ahl al-dhimma*, or people of the *dhimma*, a term that later became synonymous with the People of the Book.⁴ The original meaning of *al-dhimma*, however, meant protection, and it was often short for *dhimmat-Allah wa-rasūlih*, or the “protection of God and His Prophet.”⁵ In short, the concept originally had a divine connotation, or a meaning that was directly related to the power of God. However, the concept soon morphed into a technical legal term with the progression of classical scholarship, and it consequently lost its transcendent dimension.⁶ As a result, *ahl*

³ Bat Ye'or, *The Dhimmi: Jews and Christians Under Islam* (Cranbury: Associated University Presses, 1985), 36; Milka Levy-Rubin, *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence* (New York: Cambridge University Press, 2011).

⁴ In many cases, the non-Muslims were actually the majority, but were referred to as a minority in a cultural and political sense; Uriah Furman, “Minorities in Contemporary Islamist Discourse,” *Middle Eastern Studies* 36 (2000): 2.

⁵ Levy-Rubin, 41.

⁶ Mahmoud Ayoub, “Dhimma in Qur'an and Hadith,” in *Muslims and Others in Early Islamic Society*, ed. Robert Hoyland, 25-35 (Wiltshire: The Cromwell Press, 2004), 34-5. Originally published in *The Formation of the Classical Islamic World*, vol. 18, ed. Lawrence I. Conrad (Burlington: Ashgate Publishing Company, 2004).

al-dhimmah, or people of the *dhimmah*, has become a legal term and not a reference to the recipients of divine protection. It is important to discuss the etymology of the word because it demonstrates the significance of the people of the *dhimmah* who, at the very root of it all, are people who were to be protected on behalf of God and His Prophet ﷺ – an immense responsibility. This status is awarded to People of the Book (who according to many scholars includes Zoroastrians and others) who agree through contract to pay the *jizyah*, or poll-tax, in exchange for that protection.⁷ In sum, the formation of the people of the *dhimmah* was rooted in religious minorities paying a tax that exempted them from military service. Much more nuance can be embedded within all of these terms that are sometimes highly contested among scholars, but considering the limited scope of this paper, we will move forward to address the larger picture at hand.

The power of the Muslim state was dependent on its ability to provide two precious resources to its people: security and justice.⁸ Christians and Jews and other minorities were not technically citizens of the Muslim state; they were considered outsiders under the protection of the state, leading to the title of *dhimmah*, or protected people.⁹ Their protection was guaranteed in a number of ways: by providing them with legal autonomy – meaning they could maintain their religious practices without interference – and protection during war. That said, there have no doubt been incidents throughout history in which that protection was threatened or revoked and the Muslim ruler engaged in persecution of religious minorities.¹⁰ The fact remains, however, that there was never widespread systematic persecution of Christians, for example, in the Islamic world as there was in the late Roman

⁷ Based on evidence from hadith, Ibn al-Qayyim asserts that the scholars have reached a consensus that *al-majūs*, also known as Magians or Zoroastrians, are among the People of the Book; Ibn Qayyim al-Jawzīyah, *Ahkām ahl al-dhimmah*, ed. Yusūf al-Bakrī and Aḥmad al-‘Arārūrī (Dammām: Dār Ramādī li-l-Nashr, 1418/1997), 79.

⁸ S.D. Goitein, “Minority Selfrule and Government Control” in *Muslims and Others in Early Islamic Society*, ed. Robert Hoyland (Wiltshire: The Cromwell Press, 2004), 160. Originally published in *The Formation of the Classical Islamic World*, vol. 18, ed. Lawrence I. Conrad (Burlington: Ashgate Publishing Company, 2004).

⁹ Goitein, 163.

¹⁰ An infamous persecution of Christians that has been recorded was led by the Fatimid Caliph al-Ḥakīm who retracted his efforts at the end of his reign and reinstituted traditional measures of tolerance; Cl. Cahen, “Dhimma,” in *Encyclopaedia of Islam*, 2nd ed., P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs, eds. Consulted online on 20 October 2016.

Empire.¹¹ And the hostile circumstances that did occasionally arise, were not due to Islamic legislation per se, but were rather a result of an amalgam of social, political, and economic circumstances. So while Christians historically at times suffered at the hands of Muslims, it was almost never a result of their *being* Christian, or their beliefs, but a result of various factors related to the pursuit of power.¹²

Historical Foundations

The Charter of Medina

Before delving into the technicalities, it is important to begin by reflecting on some of the historical foundations relevant to the treatment of religious minorities. We begin at the time of the Prophet ﷺ, who upon his arrival in Medina, contracted a treaty with the non-Muslims that essentially established rights and responsibilities between the various Muslim groups and the Jewish tribes. Although the authenticity of this document is doubted among some academics, it is crucial to note that historians, both Muslim and non-Muslim, recognize its significance because despite there being no original document available, its conditions have been attested and adhered to by Muslims throughout history.¹³ So, for example, when Muslim scholars discuss the issue of religious minorities, this document is frequently cited and is widely held to be authentic.¹⁴

This treaty was discussed in the news in 2016 when the group of scholars met in Morocco to discuss the treatment of religious minorities in the Muslim world. The conclusion reached at this conference was that current Muslim leaders need to be held accountable and that the treatment of minorities today must reflect the justice and ethics designed by the Prophet ﷺ in the Charter of Medina. In any case, to

¹¹ Sidney Griffith, *The Church in the Shadow of the Mosque: Christians and Muslims in the World of Islam* (Princeton: Princeton University Press, 2009), 148.

¹² Griffith, 148.

¹³ Anver Emon, "Reflections on the 'Constitution of Medina': An Essay on Methodology and Ideology in Islamic Legal History," *UCLA Journal of Islamic and Near Eastern Law* 1, no. 103 (2001): 103.

¹⁴ Ibn al-Qayyim, 14; Levy-Rubin, 59.

sum up, this treaty serves as our starting point for interreligious relationships; in essence, it allowed Jews to continue their lives without interference, while obligating them to help defend the city if necessary - an expectation of all people participating in the treaty and not particularly limited to the Jews.

The Pact of ‘Umar

The second, and ostensibly the more historically impactful document is the Pact of ‘Umar, or *al-shurūṭ al-‘umarrīyah*, which consisted of a list of agreements between Umar b. al-Khattab (ra) during his caliphate and the people of Syria.¹⁵ It is to *this* pact that the “controversial issues” are traced back. The pact has been broken down into various sub-themes by later scholars but can essentially be summarized as promoting Christian and Jewish self-government and legal autonomy, while also requiring their support against enemies of the state when needed. The nuances of this pact are important to discuss because, as we will come to see, later Muslim scholars based a lot of their legal arguments about religious minorities on it. Imam Ibn al-Qayyim (ra), the student of Ibn Taymīyah, for example, wrote what is considered to be the most comprehensive work on the regulations pertaining to religious minorities in his compendium, *Aḥkām ahl al-dhimmah*, which spans close to two thousand pages.¹⁶ One of the most commonly cited sources that is encountered in this massive legal text is the Pact of ‘Umar, to which Ibn al-Qayyim actually dedicates an entire portion of his compendium for analysis.¹⁷ He also goes as far as mentioning that the Pact is so well-known among the people that it was not necessary to cite its *isnād*, or chain of authority.¹⁸

Now, when you take a closer look at the details of the ordinances in the pact, you will come across what a lot of Islamophobes and Orientalists cite as evidence for Muslim intolerance of non-Muslims. Take for example the notion that Christians and Jews must dress differently from the Muslims. This example is one among

¹⁵ A.S. Tritton, *The Caliphs and their Non-Muslim Subjects* (London: Frank Cass and Company Ltd., 1970), 8.

¹⁶ Ibn Qayyim al-Jawzīyah, *Aḥkām ahl al-dhimmah*, ed. Yusūf al-Bakrī and Aḥmad al-‘Arārūrī (Dammām: Dār Ramādī li-l-Nashr, 1418/1997).

¹⁷ Ibn al-Qayyim, 14.

¹⁸ Levy-Rubin, *Non-Muslims in the Early Islamic Empire*, 59.

many that are interpreted as “discriminatory laws” rooted in humiliating the non-Muslim, but let us take a closer look.

Albrecht Noth, a scholar well known for his analysis of the Pact of ‘Umar argues that these regulations were designed for a long-term coexistence between Muslims and non-Muslims, and by no means sought to persecute non-Muslims.¹⁹ At the same time, however, the Pact mainly dealt with what he calls the “sensitivities of Muslims” and not the victimization of religious minorities.²⁰ The reality of the matter was that the Muslims were at war and then entered a new place as a minority. When the Muslim army entered a newly conquered land, in the case of [justifiable war](#), the inhabitants of that land were presented with one of three options, according to the hadith of the Prophet ﷺ: respond to the call of Islam, surrender through treaty and become a *dhimmī*, or leave the land.²¹ As you can imagine, the majority of situations resulted in the people agreeing to remain as Christians, Jews, or Zoroastrians in exchange for abiding by the rules that they themselves agreed to. At the end of the day, the Muslims were initially outnumbered so they needed to take extra precautions to ensure that their authority would not be challenged. This new environment also posed a threat to the still developing Muslim identity.²² Hence, when examining the ordinances, it is understandable that they would favor Muslims as they now governed the land.

There are a few approaches that can be taken when discussing the nature of these laws. First, we should consider a more contextual perspective on the so-called “discriminatory laws.” Take for example the *ghiyār* element, which is the term later developed to express the requirement that non-Muslims dress differently. To start, distinctive dress codes were very common in this era to demonstrate one’s

¹⁹ Albrecht Noth, “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 (Wiltshire: The Cromwell Press, 2004), 104-5. Originally published in *The Formation of the Classical Islamic World*, vol. 18, ed. Lawrence I. Conrad (Burlington: Ashgate Publishing Company, 2004).

²⁰ Noth, 105.

²¹ Ibn al-Qayyim, 87. Another common option that existed besides war was the peace-treaty (*ṣulḥ*) contracts that did not necessitate payment of the *jizyah*. Both the Umayyad and Abbasid Empires, for example, established *ṣulḥ* agreements with the Byzantine Empire in order to maintain regional peace and promote trade. For more, see M. Khadduri, “*Ṣulḥ*,” *Encyclopaedia of Islam*, 2nd ed., P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs, eds. Consulted online on 12 July 2017.

²² Noth, 122.

social ranking, and Milka Levy-Rubin provides evidence of this being common throughout the Sasanian Empire. More interesting, however, is the origin of the dress code. A famous piece of clothing that the Christians and Jews were required to wear was the *zunnār* or belt.²³ Historically, however, the belt was foreign to Arab Muslims, considering its Greek origin. And so presumably the Arab Muslims only encountered the belt as the Islamic Empire expanded. The belt, in essence, was an item of clothing introduced by the non-Muslims to the Muslims, so at the end of the day the Pact of ‘Umar required them to wear something they had always worn. Noth further argues that the other *ghiyār* elements also subsumed customs the non-Muslims presumably already followed. Thus, he posits that non-Muslims were not being forced to wear clothes that were discriminatory; rather, they were required to not copy the Muslims in their dress.²⁴ And for the record, this was still not discriminatory, because the Prophet ﷺ himself commanded Muslims to not dress or act like the non-Muslims, so this law was in effect a two-way street.²⁵ Some scholars have even contended that the point of creating these physical distinctions was simply for administrative purposes, so as to not wrongfully punish a non-Muslim for selling wine or to collect the *jizyah* tax from a Muslim because the collector was confused as to who was Muslim and who was not.²⁶

The uniqueness of the Pact of ‘Umar arises from the broader expectations it expressed for a society of both Muslims and non-Muslims. The heart of the Pact consists of ordinances that promote religious legal autonomy. So what exactly does that imply? Early Islamic society was composed of multiple religious communities living together with each following its own law and religious leader. This was by no means common historically. In Hellenistic societies and under Roman rule, most emperors before Constantine persecuted Christians. There was no option of living autonomously.²⁷ By allowing religious communities to adhere to separate

²³ Noth, 115.

²⁴ Noth, 116-7.

²⁵ Noth, 119; See M.J. Kister, “‘Do Not Assimilate Yourselves...’ *Lā Tashabbahū...*,” in *Muslims and Others in Early Islamic Society*, ed. Robert Hoyland, 125-153, (Wiltshire: The Cromwell Press, 2004). Originally published in *The Formation of the Classical Islamic World*, vol. 18, ed. Lawrence I. Conrad (Burlington: Ashgate Publishing Company, 2004).

²⁶ Cahen, “Dhimma.”

²⁷ Michael Morony, “Religious Communities in Late Sasanian and Early Muslim Iraq” in *Muslims and Others in Early Islamic Society*, ed. Robert Hoyland (Wiltshire: The Cromwell Press, 2004), 1. Originally published in *The*

bodies of law, boundaries were created between those communities.²⁸ That also translated into the Muslim government not interfering with these systems and thus allowing them to continuously develop.²⁹ There are two potential ways you can view this construction of society: you can either say to yourself, “Well that’s great, religious people can continue to follow their religions respectively,” or you can see it as creating a rigid demarcation between *dhimmīs* and Islamic society at large. For Muslims, the *sharī‘ah* encompasses both creed and religious laws. So the permission for religious minorities to freely adhere to their own respective *sharī‘ah* is one of the strongest expressions of tolerance found in the Pact of ‘Umar. Many Christians and Jews also affirm the positive aspects of this Pact, as discussed below.

Both legal scholars and social historians have acknowledged that law in general can be used as a form of social control, so the Christian and Jewish communities at that time no doubt appreciated the power to continue administering their own religious laws.³⁰ An example of lack of Muslim interference within communal spheres is demonstrated in a group of Nestorians, a Christian sect. The synod of George the First in the late 7th century allowed their church to legalize marriages in the presence of a Christian judge, because prior to that new ruling, marriages in this group of Nestorians occurred only through the civil courts.³¹ At the time, however, the Muslim rulers appointed judges on behalf of the Nestorians, but the Nestorians required that judges be chosen through the consent of the community. As a result, Imam Abu Hanīfah allowed them to appoint their own judges. This example demonstrates that not only did the Muslim authority not intervene in other religious communities, but these communities also sought to maintain their own religious autonomy.

Formation of the Classical Islamic World, vol. 18, ed. Lawrence I. Conrad (Burlington: Ashgate Publishing Company, 2004).

²⁸ Uriel I. Simonsohn, *A Common Justice: The Legal Alliances of Christians and Jews under Early Islam* (Philadelphia: University of Pennsylvania Press, 2011), 5.

²⁹ Morony, 9.

³⁰ Simonsohn, 10-11.

³¹ Morony, 13.

Along with religious autonomy came the option for Christians and Jews to seek legal counsel from the Muslim courts. But this was a concern for the Christian and Jewish religious elites because it threatened their judicial authority. If members of their congregations were turning away from their respective courts to seek justice from the *qāḍīs* (Muslim judges), then you can only imagine how that would strip these elites of their social and legal power. You cannot command people in your community to do things based on your religious calls and create a culture of normative behavior if they are not turning to you for religious advice. Those religious leaders who sought to preserve their authority consequently went out of their way to ensure that their communities remained loyal. Jewish women in the Umayyad period, for example, would lose their property rights if they sought a divorce in rabbinical courts, so naturally many of these women would go to Muslim courts to get a divorce in order to prevent that loss.³² In turn, the rabbis issued a new decree by which women could sue for divorce without losing their property rights. As a result, more Jewish women remained within their communities and continued to maintain religious autonomy.

As a side note, one might notice that the regulations for minorities were based on a society that was defined by religion. People were associated with their religious communities as markers of their “national” identity. Neophyte Edelby argues “the Semites were unique among ancient peoples in that they never conceived any form of social organization other than theocracy, with God as the sole source of law.”³³ For a long time, the only social groups in the East were groups formed by religious communities. Islam, Edelby argues in particular, views religions as nationalities because for every nation, God has sent a scripture.³⁴ Either way, in the modern context, when we think about many of the laws regulating minorities, we view them as a form of religious discrimination, but the reality of the matter is that

³² Morony, 11.

³³ Neophyte Edelby, “The Legislative Autonomy of Christians in the Islamic World” in *Muslims and Others in Early Islamic Society*, ed. Robert Hoyland (Wiltshire: The Cromwell Press, 2004), 44. Originally published in *The Formation of the Classical Islamic World*, vol. 18, ed. Lawrence I. Conrad (Burlington: Ashgate Publishing Company, 2004).

³⁴ Edelby, 45. His opinion, however, does not detract from the possibility of other allegiances (e.g. national affiliations). The Prophet Muhammad ﷺ, for example, did not require people to disavow their tribes in favor of a sole religious allegiance.

religion was the only form of distinctive identity in that era. So the regulations were not necessarily because someone was Jewish or Christian, but because, before the rise of the nation-state, religion was the distinctive marker of identity.

Historical Precedence

Let us return to the main discussion of contextualizing our understanding of religious minority treatment. If we trace back a little earlier before the pacts with the *ahl al-dhimmah*, or the protected people, became more formalized, the Muslims were engaging in relationships with non-Muslims. This was around the period of the *futuḥāt*, or during the Muslim expansion.³⁵ Throughout this period, when a city had to surrender to the Muslim army out of weakness, they would initiate contracts and present stipulations that were all self-imposed measures on their own behalf. Albrecht Noth's research demonstrates that a lot of those self-imposed measures parallel what later appeared in the *shurūṭ*.³⁶ In other words, a lot of the supposedly discriminatory ordinances in the Pact of 'Umar were among the stipulations non-Muslims had set for themselves upon surrender.

More interesting, however, is the historical precedent set by the Byzantine and Sasanian empires, the two main powers that preceded the Islamic Empire. When tracing back to that time, it is evident that Muslim conquerors actually employed the same framework for surrender agreements as those empires.³⁷ In her book *Non-Muslims in the Early Islamic Empire*, Milka Levy-Rubin analyzes the forms of contracts created in the Byzantine and Sasanian Empires, among others, to determine whether or not the Islamic process was novel. Among her conclusions was that Muslim sources describe a method analogous to the process known from the pre-Islamic Near East: once a city surrendered, it received *amān*, or security, also referred to as *pistis* in the Roman Empire.³⁸ The granting of *amān* was usually accompanied by a document listing the conditions that were agreed upon in the *ṣulḥ* or peace agreement. On a similar note, throughout the Byzantine Empire,

³⁵ Noth, "Problems of Differentiation between Muslims and Non-Muslims," 113.

³⁶ Noth, 107.

³⁷ Levy-Rubin, 26.

³⁸ Levy-Rubin, 36.

various groups also had certain regulations imposed on them; so for instance, Jews could not testify against Christians and were banned from holding public office. In both the Byzantine and Sasanian Empires, furthermore, public distinction was made between Christians and non-Christians, and Zoroastrians and non-Zoroastrians, respectively.³⁹ So intermarriage, for example, between the two groups was highly contested or prohibited.⁴⁰ Sasanians also implemented a tribute tax similar to the *jizyah* upon able-bodied men in exchange for military protection.⁴¹ The purpose of these few examples is to demonstrate that the Muslims did not introduce some foreign paradigm that enraged the non-Muslims. Yes, these regulations at times were limiting, but in the sociopolitical context of the time it was not only normative but also liberating in many ways.

From Theory to Practice

So what exactly happened in reality? There was a lot of legal content circulating on the place of religious minorities in Muslim societies, but at the end of the day, these laws were rarely implemented except in prominent Muslim centers or capitals, and even then incompletely and sporadically.⁴² For instance, many scholars maintained that non-Muslims could not serve in government positions. Yet, the Caliph Al-Mansur was among many caliphs who did not abide by that rule and hired non-Muslims, like a Jew named Musa, to be a revenue collector.⁴³ Even so, not long after, Caliph Al-Mutawakkil reenacted the law that no non-Muslim should be in government service.⁴⁴ The experience and knowledge of Christians and Jews who already held government positions were more useful in the service of the caliph, not to mention they did not pose a threat to his rule.⁴⁵ Thus, Caliph Al-Mutawakkil promoted the service of non-Muslims in government despite its prohibition or discouragement by many scholars.

³⁹ Levy-Rubin, 121.

⁴⁰ Levy-Rubin, 116-7.

⁴¹ Morony, "Religious Communities," 7.

⁴² Uriel I. Simonsohn, *A Common Justice*, 7; Cahen, "Dhimma."

⁴³ A.S. Tritton, *The Caliphs and their Non-Muslim Subjects*, 22.

⁴⁴ Tritton, 23.

⁴⁵ Levy-Rubin, 108.

Or take the example of a Christian vizier, in Baghdad, ‘Abdūn b. Sā‘id, who visited the *qāḍī*, Ismail b. Ishāk, who rose up to greet him.⁴⁶ He noticed people disapproved and so when the vizier left, the *qāḍī* turned to the people and quoted the verse of the Quran: “Allah does not forbid you to have dealings with those who have not fought with you for religion’s sake, nor driven you out of your homes, from being righteous toward them and acting justly towards them; indeed Allah loves those who are just” [60:8]. The *qāḍī* then stated, “This man manages the business of Muslims; he is the ambassador between us and the caliphs.” So from this example, and countless others, it is apparent that the practical implementation of regulations regarding religious minorities was dependent ultimately on the whims of the ruler and those he placed in positions of power.

Since the role of religious minorities in the Islamic Empire was left to the final authority of the sultan, oftentimes scholarly opinions were entirely disregarded. Under many circumstances, nevertheless, the ruler would appoint a chief judge or scholar to deal with the rights of religious minorities (among other issues). It is necessary to consider the various legal rulings on these issues because whether or not they were actually implemented, the opinion of a prominent local scholar would no doubt shape the opinions and attitude of the general public, and consequently, the overall environment that Muslims and non-Muslims shared.

Classical Scholarship

As mentioned earlier, Ibn Qayyim al-Jawzīyah’s text, *Aḥkām ahl al-dhimmah*, is a foundational source in regard to the rulings related to the protected people. The text is truly unparalleled, particularly as a result of the author’s process of providing proofs for his arguments. In order to arrive at his conclusions, Ibn al-Qayyim references the most popular scholarly opinions on each matter and then proceeds to discuss the strengths and weaknesses of their arguments. Essentially, reading Ibn al-Qayyim’s book, and his positions on many issues, involves also reading the

⁴⁶ Tritton, 24.

opinions of Imam Mālik, Imam Aḥmed, Abu Ḥanīfah, Imam Shāfi‘ī, and the like.⁴⁷ The work was originally composed in response to a number of questions Ibn al-Qayyim was asked on various related issues such as: how the *jizyah* was assigned, its purpose, how much was charged, and for whom it was required. Besides probing into the matter of the *jizyah*, the book also addresses practical questions that result from relationships with religious minorities; e.g., is their meat permissible; are they permitted to sell wine?

Considering the depth of Ibn al-Qayyim’s work, the focus here is on analyzing his opinions in the first section on the *jizyah* as a means of identifying some of his overarching views on religious minorities. Among his foremost discussions, Ibn al-Qayyim defines who falls under the category of People of the Book (i.e., potential *dhimmīs*). He contends early on that the Zoroastrians are considered among the People of the Book by way of consensus of the scholars as evinced in Prophetic narrations.⁴⁸ Imam Abu Ḥanīfah goes as far as extending the community of *dhimmah* to include foreign pagans, allowing far more than simply Christians and Jews to be included among those who are to be protected by the Muslim state.

⁴⁹ Furthermore, the companions of al-Shāfi‘ī asserted that since the *jizyah* is in exchange for military protection, it is only taxable upon potential male fighters, and thus women, children, monks, and the disabled were exempt from the tax.⁵⁰ Hence, in certain places like Jurjān and Darband, minorities who provided military service were exempted from paying the *jizyah* all together.⁵¹

In regard to the technicalities related to the *jizyah*, nuances stem from the translation and understanding of verse 29 in Surah al-Tawbah:

⁴⁷ Many other scholars who focused on the rules of religious minorities are also cited. These include, but are not limited to, Qāḍī Abū Yūsuf (d. 183 AH) in his book *Kitāb al-kharāj*, al-Khallāl (d. 311 AH) in his *Aḥkām ahl al-milal*, and al-Farrā’ (d. 458 AH) in his *Al-Aḥkām al-Sulṭāniyyah*.

⁴⁸ Ibn al-Qayyim, 79.

⁴⁹ Ibn al-Qayyim, 87; Ibn al-Qayyim also states that all disbelievers should pay the *jizyah*, People of the Book or not, implying that even pagans could join the *dhimmī* community; Ibn al-Qayyim, 89.

⁵⁰ Ibn al-Qayyim, 122.

⁵¹ Levy-Rubin, 49.

*Fight those who do not believe in Allah or in the Last Day and who do not consider unlawful what Allah and His Messenger have made unlawful and who do not adopt the religion of truth from those who were given the Scripture – [fight] until they give the jizyah willingly [‘an yadin] while they are humbled [ṣāghirūn].*⁵²

In his analysis of this verse, Ibn al-Qayyim explores countless scholarly viewpoints that are frequently contrasted; an indication that there are multiple perspectives from which to understand these highly nuanced terms. The most often debated concepts in the verse center around what the *jizyah* is, how it is paid, and what it signifies. Among the numerous opinions, Ibn al-Qayyim highlighted the position of his shaykh, Ibn Taymīyah, who asserted that the word *jizyah* is derived from *al-jazā’*, or compensation, because the *jizyah* can either be seen as a form of subjugation as a compensation for non-Muslim disbelief, or can be seen as a form of gentleness as a compensation for Muslim guardianship.⁵³ This suggests that the formation of *dhimmī* communities based on compensation of the *jizyah* can be viewed from varying perspectives: if a *dhimmī* continues to defy Muslim rule, then his punishment is his payment, but if a *dhimmī* accepts the rule and pays the *jizyah*, then he will be rewarded with the protection of the Muslim Empire. In both cases, the *dhimmī* is required to pay the *jizyah*, but it is noteworthy to emphasize this alternative perspective because it indicates that the payment of the *jizyah* did not necessarily have to be something negative in the eyes of the Muslim or non-Muslim. On that account, Ibn al-Qayyim additionally posits that the notion of *ṣighār*, often translated as “humiliation,” could simply imply the obligation of the *dhimmī* to pay the *jizyah* and remain under the rule of the Muslim community.⁵⁴ Therefore, once a *dhimmī* rebels against the rule, he threatens the notion of *ṣighār* and consequently forfeits his rights and protection. The *dhimmīs* are a community being granted protection in exchange for that loyalty, so once one of those factors is denied, the other is omitted as well.

⁵² Qur’an 9:29; translation from Sahih International, obtained from www.quran.com.

⁵³ Ibn al-Qayyim, 119; This is also the view of al-Qāḍī Abu Ya‘lā in his *al-Aḥkām al-Sulṭānīyah*.

⁵⁴ Ibn al-Qayyim, 121.

In terms of the amount of the *jizyah* to be paid, Ibn al-Qayyim refers that judgment to the scholar responsible for collecting the *jizyah* because there is no set amount declared in sources for the *sharīʿah*.⁵⁵ He also adds that the type of payment does not need to be limited to gold or silver, but can be collected in the form of any material item (e.g., clothes or weapons), or “*whatever is easiest for them*.”⁵⁶ I highlight these words because Ibn al-Qayyim, as was evident throughout many portions of his text, constantly reiterated the necessity of easing the circumstances of the non-Muslim community. To support this notion, Ibn al-Qayyim also provides scholarly opinions from ‘Umar (ra) and Imam Shāfi‘ī, among others, who assert that the amount of the *jizyah* should depend on the economic status of the payee: the poor and rich should pay a fee relative to their means (i.e., the poor should pay less).⁵⁷ The *jizyah* should therefore not overburden the one who cannot afford it, and the payee should also be given the option of paying through non-monetary means if that is easier for them. The *jizyah*, furthermore, is only taxable upon able-bodied men (i.e., men who can fight in battle) and not women, children, the poor, the sick, or even monks since they would not typically engage in battle. This contrasts with the *zakah* tax that Muslim men, women, *and* children are all obliged to pay, in addition to the military service Muslim men must engage in. Thus, in many ways the *jizyah* tax can be considered similar to the *zakah* tax that Muslims are required to pay.

Ibn al-Qayyim further insists on this point by dedicating another section of his text to the protection of the *dhimmī*.⁵⁸ In order to demonstrate the enormity of infringing upon their rights, he utilizes anecdotes that occasionally incorporate Prophetic *hadith* and Quranic verses. The first anecdote, for instance, narrates the story of a man named Hāshim who, after witnessing a group of people in Palestine suffering under the *jizyah*, proclaimed that the Prophet ﷺ said, “Verily on the Day of Judgment God will torment those who torment people in this world.”⁵⁹

⁵⁵ Ibn al-Qayyim, 131.

⁵⁶ Ibn al-Qayyim, 129.

⁵⁷ Ibn al-Qayyim, 132-133.

⁵⁸ Ibn al-Qayyim, 137.

⁵⁹ Similar versions of the *ḥadīth* read, “Whoever harms a *dhimmī*, then I will be his adversary on the Day of Judgement [narrated by Imam Aḥmad]” and “Whoever harms a *dhimmī*, then he has harmed me [the Prophet]. And whoever harms me, has harmed God [narrated by al-Albānī].”

Through the citation of this narration, Ibn al-Qayyim reminds us of the humanity of the protected people, and warns against taking advantage of them by any means. In a later example, Ibn al-Qayyim cites the actions of the Caliph ‘Umar who was once approached with a lot of wealth that was collected as *jizyah*.⁶⁰ Based on the great amount of money that he was given, the Caliph exclaimed, “I think you have destroyed the people!” Those who collected the money responded that it was not true – they only collected the amount without interrogation, distress, or harm to the people, to which ‘Umar responded, “Praise be to God who did not place that [responsibility] in my hands nor under my rule.” This particular incident of the Caliph demonstrates the justice and compassion with which he acted, and strengthens Ibn al-Qayyim’s demand that *dhimmīs* be treated with generosity and mercy. On a similar note, when Muslim-ruled Syria was threatened by incoming Roman troops, the Arab general and Companion, Abu ‘Ubaydah b. al-Jarrāḥ, wrote hastily to his governors to return the *jizyah* to the people with treaties in that land:

*We give you back the money that we took from you, as we have received news that a strong force is advancing against us. The agreement between us was that we should protect you, and as this is not now in our power, we return you all that we took. But if we are victorious we shall consider ourselves bound to you by the old terms of our agreement.*⁶¹

In response to Abu ‘Ubaydah’s orders, many Christians praised their Muslim overlords and prayed for their victory over the Romans since the latter would have stolen all of their wealth.⁶²

One of the most striking aspects about Ibn al-Qayyim’s compendium is that his legal rulings are far from generous; in many instances, his interpretation of the law takes the strictest approach. His constant reminders on the necessity of acting with kindness and compassion, however, counter this stringency. He ardently declares that the purpose of the *jizyah* is to strip non-Muslims of their dignity, but then

⁶⁰ Ibn al-Qayyim, 139.

⁶¹ Thomas Walker Arnold, *Preaching of Islam: A History of the Propagation of the Muslim Faith* (London: Constable & Robinson Ltd., 1913), 61.

⁶² Arnold, 61. See also J. J. Saunders, *A History of Medieval Islam* (London: Routledge, 2002), 53.

shortly thereafter calls upon Muslims to treat non-Muslims in a respectful manner. The irony is very much present. In essence, Ibn al-Qayyim is putting forth a notion that while paying the *jizyah* may be theoretically demeaning, in practice, non-Muslims should always be treated with dignity. This serves as a reminder of the legitimacy and power of the Muslim community – the word of God is held high on earth. But along with this power must come the righteous treatment of all of God’s creation, and that can only be achieved through many of the characteristics Ibn al-Qayyim demands of the Muslim community: justice, mercy, and kindness.

Conclusion

The rights and responsibilities of religious minorities, as we have seen, are not always a simple matter. Throughout history there have been diverse scholarly opinions on the laws regarding relationships between Muslims and non-Muslims; however, the manifestations of these regulations were dependent on the judgment of the sultan in his respective political, economic, and social milieu. The *dhimmi* paradigm that was established at an early stage of Islamic civilization was consequently flexible in nature, and has generally resulted in tolerant societies. Many scholars today, nevertheless, want to move beyond the mere concept of “tolerance” since the notion of a minority citizenship often leads to forms of discrimination.⁶³ Hence, prominent scholars such as Yusuf al-Qaradawi have taken crucial steps in creating a “*fiqh* of citizenship” in Muslim-ruled nations that advocates for equal rights among Muslims and non-Muslims by adopting modern forms of citizenry.

In any case, when reflecting on the *dhimmi* model that took precedence throughout Muslim societies historically, it is important to also reflect on the standard that is set in America today. We too have a system that requires taxation and submission to the state through various responsibilities. An American citizen is treated rather distinctly from a non-American citizen – we have different rights and responsibilities. As citizens, we live with a privilege that many times blinds us

⁶³ David H. Warren and Christine Gilmore, “One nation under God? Yusuf al-Qaradawi’s changing Fiqh of citizenship in the light of the Islamic legal tradition,” *Contemporary Islam* 8 (2014), 218.

from recognizing our exclusive lines at airports when entering the country, or the priority we are given in applying for schools and jobs, or the ease of obtaining visas for travel. These are all forms of honor that we have been granted simply on account of our citizenship. And we too have a form of taxation upon individuals that in essence symbolizes one's submission to the state. So before reflexively criticizing the practices of former societies, one needs to understand the historical context of those practices and reflect on current-day parallels.