



ENTERING THE PROTECTION OF NON-MUSLIMS

& its Ramifications According to Islamic Law

ABD AL-HAQQ TURKMANI



CENTRE FOR STUDIES IN
THE INTERPRETATION OF ISLAM



**Entering the Protection of
Non-Muslims and its Ramifications
According to Islamic Law**

First published in Great Britain in 2018 by,
Centre for Studies in the Interpretation of Islam

Copyright © Abd al-Haqq Turkmani, 2017

ISBN: 978-1-9999605-0-6

Printed and bound in Turkey

All rights reserved. Without limiting the rights under copyright reserved above, no part of this publication may be reproduced, stored or introduced into a retrieval system, or transmitted, in any form or by any means (electronic, mechanical, photocopying, recording or otherwise), without the prior written permission of the publisher of this book.

A CIP catalogue record for this book is available from the British Library.

Entering the Protection of Non-Muslims and its Ramifications According to Islamic Law

*A translation of Al-Dukhūl fī Amān Ghayr
al-Muslimīn wa Āthāruhu fī 'l-Fiqh al-Islāmī*

Abd al-Haqq Turkmani



Contents

<i>Foreword by Abd al-Muḥsin al-Turkī</i>	9
<i>Foreword by Aḥmad al-Murābiṭ al-Shinqīṭī</i>	13
<i>Foreword Abd Allāh Shākīr al-Junaidī</i>	15

PART ONE

Entering the Protection of Non-Muslims

Introduction	19
Definitions	35
<i>Al-Amān in the Arabic Language</i>	35
<i>Al-Amān as a Technical Term</i>	36
<i>Technical Terms that are Connected to this Research</i>	37
The Legitimacy of Muslims Granting Combatant Non-Muslims Protection, and the Obligation of Fulfilling Pledges and Contracts	41
The Permissibility of Receiving a Promise of Protection from Non-Muslims for a Compelling Need	49
<i>The Prophet ﷺ under the Protection of Polytheists</i>	49
<i>Al-Ṣiddīq under the Protection of a Polytheist</i>	50
<i>A Group of Early Believers under the Protection of a Polytheistic Nation</i>	52
<i>The Foremost Believers who Took Refuge En Masse in a Just Non-Muslim Country</i>	53
<i>Context of the Story of the Migration to Abyssinia</i>	54

<i>The Ḥadīth of Umm Salamah About the Migration to Abyssinia</i>	56
<i>Rulings and Benefits Derived From This Story</i>	63
How a Protection Contract is Concluded and Established	69
The Legislative Foundation for the Issues Discussed in this Book	73
1. <i>Dār al-Islām</i>	74
2. <i>Dār al-Kufr</i>	75
3. <i>Dār al-Ḥarb</i>	75
<i>Origin of This Classification and the Connection it has to Current Affairs</i>	75
<i>How the Laws Established in This Book are Applied in the Modern World</i>	83

PART TWO

Ramifications of Muslims Coming Under the Protection of Non-Muslims

Preface	87
First Ramification	93
Second Ramification	107
Third Ramification	119
<i>Examining the Opinion of the Ḥanafī Madhab that Permits Usury and Other Unlawful Dealings when Living in Dār al-Ḥarb</i>	124
<i>Refuting the Opinion of the Ḥanafīyyah</i>	133
Fourth Ramification	141
Fifth Ramification	145
Sixth Ramification	147

CONTENTS	7
Seventh Ramification	157
Eighth Ramification	161
Ninth Ramification	167
<i>Examples of Outward Conformity With Non-Muslims:</i>	
<i>i) Accepting Gifts From Non-Muslims During Their Holidays</i>	175
<i>ii) Men Wearing a Head Covering</i>	177
<i>iii) Men Wearing Trousers and Jackets and Other Items of Clothing Which Fulfil the Sharia Conditions of Covering the Awrah</i>	179
Tenth Ramification	183
Final Words	191
<i>Conclusions</i>	191
<i>Recommendations</i>	193
BIBLIOGRAPHY	195
INDEX	207

**Foreword by His Eminence, Professor
Dr ‘Abd Allāh b. ‘Abd al-Muḥsin al-Turkī**

*Secretary General of the Muslim World League, Mecca;
Member of the Council of Senior Scholars in the Kingdom of Saudi Arabia*

All praise is due to Allāh, Lord of all that exists, and may Allāh’s peace and blessings be on our Prophet, Muḥammad, his family and companions.

This book, entitled *Entering the Protection of Non-Muslims and its Ramifications According to Islamic Law*, is among the books that explain the fiqh of dealings and interactions between Muslims and other communities in light of contemporary circumstances. The need for this fiqh has increased since more Muslims have moved to non-Muslim countries to reside there, which entails them living and mixing with non-Muslims and sharing with them various aspects of life, and requires understanding and insight.

The reality is that a segment of Muslims currently residing in non-Muslim lands are ignorant of the laws of the sharia and pay little attention to upholding them when dealing with one-another and those whom they are living among.

Our fiqh heritage concerning the co-existence of Muslims and non-Muslims is detailed extensively about a contrasting condition, namely, when non-Muslims reside among Muslims [in Muslim lands], either temporarily or permanently, as individuals or groups, according to the laws that regulate such aspects. This (condition) demands various practical details, based on which, the conditions, rights, and obligations that pertain to acts of worship, dealings,

mannerisms, and morals are elucidated.

This type of fiqh appeared in classic works under the heading of *al-siyar*, i.e. biographies of the caliphs, commanders, and judges pertaining to their political and legal methods in dealing with non-Muslims, the necessary justice and kindness shown to them and preventing them from harming the Muslim community and vice versa, so as to demonstrate the fairness and tolerance of Islam.

In accordance with the laws pertaining to non-Muslim minorities living in an Islamic State, numerous communities that belonged to various religions lived under the protection of Muslims in peace, safety and with their rights protected whether the Islamic states were powerful or weak. [Non-Muslim minorities] were not forced to abandon their religion or convert to Islam; they were not wronged in any way with regards to their women, children, wealth, places of worship, or business transactions, as long as they upheld what they contracted with the Muslims, did not commit betrayal or help their enemies against them.

Muslims referred to those who lived among them who followed other religions as *Ahl al-Dhimmah*, to emphasize their right on Muslims and that they are under the protection and responsibility of the Muslims. This is contrary to how this system was referred to in foreign dictionaries and encyclopaedias, which described it as one of submission and subservience.

The tolerance with which Islam treated *dhimmis* and those who were granted safe residence, allowed multitudes of them to excel in numerous fields of knowledge such as science, pharmaceuticals, astronomy, geography, mathematics, engineering, literature and translation; they played a role in the scientific and technological advances which Islamic civilisation achieved during its most prosperous times.

Today, the situation has reversed as multitudes of Muslims have established themselves in non-Muslim lands and settled there permanently, or temporarily, for the purpose of education, commerce, diplomacy, etc. Therefore, the situation demands that such Muslims seek knowledge in their new circumstances so that they can preserve their [Islamic] identity from being corrupted, keep their religion from being lost, establish the religion among themselves, teach it to their children and treat others well in light of the laws and manners that the sharia calls to because their manners and dealings present a good image of Islam and its culture and civilisation. Numerous non-Muslim groups don't take it upon themselves to learn about Islam, or are unable to do so, except through the mannerisms they witness from members of the Muslim communities [that live among them]. As such, if the behaviour of Muslims is not disciplined by what Islam teaches with respect to laws, characteristics and manners, then, undoubtedly, it will create a negative perception of this religion and in turn, malicious people in the media may portray a negative image about it.

It is hoped that this book, which I have examined in part, will clarify the main aspects of the Islamic laws that Muslim communities and minorities need pertaining to their relationship with the countries they reside in. In addition, this [knowledge] will correct wrong actions [committed by some Muslims] which have occurred due to shortcomings in understanding and implementing these rulings in light of current circumstances.

This book is invaluable in its contents, language, jurisprudence, and topics, all of which demonstrate the aptitude of the author and his concern for calling [to Islam] and the laws that pertain to it among Muslim communities living in Europe.

I ask Allāh to bring about benefit from this book, and to grant

the author what is comparable to the best part of the effort and the advice he gave here to his Muslim brethren and others. I invoke Allāh to grant everyone success in doing that which He likes and is pleased with.

ʿAbd Allāh b. ʿAbd al-Muḥsin al-Turkī

Foreword by His Imminence, Shaykh Aḥmad al-Murābiṭ al-Shinqīṭī

Grand Mufti of the Islamic Republic of Mauritania

In the name of Allāh, the Most Gracious, the Most Merciful.

All thanks are due to Allāh, and may the blessings and mercy of Allāh be on the Messenger of Allāh, and on his Family and Companions and those who follow his guidance.

I have reviewed the book titled, *Entering the Protection of Non-Muslims and its Ramifications According to Islamic Law*, after I was told about it and received a copy of it as a gift from its author, our brother and beloved in Allāh's sake, Shaykh Abd al-Haqq Turkmani.

Due to other obligations, I am unable to write a lengthier introduction and commendation for this book that is worthy of its author.

In its place, I have penned the following verses to serve as its recommendation:

<p>أمان غير المسلمين) تحتفي وما كفتك تحفة من متحف بشراك إن (التركمانى) الوفي ألف فيه خير ما مؤلف معتمدًا على هداة السلف واشدد عليه اليد من معترف ولأخيك بالجميل اعترف</p>	<p>يامن بحكم الشرع في (الدخول في تبحث عنه في جميع الصحف معروضة على رفوف متحف لك وفي بما كفى من تحف لسنة مع الكتاب يقتفي فكن بـ«عبد الحق» فيه تقتفي ومن معينه الزلال اغترف</p>
---	---

رب له بالحفظ منك أتخف
ثم على خير نبي اقتني
والآل والصحب وكل مقتني
وللثواب يا كريم ضاعف
أزكى صلاة مع تسليم تفي

Aḥmad al-Murābiṭ al-Shinqīṭī

**Foreword by the Noble Shaykh,
Dr ‘Abd Allāh Shākīr al-Junaidī**

General President of Jamā‘ah Anṣār al-Sunnah al-Muḥammadiyah, Egypt

In the name of Allāh, the most gracious, the most merciful.

All thanks are due to Allāh, who sent His Messenger [Muḥammad ﷺ] with guidance and the true religion to make it apparent above all religions although disbelievers may dislike it. May the peace and blessings be upon the one [Muḥammad ﷺ] who was sent by his Lord with the truth, as a giver of glad tidings and a warner; and also on his family and companions.

The religion of the Prophet [Muḥammad ﷺ] is the religion that Allāh is pleased with for His slaves (creation), and by it, Allāh concluded the divine messages. Allāh commands us to follow His religion. He also stated in His Book [the Quran] that He will not accept any religion other than it.

This religion was embraced by people whom Allāh granted victory, and they called to Islam by their [righteous] actions, conduct, and mannerisms. A multitude entered the Islamic religion through the efforts of the conquerors and nobleness and good manners of the Muslim warriors. In the early Islamic era, the world bore witness to the Islamic Nation and its high standard of character, kind dealings with other peoples, respecting rights and obligations and its refraining from oppression and transgression. Non-Muslims resided in the lands of Islam having their wealth and lives protected.

The fuqahā, or jurists of Islamic law, agree to the legitimacy

of offering non-Muslims protection to enter the Muslim lands according to need. In our time, things have changed. A large number of Muslims have migrated to non-Islamic countries to reside for their respective reasons. There is no problem regarding this, as long as there is a benefit for Muslims in doing so in accordance with the details mentioned in books of fiqh. For instance, al-Şiddīq [Abū Bakr] entered into the protection of Ibn al-Daghinah, who was the leader of his people [the tribe of al-Qarah].

This research that is between your hands, dear reader, written by our brother, the researcher and Shaykh: Abd al-Haqq Turkmani, may Allāh preserve him, discusses the matter of Muslims entering and residing in non-Muslim lands. In this book, [the author,] may Allāh grant him success, has explained the implications of Muslims entering under the protection of non-Muslims and derived evidence for it from the Glorious Quran and what has been proven to be authentic from the Sunnah of the trustworthy Prophet ﷺ. Therefore, his research is in agreement with proofs from the sharia and carries benefit regarding this subject in the current era, due to its relevance.

I wish to point out a few important issues found in this research which [Muslims] living in other than Muslim lands must know:

i) The prohibition of betraying or deceiving non-Muslims with regards to their lives, wealth, or honour; [such non-Muslims] truly own their wealth, and therefore, it is not permissible for Muslims to take their wealth, except in a manner allowed by the sharia. Based on this principle, merely being non-Muslims does not make their wealth lawful for Muslims to take. The proofs for this stance are found in abundance. The polytheists used to leave their trusts with the Prophet ﷺ and it never happened that he betrayed or cheated them, even on account of their stern enmity towards him.

ii) Furthermore, it is allowed to deal with [such non-Muslims]

in all types of dealings that are permissible [in the sharia], such as buying, selling, gifting, and loaning.

iii) I should also point out that Muslims who are currently residing in the lands of non-Muslims are obligated to establish their servitude to the Lord of all that exists as He commanded them in His Book (the Quran) and through the words of His Messenger ﷺ. Servitude to Allāh always accompanies Muslims everywhere and in every time for as long as they have the ability to uphold (and implement) what Allāh ordained on them.

This book also includes many knowledge-based benefits and fiqh statements from our scholars, may Allāh have mercy on them all. The author ascribed these statements to those who issued them, and duly referenced such statements, thereby, making this book thorough and scientific.

I invoke Allāh to grant the author success and correctness. May the peace and blessing of Allāh be upon our Prophet, Muḥammad, and on his family and companions.

‘Abd Allāh Shākir al-Junaidī

PART ONE

Introduction

In the name of Allāh, the Most Gracious, the most Merciful

All praise is due to Allāh, the Lord of the worlds, and I bear witness that there is no deity worthy of worship except Allāh, who has no partners; the Lord of the first and the last creations. I also bear witness that Muḥammad ﷺ is Allāh's servant and messenger, sent as a mercy to the worlds; may the blessings and mercy of Allāh be on him, and on his family and companions.

Indeed, Allāh sent Muḥammad ﷺ with the true religion and ordained, with His wisdom and mercy, that He would seal the Prophets and Messengers by sending Muḥammad ﷺ; He took it upon Himself to preserve His Book, the Quran, which He revealed to Prophet Muḥammad ﷺ and complete through his sharia, which includes laws which He revealed to previous nations. Therefore, the Islamic sharia verifies the laws of previous nations, prevails over and above them, and suits every time and place; it is for humankind as a whole, as long as there is life on this earth.

A part of the perfection of the Islamic sharia is that it encompasses every aspect that entails correct guidance, uprightness, success, and happiness for humankind in this worldly life, as well as success and salvation in the afterlife. The Islamic sharia contains the correct doctrines with respect to Allāh , His names and attributes, what He

has commanded His creation regarding worshipping and obeying Him, and all that He forbade them, from associating others with Him, oppression, committing major sins, and other matters which He has forbidden. It further guides towards a virtuous character, exalted manners and good conduct, all of which will bring about the uprightness of both individuals and society as a whole.

Therefore, the Islamic sharia encompasses everything which rectifies the relationship between the slave and his Lord, as well as others. The first, and most superior of all of this, is singling out Allāh in worship; that nothing is taken besides Him as an equal or rival and that nothing and no one is associated with Him in worship. This is the right of Allāh on His creation. If people fulfil this right, then the first of what Allāh commands them to do after that, and which He will ask them about, is the rights of other slaves (humankind). This is why Allāh forbade us, the creation, from oppressing and transgressing His laws.

This, also, is the command of Allāh to all people:

﴿ قُلْ تَعَالَوْا أَتْلُ مَا حَرَّمَ رَبِّي عَلَيْكُمْ أَلَّا تُشْرِكُوا بِهِ شَيْئًا وَبِالْوَالِدَيْنِ إِحْسَانًا وَلَا تَقْتُلُوا أَوْلَادَكُمْ مِّنْ إِمْلَاقٍ نَّحْنُ نَرْزُقُكُمْ وَإِيَّاهُمْ وَلَا تَقْرَبُوا الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَنَ وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ ذَلِكُمْ وَصَّاكُمْ بِهِ لَعَلَّكُمْ تَتَّقُونَ ۝ وَلَا تَقْرَبُوا مَالَ الْيَتِيمِ إِلَّا بِالَّتِي هِيَ أَحْسَنُ حَتَّىٰ يَبْلُغَ أَشُدَّهُ وَأَوْفُوا الْكَيْلَ وَالْمِيزَانَ بِالْقِسْطِ لَا نُكَلِّفُ نَفْسًا إِلَّا وُسْعَهَا وَإِذَا قُلْتُمْ فَاعْدِلُوا وَلَوْ كَانَ ذَا قُرْبَىٰ وَبِعَهْدِ اللَّهِ أَوْفُوا ذَلِكُمْ وَصَّاكُمْ بِهِ لَعَلَّكُمْ تَتَّقُونَ ۝ وَأَنَّ هَذَا صِرَاطِي مُسْتَقِيمًا فَاتَّبِعُوهُ وَلَا تَتَّبِعُوا السُّبُلَ فَتَفَرَّقَ بِكُمْ عَن سَبِيلِهِ ذَلِكُمْ وَصَّاكُمْ بِهِ لَعَلَّكُمْ تَتَّقُونَ ﴾

Say (O Muḥammad): “Come, I will recite what your Lord has prohibited you from: join not anything in worship with Him; be good and dutiful to your parents; kill not your children because of poverty.” We provide

sustenance for you and for them; “Come not near to shameful sins whether committed openly or secretly; and kill not anyone whom Allāh has forbidden, except for a just cause (according to Islamic Law). This He has commanded you that you may understand. And come not near to the orphan’s property, except to improve it, until he (or she) attains the age of full strength; and give full measure and full weight with justice.” We burden not any person, but that which he can bear; “And whenever you give your word (i.e. judge between men or give evidence), say the truth even if a near relative is concerned, and fulfil the Covenant of Allāh. This He commands you that you may remember.” And verily, this is My straight path, so follow it, and follow not (other) paths, for they will separate you away from His path. “This He has ordained for you that you may become pious.” (Qur. 6:151-153)

The aspects mentioned here are the most important forbidden things in the Islamic sharia. It further includes the command to perform the opposite of these forbidden things, which Allāh loves and is pleased with. The prohibition of shirk (polytheism) is also a command to establish tawḥīd (monotheism); the prohibition of disobedience towards parents is also a command to be dutiful towards them; the prohibition of killing is also a command to preserve human life; and the same applies to other forbidden matters.

These rulings have been repeated in many places in the Noble Quran, either in the form of commands to uphold obligations, or in the form of prohibitions from forbidden matters, and a similar verse, with a few additions, appears in Sūrat al-Isrā‘ (Qur. 17:23-39), all of which assert the relevant verses contained in the *Old Testament*, and are commonly known as *The Ten Commandments* found in the *Book of Exodus* (20:3-17), as well as the *Book of Deuteronomy* (5:6-21); the only difference is that the *Old Testament* glorifies the Sabbath as

being a holiday, and claims that Allāh rested on that day, exalted and glorified is He above what they falsely claim about Him:

1. You shall have no gods before me.
2. You shall not make yourself a carved idol, or an image of anything in the heaven above, or on the earth beneath, or in the waters beneath the earth. You shall not bow down to them, nor worship them, because I am the Lord your God, a jealous God.
3. You shall not say the name of your God in vain, because the Lord will not hold anyone guiltless who says His name in vain.
4. ...
5. Honour your father and your mother, so that you may live in the land the Lord your God is giving you.
6. You shall not murder.
7. You shall not commit adultery.
8. You shall not steal.
9. You shall not give a false testimony.
10. You shall not covet your neighbour's house. You shall not covet your neighbour's wife, or his male or female servant, his ox or donkey, or anything that belongs to your neighbour.

This is the general understanding of the sharia of Allāh and His commandments. This includes everything that Allāh has commanded of His slaves from tenets of faith, acts of worship and rulings that establish a person's relationship with Him, and what pertains to all of a person's actions within themselves and with others concerning all aspects of life and religion; including everything Allāh ordered to be abandoned and avoided.

The word 'sharia' can be used to describe an aspect of it, such as practical laws dealing with commandments and prohibitions; in this context, it is considered a part of its doctrinal aspect,

and both (practical and doctrinal aspects) comprise the entire religion. Accordingly, it is normal to say: ‘aqīdah (creed) and sharia (law)’, ‘knowledge and actions’, ‘tawḥīd (monotheism) and fiqh (jurisprudence)’, and so-forth as phrases meant to differentiate between aspects which are doctrinal or practical in the religion. These two aspects are inseparable and intertwined; the religion cannot be established, one without the other.

The sharia is mentioned with this specific meaning in Allāh’s statement:

﴿لِكُلِّ جَعَلْنَا مِنْكُمْ شِرْعَةً وَمِنْهَا جَا﴾

To each among you, We have prescribed a law (shir‘ah) and a clear way (minhāj). (Qur. 5:48)

This verse refers exclusively to the practical, and not doctrinal, legislations. This is because the creed Allāh revealed to every nation, and by the words of every prophet and messenger He sent, is one, and its core is tawḥīd and sincerity to Allāh alone in worship. This is the true religion besides which no other religion is accepted. As for the practical legislations of the sharia, its core foundation is one, but it may have different details and minor parts relevant to each nation in particular.

From what has preceded, it becomes clear to us that the sharia, whether in its general or specific sense, includes acts of worship and transactions, such as laws regulating selling, partnerships, leasing, loaning, mortgaging, gifts, power of attorney, and so on; civil affairs, such as marriage, divorce, guardianship, wills, inheritance, and so on; laws related to peace and war, including relations between Muslims and non-Muslims and also character, behaviour and social manners. These rulings, and there are many others, are discussed in the books of tafsīr, ḥadīth, fiqh, legislated manners (al-ādāb al-sharī‘ah), and

other Islamic books.

Despite its clarity, it is disheartening that understanding of the sharia in these times has been subject to much belittlement and undermining. In the minds of some people, the sharia is limited to the penal code of punishment for various transgressions, which are only a small part of the all-encompassing rules and regulations contained within it.

Islamic movements have had an adverse influence in advancing this partial understanding of the sharia by using this defective meaning as a banner in their call for political reform; they ignore the aspects of the sharia which are more important and have greater impact, and deviances from the religion which are more dangerous. In specific, they have neglected singling out Allāh alone in worship and establishing this monotheistic creed, especially when the worst practices of associating others with Allāh have become widespread in the Islamic World; actions such as supplicating to the dead, glorifying and building monuments on top of graves, travelling to grave-sites, circumambulating and prostrating to graves, and many other dangerous deviations touching the core principles of the religion and creed have become commonplace. Furthermore, numerous Muslims fall into various deviances in their acts of worship, especially prayer, which is the most important practical pillar of the religion. They shamelessly commit sins and have bad character, and are far from practicing the proper application of the laws of this religion and its excellent mannerisms in their lives.

For this reason, numerous Islamic movements have been unsuccessful in their aim to achieve their projects and aims, because of this partial understanding that they have adopted. Some of them end up resorting to violence and terrorism; others even abandoned the call to enforce laws of the sharia, and instead, engaged themselves

in playing the game of democracy, thus portraying Islam as an abstract ideological reference.

Media establishments have also had a major impact on furthering this misunderstanding by exploiting the actions of those Islamic movements, until the understanding of Islam in the minds of most people -particularly in the West- has become one that doesn't exceed the sharia laws of punishments, thus limiting it to cutting the hand of the thief, lashing adulterers and those who drink alcohol, women's hijab, and so on.



An educated Swede once asked me about the extent of my support for the enforcement of sharia laws, and I replied to him by saying: “The sharia, according to the understanding you mean, that is, the penal laws [of punishment for transgressions and crimes], are not to be applied –according to sharia law itself- except in Muslim lands, and are only allowed to be enforced –also according to sharia law- by Muslim leaders who have the capacity, who rule and govern, and who rely on a legal body of authority. Henceforth, I agree to the implementation of Islamic rulings, but my support is only in light of a state and a society that implements the Islamic religion, both in doctrinal and practical aspects. This is an internal issue that touches on the sovereignty and independence of a Muslim nation, and no country or external parties have any right to intervene in it. However, the understanding you have of the sharia is short-sighted and incomplete.

“Therefore, this causes you to view it incorrectly, raises fear that has no justification and produces unjust perceptions, especially pertaining to Muslims living in the West who are in favour of the sharia.”

He asked me: “Then what is the complete and correct understanding of the sharia?”

I replied: “The Islamic sharia encompasses the entire religion of Islam. Its most important laws are the principles of faith, which are: having faith in Allāh alone, and in His beautiful names and exalted attributes, and that He is the Lord, Creator, Owner, Ruler, and the only one deserving of worship. Moreover, worship (of Allāh alone) is the purpose for which Allāh created jinn and human-beings. Therefore, we don’t supplicate except to Allāh, we don’t seek help from anyone except from Allāh, we don’t rely on anyone except Allāh, and we don’t pray and prostrate except to Allāh alone. The sharia includes having faith in the angels of Allāh, His books that He revealed to His messengers, all of His Prophets and Messengers, the Last Day, Paradise, Hellfire, and in the judgment and destiny Allāh appointed for everything and everyone.

“The sharia also includes: establishing prayer; giving zakat, fasting the days of the lunar month of Ramadan; and performing the hajj pilgrimage to the House of Allāh for those who are (physically and financially) able; being dutiful to parents, preserving blood ties, supporting orphans, helping the poor, aiding the oppressed, relieving distress, being a good neighbour, gentleness towards animals, being truthful when one speaks, offering good companionship, having an honourable character, observing true patience, pardoning and forgiving and being benevolent towards those who are close and far, whether Muslims or non-Muslims; being honest in all dealings; fulfilling trusts and abiding by agreements and contracts; the sharia also includes: the prohibition of oppression, injustice, treachery, and treason, and outlawing transgressing against others, including what pertains to their wealth and honour.

“And the sharia further emphasizes the prohibition of shedding

blood, forbids adultery, theft, alcohol and drug consumption, and outlaws all other sins and abominable actions.

“Therefore, if this vast and encompassing understanding of sharia becomes clear to you, you will know that Muslims can abide by most of the most important aspects of sharia and act accordingly, even if they reside in a non-Muslim country. They will only forgo some of the practical laws that apply to a Muslim society in its own land. Moreover, Swedish law includes many laws that concur with the sharia, such as:

- Respecting human life, regardless of religion, sex, race, or colour;
- Transgressing against a life through murder, or by any criminal act less serious than murder, are crimes that deserve punishment;
- A father’s obligation to give financial support for his children, which is paid to the mother who is taking care of them;
- The prohibition of abominable actions and using drugs – including khat which is currently allowed in some Muslim countries;
- The government’s responsibility over education, healthcare, and guaranteeing necessary needs of housing, food, and clothing to all of its nationals.

“Swedish law also includes many regulations that don’t contradict the sharia, such as rules concerning traffic, work environment, and manufacturing, as well as most of what pertains to the organisation of civil life, which fulfil the needs of both individuals and society, and ensure the growth and development of both individuals and society. With this, we understand that the sharia is a complete system that guides Muslims to the correct and sound creed, to sincere worship of Allāh alone and to abide by truth, justice, honesty, faithfulness, mercy, and kindness when dealing with the creation. The sharia

directs Muslims to embrace good character and proper behaviour. All this goodness, truth, and correctness originate from the blessings contained in having knowledge in and about the sharia, and from acting by it. Moreover, everything people may have which is evil, false, and wrong, comes from the misfortune of being ignorant of this sharia and or from not acting by it. It is therefore no surprise that occasionally, major non-Muslim scholars of politics, law, economics and sociology seek benefit from the Islamic sharia.”



This treatise aims to explain an aspect of the Islamic sharia by detailing rulings that pertain to Muslims living under the protection of, or as co-citizens with, non-Muslims. The emigration of non-Muslims to the lands of Islam was prevalent from the first Islamic era. As for the emigration of Muslims to the lands of non-Muslims, it was a rare and non-essential event in previous generations, until recently. Therefore, it is not strange to learn that books of fiqh are abound with lengthy discussions about communities of non-Muslims living in the lands of Islam, whether their stay was temporary or permanent. It may seem strange, however, that fiqh books are also abound with sufficient discussions pertaining to the rulings of Muslim communities living in the lands of non-Muslims. However, the surprise will diminish on discovering the scope and vastness of the sharia as we mentioned before, as well as its suitability in every time-frame and place.

This treatise aims to acquaint Muslims who reside in the lands of non-Muslims with sharia rulings which they must know, abide by, and adhere to, as much as they can. Also, this treatise seeks to acquaint non-Muslims with notable rulings the lenient sharia

legislates in this regard, which are built on the principles of honesty, justice, faithfulness, and compassion.

In order to present an academic and articulate study, I have consistently quoted the words of the jurists of Islam from reliable resources. I will also mention a brief biography about each scholar alongside their respective date of death, by using both Gregorian and Hijri calendars in order that the reader can have a clear perception of the author of the quoted work and his era, and so that he or she may know that these works have been authored by the most noted scholars of Islam at a time when Islamic countries were the greatest and strongest countries in the world; yet, the pride, might and superiority which Muslims had in their time didn't cause them to ignore their obligations towards truth, justice, and mercy. They supported their opinions with texts and edicts from the Noble Quran and Prophet Muḥammad's ﷺ prophetic traditions. When Muslims abide by these rulings, it is not because of weakness or fear, or in order to attain some worldly profit. Instead, they do this in obedience to their Lord and in adherence to His sharia.



It is no secret to researchers that Western countries do not currently deal with or treat Muslims who reside in their lands as if they are entering into a contract of protection/covenant of security (ʿaḳd al-amān). While they may be granted permission to enter a country, this only occurs in the beginning of their residence, which is a short period of time. After the initial entry period, persons seeking citizenship or refugee status may attain permanent residence, even naturalisation, thereby becoming full citizens. Once this status is achieved, they are treated as any other native citizen, equally.

Giving refuge, then permanent residence, and then citizenship does not currently fall under any religious ruling, but under the context of civil law.

In any case, the religious and moral stance on these issues is the same, even if the mode in which the sharia and civil law differs with respect to what pertains to prerequisites, obligations, rights and consequences. Some of these aspects are stricter than others; for instance, obtaining citizenship is similar to entering into a permanent contract of protection and is no doubt among the strongest and firmest binding forms of protection. What is even more affirmed than this is when a person is a native of a non-Muslim country, and then becomes Muslim. Thereby, Islam makes blood ties, various obligations, and legal rights one has towards the people of that country even stronger and more established in this case. Islam orders Muslims to be upright with non-Muslims, most kind while dealing with them, most acknowledging of their rights, and the farthest away from betraying or acting treacherously towards them. The Messenger of Allāh ﷺ said:

« إِنَّمَا بُعِثْتُ لِأَتَمِّمَ صَالِحَ الْأَخْلَاقِ »

I have been sent to perfect good character.¹

Whoever examines the numerous texts that we mention within this treatise will realise that the jurists consider a contract of protection to be a religious covenant that is binding on the Muslims who undertake it, regardless of whether the other party to the contract

1. Collected by Ahmad in *Al-Musnad* (2/381: 8939) and al-Bukhārī in *Al-Adab al-Mufrad* (273) from the narration of Abū Hurairah. Ibn ‘Abd al-Barr said in *Al-Tambīd*, vol.24, no.333: “This ḥadīth is reported through continuous, authentic chains of narration from Abū Hurairah and other [Companions], from the Prophet ﷺ. The meaning of this ḥadīth also includes all types of reform and goodness, the religion [itself], virtue, nobility, kindness and justice; that is, everything [the Prophet ﷺ] was sent to perfect.”

adheres to it or not. Also, such a contract is binding regardless of whether the other party is from the People of the Book, Jews and Christians, or from idol-worshippers.

This religious stance has a great impact on the behaviour and conduct of observant Muslims while living in the lands of those who differ from them in religion. The spiritual enthusiasm of such Muslims, and their living among those who oppose them in religion may lead a minority of them to consider the blood, wealth, and honour of non-Muslims with whom they live amongst as being lawful to violate, or think that they are not obligated to adhere to any religious or moral standard when dealing with them. Consequently, such Muslims may think it is permissible for them to violate various contracts with non-Muslims, and to cheat, act treacherously, and betray them any time they get the chance. However, once they come to know the details the scholars have collected on this topic in their books, it will become clear to them that adhering to the terms and conditions of contracts of protection with non-Muslims is both a legislated and moral obligation on them. Furthermore, if such Muslims violate a legal contract, even if it is not based on religious principles and wasn't meant to be a form of worship to Allāh or to conform to His sharia, then, violating it will still be disobedience to the sharia. It will be a sin that Allāh will hold them accountable for on the Day of Judgment, even if they were able to avoid legal liability or escape legal punishment in this worldly life through deception and cunning.



The basis of this treatise came about in a lecture I gave at a conference at the Centre for Islamic Research in Sweden, held in cooperation

with Masjid Maryam Muḥammad Jabr al-Musallim in the city of Orebro, at the beginning of Muḥarram, 1430H/January 2009, under the banner *This is What Muḥammad Taught*.

My lecture, by the grace of Allāh, found much endorsement and interest from those who attended. Many of them insisted I expound on it, so it can emerge as a comprehensive treatise. Many of them also stated that it didn't occur to them that books by prior scholars could be filled with such amazing texts. They said that they had never heard anyone talk about this topic, even though they are in need of knowing and being acquainted with these rulings. Moreover, these rulings are among the specific legislative obligations on every Muslim living in the lands of non-Muslims. As all scholars agree, whoever is uncertain about a matter, it becomes an obligation on them to learn the laws of Allāh pertaining to that matter.

There are many students of knowledge and preachers who are active in da'wah (inviting others to Islam), not to mention those who are ignorant of the sharia who also practice da'wah that avoid mentioning this topic in their preaching to the general masses of Muslims, despite the abundance of scientific material in fiqh sources and the writings of contemporary scholars on the laws pertaining to Muslim minorities. This is due to several factors:

i) Such people have a lack of knowledge regarding these rulings to begin with. We remind such people of Allāh's statement:

﴿ وَمَا أَرْسَلْنَا مِنْ قَبْلِكَ إِلَّا رِجَالًا نُوْحِي إِلَيْهِمْ فَاسْأَلُوا أَهْلَ الذِّكْرِ إِنْ كُنْتُمْ لَا تَعْلَمُونَ ﴾

And We sent not (as Our Messengers) before you (O Muḥammad) any but men, to whom We sent Revelation. So ask of those who know the Scripture, if you know not. (Qur. 16:43)

ii) Some of them might know these rulings but the rulings clash with their desires and/or factional loyalties. Therefore, they ignore them

and take no notice of them.

iii) Additionally, they fear that Muslims will learn these rulings and, consequently, such preachers may lose out on personal or partisan gains and benefits. We remind this type of people, as admonishers and advisers, with the following statement from Allāh:

﴿ وَإِذَا دُعُوا إِلَى اللَّهِ وَرَسُولِهِ لِيَحْكُمَ بَيْنَهُمْ إِذَا فَرِيقٌ مِّنْهُمْ مُّعْرِضُونَ ۚ وَإِن يَكُن لَّهُمُ الْحَقُّ يَأْتُوا إِلَيْهِ مُذْعِنِينَ ۚ أَفِي قُلُوبِهِم مَّرَضٌ أَمْ ارْتَابُوا أَمْ يَخَافُونَ أَن يَحْيِفَ اللَّهُ عَلَيْهِمْ وَرَسُولُهُ بَلْ أُولَئِكَ هُمُ الظَّالِمُونَ ۚ إِنَّمَا كَانَ قَوْلَ الْمُؤْمِنِينَ إِذَا دُعُوا إِلَى اللَّهِ وَرَسُولِهِ لِيَحْكُمَ بَيْنَهُمْ أَن يَقُولُوا سَمِعْنَا وَأَطَعْنَا وَأُولَئِكَ هُمُ الْمُفْلِحُونَ ۚ وَمَن يُطِيعِ اللَّهَ وَرَسُولَهُ وَيَخْشِ اللَّهَ وَيَتَّقْهُ فَأُولَئِكَ هُمُ الْفَائِزُونَ ﴾

And when they are called to Allāh and His Messenger, to judge between them, lo! A party of them refuses (to come) and turns away. But if the truth is on their side, they come to him willingly with submission. Is there a disease in their hearts? Or do they doubt or fear lest Allāh and His Messenger should wrong them in judgement? Nay, it is they themselves who are the wrongdoers. The only saying of the faithful believers, when they are called to Allāh and His Messenger, to judge between them, is that they say: “We hear and we obey.” And such are the successful (who will live forever in Paradise). And whosoever obeys Allāh and His Messenger, fears Allāh, and keeps his duty, such are the successful. (Qur. 24:48-52)

iv) Some of them know these rulings, are satisfied with them, and have faith and submission to the religion of Allāh; however they prefer peace, and thus, remain quiet. They fear that ignoramuses and sectarian groups may rise and rebel against them or abandon them. So, we remind them, as compassionate advisors, of the statement of our Lord:

﴿أَتَخْشَوْنَهُمْ فَأَلَّ اللَّهُ أَحَقُّ أَنْ تَخْشَوْهُ إِنْ كُنْتُمْ مُؤْمِنِينَ﴾

Do you fear them? Allāh has more right that you should fear Him if you are believers. (Qur. 9:13)

I ask Allāh to teach us all that is beneficial, to benefit us from what He has taught us, to make this knowledge a proof for us and not against us, and to give us success in performing righteous actions while having good, righteous character, āmīn, āmīn; and all praise is due to Allāh the Lord of all creation.

Abd al-Haqq Turkmani

Gutenberg, Sweden

15/3/1430H-13/3/2009

Definitions

AL-AMĀN IN THE ARABIC LANGUAGE

Ibn al-Fāris² stated:

[The root letters] ‘Amana’, with a hamza, a mīm and then nūn, has two closely-related origins: 1) ‘Al-amānah’ (trust) which is the opposite to ‘khiyānah’ (treachery) and it means ‘being assured in one’s heart’; 2) ‘Al-taṣdīq’ (affirmation), and the two meanings are close. Al-Khalīl³ said: “‘Al-amanah’ is from ‘al-aman’, and ‘amān’ is to ‘give security’, while ‘al-amānah’ is contrary to ‘khiyānah.’”⁴

Al-Rāghib al-Aṣḫāhānī⁵ stated:

The origin of ‘al-aman’ is self-assurance and the removal of fear. ‘Al-aman’, ‘al-amānah’ and ‘al-amān’ are all verbal nouns of the verb ‘amina’. ‘Al-amān’ is at times a name given to a condition wherein a person is ‘aman’ (secure); and at times it is a name given for something entrusted to a person, like when Allāh says: “...or betray your trusts...”

2. Aḥmad b. Fāris b. Zakariyā al-Qazwīnī al-Rāzī (d. 395 AH/1004 CE), one of the Imams of language and literature; of his famous works are *Maqāyīs al-Lughah* and *Al-Sāhibī* on the sciences of the Arabic language. For his biography refer to al-Dhahabī, *Siyar Alām al-Nubalā*, vol.17, p.103, no.65.

3. Al-Khalīl b. Aḥmad al-Farāhīdī al-Basrī (d. 170 AH/786 CE), the linguist and grammarian who developed prosody (al-‘arūd); of his famous works is *Kitāb al-Ayn* which was the first Arabic dictionary. For a biography refer to al-Dhahabī, *Siyar*, vol.7, p.429, no.161.

4. *Miḡjam Maqāyīs al-Lughah*, vol.1, p.134.

5. Abū ‘l-Qāsim al-Ḥasan b. Muḥammad b. al-Mufaḍḍal al-Rāghib al-Aṣḫāhānī (d. 502 AH/1108 CE), the linguist, literary writer and speculative theological exegete; of his famous works are: *Muḥādarāt al-Udabā*, *Al-Dhari‘ah ilā Makārim al-Shari‘ah* and *Al-Mufradāt fī Gharīb al-Qur’ān*. For his biography refer to al-Dhahabī, *Siyar*, vol.18, p.120, no.60.

(Qur. 8:27) i.e. what you have been entrusted.⁶

Al-Munāwī⁷ stated: “‘Al-amnu’ is: non-anticipation of something disliked occurring in the future.”⁸

‘Al-aminu’: is ‘to buttress’ the one who seeks protection for himself; ‘isti’man’ is to seek security from another; ‘isti’man ilaihi’ is one who has entered into another’s safety; ‘al-ma’man’ is: a safe and secure place.⁹

‘Isti’man al-ḥarbī’ (granting security to a combatant) is to grant him protection when he enters the abode of Islām with security and safety, and in turn, they are ‘mustāman’ (protected).¹⁰

The ‘mustāmin’, with a kasrah on the mīm, is an active participle, meaning to ‘seek security and safety’; with a faṭḥah on the mīm (i.e. mustāman], it refers to an object, i.e. the one ‘granted safety and security’; with a sīn and tā’, it indicates a transitive state, i.e. one who becomes ‘mu’āman’, or ‘protected.’

AL-AMĀN AS A TECHNICAL TERM

The definitions above were all related to the word ‘amān’ and its linguistic indications, as for our research, then we intend by it how the jurists utilised it within their books when they discussed the matter of “‘aqd al-amān’, or a covenant of security/safety-pact,” i.e. in its religious, political and legal contexts. More specifically, a

6. *Al-Mufradāt fī Gharīb al-Qur’ān*, article ‘amina.’

7. Zayn al-Dīn ‘Abd al-Rāūf al-Manāwī al-Qāhirī (d. 1031 AH/1622 CE), the celebrated author in the Islamic sciences and Arabic language; his works include *Fayḍ al-Qadīr Sharḥ al-Jāmi’ al-Ṣaḡīr li ‘l-Suyūṭī*, *Sharḥ al-Shamā’il al-Muḥammadiyyah li ‘l-Tirmidhī* and *Sharḥ al-Qāmūs al-Muḥīt*. For his biography see al-Zirkalī, vol.6, p.204.

8. Transmitted by al-Zabīdī in *Tāj al-Urūs*, article ‘amina.’

9. *Ibid.*, under article ‘amana.’

10. Al-Zamakhsharī, *Asās al-Balāghah*, article ‘amana.’

11. See *Al-Mawsū‘ah al-Fiqhiyyah*, vol.6, p.233, article ‘amān.’

binding contract which has results and consequences as opposed to a personal sense of security which is based on feelings and fluctuates from person to person; some people are assured by the least sense of security while others still remain in doubt, worry and confusion about it. This could also be combined with reasons for assurance, tranquillity and happiness, as is the case for most people as Allāh states:

﴿وَقَلِيلٌ مِّنْ عِبَادِيَ الشَّاكِرُونَ﴾

And few of My servants are grateful. (Qur. 34:13)

And Allāh says:

﴿وَلَكِنَّ أَكْثَرَ النَّاسِ لَا يَشْكُرُونَ﴾

...But most of the people do not show gratitude. (Qur. 2: 243)

This resembles the case of many refugees who seek asylum in Western countries, for many of them were expelled from their lands due to poverty, disease, oppression, persecution and death; then, Allāh enabled them to attain safety and sanctuary and enlivened them with the best of living, food, clothing and housing. Yet, we find that most of them complain and are disgruntled as they are a people who do not give thanks! The intent of a ‘mustāmin’ is: whoever enters an abode other than his with safety and security, be it a Muslim or a combatant.¹² Our study is with respect to a Muslim who enters a non-Muslim land with safety and security.

TECHNICAL TERMS THAT ARE CONNECTED TO THIS RESEARCH

1) ‘Al-jiwār’: [linguistically,] giving a man protection, to guard him and grant him protection; ‘istijāra’ when one seeks protection. In

12. *Radd al-Muhtār ʿalā ʿl-Darr al-Mukhtār*, vol.4, p.166.

the Mighty Revelation it is mentioned:

﴿وَأِنْ أَحَدٌ مِّنَ الْمُشْرِكِينَ اسْتَجَارَكَ فَأَجِرْهُ حَتَّىٰ يَسْمَعَ كَلَامَ اللَّهِ ثُمَّ أَبْلِغْهُ مَأْمَنَهُ ذَلِكَ بِأَنَّهُمْ قَوْمٌ لَا يَعْلَمُونَ﴾

And if any one of the polytheists seeks your protection (*istijāra*), then grant him protection (*fa ajirhu*) so that he may hear the words of Allāh. Then deliver him to his place of safety. That is because they are a people who do not know. (Qur. 9:6)

Al-Zujjāj¹³ said:

This means: if anyone from the people of war/combatants seeks from you sanctuary from death in order to hear Allāh's speech then grant him it, i.e. grant him safety and let him know what is obligatory to know of Allāh's instructions which clarify Islam to him, then convey him to his abode of safety so that no harm may befall him. It is said to the one who grants you protection that he is a 'jār' [neighbour] and that the one who has been granted protection is [likewise] called a 'jār' [neighbour]. The 'neighbour' is the one to whom you have given protection from an oppressor oppressing him.

The 'jār' and 'mujīr' is the one who prevents you and grants you protection; 'istijār', when you seek one's protection from so-and-so and so 'ajāra', he protects you from him. And the phrase 'ajārahu Allāh' from punishment means 'Allāh has saved him.' And a ḥadīth reads: "The lowest of them can grant him protection;"¹⁴ meaning: if one of

13. Abū Ishāq Ibrāhīm b. al-Sirrī b. Sahl al-Zujjāj (d. 311 AH/923 CE), a grammarian and linguist, who was born and died in Baghdad; of his well-known books are *Māāni al-Qur'ān*. For a biography of him refer to al-Dhahabī, *Siyar*, vol.14, p.360, no.209.

14. Reported by Aḥmad, *Musnad*, vol.2, p.180, no.6692; Abū Dawūd, *Sunan*, nos. 2751 and 4531; Ibn Mājah, *Sunan*, no.2685; Ibn Khuzaymah, *Sahīh*, no.2280 – from the ḥadīth of 'Abd Allāh b. 'Amr b. al-ʿĀṣ from the Prophet ﷺ: "The Muslims are one hand against [their enemies], their sanctity in blood is equal and the lowest of them can guarantee their protection..." The chain of transmission is authentic and has other supporting evidences in the ḥadīths of Ibn 'Abbās and Ma'qal b. Yāsār, both of which are in Ibn Mājah, nos.2683

the Muslims is sought for protection, be he free, a slave, or female, by a single non-Muslim or a group of disbelievers, then he/they granted safety and security. This is legalised for all Muslims and their giving protection and security is not to be broken.¹⁵

The giving of protection (*jiwār*) was practised by the Arabs in the Pre-Islamic period and since it agreed with the sharia of Allāh, it was asserted in Islam.

2) The ‘*mu‘āhid*’ and the ‘*mu‘āhad*’ are both terms for a doer (*fā‘il*) and the subject (*maf‘ūl*) as the action is related to two people and each does to the other as what is done to them; both carry the meaning of the doer and the one having the action done to him. This is similar to the terms ‘*makātib*’ and ‘*makātab*’, ‘*mudārib*’ and ‘*mudārab*’ and the likes. The ‘*ahd*’ (covenant) implies security, trust and protection, such as when it is said to a combatant who enters the abode of Islam with a promise of protection, that he is ‘*dhū ‘ahd*’ and a ‘*mu‘āhid*’. Most of the *ḥadīth* which employ this term refer to the *dhimmi*s (Ahl al-Dhimmah) but it is also applied to other disbelievers if there has been a pact made with them to abandon fighting (against Muslims) for a said period of time.¹⁶

and 2684; from the *ḥadīth* of ‘Ā’ishah which is in Abū Ya’lā, *Al-Musnad*, no.4757 and from the *ḥadīth* of ‘Alī b. Abī Ṭālib which will follow shortly.

15. Ibn Manẓūr, *Lisān al-‘Arab*, under article ‘*jawara*.’

16. *Ibid.*, under article ‘*ahd*’; also see al-Fayūmī, *Al-Muṣbāḥ al-Munīr fī Gharīb al-Sharḥ al-Kabīr*, under article ‘*ahd*.’

The Legitimacy of Muslims Granting Combatant Non-Muslims Protection, and the Obligation of Fulfilling Pledges and Contracts

It is clear to us from the previous section that ‘protection’ is of two types: 1) Non-Muslims entering into the protection of Muslims; 2) Muslims entering into the protection of non-Muslims.

I believe it is appropriate here to present a brief report about the first type, even if it is somewhat outside the scope of this treatise. This aspect entails many detailed rulings mentioned in the books of fiqh. Highlighting these rulings here is useful because of the connection they have to our subject from the perspective that Allāh and His Messenger ﷺ have made honouring contracts of protection an obligation on Muslims, and this entails adhering to the obligations and terms established by, and within each, of the categories mentioned above.

Just as Muslims like to be treated with honesty and uprightness, and just as they seek to avoid deception and treachery, it is also a religious obligation for them to treat others fairly and based on a solid foundation made of exemplary principles and upright demeanour. The religion is not established, nor is human life reformed, without coexistence between people who are joined through shared laws, the most important of which are justice and adherence to covenants and contracts.

Muslim scholars agree on the permissibility of providing non-Muslims protection when they enter the Land of Islam for a period of time, provided there is a need, and provided there is benefit in

doing so.¹⁷ The basis of this ruling is found in Allāh’s statement:

﴿ وَإِنْ أَحَدٌ مِّنَ الْمُشْرِكِينَ اسْتَجَارَكَ فَأَجِرْهُ حَتَّىٰ يَسْمَعَ كَلَامَ اللَّهِ ثُمَّ أَبْلِغْهُ مَأْمَنَهُ ذَلِكَ بِأَنَّهُمْ قَوْمٌ لَا يَعْلَمُونَ ﴾

And if any one of the polytheists *istajāraka*, then grant him protection so that he may hear the Word of Allāh and then escort him to where he can be secure, that is because they are men who know not. (Qur. 9:6)

Abū Bakr b. al-‘Arabī¹⁸ said:

‘Istajāraka’ means, they ask for your ‘jiwār’, that is, your protection and [promise of] safety. So grant them this promise so that they may hear the Quran. If they accept it, then it is good; if they refuse, then “send them back to their place of safety.” This verse concerns those who want to hear the Quran and investigate Islam. As for providing protection for anyone else, it is done for the benefit of Muslims, and therefore, the benefit this may bring should be considered.¹⁹

It is narrated from ‘Alī b. Abī Ṭālib that the Prophet ﷺ said:

« ذِمَّةُ الْمُسْلِمِينَ وَاحِدَةٌ يَسْعَىٰ بِهَا أَدْنَاهُمْ ، فَمَنْ أَحْفَرَ مُسْلِمًا فَعَلَيْهِ لَعْنَةُ اللَّهِ وَالْمَلَائِكَةِ وَالنَّاسِ أَجْمَعِينَ ، لَا يَقْبَلُ مِنْهُ صَرْفٌ وَلَا عَدْلٌ »

The protection (dhimmah) granted by a Muslim is like the protection granted by all Muslims; this right is extended to the very layman. Whoever harms (akhfara) a non-Muslim who was granted protection

17. Refer to *Al-Awsaṭ*, vol.ii, p.255, *Al-Ijmā’*, p.64, *Al-Mughnī*, vol.12, p.79, as well the evidences and statements from the people of knowledge that will be presented within this book, Allah-willing.

18. He is Muḥammad b. ‘Abd Allāh b. Muḥammad al-Mu‘āfirī al-Andalusī (d.543 AH/1148 CE), of the Mālikī Imāms, a jurist, muḥaddith, exegete, uṣūlī, adīb and mutakallim; he has many works including *‘Aridab al-Aḥwadhī fī Sharḥ al-Tirmidhī*, *Al-Qabas fī Sharḥ Muwaṭṭā’ Mālik b. Anas*, *Al-‘Awāṣim min al-Qawāṣim* and *Aḥkām al-Qur’ān*. For his biography refer to al-Dhahabī, *Sīyar*, vol.20, p.197, no.128.

19. *Aḥkām al-Qur’ān*, vol.2, p.458; transmitted by al-Qurṭubī in *Al-Jāmi‘ li Aḥkām al-Qur’ān*, Qur. 9:6; al-Qurṭubī said “there is no difference of opinion on this issue.”

by a Muslim, then the curse of Allāh, the angels, and all the people will be on them (the aggressors), and no obligatory or voluntary [good] deed will be accepted from them.²⁰

Ibn Ḥajr²¹ said:

This [prophetic] statement: “The dhimmah by a Muslim is like the protection granted by all Muslims” means, their protection is valid. Therefore, if a Muslim grants a non-Muslim protection, then, it is impermissible for anyone to harm the protected person(s). Giving protection has well-known conditions. Al-Bayḍāwī²² said, “Dhimmah means, ‘a covenant’; it is called this because the person who grants it will be chastised (yudhammu) if he doesn’t preserve it.” [The Prophet’s ﷺ] statement: “This right is extended” means that one can initiate it and do the necessary actions to accomplish it. The implication here extends to protection granted by a Muslim, whether given by one person or a group [of Muslims], and whether given by a nobleman or a layman. Therefore, if a Muslim gives protection to a non-Muslim, no one is allowed to breach this promise. Everyone has equal entitlement in this regard, men and women, whether free or slaves, because Muslims are like one body. And [the Prophet’s ﷺ] statement: “Whoever harms (akhfara)” means, whoever breaks the covenant. [Linguistically,] ‘khafartuhu’, without an alif, means to give someone protection, while ‘akhfartuhu’, means, to break someone’s covenant.²³

20. Al-Bukhārī, *Al-Ṣaḥīḥ*, no.1870; and Muslim, *Al-Ṣaḥīḥ*, no.1370.

21. Abū al-Faḍl Aḥmad b. ‘Alī b. Muḥammad al-‘Asqalānī al-Shāfi‘ī (d. 852AH/1448 CE); a scholar, muḥaddith, faqīh and author of the most famous explanation of Imam al-Bukhārī’s *Al-Ṣaḥīḥ*. His origins are from Ashkelon, Palestine, but he was born and later died in Cairo. His biography is found in *Al-‘Ālām*, vol.1, p.178.

22. Abū al-Khair ‘Abd Allāh b. ‘Umar b. Muḥammad al-Bayḍāwī (d. 691AH/1292 CE): a judge, faqīh, uṣūlī, and mutakallim. He was born in the city of Al-Bayḍā near Shiraz and died in Tabriz; his books include *Al-Minbāj al-Wajīz* on the principles of fiqh and his famous explanation of the Quran, *Anwār al-Tanzīl wa Asrār al-Tāwīl*. His biography is found in *Al-‘Ālām*, vol.3, p.110.

23. Ibn Hajar, *Fatḥ al-Bārī Sharḥ Ṣaḥīḥ al-Bukhārī*, vol.4, p.112, no.1870.

Many reported authentic ḥadīths emphasize the importance of preserving a promise of protection given to a mu‘āhad (a protected person), preserving their life, as well as warning against betraying covenants.

For example, ‘Abd Allāh b. ‘Amr b. al-‘Āṣ narrated that the Prophet ﷺ said:

« مَنْ قَتَلَ نَفْسًا مُعَاهِدًا لَمْ يَرِحْ رَائِحَةَ الْجَنَّةِ، وَإِنَّ رِيحَهَا تُوجَدُ مِنْ مَسِيرَةِ أَرْبَعِينَ عَامًا »

Whoever kills a mu‘āhad (under a promise of protection), will not smell the scent of Paradise; and surely its scent can be smelled from the distance of a 40 year journey.²⁴

In another narration:

« مَنْ قَتَلَ قَتِيلًا مِنْ أَهْلِ الدِّمَّةِ لَمْ يَجِدْ رَائِحَةَ الْجَنَّةِ، وَإِنَّ رِيحَهَا لَيُوجَدُ مِنْ مَسِيرَةِ أَرْبَعِينَ عَامًا »

Whoever kills a soul from those being protected (Ahl al-Dhimmah) will not find the smell of Paradise, and indeed its smell can be found from as far away as a 40 year journey.²⁵

Abū Bakrah al-Thaqafī narrated that the Messenger of Allāh ﷺ said:

« مَنْ قَتَلَ مُعَاهِدًا فِي غَيْرِ كُنْهِهِ حَرَّمَ اللَّهُ عَلَيْهِ الْجَنَّةَ »

Whoever kills a mu‘āhad while the protection is still valid, Allāh has made Paradise forbidden for them.²⁶

24. Reported by al-Bukhārī in his *Al-Ṣaḥīḥ*, nos.3166 and 6914; Ibn Mājah, *Sunan*, no.2686.

25. Authentic; collected by Aḥmad, *Musnad*, vol.2, p.186, no.6745; Al-Nasā’ī in both *Al-Muḥtabā*, vol.8, p.25, and *Al-Sunan al-Kubrā*, nos.6952 and 8742.

26. Authentic: Reported by Aḥmad, *Musnad*, vol.5, p.36, no.20377; vol.5, p.39, no.20403; al-Dārimī, *Sunan*, no.2504; Abū Dawūd, *Sunan*, no.2760; al-Nasā’ī, *Al-Muḥtabā*, vol.8, p.25, no.4747; al-Nasā’ī, *Al-Sunan al-Kubrā*, no.6949; Ibn al-Jārūd, *Al-Muntaqā*, nos.835 and 1070; al-Ḥākim, *Al-Mustadrak*, vol.2, p.142 and he said: “This ḥadīth has an authentic chain of transmission, and al-Bukhārī and Muslim did not report it.”

Abu Hurairah also narrated that the Prophet ﷺ said:

« أَلَا مَنْ قَتَلَ نَفْسًا مُعَاهِدًا لَهُ ذِمَّةُ اللَّهِ وَذِمَّةُ رَسُولِهِ ، فَقَدْ أَخْفَرَ بِذِمَّةِ اللَّهِ ، فَلَا يُرِخُ رَاحَةَ الْجَنَّةِ »

Whoever takes the life of a mu‘ahad who was granted the covenant [of protection] of Allāh and His Messenger, then they have betrayed the covenant of Allāh, and consequently, he will not smell the fragrance of Paradise.²⁷

The verse about granting protection (Qur. 9:6), along with the above-mentioned ḥadīths, demonstrate that whoever comes from Dār al-Ḥarb (a Land of War) to Dār al-Islam (Muslim Land), in order to deliver a message, or for trade, study or tourism, or to ask for a treaty or a truce, or for any other reason, and asks the Muslim Leader or his representative for protection, then they will be granted protection as long as they move about within Dār al-Islam, until they return to their place of safety and residence.²⁸

This rule includes, by default, the dhimmi who decides to permanently reside in the Islamic lands; killing such a person is severer than the crime of killing a mu‘ahad, who was promised unrestricted safety, or a mu‘amman, who is being protected for a specified, limited period of time.²⁹

For this reason, al-Bukhārī³⁰ entitled the first ḥadīth under

27. Ibn Mājah, *Al-Sunan*, no.2687; al-Tirmidhī, *Al-Jāmi‘*, no.1403; al-Ḥākim, *Al-Mustadrak*, vol.2, p.127. Al-Tirmidhī stated: “it is ḥasan ṣaḥīḥ” and al-Ḥākim authenticated it as being on the condition of Muslim; al-Albānī also authenticated it in *Ṣaḥīḥ Ibn Mājah*, no.2176.

28. Ibn Kathīr made a similar statement in *Tafsīr al-Qur‘ān al-A‘ẓim*, Qur. 9:6.

29. *Nihāyat al-Muḥtāj*, vol.7, p.246; *Hāshiyah al-Jamal*, vol.5, p.2.

30. Abū ‘Abd Allāh Muḥammad b. Ismā‘īl al-Bukhārī (d. 256 AH/780 CE), the Imam and Ḥāfiẓ, compiler of *Al-Jāmi‘ al-Ṣaḥīḥ*, famously known as *Ṣaḥīḥ al-Bukhārī*. He was a sign [of Allāh] in memorisation, fiqh, knowledge and intelligence. He was born in Bukhara and raised as an orphan, he travelled far and wide for knowledge and died in Khartank, a

“Chapter: The Sin of Killing a Dhimmī Without [Legal] Cause.”

Ibn Ḥajr stated in his explanation:

This is in regards to the dhimmī and reports have also been relayed in regards to the mu‘āhid; in the [*Book of*] *al-Jizyah* it has been mentioned with the wording: “Whoever kills a mu‘āhid” as is apparent in the report. The intended meaning of it is: whoever has a pact with the Muslims, whether it is an agreement related to jizyah, a truce from the Sultān or a protection guarantee with a Muslim. It is as though the author, by this chapter heading, was eluding to the report of the ḥadīth which has the wording “Whoever kills a person from the people of dhimmah...”³¹

These ḥadīths emphasize the seriousness of the crime of killing a non-Muslim mu‘āhad, and this stern warning indicates that it is a major sin and that there is no difference, from this point of view, between killing a Muslim or a non-Muslim, without a justifiable cause. For this reason, Ibn Ḥajr al-Haitamī³² considered “killing a Muslim or an innocent dhimmi, whether intentionally or with partial-intent” a major sin³³; he then mentioned the general verses and ḥadīths which either threaten those who commit murder or emphasise the sanctity

small village in Samarqand. For a biography of him refer to al-Dhahabī, *Siyar*, vol.12, p.391, no.171.

31. *Fatḥ al-Bārī*, vol.12, p.323, no.6914. The narration which is being alluded to is that of Ibn ‘Amr.

32. Aḥmad b. Muḥammad b. ‘Alī b. Ḥajr al-Haitamī (d. 974AH/1567 CE); a Shāfi‘ī faqīh who is famous for his many written works, including *Al-Ṣawāṭiq al-Muḥriqah ‘ilā Abl al-Bid‘ wa ‘l-Ḍalal wa ‘l-Zandaqah*, *Tuḥfah al-Muḥtāj bi Sharḥ al-Minhāj* and *Al-Fatāwā*. For his biography refer to al-Dhahabī, *Siyar*, vol.1, p.234.

33. [TN]: intentional murder [premeditated] is wherein there is no doubt that the intent was to murder; whereas partial intent [manslaughter] is wherein the killer did not intend to murder the victim such as hitting a person with a stick which results in the death of a person.

of life.³⁴ Everything narrated in this regard is inclusive of those who kill non-Muslims without a justifiable cause.

34. *Al-Zawājir ʿan Iqtirāf al-Kabāʾir*, no.313.

The Permissibility of Receiving a Promise of Protection from Non-Muslims for a Compelling Need

This scenario is the subject of our treatise, and it is the opposite to the previous scenario in the sense that, here, Muslims are seeking the protection of non-Muslims; the non-Muslims are the protectors and Muslims are the ones being protected.

The scholars agree to the permissibility of this type of contract, given the need for it and that it produces a benefit for the Muslim.³⁵ No doubt, someone with a sound mind, whether Muslim or non-Muslim, would not enter into a contract without first considering the need for it and its consequences, then, weighing its benefits against its disadvantages, choosing what is better and more beneficial for themselves. Muslims will choose, in this case -and in all of their affairs-, what is better for their religion. As for those who are unconcerned with religion, they will choose that which is more advantageous to their worldly life.³⁶

THE PROPHET ﷺ UNDER THE PROTECTION OF POLYTHEISTS

The Messenger of Allāh ﷺ was the first (Muslim) to come under

35. This agreement is clear according to the numerous evidences and texts reported from various scholars that we have presented so far in this treatise, and hereafter.

36. This opinion is connected to the rulings, conditions, and regulations concerning residing in the lands of non-Muslims. This issue is explained in books of tafsīr (exegesis of the Quran), explanations of the Sunnah, fiqh (jurisprudence, law) and the works of contemporary scholars and researchers in their fatwas, individual treatises and studies. I have not discussed this topic here because the purpose of my treatise is to bring to light legal rulings regarding a present and current state of affairs, not its existence.

the protection of the disbelievers; he ﷺ was protected by his paternal uncle, Abū Ṭālib, who was his helper, refuge, supporter, and deterrent against his people. When Abū Ṭālib died three years before the Prophet's ﷺ migration to Medina, the Quraysh were able to physically harm the Messenger of Allāh ﷺ in a way they would not have attempted in the presence of Abū Ṭālib. Thereafter, the Messenger of Allāh ﷺ went to Al-Taif to request support from the tribe of Thaqeef, and to seek protection against his own people, the Quraysh. He ﷺ hoped that the people of Al-Taif would accept the message Allāh sent him with. However, they didn't accept his call. Rather, they harmed the Prophet ﷺ and enticed their fools and slaves to curse and yell at him. As a result, the Messenger of Allāh ﷺ returned to Mecca but was unable to enter the city, until he came under the protection of al-Muṭ'im b. 'Adī.³⁷

AL-ṢIDDĪQ UNDER THE PROTECTION OF A POLYTHEIST

A group from the early believers entered into covenants of protection under polytheists. Among them was the best person of this nation after its Prophet ﷺ: Abū Bakr al-Ṣiddīq. 'Ā'ishah narrated:

When the believers were being persecuted (by Mecca's pagans), Abū Bakr left for Abyssinia to join the (Muslim) migrants there. When he reached Bark al-Ghimād [near Mecca], he met with Ibn al-Daghinah, who was the leader of Al-Qārah.³⁸ Ibn al-Daghinah asked Abū Bakr: "Where do you intend to go, Abū Bakr?" Abū Bakr replied: "My people have expelled me, and I want to travel the earth and worship

37. Ibn Hisham, *Al-Sīrah al-Nabawīyyah*, vol.1, p.419. The complete story of Abū Ṭālib and Muṭ'im b. 'Adī will be mentioned, along with the reference, in the end of this book.

38. Al-Qārah: a tribe known to be excellent archers. Their full tribal name is: Banū al-Hūn b. Khuzaymah b. Mudrikah b. Ilyās b. Muḍar. They were called 'Al-Qārah' because in one of their wars with the Banū Bakr tribe they lined up on a qārah, which, according to Ibn Duraid, is "a black mound with rocks on it." Refer to Al-'Aynī, *Umdah al-Qārī*, vol.12, p.124.

my Lord.” Ibn al-Daghinah said: “The likes of you do not leave, nor are they to be expelled; you aid the destitute, keep blood relations and help the weak; you’re hospitable to your guests, and you grant support during times of distress! Therefore, I am a protector for you, so go back and worship your Lord in your land.”

Subsequently, Ibn al-Daghinah went back with Abū Bakr and circumambulated (the Ka‘bah) before the leaders of Quraysh. He said to them: “Those like Abū Bakr should not leave or be expelled. Are you a people who would expel a person who aids the destitute, keeps blood relations, helps the weak, is hospitable to guests, and supports others in times of distress?” The Quraysh accepted the protection of Ibn al-Daghinah and assured Abū Bakr’s safety. However, they said to Ibn al-Daghinah: “Tell Abū Bakr to worship his Lord in his home, where he can pray and read what he wishes to read [of the Quran] but not to bother us with it or recite it in public. We fear that he will tempt our sons and daughters by it.” Ibn al-Daghinah told Abū Bakr what they said, and so, Abū Bakr continued worshipping Allāh at home, praying and reading Quran. Then, Abū Bakr had the idea to build a masjid in the courtyard of his house, and so he did; he started praying in it and reciting Quran. As a result, women and children from the polytheists would congregate around the area where Abū Bakr was praying, amazed at his actions, and watching him. Abū Bakr was a man who cried often, for he couldn’t help shedding tears when he recited the Quran.

The leaders of the Quraysh became alarmed by this and summoned Ibn al-Daghinah. When he arrived, they said to him: “We honoured your protection of Abū Bakr on the condition that he would worship his Lord in his home. However he has violated this condition and built a masjid in the courtyard of his house; he then publicly prayed and recited (the Quran) there. We fear that he will tempt our women and children, so summon him here. If he agrees to limit himself to only worshipping

his Lord in his home, then fine. But if he refuses and continues his public conduct, then ask him to revoke your covenant with him, for surely we hate to betray you [by breaching your protection of him]. But we don't agree with Abū Bakr's public conduct." Ibn al-Daghinah went to Abū Bakr and said: "You know what we agreed on, so either limit yourself to our agreement, or release me from my covenant with you, because I would not like the Arabs to hear that I was betrayed concerning a man to whom I gave a covenant (of protection)." Abū Bakr replied: "I withdraw from your protection of me, and I am pleased with the protection of Allāh."³⁹

A GROUP OF EARLY BELIEVERS UNDER THE PROTECTION OF A POLYTHEISTIC NATION

This group comprised of some of the Companions who had

39. Aḥmad, *Al-Musnad*, vol.6, p.198, no.25626; al-Bukhārī, *Al-Ṣaḥīḥ*, nos.2298 and 3906; Ibn Khuzaymah, *Al-Ṣaḥīḥ*, no.265 and Ibn Ḥibbān, *Ṣaḥīḥ*, nos.2677 and 6868; al-Muhallab b. Abī Ṣufrah al-Azdī (d. 435/1044) said:

This type of protection was well known among the Arabs. Prominent Arabs used to protect those who asked for their protection, just as Abū Ṭālib protected the Prophet ﷺ. This protection is only given due to oppression and enmity. Therefore, the understanding here is that if a believer fears being harmed by an oppressor, then it is allowed and permissible for them to seek protection from anyone who will defend and protect them from oppression, even if the protector is a non-Muslim, if one wishes to benefit from this concession that is. However if one does not wish to apply this concession, they have the right to do so, just as Abū Bakr revoked the protection Ibn al-Daghinah promised him and was satisfied with the protection of Allah and His Messenger ﷺ. Abū Bakr, at that time, was among the weak and oppressed; however, he preferred patience in the face of the harm the polytheists [of Mecca] inflicted on him, hoping (for aid and reward) from Allah and feeling certain of that. Allah fulfilled what Abū Bakr was certain of, and therefore, no harm afflicted him, until Allah gave His Prophet ﷺ the permission to migrate [to Medina]. Abū Bakr accompanied the Prophet ﷺ, and Allah saved them both from the plots of their enemies. Allah indeed achieved His decision of making prophethood apparent and raising high His religion. Abū Bakr has the virtue and precedence in supporting his prophet and in sacrificing himself and his wealth in a way that isn't heard of, nor was known before.

Quoted by Ibn Baṭṭāl al-Qurtubī (d. 449 AH/1057 CE) in *Sharḥ Ṣaḥīḥ al-Bukhārī*, vol.6, p.430.

emigrated to Abyssinia and then returned when they heard that the people of Mecca had accepted Islam. Ibn Iṣḥāq⁴⁰ said:

It reached the Companions of the Messenger of Allāh who had migrated to the land of Abyssinia that the people of Mecca accepted Islam, and so they returned based on this news. When they approached Mecca, they were informed that what they were told, regarding the Meccans accepting Islam, was false, and therefore, none of them entered it except under protection or in secret. Those who entered under the protection [of some of Mecca's pagans] included 'Uthmān b. Maẓ'ūn b. Ḥabīb al-Jumaḥī, who entered under the protection of al-Walīd b. al-Mughīrah; Abū Salamah b. 'Abd al-Asad b. Hilāl b. 'Abd Allāh b. 'Umar b. Makhzūm, who entered under the protection of Abū Ṭālib b. 'Abd al-Muṭṭalib, who was his maternal uncle as the mother of Abū Salamah was Barraḥ bint 'Abd al-Muṭṭalib.⁴¹

THE FOREMOST BELIEVERS WHO TOOK REFUGE EN MASSE IN A JUST NON-MUSLIM COUNTRY

The previous examples demonstrate a person or a group of people coming under the protection of a person due to the status and influence that person has in their society pertaining to their caste or social class. This was the type of protection prevalent within the common customs of the pre-Islamic period. This type was in agreement with the sharia of Allāh, and therefore, Islam recognised it and made it a religious obligation to fulfil its terms.

As for the migration to Abyssinia, then it is another example

40. Muḥammad b. Iṣḥāq b. Yasār al-Muṭṭalibī al-Madanī (d. 151/768 CE), a scholar of ḥadīth, a ḥafīẓ and one of the earliest historians of Islam. He lived in Medina then moved to Baghdad where he died. One of his books is *Al-Sīrah al-Nabawīyyah*, which was later condensed by Ibn Hishām. Ibn Iṣḥāq's biography is found in al-Dhahabī, *Siyar*, vol.7, p.33, no.15.

41. Ibn Hishām, *Al-Sīrah al-Nabawīyyah*, vol.1, p.364.

and has more importance and consequence in that it resembles the ‘political refugee’ and ‘humanitarian’ systems for which major powers in the modern era have formulated binding laws and regulations for all states. Undoubtedly, this is one of the better aspects of Western civilisation, a compassion and mercy which Allāh has placed in the hearts of some people, just as He said:

﴿ وَقَفَّيْنَا بِعِيسَى ابْنِ مَرْيَمَ وَآتَيْنَاهُ الْإِنْجِيلَ وَجَعَلْنَا فِي قُلُوبِ الَّذِينَ اتَّبَعُوهُ رَأْفَةً وَرَحْمَةً ﴾

And We sent Jesus the son of Mary, and gave him the Injil (Gospel).

And We ordained in the hearts of those who followed him, compassion and mercy. (Qur. 57:27)

Sheltering the oppressed, aiding the distressed and showing mercy to the weak are traits that pure dispositions and honourable souls are guided to, even among the pagan Arabs and Christian Abyssinians. The true religion, Islam, came to perfect these noble traits, reinforce them, and transform them from being social duties which are sought to gain prestige, fame and praise, to being sincere acts of worship to Allāh that are performed for His pleasure and for winning His everlasting gardens and eternal happiness in Paradise.

CONTEXT OF THE STORY OF THE MIGRATION TO ABYSSINIA

Let us narrate the story of the migration to Abyssinia then extract some benefits and lessons from it: after mentioning the types of opposition the Quraysh directed against the call of the Messenger of Allāh ﷺ, and their arrogance and enmity towards it, Ibn Iṣḥāq said:

The Quraysh began to torture the Prophet’s Companions who accepted Islam and followed the Messenger of Allāh ﷺ. Every tribe detained those who became Muslim from among them who were weak, and then tortured them, denied them food and water, and used the scorching heat of Mecca during the hottest part of the day [by exposing them to

the sun or to heated stones]. The pagans persecuted (the Muslims) to tempt them to leave their religion. Some of them succumbed due to the harsh afflictions they were tried with. Others endured the punishment, and Allāh saved them from reverting... At that point, some of the Companions of the Messenger of Allāh ﷺ migrated to al-Ḥabashah (Abyssinia) out of fear of persecution, in order to flee to Allāh with their religion. This was the first migration in Islam.⁴²

This first migration occurred in the lunar month of Rajab, five years after the Prophet ﷺ was commissioned by Allāh. Those who migrated consisted of 10 men and four women. The most famous among them were: ‘Uthmān b. ‘Affān and his wife, Ruqayyah, the daughter of the Messenger of Allāh ﷺ; also among them were al-Zubair b. al-‘Awwām, Muṣ‘ab b. ‘Umair, ‘Abd al-Raḥmān b. ‘Awf, Abū Salamah ‘Abd Allāh b. ‘Abd al-Asad al-Makhzūmī, along with his wife Umm Salamah, and ‘Uthmān b. Maz‘ūn.⁴³ They didn’t stay long in Abyssinia, because as stated, they received news that the people of Mecca became Muslim, so they returned to it in the lunar month of Shawwal of the same year. When they were close to Mecca, they came to know that the news they received was false. Consequently, some of them returned to Abyssinia, while others entered Mecca in secret or under the protection of some of the Quraysh as was previously explained.

The Quraysh continued its enmity towards the Islamic call and became harsher on the believers. As a result, the Messenger of Allāh ﷺ ordered his oppressed Companions to migrate once again. This was the second migration to Abyssinia, and this time their number

42. Ibn Hishām, *Al-Sirah Al-Nabawiyah*, vol.1, pp.317, 321.

43. *Ibid.*, vol.1, pp.332 and 364.

was larger, more than 80 men and 11 women.⁴⁴ The Quraysh understood the danger that may result from this migration, so they sent a delegation to Abyssinia to extradite the refugees back to Mecca.

THE ḤADĪTH OF UMM SALAMAH ABOUT THE MIGRATION TO ABYSSINIA

Umm Salamah, the Prophet's ﷺ wife, recorded an important incident pertaining to the story of the migration to Abyssinia, in an excellent manner which has benefited everyone⁴⁵; she narrated:

[Mecca became difficult for us to bear as the Companions of the Messenger of Allāh ﷺ were harmed and oppressed. They suffered trials and persecution regarding their religion. The Messenger of Allāh ﷺ could not help them. The Messenger of Allāh ﷺ himself was protected (from harm) by his sub-tribe and his uncle (Abū Ṭālib), and therefore, no harm that fell upon his Companions touched him. The Messenger of Allāh ﷺ then said (to his Companions): “In Abyssinia, there is a king who doesn't allow anyone in his domain to be oppressed, so migrate to

44. Ibn Sa'd, *Al-Ṭabaqāt al-Kubrā*, vol.1, p.162.

45. The Mother of the Believers, Hind b. Abū Umayyah al-Qurashiyah al-Makhzūmiyyah. She migrated with her husband, Abū Salamah, to Abyssinia in the first migration. They both went back to Mecca, only to participate again in the second migration. Then, they returned to Mecca once again, and the Quraysh physically abused Abū Salamah. When Abū Salamah received news of the Anṣār of Medina accepting Islam, he migrated there one year before the Pledge of Allegiance was given to the Prophet ﷺ by some of the Medinians at al-ʿAqabah, an area close to Mecca. Umm Salamah followed Abū Salamah a few days later. Abū Salamah participated in the battles of Badr, and then ʿUḥūd, during which he was struck by an arrow; he lived for five –or seven– months after that before passing away. The Prophet ﷺ then married Umm Salamah in the fourth year after the migration to Medina (625 CE). Umm Salamah lived long after the Prophet ﷺ died; she died at the end of year 61 Hijri (681CE), at the age of 90. She had four children with Abū Salamah: ʿUmar, Salamah, Zainab, and Durrah. She was the last Mother of the Believers to die, may Allah be pleased with all of them. Refer to her biography in Ibn Sa'd, *Al-Ṭabaqāt al-Kubrā*, vol.3, p.239, vol.8, p.86; al-Mizzī, *Tabdhīb al-Kamāl*, vol.35, p.317, no.7941; al-Dhahabī, *Siyar*, vol.2, p.201, no.20; Ibn Ḥajr, *Al-Isābah fī Tamyiz al-Ṣaḥābah*, vol.4, p.131, no.4801, vol.8, p.404, no.12065.

him, until Allāh gives you relief and a way out of what is happening to you.” Subsequently, we left in waves, until we all met up there.]

When we reached the land of Abyssinia, we were neighbours to a good neighbour, al-Najāshī.⁴⁶ We safeguarded our religion [and didn’t fear any oppression from him]. We worshipped Allāh without being harmed and didn’t hear anything we disliked. When the Quraysh came to know of this, they conspired to send two resourceful men to al-Najāshī who would take gifts to him from what is sought from the goods of Mecca. Among the likeable gifts they sent to him was tanned leather for which they collected a large quantity of. They also didn’t leave a single patriarch (which also means, commander) in the king’s court without sending a gift for him. They sent the gifts with ‘Abd Allāh b. Abī Rabī’ah b. al-Mughīrah al-Makhzūmī and ‘Amr b. al-Āṣ b. Wā’il al-Sahmī. The (Quraysh) gave them their orders, saying to them: “Give every patriarch his gift, before you talk to al-Najāshī about them (Muslims), and then give al-Najāshī his gifts. Then ask him to hand (the Muslims) over to Mecca before he speaks to them.”

(The two men) left (Mecca) and approached Abyssinia, where we were living in the best residence and next to the best neighbours; there was no patriarch who didn’t receive a gift, before they spoke to al-Najāshī. They said this to every patriarch: “Some of our young and foolish people have changed their religion and came to the land of the king. They left the religion of their people, yet they didn’t enter your religion. They invented a new religion that neither we nor you know. The noblemen of their people sent us to the king to extradite them (the Muslims) back (to Mecca). So, when we speak to the king about them, advise the king to give them up to us and to not speak to them. Surely,

46. Al-Najāshī is the title of the kings of Abyssinia; this particular king’s name was Aṣḥamah b. Abjar. He is the king who sheltered the Muslim migrants, and accepted Islam through them as we will soon mention.

their people are more aware of their actions and more knowledgeable of the faults they have committed.” The [noblemen] all said to the two men: “Agreed.”

When (the two men) met al-Najāshī, they brought his gifts close to him, and he accepted the gifts. Then they spoke to him, saying: “O King! Some of our young and foolish people have changed their religion and came to your land; they left the religion of their people, yet did not embrace your religion. They invented a new religion that neither we nor you know. The noblemen of our people, from their fathers, uncles, and families, sent us to you to extradite them. They are more aware of their actions and more knowledgeable in the faults they have committed because of which they admonished them.” There was nothing which angered ‘Abd Allāh b. Abī Rabī‘ah and ‘Amr b. al-‘Āṣ more than hearing al-Najāshī hearing the [refugees] out. The military experts around al-Najāshī said to him: “Believe these two O king! For their people have more knowledge about them and their shameful actions. Hand them over to them so as to send them back to their land and people.” Al-Najāshī became angry, and said, “No, by Allāh, if they have entered my land, I will not surrender them. I will not surrender people who have become my neighbours, who came to my land and chose me over everyone else, until I summon them and ask them about what these two men said about them. If they are as they say, then I will surrender them to be extradited back to their people. However, if they are not as they say, I will protect them from these two men, and I will be a hospitable neighbour to them for as long as they are my neighbours.”

(The king) then sent for the Companions of the Messenger of Allāh ﷺ, summoning them to his court. When his messenger reached them, they gathered and some of them said to the others: “What will you say to [al-Najāshī] when you meet him?” They said: “By Allāh, we will say that which we know and whatever our Prophet ﷺ ordered us,

and whatever happens, happens.” When they went to meet him, the archbishop of al-Najāshī had also been summoned and was present. The (priests) spread their gospels around the king. The king asked (the Muslims): “What is this religion that has caused you to part with your people, yet you haven’t embraced my religion or the religion of any other nation?”

Ja‘far b. Abī Ṭālib (the Prophet’s ﷺ paternal cousin) was the one who spoke to the king, saying to him: “O King! We were a people of ignorance; we worshipped idols, we ate carrion and committed immoral actions, we severed blood relations, we were bad to our neighbours and the strong used to overwhelm the weak among us. We remained like this, until Allāh sent a Messenger to us whose lineage is known to us, and so is his honesty, trustworthiness, and virtuousness. He called us to single out Allāh and to worship Him (alone), and to renounce everything we and our forefathers worshipped besides Him, including rocks and idols. He ordered us to be truthful when we spoke, to fulfil trusts, to keep blood relations, to be good neighbours, and to avoid unlawful things and shedding blood. He forbade us to commit immoral actions, utter falsehood, illegally consume the wealth of orphans, and falsely slander chaste woman. He ordered us to worship Allāh, alone, and not associate anything or anyone with Him (in worship). He ordered us to establish prayer, pay zakat, and fast.”

Ja‘far mentioned the commandments of Islam, then continued: “So we had faith in him (Prophet Muḥammad ﷺ), believed in him, and followed what he brought. We worship Allāh alone and do not associate anyone with Him (in worship). We forbid what he forbade for us, and make lawful what he made lawful for us. But, our people treated us unjustly. They tortured us and tempted us to leave our religion and return to worshipping idols instead of worshipping Allāh, and to make the impure things we used to make lawful, lawful again.

When they overwhelmed us, oppressed us, made things difficult for us, and interfered between us and our religion, we came to your land, chose you over anyone else, and sought to live under your protection, hoping that no one in your dominion would be oppressed, O King!”

Al-Najāshī said to Ja‘far: “Do you have anything from what (the Prophet) came with?” Ja‘far said to him: “Yes.” Then, al-Najāshī said to him: “Recite it to me.” So Ja‘far recited the beginning of Kāf Hā Yā ‘Ain Ṣād (Qur. 19:19). Al-Najāshī cried, by Allāh, until his beard was soaked. His patriarchs also cried, until their tablets became soaked when they heard the words that were recited to them. Al-Najāshī said: “This, by Allāh, and what Mūsā (Moses) brought, came from the same lamp. (Then he said to the two Meccans:) Go back, for by Allāh, I will not hand them over to you, and I do not fear the consequences (of this decision).”⁴⁷

When the two men left al-Najāshī, ‘Amr b. al-Āṣ said: “By Allāh I will inform him tomorrow about something with which he will find fault and with which I will defeat them (Muslims) utterly.” ‘Abd Allāh b. Abī Rabī‘ah, who was the better man among the two from our people, said to him: “Do not do that, because they are relatives to us, even if they disagree with us and oppose us.” ‘Amr said: “By Allāh, I will tell him that they think of ‘Īsā, the son of Maryam, as only a slave.” The next day, (the two men) went back to al-Najāshī and ‘Amr said to him: “O, King! They (Muslims) make a grave statement about ‘Īsā, the son of Maryam, so send for them and ask them what they say

47. In *Sīrah Ibn Ishāq*, it is reported that al-Najāshī said: “This speech (the Quran) came from the lamp that Mūsā came with. Go (O, Muslims) and rest assured, for by Allah, I will not give them back to you (addressing the two Quraysh men), and I will not comfort your eyes.” This is how it is narrated in many reference books. However some narrations mention ‘Īsā (Jesus) instead of Mūsā, but this is not correct. Al-Sindī said “Al-Najāshī did not say ‘Īsā, even though he is their prophet, because the Jews disbelieved in Jesus, unlike the case with Mūsā, for none among the known religions disagree regarding Mūsā being a prophet.”

about him.” He sent for (the Muslims) to ask them about ‘Īsā. No grief touched us like that which touched us then, so the people got together, and some of them asked the others: “What will you say about ‘Īsā, if he asks you about him?” They replied: “By Allāh! We will say that which Allāh said about him and what our Prophet brought, and whatever happens, happens.”

When they entered the king’s chamber, he said to them: “What do you say about ‘Īsā, the son of Maryam?” Ja’far said to him: “We say what our Prophet ﷺ brought, that he is the slave of Allāh, His Messenger, a spirit created by Him, and His Word (‘Be’) which He bestowed on Maryam, the pure and chaste.” Al-Najāshī then reached to the ground with his hand and picked up a (wooden) straw and said: “What you said did not deviate from what ‘Īsā bin Maryam was, not even by the size of this straw.” His patriarchs raised their voices when he said that. He said: “By Allāh! Even if you raise your voices (it is the truth). Go (O Muslims), you will be safe in my land; whoever abuses you will be punished; whoever abuses you will be punished; whoever abuses you will be punished. It is not pleasing to me to have a mountain of gold if that means I would harm any of you. Give (the two Meccans) their gifts back, for we are in no need of them. By Allāh, Allāh did not take a bribe from me when He gave me my kingdom back, so I will not take a bribe in return for not fulfilling His commands. Also, Allāh did not obey people in what they wished for me (that is, to lose the kingship), so I will not obey people in disobedience to Allāh.”

[The two Mecca men] left in failure and took back whatever gifts they brought with them, and we stayed there (in Abyssinia) in the best residence, with the best neighbour.⁴⁸ By Allāh, we remained in this state

48. It would be appropriate to mention here that both the Meccans later embraced Islam. ‘Amr b. al-‘Āṣ realized that the power of Islam was increasing and their message became apparent, he fled to al-Najāshī hoping to find a safe refuge in case the Muslims take over Mecca. However, al-Najāshī convinced ‘Amr to embrace Islam, which he did before

until a challenger rose against the king. By Allāh, we didn't feel grief greater than the grief that befell us when that happened. We feared that the challenger would overpower al-Najāshī, and that a man who didn't know what al-Najāshī knew about us (would become king). Al-Najāshī set out [to meet the challenger's army]; between (the two sides) was the River Nile. The Companions of the Messenger of Allāh ﷺ said: "Is there one among us who will observe what will occur today and then bring us the news?" Al-Zubair b. al-'Awwām said: "I will." He was one of the youngest men. They blew up a (leather) canteen and he placed it on his chest allowing him to swim to the other bank of the Nile where they (the armies of al-Najāshī and the challenger) met in battle, hurrying so he could witness what happened. We supplicated Allāh for al-Najāshī to overpower his enemy and that he would be re-established in his land. [Al-Najāshī gained victory over the challenger, and Allāh destroyed the challenger and he was killed.] Abyssinia was reunited under al-Najāshī. Al-Zubair came back to us and gestured to us with his cloak, saying: "Glad tidings! Allāh gave victory to al-Najāshī!" By Allāh, we didn't know of happiness regarding anything like our happiness on that day. So, we stayed in his dominion in the best of residence, until we rejoined the Messenger of Allāh ﷺ who was then still in Mecca.

In another narration she said: "We remained in Abyssinia, until

returning to Mecca. He then migrated to the Messenger of Allah ﷺ in Medina in the beginning of the eighth year after the migration (629 CE), before Mecca was conquered. His submission to Islam was great. 'Amr became close to the Messenger of Allah ﷺ, who testified to his uprightness and faith. 'Amr became one of the greatest Companions. He led the Muslim army that conquered Egypt, and he lived there until he died in the year 43 AH/664 CE. 'Abd Allāh b. Abī Rabī'ah also became Muslim on the conquering of Mecca and his submission to Islam was also great. The Messenger of Allah ﷺ appointed him as governor of Al-Janad, an area in Yemen between Aden and Taiz. He remained there until the tribulation of the insurrection against 'Uthmān, the third Caliph. 'Abd Allāh left Yemen to support 'Uthman but on the way, fell off his ride and died in an area close to Mecca in the year 35/656. For their biographies, see *Tabdhīb al-Kamāl*, vol.14, p.492, vol.22, p.78; *Tārīkh al-Islām*, vol.2, pp.256, 425.

some of us returned to Mecca, while some of us stayed behind.”⁴⁹

RULINGS AND BENEFITS DERIVED FROM THIS STORY

I have contemplated this great story and found many meanings and benefits within it. This is a summary of some of the benefits: The Prophet’s ﷺ advice to his oppressed Companions to migrate to Abyssinia, and in fact commanding it, shows the compassion he had towards them, his mercy with them, his concern for their lives, and his feeling pain because of the torture and extreme harm they were afflicted with, even though he was physically safe from harm himself

49. Collected by Muḥammad b. Ishāq, *Al-Siyar wa 'l-Maghāzī*, p.213 who stated: “Muḥammad b. Muslim b. Shihāb al-Zuhrī narrated to us, from Abū Bakr b. ‘Abd al-Raḥmān b. al-Ḥārith b. Hishām al-Makhzūmī, from Umm Salamah b. Abī Umayyah b. al-Mughīrah, the wife of Allāh’s Messenger ﷺ” and it was recollected by Ibn Hishām in *Al-Sīrah al-Nabawīyyah*, vol.1, p.334; also reported by Aḥmad, *Musnad*, vol.1, p.201, no.1740, vol.5, p.290, no.22498; Ibn Khuzaymah, *Al-Ṣaḥīḥ*, no.2260; Abū Nu‘aym, *Al-Dalā‘il al-Nabuwwah*, no.194; Abū Nu‘aym, *Ḥilyah al-Awliyā’*, vol.1, p.115; al-Bayhaqī, *Al-Sunan al-Kubrā*, vol.9, p.9; al-Bayhaqī, *Al-Dalā‘il al-Nabuwwah*, vol.2, p.301; Ibn ‘Abd al-Barr, *Al-Durar fi 'l-Maghāzī wa 'l-Siyar*, p.134; and via the route of Muḥammad b. Ishāq and this is his isnād of it; reported by Ishāq b. Rahāwayh, *Musnad*, no.1835; al-Bayhaqī, *Al-Asmā' wa 'l-Shifāt*, no.423, *Al-Itiqād*, p.46 and *Shūb al-Imān*, no.82 – via the route of transmission of Jarīr b. Ḥāzim from Ibn Ishāq who said: “al-Zuhrī narrated to us from Abū Bakr b. ‘Abd al-Raḥmān b. al-Ḥārith b. Hishām from ‘Ubayd Allāh b. ‘Abd Allāh b. ‘Utbah from ‘Urwah b. al-Zubayr.” The core of the ḥadīth is narrated from Abū Bakr b. ‘Abd al-Raḥmān b. al-Ḥārith from Umm Salamah and the chain of transmission of the ḥadīth is good as stated by al-Ḥāfiẓ al-‘Irāqī in *Al-Mughnī ‘an Ḥamal al-Asfār*, no.2097, and al-‘Allāmah al-Albānī in *Silsilah al-Aḥādīth al-Ṣaḥīḥah*, no.3190. Al-Ḥāfiẓ al-Haythamī stated in *Majmā' al-Zawā'id*, vol.6, p.24, no.9842: “Reported by Aḥmad, and the narrators in the chain of transmission are those of the Ṣaḥīḥ except for Ibn Ishāq who acknowledged hearing it.”

Al-‘Allāmah Aḥmad Muḥammad Shākir stated in his critical edit of *Al-Musnad*, vol.3, p.180: “The chain of transmission is authentic, Abū Bakr b. ‘Abd al-Raḥmān b. al-Ḥārith b. Hishām b. al-Mughīrah is a senior Tābi‘ī and one of the famous Seven Jurists, he was a trustworthy jurist from the masters of Quraysh.”

Shaykh al-Islām Ibn Taymiyyah relayed the ḥadīth and used it as a proof in *Al-Jawāb al-Ṣaḥīḥ li man Baddala Din al-Masīl*, vol.1, p.243 and said: “A group of ulema and ḥuffāẓ mentioned their story such as Aḥmad b. Ḥanbal in the *Musnad*, Ibn Sa‘d in *Al-Ṭabaqāt*, Abū Nu‘aym in *Al-Ḥilyah* and others. The people of tafsīr, ḥadīth and fiqh also mention the story and it has been relayed via multiple routes of transmission according to the ulema.”

(at the time). Allāh says:

﴿لَقَدْ جَاءَكُمْ رَسُولٌ مِّنْ أَنْفُسِكُمْ عَزِيزٌ عَلَيْهِ مَا عَنِتُّمْ حَرِيصٌ عَلَيْكُمْ بِالْمُؤْمِنِينَ
رَءُوفٌ رَّحِيمٌ﴾

Verily, there has come unto you a Messenger (Muḥammad) from amongst yourselves (whom you know well). It grieves him that you should receive any injury or difficulty. He (Muḥammad) is anxious over you; for the believers (he is) full of pity, kind, and merciful. (Qur. 9:128)

The migration the Prophet’s ﷺ Companions took was to establish their right to believe in the Oneness of Allāh and to worship Him in safety and peace, and was not for any monetary or political reasons. This was their cause in their home and native land, Mecca, for their intent was not to dispute over the control of Mecca or to rule it. Therefore, it was easy for them to leave Mecca, even though it is the best and most honourable place on earth, because the abode of Muslims is wherever they are able to worship their Lord and feel self-secure.

The Prophet ﷺ praised al-Najāshī, who wasn’t Muslim at that time, by saying, “He is a king who forbids anyone to be oppressed within his domain.” This indicates that a person who differs in religion and creed from Muslims might possess traits of truth, justice and mercy, which may become a foundation on which they could earn praise, leading to cooperation with them in truth and uprightness.

Non-Muslims are diverse when it comes to the stance they take on Islam and its people. Some of them might exaggerate their enmity and hostility, some might lean more towards peace and restraint, while others choose to deal with Muslims on the foundations of truth, justice, and fairness. Therefore, it is ignorance and injustice if one doesn’t treat non-Muslims accordingly, and treats them all the

same, regardless of the stance they take.

The noble Companions resorted to complete honesty when they presented their case to al-Najāshī, and consequently, earned the support of Allāh, and then gained acceptance and favour with the king of Abyssinia. Among the fruits of their stance, was that the king was convinced of their message and entered the religion of Islam. He was firm, regardless of whether it was in opposition to the beliefs of the noblemen of his country or the general masses of his people. Yet, he kept his Islam concealed until his death in the ninth year after the migration (630 CE). On the day al-Najāshī died, the Prophet ﷺ said to his Companions in Medina:

« مَاتَ الْيَوْمَ رَجُلٌ صَالِحٌ فَقومُوا فَصلُّوا عَلَيَّ أَخِيكُمْ أَصْحَمَةَ »

Today a righteous man has died, so get up and pray for your brother, Aṣḥamah.⁵⁰

The description the Prophet ﷺ gave his Companions about al-Najāshī became apparent and true later, for the king insisted on listening to the plea of the Muslims who sought refuge with him, before he ruled for or against them. This was due to his fairness and wisdom, and the wholeness of his justice. The manifestation of the Prophet's ﷺ statement regarding al-Najāshī, despite the far distance between them, is one of the proofs of the truthfulness of his prophethood.⁵¹

Despite it being brief, the discourse of Ja'far b. Abū Ṭālib in front of al-Najāshī demonstrated his extensive understanding of the foundations and rulings of the religion and its universal aims.

50. Al-Bukhārī, *Al-Ṣaḥīḥ*, no.1317, and Muslim, *Al-Ṣaḥīḥ*, no.952, from the ḥadīth of Jābir b. 'Abd Allah.

51. This is why Muslim scholars considered the story of the migration to Abyssinia among the proofs of Muḥammad's prophethood. Among these scholars: Abū Bakr al-Bayhaqī, *Dalā'il al-Nubuwwah*, vol.2, p.285.

The first of these principles, and the most important among them, is singling out Allāh in worship and disavowing oneself from polytheism and its people. The religion also encourages certain qualities that produce piety and purification of the soul and promote good character when dealing with the creation. The superiority of these traits became clear when Ja'far compared the evil manners practiced by pre-Islamic ignorance to the merits of Islam.

The Prophet's ﷺ Companions plead their case to the king by mentioning the oppression and injustice that befell them, and the fact that they chose him over everyone else in the hope of gaining his protection, justice, and fairness.

The Companions mentioned the good reception they received while they were in Abyssinia, stating that they enjoyed their stay, as a form of loyalty, appreciation, and acknowledgment of the favours that were granted to them.

This narrative proves the permissibility of Muslims seeking, and being granted protection, by non-Muslims, by taking refuge with them for the sake of their safety - if the need calls for it that is. This, without a doubt, is conditional on refraining from supporting those at war with Islam and Muslims, and providing their stay amongst them does not cause harm to Muslim countries or their interests.

The land Muslims seek refuge in should never be taken as a base to conspire, scheme, plot, or betray Muslim countries. Ibn Ḥazm⁵² said:

As for those [Muslims] who flee to a place of war (arḍ al-ḥarb) because

52. 'Alī b. Aḥmad b. Sa'īd b. Ḥazm al-Qurṭubī al-Zāhirī (d. 456AH/1063 CE) is among the most famous scholars of Andalusia. He was a poet, writer, muḥaddith, faqīh, philosopher and historian. He is distinguished by his beneficial works of authorship on different branches of knowledge, among the most famous works are: *Al-Fiṣal fī 'l-Mīlāl wa 'l-Aḥwāl wa 'l-Niḥāl*, *Tawq al-Ḥamāmah*, *Jamharah Ansāb al-'Arab*, *Al-Muḥallā bi 'l-Āḥbār* and *Al-Iḥkām fī Uṣūl al-Aḥkām*. His biography is found in *Sīyar*, vol. 18, p.184, no.99.

of feared oppression, wherein its people do not fight Muslims nor help others in doing so, and who cannot find Muslims to protect them, then there is no sin on them in this case, because they are forced to do so. We [should] mention that al-Zuhrī, Muḥammad b. Muslim b. Shihāb⁵³, was determined to travel to the land of the Byzantines if and when Hishām b. ‘Abd al-Mālik died, because al-Walīd b. Yazīd, who was to be the caliph after Hishām, vowed to spill his blood, if he was able.⁵⁴ Therefore, whoever is in this situation, is excused.⁵⁵

53. Al-Zuhrī was from the Imams of the Tābi‘ūn, a faqīh and hāfiz; he was agreed upon in regards to his virtue, precision and leadership in religion and knowledge. He died in 124 AH/742 CE before the death of the Umayyad Caliph Hishām b. ‘Abd al-Mālik b. Marwān b. al-Ḥakam who died in 125 AH/743 CE, then al-Walīd b. Yazīd b. ‘Abd al-Mālik assumed power and he was an open sinner who persevered in this openly and dishonoured Allāh’s Sanctities without care. For this reason, al-Zuhrī spoke about him and exhorted the Caliph Hishām b. ‘Abd al-Mālik to remove him from succession, however Hishām did not do this and thus al-Walīd assumed power after him but not for long as he was killed after a year in power. Refer to Ibn Kathīr, *Al-Bidāyah wa ‘l-Nihāyah*, vol.9, p.351, vol.10, p.2.

54. This story is found in Ibn Sa’d, *Al-Ṭabaqāt al-Kubrā*, vol.5, p.356; al-Balādhurī, *Anṣāb al-Ashraf*, vol.3, p.200; Ibn ‘Asākir, *Tārīkh Madīnah Dimishq*, vol.55, p.381; al-Dhahabī, *Siyar*, vol.5, p.342.

55. Ibn Ḥazm, *Al-Muḥallā bi ‘l-Āthār*, vol.1, p.200, no.2198.

How a Protection Contract is Concluded and Established

Islamic jurists are of the view that a protection contract becomes established through any statement that specifies this aim, that is, a statement that indicates granting safety, such as “I give you a promise of safety,” “You are safe,” “I grant you safety,” or the like.

Jurists also state that it is allowed to grant safety in any language, by using an explicit statement such as “I place you under my protection,” “I grant you safety,” or “You are safe,” along with indirect statement such as “You will be given what you wish,” “Be as you are,” and so on.

It is also permissible to send a messenger to offer protection, because it is more firm than writing, regardless of whether or not the messenger is Muslim or not, since this aspect is inclusive, so as to preserve life.

Granting protection can also be performed by using clear signals, even by someone who can speak. The need to use signs may arise when the party requested to grant protection may not speak the language of the Muslims, and vice versa.

Granting protection⁵⁶ can clearly be unconditionally stated by saying “You are safe,” or it can be tied to a condition such as by saying “Whoever does this certain thing will be safe,” due to the Prophet’s

56. In Arabic, ‘al-Ījāb’ (to grant/offer protection) is to affirm something, and in fiqh terminology it refers to “whatever emanates from one of the two people making an agreement so as to enact behaviour, and it is obligatory and affirms action on it.” See *Al-Muḥīd ālā Alfāz al-Muqnaʿ*, p.271 and *Al-Qāmūs al-Fiqhī Luḡbah wa Iṣṭilāḥ*, article ‘wajaba.’

statement on the day Mecca was conquered: “Whoever enters the house of Abū Sufyān, then they are safe.”⁵⁷

As for accepting protection⁵⁸, most jurists agree that explicit acceptance is not a condition of its validity, because a foundational aim during the process of offering and/or accepting protection is that they are made as inclusive as possible. With that said, it is stipulated that combatant non-Muslims being offered protection must perform some actions that allude to their acceptance of the offering of peace, namely, they must refrain from combat and warfare thereafter. It is enough for them to give a signal or a gesture which alludes to their acceptance, even if the person gesturing is able to speak and express their acceptance. This occurs in case they did not blatantly accept the offering of peace prior, because if they have already responded positively, they are not in need of accepting it again.⁵⁹

Later, we will mention a statement by the scholar al-Sarakhsī in which he states that terms of protection become compulsory on a Muslim to uphold, even if he had secured it through allusion, lying, or deceit. The soundness of this ramification is confirmed in the narration concerning ‘Umar b. al-Khaṭṭāb regarding his enforcing protection with little indication. This asserts the significance of respecting promises of protection, so as to give precedence to the preservation of life. This stance was narrated by Abū ‘Aṭīyyah who said:

‘Umar wrote to the people of Kufah, “It was mentioned to me that the

57. Muslim, *Al-Sahīḥ*, no.1780, from the ḥadīth of Abū Hurairah.

58. In Arabic, ‘al-qabūl’ (accepting), which is to be pleased with something and incline towards it, and in fiqh terminology it refers to “the consequence of a sought-after interest of something, like a buyer saying ‘I accept’ and the likes.” See *Al-Qāmūs al-Fiqhī Lughah wa Iṣṭilāḥ*, article ‘qabila.’

59. Al-Sarakhsī, *Sharḥ Siyar al-Kabīr*, vol.1, p.283; Ibn Qudāmah, *Al-Mughnī*, vol.13, p.192, no.1684; al-Kāsānī, *Bidā’i al-Ṣanā’i*, vol.7, p.289; *Al-Mawsū’ah al-Fiqhiyyah*, vol.37, p.168, article ‘mustāmin.’

word, ‘maṭṭars,’ refers to safety in Persian. Therefore, if you say it to anyone who doesn’t understand your language, then they are safe.”⁶⁰

Abū Wā’il narrated:

‘Umar’s letter reached us while we were at Khanaqin.⁶¹ [‘Umar wrote that] if a man said to another man: “Lā tadhāl (don’t be scared),” he has granted him safety; if he said: “Lā takhaf (don’t be frightened),” then he has granted him safety; additionally, if one said: “Maṭṭars,” then he has also granted him safety. ‘Umar continued: “For surely, Allāh knows the languages of the people.”⁶²

Mujāhid said:

‘Umar said: “Any Muslim who makes a sign to an enemy combatant that indicates “if you get down then I will kill you,” after which the enemy combatant gets down [from his riding beast] under the impression that he had been conferred a promise of security then the

60. Reported by Ibn Abī Shaybah, *Al-Muṣannaḥ*, no.34082 with an authentic chain of transmission. Abū ‘Aṭīyah is al-Wādī’ī al-Hamdānī al-Kūfī, who was noble and trustworthy, from the senior Tābī’ūn. For a biography of him refer to *Tabdhib al-Kamāl*, vol.34, p.90, no.7516.

61. Khanaqin: a town north-east of Baghdad which is still thriving and known by this name; it is part of the Iraqi Dayali governorate.

62. Reported by ‘Abd al-Razzāq, *Al-Muṣannaḥ*, no.9429; Abū ‘l-Qāsim al-Baghawī, *Al-Jādiyāt*, no.2694; Ibn Abī Shaybah, *Al-Muṣannaḥ*, no.34085; Ibn al-Mundhir, *Al-Awsaṭ*, no.6670; al-Bayhaqī, *Al-Sunan al-Kubrā*, vol.9, p.96 and its chain of transmission is authentic. Abū Wā’il is Shaqīq b. Salamah al-Asadī al-Kūfī, the trustworthy scholar, from the senior Tābī’ūn. For his biography refer to *Tabdhib al-Kamāl*, vol.12, p.548, no.2767. Ibn Hājir said in *Al-Fath*, vol.6, p.275:

“Maṭṭars” with a faṭḥah on the mīm and shaddah on the tā’, sukūn on the rā’, and the ṭā can also accept a kasrah, is a Persian word which means “do not be afraid”; it is a word which we come across from some of the non-Arabs. It has also been said that there is a sukūn on the tā’ and a faṭḥah on the rā’ [i.e. “maṭras”]. It is mentioned in *Al-Muwaṭṭa’* from the narration of Yahyā b. Yahyā al-Andalūsī with the word “maṭṭars.” Ibn Qarqūl stated: “It is a non-Arabic word and it is apparent that the narrator made the ṭā of it heavy as many of the Andalusians do.”

enemy combatant has to be given it.⁶³

It becomes clear to us from what has preceded that contracts of protection and covenants of security are initiated with words, signals, or actions that indicate granting protection and safety. With this in mind, it becomes apparent that the circumstances prevalent in our times are Islamically acceptable. Among them are visas, regardless of the type and regardless of how they are issued, and residence permits, whether permanent or temporary, for the purpose of study, trade, diplomatic missions, marriage, humanitarian needs, political refuge, etc. As for obtaining citizenship and the right to be naturalised, it is greater and more binding than a mere visa or residence permit. Whoever contemplates the fatwas of the scholars of our time will see that they consider all of these circumstances of protection to be binding on Muslims, both religiously and morally, just as they are binding on them with regards to laws and civil regulations.

63. Reported by Ibn Abī Shaybah, *Al-Muṣannaf*, no.34086 and its chain of transmission is authentic. Mujāhid is Ibn Jabr al-Makkī the trustworthy Imam in tafsīr and knowledge. For his biography refer to *Tabdhib al-Kamāl*, vol.27, p.228, no.5783. Reported by Ibn Abī Shaybah no.34087 via the route of Ṭalḥah b. ‘Ubayd Allāh b. Karīz who said that “‘Umar wrote to the army generals...” then he mentioned it.

The Legislative Foundation for the Issues Discussed in this Book, and the Relation This Has to Current Affairs

I have frequently cited verses from the Noble Quran and prophetic traditions in this book according to the understanding of the Companions, those who followed them and the Muslim jurists who followed their example throughout the ages. I haven't quoted contemporary scholars and researchers except on a few topics. The reason behind this, as I pointed out in the introduction, is that I wanted to share examples of noteworthy sharia laws and morals from our fiqh references which are widely held in esteem and accepted by Muslims in general, as compared to the writings of contemporary scholars which some people of evil desires and personal interests have thrown doubt over; despite these scholars having trustworthy academic standing, authority and making sincere efforts in serving Islam and the Muslims of this era.

The jurisprudential citations used in this treatise are modelled on the method of the early jurists in dealing with matters that were connected to current affairs and conditions that existed and prevailed in their time. Their usage of terminology demonstrates this fact, for among the most important –and oft-repeated terms in this treatise– are: *Dār al-Islām* (Land of Islam), *Dār al-Kufr* (Land of Disbelief), and *Dār al-Ḥarb* (Land of War).

Therefore, I will mention here a brief explanation of these terms, their origins, the reasons behind using them and how they have come to change in present times.

I. DĀR AL-ISLĀM

The meaning of ‘dār’ is a place, location, and residence, which in this context, means: a country.⁶⁴ Therefore, ‘al-dār’ in the terminology of the jurists refers to what in present-day times is considered a country; it is an expression which refers to a group of people who permanently live in a certain region which is governed by a ruler and a legal structure with a meaningful personality and political independence.⁶⁵

Therefore, a Dār al-Islām, is a country that ascribes to the Islamic faith, making this the dominant ascription in its general religious, cultural, and societal structure and quality, regardless of whether non-Muslim communities living within it are a majority or minority, as they also enjoy their freedoms and rights. In any case, the laws of Islam are apparent and dominant in such a country.

What is meant by Islamic law, is the practices and general traits that make the religion of Islam unique from others, including: the azan, the iqāmah (the call to start a prayer), congregational prayers, Friday prayers, Islamic festivals, reverence of the pillars of Islam, and the implementation of laws that preserve the identity and qualities of Muslims, even if deficiencies or shortcomings exist within their implementation.⁶⁶

64. See Ibn al-Manzūr, *Lisān al-ʿArab*, article. ‘dār’ and *Al-Mawsūʿah al-Fiqhiyyah*, vol.20, p.198, article. ‘dār.’

65. Dr ‘Alī Šādiq Abū Hayf, *Al-Qānūn al-Dawli al-ʿĀm*, p.109; Dr Muḥammad Salām Madkūr, *Māʾilim al-Dawlah al-Islāmiyyah*, p.57.

66. The Imam, muḥaddith and faqīh Abū Bakr Aḥmad b. Ibrāhīm al-Ismāʿīlī (d. 371AH/982 CE) said in *ʿItiqād Ahl al-Sunnah*, p.56, point.49: “The [People of Sunnah] consider lands [where Muslims predominantly reside] as Dār al-Islam, and not Dār al-Kufr as the Muʿtazilah claimed, for as long as the azan and iqāmah (call to begin a prayer) are publicly pronounced, and that the people [of that area are able to] safely perform prayer and pronounce the azan.” On this topic under discussion, refer to Dr ‘Abd al-Raḥmān al-Luwayḥīq, *Al-Ghulū fi ʿl-Dīn*, pp.330-346, for the relevant evidences and the opinions of the Four Madhabs.

2. DĀR AL-KUFR

Dār al-Kufr is the opposite of Dār al-Islām. It is every country where the characteristics of Islam are absent from its structure. Thus, the jurists define it as: “Every land where laws of kufr (non-Islamic laws) are prevalent.” This is true regardless of whether the said land’s Muslim nationals are few or many, and enjoy various freedoms and rights according to the laws of the country they live in.

3. DĀR AL-ḤARB

The jurists in general described every disbelieving country as a Dār al-Ḥarb (Land of War), and these two terms have one meaning.⁶⁷ Therefore, if a non-Muslim country is in a state of war with a Muslim country, then describing it by using the term Dār al-Ḥarb is clear and non-controversial. However, if it is in a state of reconciliation and peace with Muslim countries, then describing it as a Dār al-Ḥarb is based on examining its original state pertaining to when it may not be at peace with Muslims. Therefore, it would be considered a Dār al-Ḥarb based on its potential strength and capability, that is, to wage war against Muslims, even if that is not the current state of affairs.

ORIGIN OF THIS CLASSIFICATION AND THE CONNECTION IT HAS TO CURRENT AFFAIRS

What the jurists relied on as evidence when they divided the world into two lands: Dār al-Islām and Dār al-Kufr or al-Ḥarb, is based

67. Refer to the definition of Dār al-Kufr, which is also referred to as Dār al-Ḥarb, in al-Sarakhsī, *Sharḥ al-Siyar al-Kabir*, vol.5, p.2165; *Bidā’i’ al-Ṣan’i’*, vol.7, pp.130-131; Ibn al-Qayyim, *Aḥkām Ahl al-Dhimmah*, vol.2, p.728; al-Mardāwī, *Al-Insāf*, vol.10, p.35; *Al-Mawsū’ah al-Fiqhiyyah*, vol.20, p.206, article ‘dār al-ḥarb;’ *Al-Mawsū’ah* does not have a separate article for ‘dār al-kufr’ due to it being synonymous and due to the latter not being used much by the jurists.

on detailed proofs from the Quran and Sunnah which establish the foundations on which a Muslim country should be built, elucidate its characteristics, and institutionalise its relationship to other countries in times of peace and war.⁶⁸

Likewise, this division was also based on the state of affairs and time-frame during which such rulings, characteristics, and relations emerged. The categorisation is thus grounded on proofs from the sharia, and on the nature of continual competitive or confrontational relationships between countries, and no state was subject to any international system which governed relations between states. Accordingly, the jurists formulated this categorisation and specified the implications of it to make it easy for them to categorise the relationship between the kinds of lands, to affirm Islamic laws that pertain to the residents of each land, Muslim and non-Muslim, and to distinguish the ramifications of living in them; their motives, therefore, for this categorisation were religious, legal, political, and practical.

This issue has gained the interest of present day scholars and researchers, and their opinions on it vary. Some of them thought that what was mentioned in the fiqh references should be wholly upheld⁶⁹, while others claimed that such stances lack legislative evidence and were merely opinions of jurisprudence which reflect

68. For a definition of Dār al-Kufr/Dār al-Ḥarb, refer to al-Sarakhsī, *Sharḥ al-Siyar al-Kabīr*, vol.5, p.2165; *Bidā'i' al-Ṣanā'i'*, vol.7, pp.130-131; Ibn Qayyim, *Aḥkām Abl al-Dhimmah*, vol.2, p.728; al-Mardāwī, *Al-Inṣāf*, vol.10, p.35; *Al-Mawsū'ah al-Fiqhiyyah*, vol.20, p.206, under article 'dār al-ḥarb' and it did not have a separate article for 'dār al-kufr' due to it being synonymous and furthermore, the latter was used less frequently by the jurists.

69. For a source on the evidences of the categorisation refer to Dr Ismā'il Faṭānī, *Ikhtilāf al-Dārayn wa Atharuhu fī Aḥkām al-Mulāmalāt wa 'l-Munākahāt*, pp.23-30; Dr 'Abd al-'Azīz b. Mabruk al-Aḥmadī, *Ikhtilāf al-Dāryan wa Atharuhu fī Aḥkām al-Shari'ah al-Islāmiyyah*, vol.1, pp.297-312. For an example refer to Faṭānī, *Ikhtilāf al-Dārayn*, p.57; Dr Muḥammad Rāfāt 'Uthmān, *Al-Ḥuqūq wa 'l-Wājibāt wa 'l-Ilāqāt al-Dawliyyah fī 'l-Islām*, p.163.

a certain historical period, and should be completely nullified.⁷⁰ Moreover, a third group took the middle ground, stating that peace treaties remove the designation of a land being that of war, and therefore, it merely becomes a Dār al-Kufr, and not Dār al-Ḥarb; thereby, it can be termed a Dār al-‘Ahd (Land of Treaty).⁷¹

I am unable to go into detail regarding these opinions with proofs, research, and critical discussions, as that would be outside the scope of this book. However, I will mention the view I favour from among them, which is the third opinion, and all success comes from Allāh:

Whoever reflects on appending abodes to Islam, kufr and ḥarb will find that they entail essential attributes which cannot be removed except by removal of the entire abode itself, or fluctuating attributes which if removed will not render the removal of the entire state itself. For instance, the classification of Islam cannot be removed from a land that is associated with the religion of Islam as its political, religious, cultural, and social foundation. Each state which is devoid of the essence of Islam cannot be described except as being a ‘non-Islamic state’ and it cannot be given any other description. This is contrary to the designation of ḥarb, for it can change while

70. For example refer to closing statement of the Mardin Conference which was held in the city of Mardin, Turkey 12/4/1431 AH corresponding to 28th March 2010 CE.

71. This is the view of Shaykh Muḥammad Abū Zahrah in his book *Al-Ilāqāt al-Dawliyyah fi ‘l-Islām*, p.56 wherein he categorised three abodes: Dār al-Ḥarb, Dār al-Islām and Dār al-‘Ahd. He extracted this categorisation from some words of Imams al-Shāfi‘ī and Muḥammad b. al-Ḥasan al-Shaybānī. Abū Zahrah was followed in this by some contemporary researchers; however, the one who investigates this matter will see that this categorisation according to the jurists was general. Thus, to trace the categorisation of three to the two Imams is incorrect and was discussed by Ismā‘il Faṭānī in his book *Ikhtilāf al-Dārāyn*, pp.40-57. Shortly, we will transmit the words of Shaykh al-Islām Ibn Taymiyyah in his differentiation between Dār al-Kufr and Dār al-Ḥarb and this could possibly support Abū Zahrah’s categorisation. This is from the aspect of fiqh verification and there is nothing to prevent a new ijtihād in the matter based on the current situation of international relations; this will be explained later.

the designation of *kufr* (un-Islamic) remains within it. This is also the case when it comes to non-Muslims. They may consider *Dār al-Islam* as one which is at war with them, or as a *Dār al-Islam* that is at peace and covenant with them.

Earlier jurists were unable to remove the designation of *ḥarb* from any non-Islamic country, because, as we mentioned before, the relationship between various countries was built on confrontation and competition. This was not particular to relations between the Islamic State with other nations, but with all other countries with each other, alongside their different religions, national identities, and geographical locations. They all were in a state of constant warfare and confrontation. The only time they were not in this state, when they actually had peace, was in times of emergency. Thus, the term *Dār al-Ḥarb* was used by the jurists without exception, even if what they meant by *Dār al-Kufr* was a land that had a peace treaty and non-hostility pact between them and the Muslims.

However, the following words of Shaykh al-Islām, Abū ‘l-‘Abbās b. Taymiyyah⁷² indicate the correctness of what I have stated, in that the designation of *ḥarb* can be removed from *Dār al-Kufr*. Ibn Taymiyyah said: “A Muslim who is residing in *Dār al-Ḥarb*, or in a non-combatant *Dār al-Kufr*...”⁷³ This is a clear distinction between the two lands. Ibn Taymiyyah said in another instance:

72. He is Shaykh al-Islām Taqī al-Dīn Abū ‘l-‘Abbās Aḥmad b. ‘Abd al-Ḥalīm b. ‘Abd al-Salām b. Taymiyyah al-Numayrī al-Ḥarrānī al-Ḥanbalī al-Dimishqī (d. 728 AH/1328 CE); the Shaykh al-Islām of his time, and the most prominent scholar of his time. He had a major impact on religious sciences and was a righteous rectifier and preacher to return to the Quran and Sunnah. He had a major role in the Arabic language and its sciences and in other sciences. His works number over 300 on different Islamic sciences, the most important of his works being: *Iqtidā’ Širāt al-Mustaqīm*, *Al-Šarīm al-Maslūl ‘alā Shātīm al-Rasūl*, *Dar’ Tāārūḍ al-‘Aql bi ‘l-Naql*, *Minbāj al-Sunnah al-Nabawiyyah* and he also has a number of fatāwā and treaties, some of which have been printed in *Majmū‘al-Fatāwā* which is in 35 volumes and *Al-Fatāwā al-Kubrā* which is in 5 volumes. For his biography refer to al-Ziriklī, *Al-‘Ālām*, vol.1, p.144.

73. *Iqtidā’ Širāt al-Mustaqīm*, p.177 – of al-Fiqī’s edit; al-‘Aql’s edit, vol.1, p.471.

The case of a location changing [to one for] the Muslims or a non-disputed frontier zone [thaghir] is a fluctuating feature rather than a necessary feature in that it can either be an abode of Islam, kufr, al-ḥarb, silm (peace), ‘ilm (knowledge), imān (faith), jahl (ignorance) or nifāq (hypocrisy). It changes depending on the changing residents and their features as opposed to the Three Masjids⁷⁴ which are distinguished by their necessary attribute which cannot be removed.⁷⁵

Note how he mentioned Dār al-Kufr in contrast to Dār al-Islām, and Dār al-Silm (Land of Peace) in contrast to Dār al-Ḥarb. Therefore, there are two distinct designations with regards to non-Muslim areas, not just one.

Due to this evidence, we realise the correctness of saying that the designation of ḥarb, first and foremost, has been removed from non-Islamic countries since the establishment of the United Nations on the 24th of October, 1945. The UN charter asserts two main goals, which are world peace and human dignity. The UN charter states that membership is open to any country that loves peace and is able and willing to execute the duties mentioned in the charter. Countries of the Islamic World have joined the United Nations and adhere to the most important element of its charter, namely, “for the relationship between states to be established on peace.”⁷⁶ There is no doubt that this has caused important changes to the foundation of the relationship between states as they are now based on peace and not war, which is completely opposite to the situation of previous periods of history.

This kind of change is acknowledged by the Islamic sharia. This

74. i.e. al-Masjid al-Ḥarām, al-Masjid al-Nabawī and al-Masjid al-Aqṣā.

75. Ibn Taymiyyah, *Majmū‘al-Fatāwā*, vol.27, pp.53-54.

76. See *Al-Mawsū‘ah al-Arabiyyah al-‘Alamiyyah*, article ‘united nations’.

is why contemporary fuqahā did not ignore this topic, but instead discussed it as soon as it became apparent and relevant. I present here an important quote which signifies a major scientific and unique description of this new occurrence. It is by one of the most famous fuqahā of the last century, Shaykh Muḥammad Abū Zahrah;⁷⁷ he said:

It should be noted that the world is currently gathered under one organisation where each of its members abides by its laws and charter. The ruling in Islam regarding this situation is that pledges and obligations must be upheld by Islamic countries that sign on to these treaties, so as to adhere by the law of being faithful to contracts which the Noble Quran asserts. Based on this, the lands of non-Muslims which are associated with this world organisation (UN) are not considered Lands of War but should be considered Lands of Treaty (Dār ‘Ahd).⁷⁸

This does not undermine the fact that the world is divided into Dār al-Islām and Dār al-Kufr, because it is a division enacted by reality that is based on the religious characteristics of each area. Therefore,

77. The Scholar and faqīh, Muḥammad b. Aḥmad Abū Zahrah (1316-1394AH/1898-1974), was among the most knowledgeable scholars of the Islamic sharia during his time. He was born in El Mahalla El Kubra, which is part of the western governorate in Egypt. He graduated from the School of Islamic Law in 1343AH/1924, then from Dār al-‘Ulūm in 1346AH/1927. In 1352AH/1933, he was chosen to teach at the college of Uṣūl al-Dīn, and then a teacher of higher education. He then taught at the College of Law in the University of Cairo, teaching Islamic sharia; he later headed the sharia department. He was also chosen to be a member of the Islamic Research Centre, associated with al-Azhar University; this occurred in 1382AH/1962. He became well-known for his many articles, treatises and books in which he dealt with many different and exclusive issues in Islamic jurisprudence, such as ownership, contracts, rulings of endowments, laws of wills, inheritance and its obligations, family law, usury, and the biographies of the most famous fuqahā of Islam. His biography is found in al-Ziriklī’s, *Al-Ālām*, vol.6, p.25.

78. *Al-Ilāqāt al-Dawliyyah fi ‘l-Islām*, p.60. Later we will mention some important words from Shaykh Muḥammad b. Ṣāliḥ al-‘Uthaymīn which indicate the removal of the attribute of ‘war’ from states due to the presences of peace accords between states.

the term 'Muslim World' has since been adopted and is often used by non-Muslim politicians and intellectuals even more than it is used by Muslims; when the famous missionary, S. M. Zwemer (1867-1952), published a magazine specializing in Christianizing Muslims and attacking the creed and morals of Islam, he did not find an alternative to calling the magazine, *The Moslem World*. Likewise, when American President Barack Obama directed a speech to the Muslims, he did not mention a name of one of their countries or a nationality from among their nationalities, not even a sect from among their sects. Rather, he directed his speech at Cairo University on the 4th of June, 2009, to the 'Islamic World' considering it as one entity that is unique in its religious, historic, moral, and social affiliation, even though it may include followers of different religions and cultures who live in peace, and enjoy their rights and freedoms.

Also, on this foundation, in the year, 1381/1961, *The Muslim World League* was established, which is an international, non-governmental Islamic organisation, even though the government of Saudi Arabia has volunteered to host and fund its operation. Furthermore, in the year, 1389/1969, *The Organization of Islamic Conference* was formed, which is a governmental organisation that includes 57 member countries.⁷⁹

Dār al-Islām is uniquely defined by its geographic borders, political entity, and religious and social characteristics. It provides its residents the right to defend their land and repel aggression, just as it provides them a strong and deep-rooted sense of unity, which helps them to cooperate, and support each other towards achieving their interests and benefits, as well as repel evil and harm.

On the other hand, negating the attribute of Islam from countries

79. In 2011, this organization decided to change its name to *The Organization of Islamic Cooperation*.

that are not described as having this characteristic, meaning Islam, is based on the religious, political, and moral stances on both an individual and collective level that these countries are built on. Therefore, Muslims who live in non-Islamic countries, whether they reside there temporarily or permanently, should acknowledge the different religious classification such countries are given as compared to Dār al-Islām; they must understand the political system and moral and social conduct of the people of such countries. Moreover, they must avoid any incidents that may cause them to clash with local inhabitants, even as they realise that their creed and behaviour is different than those of Muslims.

This is the most proper way for Muslims to coexist successfully and beneficially with non-Muslims in their lands, while still preserving their own unique religious identity.

Accordingly, it becomes clear that dividing the world into Dār al-Islām and Dār al-Kufr is not understood as a clash of civilisations that may create enmity and cause war and confrontation. Instead, this classification builds a sound foundation that ensures the preservation of the specific designation of each side, without interference, while avoiding clashing, disputing, and seeking dominance over the other. This honourable aim that was founded by the Islamic sharia before any modern international laws, guarantees people the right to enjoy religious freedom, preserve their respective national identity and prohibits any intervention in the internal affairs of a said country.

This proper concept and accurate understanding of the topic under discussion has a great impact on the conduct of Muslims residing outside the borders of Dār al-Islām. Such Muslims will strive to, along with what was previously mentioned, maintain their religious and civil rights, but still be bound by reasonable limits that do not exceed or infringe on the rights and freedoms of either the

majority or minority of the inhabitants of the land where they live. They will also be mindful of the specific nature of the country they live in.

The absence of this conceptualisation and understanding may lead some Muslims to act as if they are residing in a Muslim land, such as Mecca or Medina. They may resort to infringing on the society they live in, which will lead to a struggle and clash, making it impossible for them to coexist on the basis of trust and respect. This ignorance has led a minority of Muslims residing in countries such as Britain, to demand that the laws of Islamic sharia be implemented there.

HOW THE LAWS ESTABLISHED IN THIS BOOK ARE APPLIED IN THE MODERN WORLD

An objection might be raised here about what may appear to be a contradiction in that this treatise brings to light legislative texts as they have been understood by early jurists in order to detail current religious obligations on Muslims residing in non-Muslim lands. In the opinion of early jurists, such lands necessarily have the designation of war.

The author of this treatise believes that the designation of war has largely been omitted in current times. Therefore, there is no benefit in quoting old texts that refer to religious and legal justifications that do not exist in the current context.

This objection and problem can be answered in different ways. I summarise them in the following words:

Firstly: the purpose of this book is to assert deductions built on truth, justice, mercy, honesty, sincerity, and trustworthiness in dealings made between Muslims and non-Muslims. In turn, these concepts are built on firm religious and moral principles and are not

open to abrogation or change. Therefore, these rulings should not be taken lightly or ignored, regardless of the place, time-frame, or circumstance, including where there are differences of opinion and conflicting scholarly legal conclusions.

Secondly: The removal of the designation of war from Dār al-Kufr merely constitutes moving from a more strict designation to one which is lighter. The text of the jurists of the past regarding Dār al-Ḥarb take precedence in being accurately applied to each abode as being one of disbelief rather than war. Rather, during these times, there is a stronger indication, more wisdom and more recognition that this is indeed the case.

Thirdly: At present, there are numerous extremists and ignorant Muslims who claim that all international treaties and agreements are invalid, and that the basis of Muslim relationships with everyone else is war! Based on these false claims, they justify their terrorist activities and deviant behaviour which is contradictory to the sharia and to Islamic morals. This book is here to inform them, by using evidence from the Quran and Sunnah and authentic quotes from the scholars of Islam, that Islam is alien to disorder and it does not condone treachery or the breaching of treaties or pledges. On the contrary, Islam obligates its followers to be honest and faithful, even with their enemies in times of combat.

Had such claims been accurate, and they are not accurate, then the first thing those who make such claims must do, is actually learn the laws of the religion they claim to support, and adhere to the religion's commandments and avoid what it forbids. If they seek knowledge in these aspects, they will conclude that they must abide by Islam's manners and observing its morals, such as refraining from committing aggression against innocent people.

Hijacking planes, blowing up trains, destroying buildings,

targeting public places, and spreading chaos and savagery to destroy the relationship between Muslims and non-Muslims, are not part of our religion.

PART TWO

Ramifications of Muslims Coming Under the Protection of Non-Muslims

PREFACE

In summary of what we mentioned in the first part of this treatise: granting protection is a contract like other contracts, covenants, and pacts that occur between people, regardless of their religion or national identity. Every contract a person enters into inevitably has ramifications and consequences (āthār, sing. athar) that arise from that contract which determine the rights and obligations of every side to the contract.

One of the meanings of athār (translated hereafter as ramifications) in the Arabic language is ‘remnant’ or ‘leftover.’ The word ‘tāthīr’ refers to the remnant or effect on something.⁸⁰ Based on this, the fuqahā utilised the word to mean ‘a ramification that results from an action.’⁸¹ They would say, for example, “One of the ramifications of marriage is the lawfulness of sexual intercourse, the mourning period and inheritance.”⁸² An observer will note that the word ‘al-ḥukm’ (ruling) was largely utilised and employed in the classic books of fiqh in common with the meaning of ‘athar.’ The fuqahā would write about the above-mentioned issue under the

80. See *Tāj al-Urūs*, article ‘athar’.

81. See *Miḥim Lughab al-Fuqahā*, article ‘al-athar’.

82. See *Badā’i’ al-Ṣanā’i’*, vol.3, p.190; *Al-Ināyah Sharḥ al-Hidāyah*, vol.6, p.77 and vol.8, p.397; *Al-Mughnī*, vol.11, p.373; *Al-Mawsū’ah al-Fiqhiyyah*, vol.22, p.111.

heading ‘ahkām al-nikāḥ’, or ‘the rulings on marriage.’⁸³ The usage of the word ‘athar’ has only become popular among contemporary scholars whereby they utilise the phrase ‘āthār al-‘aqd’, intending thereby the rulings that result from a contract; for example, the ramifications of ownership contracts, such as buying, donating and loaning. The ownership transfers from one party to the contract to the other party provided the pillars and stipulations are upheld. And so the transfer of ownership is a ruling that results from the contract.

‘Al-ḥukm’ and ‘al-athar’ are technical terms which have subtle differences which are unrelated to the subject of this research.⁸⁴ I will suffice here by pointing out that the connection between the essence of a contract and the ramification that results from it are neither one level or form and they vary greatly. At times, the ramifications include the essence of the contracts, sometimes they include the conditions and requirements established within the contract, and at other times, they apply to both parties to the contracts or just one of them.

This is the case with respect to the ramifications that result from

83. This is apparent from the context of the research in al-Sarakhsī, *Al-Mabsūṭ*, wherein he utilised the phrase ‘athar al-nikāḥ’ in only four places during his discussion on the issue of the mourning period; elsewhere, he utilised the phrase ‘ḥukm al-nikāḥ’ in 18 places. In *Al-Mughnī*, Ibn Qudāmah utilised the phrase ‘āthār al-nikāḥ’ in only one place whereas the phrase ‘ḥukm al-nikāḥ’ and ‘ahkām al-nikāḥ’ was used 14 times. Both of the above-mentioned scholars intended by their every usage, the ramifications of the contract of marriage, and rarely used the word ‘ḥukm’ for another purpose; Allāh knows best.

84. For example, the term ‘athar’ and its plural are utilised many times in *Mawsū‘ah al-Fiqhiyyah al-Kuwaitiyyah* for numerous topics which were not addressed in the classical source works of fiqh. For the purpose of illustration, see the ramifications of a contract in vol. 1, p.164, vol.2, pp.6-8, vol.8, p.30, vol.22, pp.230-234, vol. 29, p.5, vol.30, p.239, vol.32, p.108, vol.36, p.62 and vol.42, p.147; for the ramifications of marriage, see vol.22, p.III, vol.29, p.6, vol.41, p.310 and p.318; on the ramifications of transactions, see vol.9, pp.106 and 233. The usage of the word ‘athar’ can be found in approximately 200 places under various contexts. They are mostly used to refer to a ruling which is the result of a certain matter, particularly what is not to be found in the classic encyclopedias of fiqh such as *Al-Mabsūṭ* by al-Sarakhsī, *Al-Mughnī* by Ibn Qudāmah, etc.

entering into a contract of protection or covenant of security. Some of them relate to the essence of the contract, while others entail conditions, requirements and terms. Below is a brief summary (of the ramifications which will be discussed in greater detail):

First ramification: The prohibition of treachery and breaching contracts with the protectors ensures safety of their lives, wealth, and honour. This is the essence of the contract and an essential condition. Violating this part annuls the entire contract.

Second ramification: This is about dealing with non-Muslims on the basis that they truly own their own wealth.

Third ramification: Muslims living in the lands of non-Muslims must abide by the rulings of the Muslim religion, just as they are obligated to while residing in the lands of Islam.

Fourth ramification: The permissibility of dealing with non-Muslims in buying, selling, gifting, loaning, mortgaging, and other lawful dealings and transactions.

Note: The second, third, and fourth ramifications are connected to the Muslim's creed, religiousness, and character when dealing with others.

Fifth ramification: For Muslims, who enter the lands of combatant non-Muslims intending to conduct military operations against them, and make it clear to them that what they want is to enter their protection and on this basis, are allowed to enter their lands, then it is a religious and moral obligation to abide by the contract of protection, and they are not allowed to betray their non-Muslim protectors.

Sixth ramification: If a group of Muslims enter under the protection of combatant non-Muslims and then war breaks out between those non-Muslims and another group of Muslims, the protected Muslims are not allowed to support their Muslim brethren

until they nullify the contract of protection they have received from their non-Muslim protectors. They should then inform them of the annulment of the protection promise.

Note: The fifth and sixth ramifications are both requirements and conditions in protection contracts and covenants of security. They are somewhat similar to each other, but also have clear differences between them. They also have a clear connection to the first ramification.

Seventh ramification: The permissibility of travelling with a copy of the Quran to non-Muslim lands when in a state of covenant and peace. This is from the specific rulings of fiqh that Muslims must know when travelling outside Dār al-Islām.

Eighth ramification: Muslims living under protection in the lands of non-Muslims are not allowed to institute Islamic legal punishments (al-ḥudūd) amongst them, due to the absence of an Islamic government. However, they must adhere to Islamic laws pertaining to committing sins, such as repenting from sins, fasting, offering expiations, blood-money, etc., which are all religious obligations. This ramification is very important in order for Muslims to correct their understanding and conduct in the environment they live in.

Ninth ramification: Muslims who reside in non-Muslim lands should deal with its citizens in an upright way, call them to Islam, and associate with them in matters which Allāh has not forbidden. They should not commit acts that may cause non-Muslims to reject the true religion, Islam, nor should they incite them with ill behaviour that will lead to Muslims being harmed or hurt. These are moral and behavioural requirements.

Tenth ramification: A clarification on the duties on Muslims, including remembering the kindness they received from non-

Muslims who were kind to them. They should thank them for their kindness and repay it by being appreciative, mentioning them in a respectable way, and wanting good for them. This asserts the importance of moral ramifications resulting from protection contracts, even after they expire and the terms of such contracts have concluded. If such conduct is required after a contract is concluded, then is it no more so while it is still valid? This aspect also stresses the obligation for Muslims to treat others with justice and fairness. They cannot allow themselves to be controlled at any point by selfish or opportunistic motives.

These ten ramifications are consequences of entering into a contract of protection. This research has been conducted in order to assert the religious, behavioural, and moral aspects that Muslims living outside of Dār al-Islām must comprehend, in order for them to abide by these rulings and act accordingly. This research has also been undertaken to uncover the great aspect of the tolerance of the Islamic sharia, the all-encompassing benefits it brings to human life, and the goodness it assures to all peoples; and through Allāh comes success.

First Ramification

The prohibition of treachery and breaching contracts with non-Muslims with regards to their lives, wealth, and honour

Truthfulness in speech, fairness in dealings, keeping promises, fulfilling trusts, and adhering to the obligations of legally valid covenants and contracts are among the religious obligations required from every Muslim. No Muslim is given an exception for not fulfilling these obligations, which are established in numerous texts from the Noble Quran and authentic prophetic tradition. Additionally, Muslim scholars have a consensus regarding these aspects and Muslims agreed to them, generation after generation.

Allāh praised the believers who are truthful and successful as being those who:

﴿ وَالَّذِينَ هُمْ لِأَمَانَاتِهِمْ وَعَهْدِهِمْ رَاعُونَ ﴾

...Faithfully true to their amanāt (all the duties Allāh has ordained, honesty, moral responsibility, and trusts) and to their covenants. (Qur. 23:8)

And Allāh also ordered Muslims to honour contracts they are parties to, when He said:

﴿ يَا أَيُّهَا الَّذِينَ آمَنُوا أَوْفُوا بِالْعُقُودِ ﴾

O you who believe! Fulfil (your) ‘uqūd. (Qur. 5:1)

The scholars of tafsīr unanimously agree that the meaning of ‘‘uqūd’ here includes covenants (pledges, pacts), as stated by Imam Ibn Jarīr

al-Ṭabarī⁸⁵ who said:

“Uqūd’ is plural for ‘aqd’, which pertains to tying something to something else to connect them, like tying a knot between two ropes in order to bind them tightly. In this respect, the term pertains to when one has conducted covenants and promises, whether it is a pledge of safety and protection, or marriage, selling, partnering, or any other type of contract.⁸⁶

The Prophet ﷺ told Muslims that betrayal is one of the characteristics of the hypocrites. He ﷺ said:

« آيَةُ الْمُنَافِقِ ثَلَاثٌ : إِذَا حَدَّثَ كَذَبَ ، وَإِذَا وَعَدَ أَخْلَفَ ، وَإِذَا أُؤْتِيَ حَانَ »

The signs of a hypocrite are three: if they speak they lie, if they promise they break their promise, and if they are given a trust they betray the trust.⁸⁷

He ﷺ also said in another ḥadīth:

« أَرْبَعٌ مَنْ كُنَّ فِيهِ كَانَتْ مُنَافِقًا خَالِصًا وَمَنْ كَانَتْ فِيهِ خَصْلَةٌ مِنْهُنَّ كَانَتْ فِيهِ خَصْلَةٌ مِنَ التَّقَاتِ حَتَّى يَدَعَهَا إِذَا أُؤْتِيَ حَانَ ، وَإِذَا حَدَّثَ كَذَبَ ، وَإِذَا عَاهَدَ عَدَرَ وَإِذَا خَاصَمَ فَجَرَ »

Four manners, if they are all present in a person, then they are absolute hypocrites, and whoever has one of them, then they have a characteristic of hypocrisy, until they abandon it: if they are given a trust they betray

85. He is Abū Jaʿfar Muḥammad b. Jarīr al-Ṭabarī (d. 310 AH/923 CE), the Imam of the exegetes, one of the senior Imams of the Sunnah in creed, ḥadīth, fiqh, language and history; he was born in Tabiristan and travelled to Baghdad where he resided and died, after travelling to many other countries. His magnum opus in Quranic exegesis is *Jāmiʾ al-Bayān ʿan Tāwīl Āyā al-Qurʾān*, which is considered the most important Salafī tafsīr. For his biography refer to al-Dhahabī, *Sīyar*, vol.14, p.267, no.175.

86. *Jāmiʾ al-Bayān ʿan Tāwīl Āyā al-Qurʾān*, Qur. 5:1.

87. Al-Bukhārī, *Al-Ṣaḥīḥ*, no.33, and Muslim, *Al-Ṣaḥīḥ*, no.59, both from the narration of Abū Hurairah.

it, if they speak they lie, if they make a covenant they break it, and if they dispute they act immorally.⁸⁸

Since treachery and breaching contracts are characteristics of the hypocrites, then, surely, they are not characteristics of the believers. The Messenger of Allāh ﷺ used to say in his speeches:

« لَا إِيمَانَ لِمَنْ لَا أَمَانَةَ لَهُ وَلَا دِينَ لِمَنْ لَا عَهْدَ لَهُ »

There is no faith in the one who is not trustworthy, and there is no religion in the one who does not uphold his covenants.⁸⁹

Therefore, treacherous people who breach contracts deserve to be openly exposed on the Day of Judgment, just as the truthful and trusted, the Prophet Muḥammad ﷺ, said:

« إِذَا جَمَعَ اللَّهُ الْأَوَّلِينَ وَالْآخِرِينَ يَوْمَ الْقِيَامَةِ ، يُرْفَعُ لِكُلِّ غَادِرٍ لَوَاءٌ ، فَقِيلَ : هَذِهِ عَدْرَةُ فُلَانِ بْنِ فُلَانٍ »

When Allāh gathers the first and the last [of His creation] on the Day of Resurrection, a banner will be raised for every betrayer, and it will be said: “This is due to the betrayal committed by so-and-so, the son of so-and-so.”⁹⁰

Muslims are being addressed in these texts and edicts with regards to all of their affairs, wherever they are and wherever they may travel to, whether they are dealing with Muslims or with those who do not follow the same religion or way, and whether it is with combatants

88. Al-Bukhārī, *Al-Ṣaḥīḥ*, no.34, and Muslim, *Al-Ṣaḥīḥ*, no.58, both from the narration of Abd Allāh b. ‘Amr b. al-‘Aṣ.

89. Reported by Aḥmad, *Musnad*, vol.3, p.135, no.12383; Abū Ya‘lā, *Musnad*, no.2863; Ibn Ḥibbān, *Al-Ṣaḥīḥ*, no.194; al-Baghawī, *Sharḥ al-Sunnah*, p.38, from the ḥadīth of Anas b. Mālik. Al-Baghawī said: “This ḥadīth is ḥasan”.

90. Reported by al-Bukhārī, *Ṣaḥīḥ*, no.6177 and Muslim, *Ṣaḥīḥ*, no.1735 – from the ḥadīth of ‘Abd Allāh b. ‘Umar.

or non-combatants. This is what the scholars of Islam understood, stated, and established in their books, based on the clear evidences in this regard that are found in the Quran and authentic Sunnah.

Allāh ordained justice when dealing with those who oppose one in religion, even if they are combatants and enemies. Allāh said:

﴿ يَا أَيُّهَا الَّذِينَ آمَنُوا كُونُوا قَوَّامِينَ لِلَّهِ شُهَدَاءَ بِالْقِسْطِ وَلَا يَجْرِمَنَّكُمْ شَنَاٰنُ قَوْمٍ عَلَىٰ
 ۞ أَلَّا تَعْدِلُوا اعْدِلُوا هُوَ أَقْرَبُ لِلتَّقْوَىٰ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ خَبِيرٌ بِمَا تَعْمَلُونَ ۞﴾

O you who believe! Stand out firmly for Allāh as just witnesses; and let not the enmity and hatred of others make you avoid justice. Be just: that is nearer to piety; and fear Allāh. Verily, Allāh is well-acquainted with what you do. (Qur. 5:8)

Imam Ibn Jarīr al-Ṭabarī said in his explanation of this verse:

Allāh means by this statement: O you who believe in Allāh and His Messenger Muḥammad! Let your way and character establish justice for Allāh, towards your friends and also your enemies. Do not be oppressive in your judgments and actions, lest you may transgress what I (Allāh) have ordained for you regarding your enemies, on account of their enmity towards you. Do not be neglectful of what I have ordained for you in My laws and set limits regarding those who are your friends on account of their friendship with you. Rather, stop at My set limits with all [friend and foe], and act with them according to My commands. Let not enmity between people prevent you from being just when ruling between them or dealing with them, lest you oppress them because of the enmity that exists between you and them.⁹¹

Al-Fakhr al-Rāzī⁹² said:

91. *Jāmi' al-Bayān*, Qur. 5:8.

92. He is Fakhr al-Dīn Abū 'Abd Allāh Muḥammad b. 'Umar al-Taymī al-Rāzī al-Shāfi'i (d. 606 AH/1210 CE). He was one of the Ash'arī Imams of speculative theology, a Quranic

The meaning here is: do not let your hatred of some people cause you to oppress them or transgress the limits with them. Be just with them even if they wrong you; be kind to them, even if they exaggerate in their ill-treatment of you. This is a general proclamation, and it means that Allāh commands all of His creation to deal only with justice and fairness with others, and to abandon injustice, oppression and aggression.⁹³

Allāh commands Muslims to be faithful to their covenants and counted this among the qualities of those who are pious and fearful of their Lord:

﴿إِلَّا الَّذِينَ عَاهَدْتُمْ مِنَ الْمُشْرِكِينَ ثُمَّ لَمْ يَنْقُصُوكُمْ شَيْئًا وَلَمْ يُظَاهِرُوا عَلَيْكُمْ أَحَدًا فَأَتَيْتُمُوهُمْ إِلَيْهِمْ عَاهَدْتُمْ إِلَىٰ مُدَّتِهِمْ إِنَّ اللَّهَ يُحِبُّ الْمُتَّقِينَ﴾

Except those of the polytheists with whom you have a treaty, and who have not subsequently failed you in aught, nor have supported anyone against you. So fulfil their treaty to them for the end of their term. Surely, Allāh loves the pious. (Qur. 9:4)

The Messenger of Allāh ﷺ said:

« أَيُّمَا رَجُلٍ آمَنَ رَجُلًا عَلَىٰ دَمِهِ ثُمَّ قَتَلَهُ ، فَأَنَا مِنَ الْقَاتِلِ بَرِيءٌ ، وَإِنْ كَانَ الْمَقْتُولُ كَافِرًا »

Any man who gives another man a promise of safety over his blood (life) and then kills him, then I am free from the killer, even if the one who was murdered was a disbeliever.⁹⁴

exegete, astronomer, philosopher, logician, Islamic legal expert and more. He left many books which indicate his expertise, the most prominent of which is his magnum opus in Quranic exegesis *Maḥāṣin al-Ghayb*. For his biography refer to al-Dhahabī, *Siyar*, vol.21, p.500, no.261; *At-Tafsīr al-Kabīr*, Qur. 5:8.

93. *Ibid.*

94. Reported by Ahmad, *Musnad*, vol.5, p.223, nos.21946, 21947, 21948; al-Bukhārī, *Al-Tārīkh al-Kabīr*, vol.3, p.322; Ibn Mājah, *Sunan*, no.2688; al-Bazzār, *Al-Musnad*, nos.2307 and 2308; al-Nasā'ī, *Sunan al-Kubrā*, nos.8739 and 8740; Ibn Hibbān, *Ṣaḥīḥ*, no.5982 –

This declaration from the Prophet ﷺ is a clear renunciation of a Muslim who commits the detestable act mentioned here. It is a renunciation of the action and the one who perpetrates it. The Prophet ﷺ is the master of all those who are faithful and honourable, and he did not accept betrayal or treachery, nor its people, in contrast to those who may disapprove an evil action, but vindicate the perpetrator.⁹⁵

As such, Muslim scholars have explained that the prestigious Islamic ethics mentioned here are from the universal principles and laws of the religion. There is no doubt that Muslims must adhere to these edicts, including if they move from the land of Islam to non-Muslims lands. None of the scholars ever said that these ethics are only practiced if the need or benefit calls for them, or that Muslims have the choice of ignoring or abandoning them if they live in a non-Muslim society, or if they are dealing with non-Muslims in general.

The following examples from leading scholars illustrate the greatness of the Islamic religion, the completeness of its sharia, and the exalted status of those who adhere to its laws in a way that Allāh loves and is pleased with:

Imam al-Shāfi‘ī⁹⁶ said:

If a group of Muslims enter the lands of war with a guarantee of safety

and the wording is his; al-Ḥākim, *Al-Mustadrak*, vol.4, p.353; al-Bayhaqī, *Sunan al-Kubrā*, vol.9, p.142 – from the ḥadīth of ‘Amr b. al-Ḥamiq al-Khuzā‘ī. Al-Albānī deemed the ḥadīth to be ḥasan in his book *Ṣaḥīḥ al-Targhīb wa ‘l-Tarhīb*, p.3007.

95. In the preceding section: “Legitimacy of Granting Combatant Non-Muslims Protection...,” there are ḥadīths that contain warnings against killing a person who was granted safety.

96. Abū ‘Abd Allāh Muḥammad b. Idrīs al-Shāfi‘ī (d. 204 AH/820 CE), the Imam of the mujtahids, Arabic linguist, scholar of Islamic Legal Theory, muḥaddith and jurist. He was born in Mecca wherein he also studied, after which he travelled to Yemen, Iraq, and Egypt where he settled and later died. His works are: *Al-Risālah* which was the first book on usūl al-fiqh [Islamic Legal Theory], *Kitāb al-Umm* which contains much of his ḥadīth, fiqh and views which were documented by his students. His madhab in fiqh is one of the Four (Sunni) Fiqh Madhabs. For his biography refer to al-Dhahabī, *Siyar*, vol.10, p.5, no.1.

for its citizens, then the enemies [in that area] must be safe [from being harmed], until those Muslims leave their area or complete the period in which they are safe [that is, the term of the safety pledge]. Muslims are not to transgress against them or betray them.⁹⁷

Al-Shāfi‘ī also said this about a Muslim man who enters Dār al-Ḥarb with a guarantee of safety:

If a Muslim man enters Dār al-Ḥarb with a covenant of security and finds his woman, or a woman, or someone else, or his wealth and property, or the wealth and property of someone else from the Muslims, or the people of Dhimmah, which were seized by the polytheists, then he has the right to leave with those things as they are not the [rightful] property of the enemies [to begin with]; even if the enemies become Muslims, that property will still not be their (rightful) property. This is not treachery in the same way as when a Muslim takes something without the knowledge of another Muslim and then gives it to the rightful owner, he will not be deemed as a deceiver.⁹⁸ Betraying

97. *Kitāb al-Umm*, vol.4, p.248 and vol.5, p.606 in the Dār al-Wafā’ edition.

98. Here Imam al-Shāfi‘ī adopted a general rule in that he gives the right to whomsoever has had his wealth and property usurped, the right to take back the usurped item. There is no difference in this whether the one usurped from (mughtaṣab) is a Muslim or a disbeliever or whether the usurper (mughtaṣib) is a Muslim or a disbeliever. There is no doubt that this is restricted by the condition of having the requisite ability to achieve the interest of taking back the item without there being more harm. This ruling is connected to individuals and what they possess. As for states, then the matter of seeking the return of usurped items, wealth and property is delineated to the ruler in authority. It is not for any intelligent Muslim to think that he has the right to seize control of the wealth and property of non-Muslims based on the argument that “the disbelievers have usurped some Muslim lands.” This is because the return of such wealth and property, for arguments sake, is the jurisdiction of the state and if any individual Muslim is able to establish return of such wealth and property then he cannot personally benefit from it – it has to return back to the Muslim state’s coffers as it is the wealth and property of all the Muslim nation and not for individuals. Imam al-Shāfi‘ī’s view here is based on whatever wealth and property of Muslims that the people of warfare obtain through oppression and transgression but still (rightfully) belongs to the Muslims, and it can be taken without compensation. This is his madhab, the madhab of his companions, the madhab of the Ḥanbalīyyah and that of the Zāhiriyyah. Al-Ḥasan al-Baṣrī, al-Zuhrī and ‘Amr b. ‘Aṭā’ said “such wealth and property

(khiyānah) occurs by taking something that one does not have the right to take. If a Muslim is capable of taking some of [his non-Muslim protectors'] property, he is not allowed to do so, regardless if the property is little or plenty, because if he has a pledge of safety from them, they will also be protected from him. While in their protection, such a Muslim is only allowed what he is allowed from the wealth of Muslims and dhimmis (non-Muslim residents of Islamic countries). Wealth is sanctified due to different factors: the first being its belonging to a Muslim owner; the second is the wealth of those who are under protection (dhimmis); and the third is the wealth of those who have a pledge of safety during the entire period of protection and they are like dhimmis, with regards to the impermissibility of confiscating their wealth.⁹⁹

The ‘allāmah al-Māwardī¹⁰⁰ said:

If a Muslim enters Dār al-Ḥarb with his safety guaranteed, or if he

becomes under their [enemy combatant] ownership, but if the Muslims are able to seize it back then it is to be ruled as being spoils for the Muslim army and the original owner who had it has no right to it at all.” The Mālikiyyah and Ḥanafiyah agreed with them on the basis of the matter, however, they affirmed the original owner’s right to it from the spoils of war. There is some degree of detail in regard to this matter yet it is not the subject of our discussion here. Based on this view, if the disbeliever embraces Islam and has wealth and property which belonged to a Muslim is it right for him to still own it or not? Mālik and Abū Ḥanīfah said: “He rightfully owns it”, while al-Shāfi‘ī and Aḥmad said “He does not rightfully own it.” For more on the issue and its proofs refer to *Al-Umm*, vol.4, p.282, section: whoever embraces Islam and has something which he usurped; Abū Ja‘far al-Ṭahāwī, *Sharḥ Ma‘ānī al-Āthār*, vol.3, p.262; Ibn Ḥazm, *Al-Muḥallā bi’l-Āthār*, vol.7, p.300, no.93; al-Sarakhsī, *Al-Mabsūṭ*, vol.10, p.61; Ibn Rusdh, *Bidāyah al-Mujtahid*, vol.2, p.772; Ibn Qudāmah, *Al-Mughnī*, vol.13, pp.117, 121.

99. *Al-Umm*, vol.4, p.268 and vol.5, p.658 in the Dār al-Wafā’ edition.

100. Abū ‘l-Ḥasan ‘Alī b. Muḥammad b. Ḥabīb al-Baṣrī al-Baghdādī al-Māwardī (d.450AH/1058); one of the Shāfi‘iyyah jurists and an Imam in fiqh, uṣūl, tafsīr and Arabic language. He was a prominent politician within the Abbasid State, especially during its later years. His works include *Adab al-Dunyā wa ‘l-Dīn*, *Ālām al-Nubuwwah*, *Al-Ḥawī al-Kabīr* and *Al-Aḥkām al-Sultāniyyah*. For his biography refer to al-Dhahabī, *Siyar*, vol.18, p.64, no.29.

were a prisoner and then is freed and given safety, he is not allowed to transgress against the lives or wealth of the people of its land. He must grant them safety [as they granted him safety]. Dāwūd¹⁰¹ opined: “It is permissible for him to transgress against them in regards to the lives, wealth and property up until they grant him security and safety which necessitates fulfilment and prohibits murder.”¹⁰²

The ‘allāmah al-Sarakhsī¹⁰³ said:

A Muslim who enters Dār al-Ḥarb with a covenant of security [from its citizens] must not betray them or take any of their wealth without their consent as he is obligated to fulfil what he has promised to them as opposed to the one who is their prisoner. Moreover, just as it is impermissible for the Muslim with a covenant of security to kill them or take their wealth and property without their consent, it is also impermissible for him to instruct a prisoner to do likewise – as the action of the one being instructed takes the same status as the action of the instructor.¹⁰⁴

Al-Sarakhsī also said:

It is prohibited for a Muslim who has a covenant of security in Dār al-

101. He is Abū Sulaymān b. ‘Alī b. Khalaf al-Baghdādī al-Aṣbahānī al-Zāhirī (d. 270 AH/884 CE), one of the notable Imams and the founder of the Zāhirīyyah madhab of fiqh. He adhered to the madhab of the salaf in regards to tawḥīd and creed. For a biography of him refer to al-Dhahabī, *Siyar*, vol.13, p.97, no.55.

102. *Al-Aḥkām al-Sulṭāniyyah*, p.179.

103. He is Shams al-A‘immah Muḥammad b. Aḥmad b. Abī Sahl al-Sarakhsī (d. 483 AH/1090 CE), an Uṣūlī (Islamic Legal Theorist) and jurist, from the senior Hanafī jurists and mujtahid Imams. He was imprisoned in a well by one of the kings for advising him and while imprisoned he wrote his magnum opus *Al-Mabsūt* – the largest book in Ḥanafī jurisprudence, printed in 30 volumes. He also authored *Sharḥ Siyar al-Kabīr li Muḥammad bin al-Ḥasan*. In uṣūl al-fiqh, he also authored one of the largest books in Ḥanafī fiqh which is known by the title *Uṣūl al-Sarakhsī*. For his biography refer to al-Ziriklī, *Al-Ālām*, vol.5, p.315.

104. *Sharḥ al-Siyar al-Kabīr*, vol.5, p.1861.

Ḥarb to betray them according to his religion because betrayal is ḥarām and the Prophet ﷺ said: “Each betrayer will have a flag attached to his seat on the Day of Judgement by which his betrayal will be known.”¹⁰⁵ If one betrays those [who gave him the covenant of security] and takes their wealth and property to Dār al-Islām, it is prohibited for a Muslim to purchase that if he knows that it was obtained via illegitimate means. Buying from him condones what he has done and is thus prohibited for a Muslim to purchase. The basis is the ḥadīth of al-Mughīrah b. Shu‘bah ؓ when he, prior to embracing Islam, killed his companions, took their wealth and then came to Medina with it wherein he became Muslim. Al-Mughīrah wanted Allāh’s Messenger ﷺ to take a fifth of his wealth but the Prophet ﷺ said: “As for your Islam then I accept it, but as for your wealth which you obtained through betrayal then I have no need for it.”¹⁰⁶

Al-Sarakhsī also said that if a Muslim leader sent a messenger to the people within Dār al-Ḥarb and the messenger forcibly took some of their property and transported it back to Muslim territory, the leader must take it from him and send it back to its owners, since a messenger takes the status of those who were given a guarantee of protection.¹⁰⁷ Similarly, Imam Ibn Qudāmah¹⁰⁸ said:

105. Reported by Aḥmad, *Musnad*, vol.3, p.35, no.11303; Muslim, *Al-Ṣaḥīḥ*, no.1738; Abū Ya‘lā, *Musnad*, no.1245.

106. As-Sarakhsī, *Al-Mabsūṭ*, vol.10, p.96; the details of the ḥadīth of al-Mughīrah will be mentioned later.

107. *Sharḥ al-Siyar al-Kabīr*, vol.4, p.1137.

108. Abū Muḥammad Muwaffaq al-Dīn ‘Abd Allāh b. Aḥmad b. Muḥammad b. Qudāmah al-Maqdisī al-Dimishqī al-Ḥanbalī (d.620AH/1223): a scholar of the Ḥanbaliyyah, a muḥaddith, faqīh and an encyclopedia of knowledge. Ibn Taymiyyah said regarding him: “No [scholar] entered the Levant after al-Awzā‘ī who was more knowledgeable than Ibn Qudāmah.” Ibn Qudāmah authored many books, among the most famous are: *Al-Mughnī* and *Al-Kāfī* in fiqh and *Rawḍah al-Nāzīr wa Jannah al-Munāzīr* on uṣul al-fiqh. His biography is found in al-Dhahabī, *Siyar*, vol.22, p.165, no.112.

Whoever enters the land of the enemy in safety is not allowed to betray them with regards to their wealth, or deal with them in usury. As for the prohibition of usury in Dār al-Ḥarb then we have mentioned this in the Chapter on Usury, along with the statement of Allāh: “And (Allāh) has forbidden usury...” (Qur. 2:275) The verses and edicts proving the prohibition of dealing in usury are general; they include dealing in usury in every place and time-frame. As for betraying [such combatant non-Muslims], it is impermissible, because receiving a promise of safety from them comes with a guarantee that the protected persons will not betray them with regards to their wealth, for they too are safe [from the protected Muslims]. Even if this term (condition) was not stated with words, it is still included in the implication [of the pledge of safety]. Likewise, whoever among the non-Muslims goes to a Muslim area and then betrays them, he has breached his covenant [with the Muslims]. Since this is established, then [Muslims] are not allowed to betray such non-Muslims, because it is treachery. It is not acceptable to breach contracts in our religion, for the Prophet ﷺ said: “Muslims are bound by their conditions (contracts).”¹⁰⁹

Therefore, if Muslims were to betray [non-Muslims who guaranteed them their safety], steal from them, or borrow from them, they must return [the stolen or borrowed items] or send them back to those non-Muslims through a messenger. This is because it is impermissible for them to take [or keep] such items, which must be

109. Abū Dāwūd, *Sunan*, no.3594; Al-Dāraqutnī, *Sunan*, vol.3, p.27, no.2890; al-Ḥākim, *Al-Mustadrak*, vol.2, p.49, from the narration of Abū Hurairah. Al-Nawawī said in *Al-Majmūʿ*, vol.9, p.464: “Collected by Abū Dāwūd with a ḥasan, or ṣaḥīḥ, chain of narration.” Al-Bukhārī collected this narration in *Al-Ṣaḥīḥ* without a chain of narration. The ḥadīth has supporting narrations reported from ‘Amr b. ‘Awf, Anas b. Mālik, Rāfiʿ b. Khadij, ‘Abd Allāh b. ‘Umar and others. Ibn Ḥajr said in *Taghliq al-Tāliq*, vol.3, p.281: “All of these narrations have been criticised, but the ḥadīth of Abū Hurairah is the most sound from them.” See Ibn Mulaqqin, *Al-Badr al-Munir*, vol.6, p.552 and al-Abbānī, *Irwaʾ al-Ghaliḥ*, no.1303.

returned, as is the case if they had taken [or borrowed] the property of Muslims.¹¹⁰

The ‘allāmah al-Marghīnānī¹¹¹ said:

If a Muslim enters Dār al-Ḥarb as a merchant, he is not allowed to transgress on the wealth or lives of its people. This is because he gave a pledge to them not to abuse them as per the terms of the pledge of safety [he received from them]. If abuse towards them occurs, then it is treachery, and treachery is forbidden.¹¹²

If such is the case, then Muslims are obliged to return any property they stole or borrowed which belong to non-Muslims who promised them safety. It is impermissible for them to benefit from such property.

The scholar Abū Iṣḥāq al-Shīrāzī¹¹³ said:

If a Muslim enters Dār al-Ḥarb with a guarantee of safety and steals some of its inhabitant’s property or takes a loan from them and returns

110. *Al-Mughnī*, vol.13, p.152, no.1674.

111. He is Abū ‘l-Ḥasan ‘Alī b. Abī Bakr b. ‘Abd al-Jalīl al-Farghānī al-Marghīnānī (d. 593 AH/1197 CE), from the senior Ḥanafī jurists who was a mujtahid, ḥāfiẓ, mufasssīr, muḥaqqiq and adīb. His works include *Bidāyah al-Mubtadi’* and its explanation entitled *Al-Hidāyah fī Sharḥ al-Bidāyah*. For his biography refer to al-Dhahabī, *Sīyar*, vol.21, p.232. no.118.

112. *Al-Hidāyah Sharḥ al-Bidāyah*, vol.2, p.152. Ḥanafī fuqahā often repeated this concept, such as: Abū Bakr b. Mas’ūd b. Aḥmad al-Kāsānī (d. 587 AH/1191 CE) in *Badā’i al-Sharā’i*, vol.5, p.301; ‘Uthmān b. ‘Alī al-Zailā’ī (d. 743 AH/1343 CE) in *Tabayīn al-Ḥaqā’iq Sharḥ Kanz al-Daqā’iq*, vol.3, p.266; Muḥammad b. Muḥammad b. Maḥmūd al-Bābartī (d.786 AH/1384 CE) in *Al-‘Ināyah Sharḥ al-Hidāyah*, vol.6, p.17; Ibn al-Humām Muḥammad b. ‘Abd al-Wāhid al-Siyūwāsī (d.861 AH/1457 CE) in *Fatḥ al-Qadīr*, vol.6, p.17; Zain al-Dīn Ibn Nujaym (d.970 AH/1563 CE) in *Al-Baḥr al-Rā’iq Sharḥ Kanz al-Daqā’iq*, vol.5, p.108 and Ibn ‘Ābidīn al-Dimishqī (1252 AH/1836 CE) in *Radd al-Muḥtār ālā ‘l-Darr al-Mukhtār*, vol.4, p.166.

113. Abū Iṣḥāq Ibrāhīm b. ‘Alī b. Yūsuf al-Fayrūzābādī al-Shīrāzī al-Baghdādī (d.476 AH/1083 CE): a Shafī’ī scholar, scholarly reference for students of knowledge, and mufti, who used to issue religious opinions and decrees. He became famous for his proficiency in citing evidence during arguments and debates. He authored many books, among them: *Al-Tanbīh* and *Al-Muhadḍab* on the topic of fiqh, and *Ṭabaqāt al-Fuqahā* and *Al-Lam’* on uṣūl al-fiqh. His biography is found in al-Dhahabī, *Sīyar*, vol.18, p.452, no.237.

to Dār al-Islām, then the owner of the wealth comes to Dār al-Islām with a guarantee of his own safety, the said Muslim is obligated to return what he stole or borrowed [to the owner]. This is because [the promise of] safety [the Muslim received] entails the sanctity of the wealth belonging to both sides, and, therefore, [stolen and borrowed property] must be returned.¹¹⁴

And the ‘allāmah al-Nawawī¹¹⁵ said:

A Muslim who enters Dār al-Ḥarb under a guarantee of safety, and steals from its people or is loaned something from them and then returns to Dār al-Islām must return all of what he took, because he is not allowed to infringe on contract terms resulting from his entering [Dār al-Ḥarb] with a guarantee of safety.¹¹⁶

114. *Al-Muhadhab*, vol.2, p.264.

115. He is Muḥyī al-Dīn Abū Zakarīyyā Yahyā b. Sharaf al-Nawawī al-Shāfi‘ī (d. 676 AH/1278 CE), an ‘Allāmah, and prominent jurist, a Hāfiẓ, a commander of good and forbiddler of evil who left the worldly pleasures and delights. He was precise in a number of sciences and authored beneficial books which spread far and wide such as *Sharḥ Ṣaḥīḥ Muslim*, *Al-Adbkār*, *Riyāḍ al-Ṣāliḥīn* and *Al-Majmū‘ Sharḥ al-Muhadhab*. For his biography, refer to al-Dhahabī, *Tārīkh al-Islām*, vol.15, p.324, no.340.

116. *Rawḍat al-Tālibīn wa ‘Umdah al-Muḥtāḥ*, vol.10, p.291; this was transmitted by Zakarīyyā b. Muḥammad al-Anṣārī (d. 926 AH/1520 CE) in *Asnā al-Maṭālib Sharḥ Rawḍ al-Tālib*, vol.4, p.208, wherein he said: “The wealth and property of Ahl al-Ḥarb is prohibited [to seize] for any Muslim from us who has a covenant of security, even if a Muslim enters their land.”

Second Ramification

Dealing with non-Muslims on the basis that they rightfully own their own wealth and the impermissibility of Muslims to seize it, except with a legally valid reason approved by sound sharia rulings

Whoever examines the glorious Quran and the prophetic tradition will realize that whatever has legally been possessed becomes a part of one's wealth, and based on this, such a person is considered its true owner. With regards to this, there is no difference between Muslims and non-Muslims, the righteous and the wicked.

In many instances, Allāh has ascribed the wealth of Muslims to them, and in other instances, He has ascribed the wealth of non-Muslims to them. He stated that every group, whether Muslims or non-Muslims, spend from their wealth, and that they will be held accountable on the Day of Judgment for the wealth they spend. Allāh says about the first group:

﴿ الَّذِينَ يُنْفِقُونَ أَمْوَالَهُم بِاللَّيْلِ وَالنَّهَارِ سِرًّا وَعَلَانِيَةً فَلَهُمْ أَجْرُهُمْ عِنْدَ رَبِّهِمْ وَلَا خَوْفٌ عَلَيْهِمْ وَلَا هُمْ يَحْزَنُونَ ﴾

Those who spend their wealth (in Allāh's Cause) by night and day, in secret and in public, they shall have their reward with their Lord. On them shall be no fear, nor shall they grieve. (Qur. 2:274)

Allāh says about the second group:

﴿ وَالَّذِينَ يُنْفِقُونَ أَمْوَالَهُمْ رِئَاءَ النَّاسِ وَلَا يُؤْمِنُونَ بِاللَّهِ وَلَا بِالْيَوْمِ الْآخِرِ وَمَنْ يَكُنِ الشَّيْطَانُ لَهُ قَرِينًا فَسَاءَ قَرِينًا ﴾

And (also) those who spend of their substance to be seen of men, and believe not in Allāh and the Last Day [they are the friends of Shaiṭān (Satan)], and whoever takes Shaiṭān as an intimate; then what a dreadful intimate he has! (Qur. 4:38)¹¹⁷

Furthermore, this is present in the prophetic tradition. There is no doubt that the Prophet ﷺ and his honourable companions treated non-Muslims as explained above, for they didn't treat their wealth as lawful to confiscate just because of their being non-Muslims. Rather, they believed that non-Muslims truly owned their wealth, and consequently, dealt with them on this basis when selling, loaning, entrusting, gifting, and in conducting other transactions.

In general, non-Muslims fall under one of these four categories:

1. Dhimmis, who live in the lands of Islam with a lifelong protection-pledge.
2. Non-Muslims who are guaranteed safety upon entering the lands of Islam with a special protection promise for a specific period of time.
3. Non-Muslims who reside in their own lands, and they are two types: a) There exists a truce and a peace agreement between their community and the people of Islam. Their land is therefore considered a land of treaty with the Islamic State and its subjects. b) War exists between their community and the people of Islam. Their country is then considered a country of war by the Islamic state and its subjects. However some individuals or groups of Muslims may enter such lands with special protection-promises. Therefore, for such Muslims, that land is considered a land of

117. A few other examples in the Qur. 2:261,262,265; 3:10,116; 4:2,6,34; 8:36; 9:55,85,103; 10:88; 51:19; 58:17; 70:24.

peace and safety.¹¹⁸

4. People of war, whether they reside in their land or they enter Dār al-Islām without a covenant or a pledge guaranteeing their safety.

Those who belong to the first two types mentioned above are secure regarding their lives and property, according to the consensus of the jurists.

Whoever is from the fourth type has no safe guarantee regarding their property and life, also by the consensus of the jurists. How can the life and wealth of such combatants be forbidden to violate, while they have violated every sanctity by fighting the people of Islam, and are dedicated to committing aggression against the lives, wealth, and honour of Muslims?

As for those belonging to the third type, regardless of the sub-type, Muslims are obligated to abide by the terms of protection contracts they may have with them. Muslims are forbidden from committing aggression against their lives or wealth, whether the reason behind the prohibition is the terms of the safety pledge, as Abū Ḥanīfah and his followers stated, or due to the fact that Muslims are not allowed to violate the lives of non-Muslims or seize their property, without a valid and legal cause, even if such people are combatants. The property of combatant non-Muslims is only permissible as spoils, that is, only in the sphere of legitimate warfare and fighting.

This is what is understood from the statements of the majority of Muslim jurists. This is the correct opinion which is supported by sharia evidences and the practice of the Prophet ﷺ regarding his treatment of combatant enemies. The Prophet ﷺ and his

118. Compare this part with what was discussed in the section where Dār al-Kufr and Dār al-Ḥarb were defined.

Companions used to meet with combatant polytheists outside of the domain of fighting and treated them on the basis that they owned what they possessed of property; they would buy from them and accept their gifts.

(Before the Prophet's ﷺ migration to Medina,) the polytheists of Mecca used to leave their money and property with the Messenger of Allāh ﷺ as trusts, knowing well his truthfulness and trustworthiness.¹¹⁹ The Prophet ﷺ never disappointed them, nor did he ever lose their trusts, regardless of the severe situation that surrounded and distressed him in Mecca [due to their fierce opposition to him]. Even as the elders and the chiefs of the pagans of the Quraysh tribe agreed unanimously to kill the Prophet ﷺ and he had no choice but to flee Mecca in secret along with Abū Bakr al-Ṣiddīq, he still ordered his cousin 'Alī b. Abī Ṭālib to stay behind in Mecca for three days and nights after he left, so 'Alī could give the trusts (property) the Prophet ﷺ had with him back to their owners. When 'Alī completed that, he followed the Messenger of Allāh ﷺ to Medina.¹²⁰

There is clear proof here in the fact that the Prophet ﷺ did not consider the wealth of non-Muslims permissible to violate for merely being non-Muslims nor did he allow the breaching of contracts or betrayal, even if the Muslims were in a land of war and enmity. Likewise, the Prophet ﷺ did not allow the betrayal of polytheists who were hostile and plotted to imprison, torture, kill, or displace

119. Ibn Hishām, *Al-Sīrah al-Nabawīyyah*, vol.3, p.11.

120. Al-Bayhaqī, *Al-Sunan al-Kubrā*, from the narration of Muḥammad b. Ishāq who said: Muḥammad b. Ja'far b. al-Zubair narrated to me, from 'Urwah b. al-Zubair, from 'Abd al-Raḥmān b. 'Uwaym b. Sā'idah, who said: "Some men among my people from the Companions of the Messenger of Allah reported to me..." and he mentioned the story. Ibn Ḥajr said in *Al-Talkhīṣ al-Ḥabīr*, vol.3, p.98: "Ibn Ishāq collected this [story] using a strong chain of narration." Al-ʿAlbānī said in *Irwā' al-Ghālīl*, no.1546: "This is a good chain of narration." I say that this story is well-known and mentioned in various books on the Prophet's ﷺ biography.

the Muslims, as was the case between the polytheists of Mecca and the Prophet ﷺ. Among the ḥadīths that prove this point are:

The ḥadīth of ‘Abd al-Raḥmān b. Abī Bakr al-Ṣiddīq wherein he said:

We were 130 in number with the Prophet ﷺ and a very tall man with unkempt hair came to the Prophet ﷺ with sheep he was herding. The Prophet ﷺ said: “Are they for sale or a present (or a gift)?” The man responded, by saying: “No, they are for sale.” So the Prophet ﷺ bought a lamb from him.¹²¹

In this ḥadīth, the Prophet ﷺ was on an expedition with his Companions when they met a polytheist and did not consider his wealth or blood as lawful to violate, even though they were in a state of war with the polytheists. As Imam Abū Muḥammad b. Ḥazm said, during that time, “Every place, except the city of the Messenger of Allāh ﷺ (Medina) was a hostile land, a land of war, a land of ongoing jihad.”¹²² Al-Bukhārī titled the chapter under which he collected this ḥadīth: “Chapter: buying from and selling to polytheists and combatants.”¹²³ Ibn Baṭṭāl¹²⁴ said [in explanation]:

Buying from and selling to non-Muslims of all types¹²⁵ is allowed, except selling to combatants what they can use to kill Muslims, such as [war] supplies and weapons, or whatever they can use to overpower Muslims.¹²⁶

121. Al-Bukhārī, *Al-Ṣaḥīḥ*, nos.2216, 2618 and 5382; Muslim, *Al-Ṣaḥīḥ*, no.2056.

122. *Al-Muḥallā bi ‘l-Āthār*, vol.7, p.353, no. 969.

123. *Ṣaḥīḥ Al-Bukhārī*, Book of Sales, chapter 99.

124. Abū ‘l-Ḥasan ‘Alī b. Khalaf b. ‘Abd al-Mālik b. Baṭṭāl al-Qurṭubī (d.449AH/1057): a Mālikī scholar and muḥaddith. He became famous for his valuable explanation of *Ṣaḥīḥ Al-Bukhārī*. His biography is found in al-Dhahabī, *Sīyar*, vol.18, p.47, no.20.

125. i.e. combatant non-Muslims and peaceful non-Muslims.

126. Ibn Baṭṭāl, *Sharḥ Ṣaḥīḥ al-Bukhārī*, vol.6, p.338; Ibn Ḥajr transmitted and affirmed Ibn Baṭṭāl’s statement in *Fath al-Bārī*, vol.4, p.517.

Al-‘Ainī¹²⁷ said:

This [ḥadīth] demonstrates the permissibility of selling to non-Muslims and proves that they truly own what their hands possess.¹²⁸

Al-Bukhārī relayed another chapter as follows:

Chapter: Buying a Freed Slave from an Enemy Combatant, Giving the Slave as a Gift and Freeing the Slave. The Prophet ﷺ said to Salmān: “Make a manumission agreement!”¹²⁹ He was free and the owners oppressed him and sold him; ‘Ammār, Ṣuhayb and Bilāl too were enslaved. Allāh said: “And Allāh has favoured some of you over others in provision. But those who were favoured would not hand over their provision to those whom their right hands possess so they would be equal to them therein. Then is it the favour of Allāh they reject?” (Qur. 16: 71)

Al-Bukhārī relayed under the same chapter heading, four ḥadīths which contain:

1. The story of Ibrāhīm al-Khalīl and his acceptance of a gift from the disbelieving king;
2. Sa’d b. Abī Waqqās and ‘Abd b. Zam‘ah seeking the Prophet ﷺ to arbitrate between them regarding a boy who was born during the pre-Islamic period. Ibn Zam‘ah claimed that the boy was his brother as he was born on his father’s bed from his female slave;
3. The report of Ṣuhayb, when he was kidnapped and sold while

127. Badr al-Dīn Maḥmūd b. Aḥmad al-‘Ainī (d.855AH/1451): a Ḥanafī faqīh, muḥaddith and historian. He authored many books, among them: *Umdah al-Qārī fī Sharḥ Ṣaḥīḥ al-Bukhārī and Al-Bināyah fī Sharḥ al-Hidāyah*. His biography is found in al-Dhahabī, *Siyar*, vol.7, p.163.

128. *Umdah al-Qārī fī Sharḥ Ṣaḥīḥ al-Bukhārī*, vol.12. p.27.

129. Salmān al-Fārisī was a freed slave and the Prophet ﷺ instructed him to make a manumission agreement with his slave master so that he could be freed.

he was still a young boy;

4. The incident regarding Ḥakīm b. Ḥizām when he used to seclude himself in worship during the pre-Islamic period, and freed slaves and gave charity. He asked the Prophet ﷺ if he would gain any reward from Allāh for that, Allāh’s Messenger ﷺ said: “You have accepted Islam along with whatever good you did before.”¹³⁰

Ibn Baṭṭāl elucidated:

The intent of al-Bukhārī with this chapter, and Allāh knows best, is to affirm the [rightful] possession of an enemy combatant or polytheist’s wealth and property and the lawfulness to behave in regards to it by buying, gifting, freeing [of any slaves which he may possess] and all types of behaviour. Here the Prophet ﷺ acknowledged Salmān’s possession by his slave-master and his possession of him was not removed (upon embracing Islam), so the Prophet ﷺ instructed Salmān to make a manumission agreement with his slave-owner. Salmān was in fact free originally and then he was oppressed and sold into slavery yet he did not annul that possession from his owner. The same thing occurred with ‘Ammār, Ṣuhayb and Bilāl, their disbelieving slave-owners brought them back from Muslims and paid the prices for them and they thus became their possessions.¹³¹

Ibn Ḥajr explained:

The subject of the background of the above-mentioned verse (Qur. 16:71) affirms for them possession of what the right-hand possesses, even though in most cases such possessions were acquired in non-sharia compliant ways. Ibn al-Munīr stated: “The intent is that the enemy

130. *Ṣaḥīḥ al-Bukhārī*, ḥadīth nos.2217-2220.

131. Ibn Baṭṭāl, *Sharḥ Ṣaḥīḥ al-Bukhārī*, vol.6, p.342.

combatant has sound possession [of his wealth and property] as does the Muslim.” Those being addressed in the verse are the polytheists and a reprimand on them for the veneration they had for their idols which they did not have for their Lord...¹³²

Moreover, in the ḥadīth about the Treaty of al-Ḥudaibiyyah, al-Mughīrah b. Shu‘bah had accompanied some pagan people in the times of ignorance, but then killed them and took their property. Al-Mughīrah then went to the Prophet ﷺ and embraced Islam. The Prophet ﷺ said to him:

« أَمَّا الْإِسْلَامَ فَاقْبَلْ وَأَمَّا الْمَالَ فَلَسْتُ مِنْهُ فِي شَيْءٍ »

As for you embracing Islam, I accept it; but as for the money, I do not accept any of it.¹³³

Ibn Qayyim¹³⁴ explained this ḥadīth by saying:

The Prophet’s ﷺ statement to al-Mughīrah proves that the wealth of polytheists whose safety was guaranteed is forbidden [to violate] and cannot be unjustly confiscated; [if that happens] it must be returned to them. Al-Mughīrah had accompanied [some polytheists] who were under a guarantee of safety, but he betrayed them, [killed them,] and took their property. However, the Prophet ﷺ did not intrude on their

132. Ibn Ḥajr, *Fath al-Bārī Sharḥ Ṣaḥīḥ al-Bukhārī*, vol.4, p.520.

133. Aḥmad, *Musnad*, vol.4, p.328, no.18929; Al-Bukhārī, *Al-Ṣaḥīḥ*, no.2731; Ibn Ḥibbān, *Al-Ṣaḥīḥ*, no.4872. This narration was also collected by Abū Dāwūd, *Al-Sunan*, no.2765, and the text he collected is: “...as for Islam we accept it, and as for the money, it is wealth [taken by] betrayal, and we have no use for it.”

134. He is al-‘Allāmah Muḥammad b. Abī Bakr b. Ayyūb b. Sa‘d al-Zar‘ī al-Dimishqī, widely-known as “Ibn Qayyim al-Jawziyyah” (d. 751 AH/1350 CE). He was one of the pillars of Islamic rectification and revival and one of the Imams who traversed the method of the Salaf. He was born and died in Damascus and studied under Shaykh al-Islām Ibn Taymiyyah. The books which he left include *Ilām al-Muwaqqi‘īn*, *Shifā’ al-‘Alīl*, *Al-Sawāiq al-Muḥarraqah*, *Abkām Abl al-Dhimmah*, *Madārij al-Sālikīn* and many others. For his biography refer to al-Zirkilī, *Al-Ālām*, vol.6, p.56.

wealth, but he also didn't guarantee or assume liability for their loss. This is because this incident occurred before al-Mughīrah accepted Islam."¹³⁵

Ibn Ḥajr said:

The [Prophet's ﷺ] statement: "As for the money, I do not accept any of it" means: I won't have anything to do with it, because al-Mughīrah took it by means of betrayal. The significance we can gain from [the Prophet's ﷺ statement] is that, it is unlawful to betray non-Muslims and take their property after [granting them] a guarantee of safety. This is because companionship is sought on the basis of mutual trust, and trusts must be given back to its people, whether they are Muslim or non-Muslim. Furthermore, the property of non-Muslims is only lawful through [legitimate] warfare and overpowering.¹³⁶ It is possible that the Prophet ﷺ allowed al-Mughīrah to keep the property, because perhaps his [pagan] people would become Muslim later, in which case al-Mughīrah would return the property to them. Another significant point learned from this story is that if a combatant [such as al-Mughīrah was before his Islam] takes the wealth of another combatant, there is no assurance [of its return to the original owner]; this is one of two opinions held by the Shāfi'yyah [on this topic].¹³⁷

Among the proofs of this principle is Allāh's statement regarding Banū Qurayzah, who broke their covenant with the Prophet ﷺ by supporting the confederate army of Quraysh and other combatant

135. Ibn Qayyim, *Zād al-Mā'ād fī Hadī Khayr al-Ībād*, vol.3, p.304.

136. Examine these words and the distinction they make between two aspects. Here the indication is that the wealth of non-Muslim combatants is unlawful, except through legitimate warfare, while the previous statement forbids breaching of contracts and disallows treachery.

137. Ibn Ḥajr, *Fatḥ al-Bārī Sharḥ Ṣaḥīḥ al-Bukhārī*, vol.5, p.417, no.2731.

pagans against the Muslims. Allāh ordered His Prophet ﷺ to fight them because of their breaching the contract and their treachery:

﴿ وَأَنْزَلَ الَّذِينَ ظَاهَرُوهُمْ مِّنْ أَهْلِ الْكِتَابِ مِنْ صَيَاصِيهِمْ وَقَذَفَ فِي قُلُوبِهِمُ الرُّعْبَ
فَرِيقًا تَقْتُلُونَ وَتَأْسِرُونَ فَرِيقًا ○ وَأَوْرَثَكُمْ أَرْضَهُمْ وَدِيَارَهُمْ وَأَمْوَالَهُمْ وَأَرْضًا لَّمْ
تَطَّوُّهَا وَكَانَ اللَّهُ عَلَىٰ كُلِّ شَيْءٍ قَدِيرًا ﴾

And those of the people of the Scripture who backed [the disbelievers], Allāh brought them down from their forts and cast terror into their hearts, (so that) a group (of them) you killed, and a group (of them) you made captives. And He caused you to inherit their lands, and their houses, and their riches, and a land which you had not trodden (before). And Allāh is able to do all things. (Qur. 33:26-27)

Therefore, Allāh ascribed the land, homes, and wealth the Jews of Banū Qurayzah had as belonging to them, and He then said that the Muslims inherited all of that as a result of [legitimate] warfare.

Al-Māwardī also said:

Disbelievers rightfully own their property, just as Muslims do, due to Allāh's statement: "And He caused you to inherit their lands, and their houses, and their riches." (Qur. 33:27) Therefore, Allāh ascribed their property to them, as an affirmation of ownership.¹³⁸

Moreover, Imam Ibn Ḥazm said:

Anything given by combatants to a Muslim messenger or merchant who is dealing with them is lawful and a valid gift, as long as it is not property actually belonging a Muslim or a dhimmi. Also, whatever a Muslim sells to them is a valid transaction, as long as the property does not belong to a Muslim or a dhimmi. This is because combatants are considered rightful owners of their wealth, unless Muslims take

138. *Al-Ḥāwī al-Kabīr*, vol.18, p.134.

possession of it [lawfully] such as mentioned in Allāh's statement: "And He caused you to inherit their lands, and their houses, and their riches." (Qur. 33:27) Therefore, Allāh ascribed what [the combatant Jews] owned (i.e. their houses and riches) to them, until He caused the Muslims to inherit it (after the Jews betrayed their treaty with the Muslims). Inheriting something doesn't take place without first possessing and owning [here, by the party that lost the wealth].¹³⁹

139. Ibn Ḥazm, *Al-Muḥallā bi 'l-Āthār*, vol.7, p.309, no.936. Ibn Ḥazm's statement: "Allah made their wealth an inheritance only for those who confiscated the wealth," is an important distinction. Therefore, spoils are only collected in legitimate warfare, and war has conditions and rulings, and a field and a battleground. If and when warfare ends, there is no doubt that people should adhere to certain moral rules by which they can coexist, even if they still have enmity and hatred towards each other in their hearts.

Third Ramification

Muslims living in non-Muslim lands must abide by the rulings of Islam, just as they are obligated to do while residing in the lands of Islam

Allāh did not create us without a purpose, nor did He leave us without guidance. Instead, Allāh made a specific and clear purpose for our creation: to establish servitude to Allāh by singling Him, alone, in creed, statement, and action, and by obeying what He commanded and abandoning what He forbade and rejected, just as He said:

﴿ وَمَا خَلَقْتُ الْجِنَّ وَالْإِنْسَ إِلَّا لِيَعْبُدُونِ ﴾

And I (Allāh) created not the Jinn and humankind except that they should worship Me (Alone). (Qur. 51:56)

And Allāh states:

﴿ وَمَا أُمِرُوا إِلَّا لِيَعْبُدُوا اللَّهَ مُخْلِصِينَ لَهُ الدِّينَ حُنَفَاءَ وَيُقِيمُوا الصَّلَاةَ وَيُؤْتُوا الزَّكَاةَ
وَذَلِكَ دِينُ الْقِيَمَةِ ﴾

And they were not commanded except to worship Allāh, [being] sincere to Him in religion, inclining to truth, and to establish prayer and to give zakat. And that is the correct religion. (Qur. 98:5)

This servitude extends to every human's entire lifespan, from when they reach the age of accountability, until the last moment of their life. Allāh ordered this for His noble Prophet ﷺ, and it is also an order for those who follow him thereafter. Allāh said:

﴿ قُلْ إِنَّ صَلَاتِي وَنُسُكِي وَمَحْيَايَ وَمَمَاتِي لِلَّهِ رَبِّ الْعَالَمِينَ ﴾

Say (O Muḥammad): “Verily, my prayer, my sacrifice, my living, and my dying are for Allāh, the Lord of the all that exists.” (Qur. 6:162)

Allāh also commanded earlier Prophets with the same thing, as the Messiah ‘Īsā b. Maryam said:

﴿ قَالَ إِنِّي عَبْدُ اللَّهِ آتَانِيَ الْكِتَابَ وَجَعَلَنِي نَبِيًّا ۖ وَجَعَلَنِي مُبَارَكًا أَيْنَ مَا كُنْتُ وَأَوْصَانِي بِالصَّلَاةِ وَالزَّكَاةِ مَا دُمْتُ حَيًّا ﴾

Verily, I am a slave of Allāh; He has given me the Scripture and made me a Prophet. And He has made me blessed wheresoever I be, and has enjoined on me prayer and zakāt (charity) as long as I live. (Qur. 19:30-31)

It is this servitude that must accompany the Muslim in all times, places, situations, and conditions. This is not restricted to certain times and places only because Allāh is the Lord of time, places, and situations. Allāh’s creation is submissive to His Lordship, that is, His being the Creator and Sustainer of everything, eternally and forever, and they can never release themselves from this servitude. Likewise, they are never permitted to abandon worshipping and obeying Him, nor fall into shortcomings with regards to any part of their servitude and worship of Allāh, to the best of their abilities.

Allāh says:

﴿ يَا أَيُّهَا الَّذِينَ آمَنُوا ادْخُلُوا فِي السَّلَامِ كَافَّةً وَلَا تَتَّبِعُوا خُطُوَاتِ الشَّيْطَانِ إِنَّهُ لَكُمْ عَدُوٌّ مُبِينٌ ۚ فَإِنْ زَلَلْتُمْ مِّنْ بَعْدِ مَا جَاءَتْكُمُ الْبَيِّنَاتُ فَاعْلَمُوا أَنَّ اللَّهَ عَزِيزٌ حَكِيمٌ ﴾

O you who believe! Enter perfectly in Islam and follow not the footsteps of Shaiṭān. Verily, he is to you a plain enemy. Then if you slide back after the clear signs have come to you, then know that Allāh is All-Mighty, All-Wise. (Qur. 2:208-209)

Imam Ibn Kathīr¹⁴⁰ said:

Allāh says in a commandment to His believing slaves who believe in His Messenger, to adhere to all of the covenants and laws of Islam, to act on His commandments, as much as they are able to do, and to abandon everything He forbade.¹⁴¹

Similarly, the ‘allāmah ‘Abd al-Raḥmān al-Sa‘dī¹⁴² said:

This is a commandment from Allāh to the believers that they should all enter “perfectly in Islam” which entails [acting on] all of the laws of the religion; and they should not abandon any of them. Also, they should not be like those who take their desires as their god; if religious commandments comply with their desires then they abide by them; if not, they don’t abide by them. Instead, it is obligatory that one’s desire becomes subservient to the religion, and that every person should perform everything they can of good deeds. Whatever they are incapable of performing, they should have the firm intention to perform them [when they are able] so they may earn the reward on account of their intention. Entering into Islam as a whole doesn’t happen, except by contradicting the paths of the Shaitān. Allāh said: “And follow not the footsteps of Shaitān” as [Shaitān’s footsteps lead

140. ‘Imād al-Dīn Abū ‘l-Fidā’ Ismā‘īl b. ‘Amr al-Dimishqī al-Shāfi‘ī (d.774 AH/1373 CE): a major scholar of tafsīr, hadith, fiqh and history. Ibn Kathīr left behind many valuable works, among the most famous of them are: *Jāmi‘ al-Masānid wa ‘l-Sunan* on the science of ḥadīth, *Al-Bidāyah wa ‘l-Nihāyah* on sīrah and history and *Tafsīr al-Qur‘ān al-A‘zīm*, which is among the best books of tafsīr because of its dedication to explaining the Quran through authentic narrations and avoiding invalid statements and false stories. His biography is found in al-Ziriklī, *Al-Ālām*, vol.1, p.320.

141. *Tafsīr al-Qur‘ān al-A‘zīm*, Qur. 2:208.

142. ‘Abd al-Raḥmān b. Nāṣir b. ‘Abd Allāh al-Sa‘dī (d.1357 AH/1956 CE): the scholar, mufassir, faqīh, as well as one of the most famous scholars of his time. He was born in Al-Qassim in the Kingdom of Saudi Arabia. He wrote many valuable books on ‘aqidah, uṣūl, fiqh, and other topics. Among his most noted works is his famous tafsīr *Tafsīr al-Karīm al-Raḥmān fī Tafsīr Kalām al-Mannān*. His biography is found in al-Ziriklī, *Al-Ālām*, vol.3, p.340.

to] committing actions of disobedience to Allāh; “Verily, he is to you a plain enemy,” i.e. the known enemy only commands that which is wicked and evil, and that which inflicts harm on you (humankind). Moreover, since slaves [of Allāh, His creation] are prone to falling into shortcomings and mistakes, Allāh said: “Then if you slide back after the clear signs have come to you...” This means, having gained knowledge and awareness; “Then know that Allāh is All-Mighty, All-Wise.” This contains a threat and warning which demands abandoning shortcomings. This is because if the All-Mighty, the Domineering and All-Wise, is disobeyed by sinful people, He subdues them with His might and punishes them according to His wisdom, for a part of His wisdom, is to punish the sinful and the wrongdoers.¹⁴³

And Allāh says:

﴿ يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ حَقَّ تُقَاتِهِ وَلَا تَمُوتُنَّ إِلَّا وَأَنْتُمْ مُسْلِمُونَ ﴾

O you who believe! Fear Allāh (by doing all that He has ordered, and by abstaining from all that He has forbidden) as He should be feared and die not except in a state of Islam. (Qur. 3:102)

Allāh also says:

﴿ فَاتَّقُوا اللَّهَ مَا اسْتَطَعْتُمْ وَأَسْمَعُوا وَأَطِيعُوا وَأَنْفِقُوا خَيْرًا لِأَنْفُسِكُمْ وَمَنْ يُوقِ شُحَّ نَفْسِهِ فَأُولَئِكَ هُمُ الْمُفْلِحُونَ ﴾

So keep your duty to Allāh and fear Him as much as you can; listen and obey, and spend in charity; that is better for yourselves. And whosoever is saved from his-own covetousness, then, they are the successful ones. (Qur. 64:16)

Therefore, whoever fears Allāh with all of their ability, and strives to

¹⁴³. *Taysir al-Karim al-Rahman fi Tafsir Kalām al-Mannan*, Qur. 2:208.

continue on this path until they die, then they have feared their Lord as He should be feared.

‘Abd Allāh b. Mas‘ūd said this about Allāh’s statement “O you who believe! Fear Allāh as He should be feared”: “That [Allāh] is obeyed and never disobeyed; remembered and never forgotten; thanked and never shown ingratitude.”¹⁴⁴

There are numerous proofs from the Quran and Sunnah regarding this foundation. In general, this aspect comprises of a well-known commandment from the Islamic religion. This principle stipulates that whoever is pleased with Allāh as their Lord, Islam as their religion, and Muḥammad ﷺ as their Prophet and Messenger, must know with certain knowledge that they are responsible for adhering to the religion of Allāh and His law. Adherence is required in every place and time, and in all situations, including when one is alone and also while one is with people.

144. Reported by Ibn al-Mubārak, *Al-Zuhd*, no.22; ‘Abd al-Razzāq, *Tafsīr*, vol.1, p.129; al-Ṭabarī, *Jāmi‘ al-Bayān*, pp.7536-7543; Ibn Abī Ḥāṭim, *Tafsīr*, p.3908; al-Ḥākim, *Al-Mustadrak*, vol.2, p.294, no.3159; Abū Nu‘aym, *Hilyah al-Awliyā’*, vol.7, p.238. Al-Ḥākim said: “this is an authentic ḥadīth according to the conditions of al-Bukhārī and Muslim, and they did not report it.” Ibn Kathīr said in *Tafsīr al-Qur‘ān al-A‘zīm* in the tafsīr of 3:102: “This chain of transmission is authentic and is attributed to a companion.” Al-Fakhr al-Rāzī stated in *Tafsīr al-Kabīr*, 3:102:

As for those who said that the meaning here is that ‘[Allāh] is to be obeyed and never disobeyed,’ it is sound, for what humans do unintentionally or out of forgetfulness does not affect this meaning since in these circumstances accountability is suspended. This is also applied to [Ibn ‘Abbās’s] statement: ‘remembered and never forgotten,’ since remembrance [of Allāh] is required during supplication and [while performing] acts of worship. As for, ‘thanked and never shown ingratitude,’ it is required when the blessings of Allah come to mind, but when one unintentionally forgets, it is [pardoned]. All of these traits are within one’s ability to do, and there is no chance of them being abrogated as some opined.

I say: the view that the ayah is authoritative (Muḥakkamah) and that no abrogation has occurred in regards to it, is a view related from Ibn ‘Abbās and Ṭāwūs and the investigative scholars have concurred with them. Refer to Abū Ja‘far al-Naḥḥās, *Al-Nāsikh wa l-Mansūkh*, p.86; Ibn al-Jawzī, *Nawāsikh al-Qur‘ān*, vol.1, p.328 and Ibn ‘Aṭṭiyah, *Al-Muḥarrar al-Wajīz*, 3:102.

As such, Imam al-Shafi‘ī said:

Among what Muslims understand and agree on, is that whatever is lawful in the lands of Islam is lawful in non-Muslim lands, and whatever is prohibited in the lands of Islam, is also prohibited in non-Muslim lands. Therefore, whoever commits a prohibited act, Allāh will surely punish them as He wills, for being in non-Muslim lands does not avert [or lessen] any burden from such people [who commit prohibitions].¹⁴⁵

EXAMINING THE OPINION OF THE ḤANAFĪ MADHAB THAT PERMITS USURY AND OTHER UNLAWFUL DEALINGS WHEN LIVING IN DĀR AL-ḤARB

Now that the proceeding statements have been quoted, we will examine the opinion of some of the Ḥanafī scholars who permit certain prohibited monetary transactions for Muslims who reside in non-Muslim lands. Some people who are weak in their religion, and who have a love for this world in their hearts made following exemptions and irregular opinions as their way and habit. They took the opinion of the Ḥanafīyah from some books and then used it incorrectly. Consequently, they took advantage of the Ḥanafīyah’s erroneous stance in the worst way possible. In doing so, they issued a legal opinion for Muslims who live in non-Muslim lands allowing them to deal in usury, which is forbidden.

In response, I say the following, and with Allāh is all success: Fair-minded researchers must first examine the statements of the Ḥanafīyah regarding this issue, then, they must strive to understand it according to what they intended so as to formulate a correct stance and a just decision. Here I will present some of their statements, then follow that with a summary and a critique.

145. *Al-Umm*, vol.7, p.355 and *Dār al-Wafā’* edition, vol.9, p.237.

Al-Sarakhsī stated:

(If a Muslim) who was given a promise of safety (by non-Muslims) deals with them in [usury] transactions, either with an immediate or a delayed payment, or if (such a Muslim) trades in alcohol, pork, or dead animals with them, then it is allowed, according to Abū Ḥanīfah and Muḥammad [b. al-Ḥasan], may Allāh have mercy on them both. However, none of these transactions are allowed according to Abū Yūsuf¹⁴⁶ because Muslims must abide by the laws of Islam wherever they are, and the laws of Islam prohibit such dealings. Do you not see that if Muslims engage in these transactions with non-Muslims who are assured protection in our (Muslim) land, it is not allowed? Then, it carries the same ruling in Dār al-Ḥarb. Yet, [Abū Ḥanīfah and Muḥammad b. al-Ḥasan] stated that this [usury] money is taken with the “consent of non-Muslims;” i.e. taking the wealth of a combatant is permissible by default but since Muslims gave the non-Muslims guarantees, they will not be betrayed, so they appease the non-Muslims by creating contractual [business transaction] agreements in order to avoid betraying them. Then, they may consume their wealth, since it is permissible by default, not due to the validity of the [usury] contract.

146. Abū Ḥanīfah is al-Nu‘mān b. Thābit al-Kūfī (d. 150 AH/767 CE), the Imam, faqīh and after whom the Ḥanafī Madhab is named. He was known for his intelligence and depth in researching and discussing issues of Islamic jurisprudence in his academic gatherings. Many students studied under him, the famous of them being Abū Yūsuf al-Qāḍī, Muḥammad b. al-Ḥasan and Zufar b. al-Hudhayl (d. 158 AH/775CE). His views spread, as did his madhab, in many lands. For his biography refer to al-Dhahabī, *Sīyar*, vol.6, p.390, no.163.

Muḥammad al-Shaybānī, is Abū ‘Abd Allāh Muḥammad b. al-Ḥasan b. Farqad al-Shaybānī (d. 189 AH/804 CE), an Imam of fiqh and Uṣūl. He was of the students of Abū Ḥanīfah who spread his knowledge. His books include *Al-Jāmi‘ al-Kabīr*, *Al-Jāmi‘ al-Ṣaghīr*, *Al-Āthār* and *Al-Hujjah ‘alā Abl al-Madīnah*. For his biography refer to al-Dhahabī, *Sīyar*, vol.9, p.134, no.45.

Abū Yūsuf is Yā‘qūb b. Ibrāhīm al-Anṣārī al-Kūfī al-Baḡhdādī (d. 182 AH/798 CE), the companion of Imām Abū Ḥanīfah and his student. He was the first to spread the madhab of Abū Ḥanīfah, and he was a major jurist and memoriser of ḥadīth. He assumed the position of qazi in Baḡhdad during the time of al-Mahdī and ar-Rashīd. His books include *Al-Kharāj* and *Al-Āthār*. For his biography refer to al-Dhahabī, *Sīyar*, vol.8, p.535, no.141.

This is the difference between this case and non-Muslims enjoying a safety pledge in Muslim lands. The wealth of such protected [non-Muslims] is safeguarded via the pledge and covenant of security [they received from Muslims], meaning that [Muslims] cannot consume their wealth as though it were permissible by default. Therefore, dealing in invalid transactions [such as usury] in such cases renders the contracts invalid.¹⁴⁷

Moreover, al-Kāsānī¹⁴⁸ said:

As for the conditions that establish usury transactions, among them is that the wealth of both parties dealing in usury must be protected (inviolable). So, if the wealth of one party is not protected, then usury does not occur according to us.¹⁴⁹ And according to Abū Yūsuf: “This is not a condition, and thus, usury does occur.” On this basis [which the Ḥanafīyah took], if a Muslim enters Dār al-Ḥarb as a merchant and deals with a combatant by selling one dirham for the price of two, or any other type of transaction that is invalid in the laws of Islam,¹⁵⁰ it is allowed according to Abū Ḥanīfah and Muḥammad while according to Abū Yūsuf, it is not allowed. Abū Yūsuf’s point of view is that, just as usury is prohibited for Muslims, then it is also prohibited for non-Muslims, because they are also addressed when it comes to what is prohibited [in Islam] according to the correct stance.¹⁵¹ Therefore,

147. Al-Sarakhsī, *Al-Mabsūt*, vol.10, p.95; he also researched the matter with its evidences in vol.14, p.56.

148. ‘Alā’ al-Dīn Abū Bakr b. Mas‘ūd b. Aḥmad al-Kāsānī or al-Kāshānī al-Ḥalabī (d.587 AH/1191 CE), a prominent Ḥanafī scholar and faqīh. His lengthy book *Badā’i‘ al-Ṣanā’i‘ fī Tartīb al-Sharā’i‘* is considered a major reference book on Ḥanafī fiqh. His biography is found in al-Ziriklī, *Al-‘Ālām*, vol.2, p.70.

149. Here, he means Abū Ḥanīfah and the general masses of his followers. This is the mainstream opinion in their madhab, but it is contrary to the stance of Abū Yūsuf al-Qāḍī.

150. Such as if a Muslim was to sell pork, dead animals, or blood to a combatant non-Muslim.

151. The meaning here is that non-Muslims are also included and addressed in the intricate

stipulating usury terms into dealings will render the transaction invalid. This similarly applies if Muslims were to conduct sales using this kind of transaction with a combatant who was given assurance of protection in the land of Islam.

According to [Abū Ḥanīfah and Muḥammad], the wealth of a combatant is not sacred itself, and is permissible to violate. However, a Muslim who is assured protection in non-Muslim lands is prevented from taking possession of it, without their consent that is, because to do so constitutes a form of treachery and a breach of covenant. But, if the combatant expends from it with his own choice and pleasure, then this meaning is removed; the possession of it would be deemed as seizing permitted wealth and property not via dispossession, in addition to being legislated and suitable for possession, such as wood and hashish. With this, it becomes clear that the agreement here is not one of tamalluk [ownership], rather it is a way to obtain possession and the consent [of the disbeliever] as the combatant's ownership is not nullified except with his consent and as such cannot be seized for possession. For if his ownership is nullified then it would go to the Muslim via seizure and appropriation not via a contract [as Muslims do not believe in the soundness of usury contracts], and therefore usury is not ascertained [as one of the parties, i.e. the Muslim due to his belief, does not actually deem the contract as being sound from the outset]. Usury is the name for a financial benefit which benefits from a contract. This is not like the case where a Muslim transacts with a combatant who enters the land of Islam with a promise of safe passage, for then

rulings of the Islamic sharia. Therefore, if they know about the religion of Islam and evidence was established against them by this knowledge, they will be held accountable if they abandon its obligations and commit its prohibitions, just as they will be held accountable for disregarding the essence of Islam itself. This is the correct opinion regarding this issue, as well as the opinion held by most Muslim scholars. Refer to *Al-Iḥkām fī Uṣūl al-Aḥkām*, vol.5, p.716, *Al-Mustaṣfā min Ilm al-Uṣūl*, vol.1, p.171, *Rawḍah al-Nāẓir*, vol.1, p.170 and *Al-Baḥr al-Muḥīṭ*, vol.1, p.397.

the combatant's wealth becomes inviolable due to their entering with a covenant of security. Protected (inviolable) wealth cannot be violated. Therefore, a contract of transfer of ownership [between two inviolable parties] becomes due here, and in such a contract, usury will render the contract invalid."¹⁵²

By examining and contemplating these two opinions, we summarise the following:

Firstly: The Ḥanafīyah built this opinion on the basis that the core relationship between the Islamic state and other countries is established on war and constant enmity. This was also the opinion of the general masses of the fuqahā in Abu Ḥanīfah's time wherein the relationship between countries was built on the basis of war, aggression, and overpowering. A temporary truce did not change the essence of the relationship¹⁵³, and that's why al-Sarakhsī said:

If a community from among the people of Dār al-Ḥarb made peace with the people of Islām, and a Muslim enters their land and sells one dirham for the price of two, then there is no problem. This is because a truce does not turn their land into a Dār al-Islām. What is prohibited is for a Muslim to take their property without their consent, because that entails betrayal of the truce. But, if they consent to [usury] transactions, then betrayal of the pledge of security has not occurred and Muslims are allowed to take possession of what is earned [though a usury dealing, that is].¹⁵⁴

152. *Badā'ī' al-Ṣanā'ī' fī Tartīb al-Sharā'ī'*, vol.5, p.192.

153. Review what was mentioned before about Dār al-Ḥarb. By mentioning this aspect we do not mean to discuss if the relationship of a Muslim country with other countries is built on war or peace. We only aim to mention the state of affairs that existed at that time. Whoever reads the books of history will be certain of the soundness of what we mentioned here. Among the most extensive and unique is *The Story of Civilization*, by the historian and philosopher, William Durant (1885-1981).

154. *Sharḥ al-Siyar al-Kabīr*, vol.4, p.1493

In conclusion, whoever enters a land of combatants with a guarantee of safety, then this brings about two consequences according to the Ḥanafīyah: i) They must abide by the obligations of the contract of protection, and ii) They must not commit treachery or breach the contract. We mentioned the statements of the Imams of the Ḥanafīyah who asserted this, and they comprise of the greatest number of jurists who agreed on this issue.

If the citizens of Dār al-Ḥarb give a guarantee of safety to a Muslim or a group of Muslims, they still remain combatants at the core of their relationship with Muslims. It was mentioned before that [in this scenario] there is no sanctity for the blood or wealth of combatant enemies. Therefore, Muslims who enter the lands of combatant enemies will not consider them having any sort of sanctity and would aspire to gain power over their souls and wealth. However, what prevents them is adherence to the pact of protection they have with such combatants. Yet, if they are able to take some of their wealth in a way that does not breach the obligations of the contract, then they will try to do that (including through usury transactions as stated).

Secondly: The opinion held by the Ḥanafīyah which permits dealing with usury and other unlawful things while in Dār al-Ḥarb is built on the previously mentioned basis, meaning the permissibility for a Muslim to seize the wealth of the combatant enemy who is warring against Muslims. But, because Muslims are bound to contracts of protection offered to them from combatant non-Muslims, they cannot seize their wealth through betrayal or treachery. Therefore, Muslims are permitted to take their property in ways that the enemy who gave such Muslims protection would accept and allow. Among those ways, is for the combatants to give Muslims their capital through a transaction which the combatant

is comfortable with, although it is prohibited in the sharia. When a Muslim conducts this transaction in the described circumstance, he does not consider it permissible, viable or binding. It is only a means of taking possession of the wealth of combatants, which is allowed for Muslims to confiscate by force and overpowering, if it wasn't for the contract of protection.

Thirdly: If the property of non-Muslims is inviolable, Muslims cannot seize it, and therefore, Muslims are not permitted to transact with such non-Muslims in usury or any other prohibited dealing. Otherwise, if Muslims take wealth using impermissible transactions, they will have earned the wealth through a prohibited contract, not because the said wealth is permissible to take. This is an important difference between the two cases, and we will clarify it by narrating the words of one of the Ḥanafī fuqahā. Al-Karābīsī¹⁵⁵ said:

If a [non-Muslim] combatant enters Dār al-Islām with a guarantee of safety, and a Muslim were to conduct a transaction with him by selling one dirham for the price of two [in usury], then this is not allowed. If a Muslim enters Dār al-Ḥarb with a guarantee of safety and conducts the same transaction with them [in usury], then this is allowed. This is even if the wealth and property of all [in both cases] is permitted and there is consent [in both cases] of [the money being] possessed [in this way]. The difference is that when a Muslim enters Dār al-Ḥarb with a guarantee of safety he will have promised not to take their wealth without their permission. Therefore, he must fulfil his promise. Yet, their wealth remains permissible by default, and so if he takes it with their consent and without nullifying the pledge [they gave him], then it is allowed. As for a combatant who enters our land [of Islam] with

155. He is Abū 'l-Muẓaffar As'ad b. Muḥammad b. al-Ḥusayn al-Karābīsī (d. 570 AH/1174 CE), a Hanafī faqīh and literary writer. His books include the fiqh works *Al-Furūq* and *Al-Mujaz*. For his biography refer to al-Zirkilī, *Al-Ālām*, vol.1, p.301.

a guarantee of safety, we [Muslims] will have granted him a pledge of safety with the stipulation that if anyone in our land takes the wealth [of such a combatant, without their consent], they will not legally own it. Therefore, such property stops being permissible to be taken by default once it becomes wealth that is safeguarded by Muslims. Therefore, a Muslim cannot seize it by force; it has to be a [permissible] contract. Selling two dirhams for the price of one (for example) is considered usury, and as such, it is not allowed in this case.¹⁵⁶

Fourthly: based on the above discussion, it becomes clear that the topic according to the Ḥanafīyyah is limited to when a Muslim seizes the property of a combatant non-Muslim in any way forbidden in Islam. This is contrary to a Muslim giving his wealth to non-Muslims, which the Ḥanafīyyah clearly forbid, on the basis that the wealth of a Muslim is inviolable, making it illegal to be given to a non-Muslim in an impermissible way, even by the Muslim's consent.

Ibn ʿĀbidīn al-Dimishqī¹⁵⁷ said, commenting on this point in Ibn al-Humām's¹⁵⁸ discussion on the subject¹⁵⁹:

The proof for this is presented in [al-Sarakhsī's] *Al-Siyar al-Kabīr* and its commentary wherein it states, in summary: "If a Muslim enters Dār al-Ḥarb with a guarantee of safety, then there is no problem if the Muslim consumes their property in any manner as long as they

156. *Al-Furūq*, vol.1, p.326.

157. Muḥammad Amīn b. ʿUmar b. ʿAbd al-ʿAzīz ʿĀbidīn al-Dimishqī (d.1252 AH/1837 CE), the 'Jurist of the Levant' and Imam of the Ḥanafīyyah during his time. His books include *Radd al-Muḥtār ʿalā ʿl-Durr al-Mukhtār*, also known as *Hāshiyah Ibn ʿĀbidīn*, as well as a collection of treatises. His biography is in al-Zirkilī, *Al-Ālām*, vol.6, p.42.

158. He is Kamāl al-Dīn Muḥammad b. ʿAbd al-Wāḥid al-Siwāsī, then al-Iskandarī, widely-known as "Ibn al-Humām" (d. 861 AH/1457 CE), one of the senior Hanafī ulema who was well-versed in the foundations of religions, tafsīr, farāʿid, fiqh, ḥisāb, language and logic. His most famous work is *Fatḥ al-Qadīr* which is an explanation of *Al-Hidāyah* by al-Marghīyānī. For his biography refer to al-Zirkilī, *Al-Ālām*, vol.6, p.255.

159. *Fatḥ al-Qadīr*, vol.7, p.39.

consent. He will have taken what is lawful in a manner that did not breach the contract, and thus, [the wealth] becomes permissible for him [to consume]. The same ruling applies to both the [Muslim] prisoner of war and a [Muslim] person guaranteed protection [in Dār al-Ḥarb], even if [a Muslim] sells two dirhams for the price of one [in usury], or sells dead animals [which were not slaughtered] to them, or took wealth from them by gambling, then all of this is permissible for him¹⁶⁰. Examine how [al-Sarakhsī] made the topic a matter of taking their property with their consent. Therefore, it became known that what is meant by usury and gambling, in their words, is what is mentioned in this situation, even if it is expressed in a general manner. This is because the designation [whether something is permissible or not] is usually connected to the reason behind [issuing such a ruling].¹⁶¹

Fifthly: It is clear from what has proceeded that the Ḥanafīyah did not make lawful what is prohibited in Dār al-Kufr, neither did it occur to them that Muslims who reside in Dār al-Kufr should be allowed to disregard the sharia and commit what is forbidden. To the contrary, the Ḥanafīyah explicitly stated that usury is prohibited between Muslims while in Dār al-Ḥarb, since what is relevant here is the wealth itself being inviolable regardless of the land Muslims reside in.

Al-Sarakhsī said:

If two Muslim merchants were in Dār al-Ḥarb, no transaction is permissible for them, except what is permissible in Dār al-Islām, because the wealth of each one of them is safeguarded and protected. This [safeguarding] happens in Dār al-Islām through a system of protection that continues to extend when they are under the protection of non-

160. From the book *Sharḥ Kitāb al-Siyar al-Kabīr*, vol.4, p.1410, no.2734.

161. *Radd al-Muḥtār ʾilā ʾl-Durr al-Mukhtār*, vol.5, p.186.

Muslims. This is why each one of them is required to compensate the other party if they suffer loss or damage. Each of them takes possession of whatever they are transacting in, that is, through the contract that they both drafted since this is required to establish various transactions such as gifts, etc.¹⁶²

With these five points, the reality of the position of the Ḥanafī madhab regarding this issue becomes clear. As such, whoever claims that the Ḥanafīyyah allow what is prohibited in Dār al-Kufr, will have uttered a great lie against them. Moreover, whoever issues a fatwa that Muslims are allowed to buy a house in Dār al-Kufr, and pay for it with interest, claiming that this conforms with the Ḥanafī madhab, will also have uttered a great lie against them, in addition to betraying the trust of imparting knowledge and issuing fatwas.¹⁶³

REFUTING THE OPINION OF THE ḤANAFIYYAH

It has been clarified to us that the opinion of the Ḥanafīyyah is limited to a particular circumstance, based on ijtihād and opinion. However, the majority of the scholars from among the Salaf, earlier generations, and the Khalaf, later generations, did not accept this stance; they rejected and refuted it, because it lacks evidence and proof, and because it contradicts the foundations of the sharia and its universal principles.

Imam ‘Abd al-Raḥmān b. ‘Amr al-Awzā’ī¹⁶⁴ said:

162. As-Sarakhsī, *Al-Mabsūṭ*, vol.14, p.58.

163. It is clear that in the mentioned situations, the Ḥanafīyyah permit Muslims to accept usury payment but not pay it themselves. Yet, they also permit selling alcohol, pork, dead animals, gambling, and so forth, with interest. As for those who permit Muslims in the west to buy houses on usury, they do not permit the other transactions the Ḥanafīyyah supposedly allow. Therefore, they contradict themselves, and expose the invalidity of their opinions.

164. He is Abū ‘Amr ‘Abd al-Raḥmān b. ‘Amr al-Awzā’ī (d. 157 AH/774 CE), one of the

Usury is forbidden for one in a land of war and everywhere else, because the Messenger of Allāh ﷺ abolished any usury that had remained among the pre-Islamic Arabs which was present when Islam was established. The first usury the Prophet ﷺ abolished was the usury of [his paternal uncle] al-‘Abbās b. ‘Abd al-Muṭṭalib.¹⁶⁵ How then, can a Muslim consider taking usury as lawful from a people whose blood and wealth are forbidden for Muslims by Allāh?¹⁶⁶ Moreover, Muslims used to sell to the disbelievers during the time of the Messenger of Allāh ﷺ, and he did not permit usury to be practiced.¹⁶⁷

This statement was transmitted by Imam Abū Yūsuf al-Qādhī, the student and companion of Abū Ḥanīfah. Abū Yūsuf said:

What al-Awzā‘ī stated is the correct stance: it is not lawful according to us or permissible. The narrations that al-Awzā‘ī mentioned about usury have reached us. The reason why Abū Ḥanīfah considered this lawful was because some teachers narrated to us from Makḥūl that he said that the Messenger of Allāh ﷺ said: “There is no usury between combatants.” Abū Yūsuf added: “and the people of Islam.”¹⁶⁸

senior Imams of Islam. He was a trustworthy muḥaddith and ḥāfīz, a zāhid, a scholar of Sunnah and the statements of the Salaf and a jurist and mujtahid. The people of the Levant and Andalusia in the past followed his madhab in fiqh. For his biography refer to al-Dhahabī, *Siyar*, vol.7, p.107, no.48.

165. This is relayed in his famous Farewell Sermon in the year 10 AH [632 CE] which was reported by Muslim, *Al-Ṣaḥīḥ*, no.1218 from the ḥadīth of Jābir b. ‘Abd Allāh.

166. This means that Allah forbade Muslims from transgressing the blood or wealth of non-Muslims who have guaranteed their safety.

167. This part provides strong evidence towards refuting the opinion of the Ḥanafīyyah, especially since they do not differentiate between peaceful non-Muslims and combatant non-Muslims on this issue. No doubt, during the time of the Prophet ﷺ, non-Muslims belonged to one of these two types. Yet there is no evidence that anyone among the Muslims permitted dealing with them in usury. The only thing that was narrated indicates that they adhered to the intricate laws of the sharia in their dealings and transactions with both types of non-Muslims.

168. *Al-Radd ‘alā Siyar al-Awzā‘ī*, vol.1, p.97; there was some hesitation from Abū Yūsuf in regards to the text of the ḥadīth and he said here: “there is no usury between combatants”

Imam al-Shāfi‘ī transmitted what al-Awzā‘ī said along with Abū Yūsuf’s comment above. Al-Shāfi‘ī then said:

The [correct] statement is that of al-Awzā‘ī and Abū Yūsuf, and the proof was presented by al-Awzā‘ī. Abū Yūsuf reported Abū Ḥanīfah’s proof, but it is not authentic, and therefore, there is no [valid] evidence in it.¹⁶⁹

Additionally, al-Māwardī said:

Since it is established that usury is prohibited, then there is no difference in its being prohibited be it in Dār al-Islām or Dār al-Ḥarb. Thus, every contract that contains usury terms is prohibited between Muslims in Dār al-Islām, and between Muslims and combatants in Dār al-Ḥarb, regardless of whether Muslims enter [their land] with a guarantee of safety or without one... The proof that usury is prohibited in Dār al-Ḥarb, just as it is prohibited in Dār al-Islām, includes everything we mentioned [in other instances] from the Quran and Sunnah, and by definition and implication, for every contract that is prohibited in Dār al-Islām is also prohibited in Dār al-Shirk (a land whose inhabitants are polytheists), like all other immoral actions and sins. Likewise, every contract that is prohibited between Muslims and dhimmis remains prohibited between Muslims and [non-Muslim] combatants just like it is prohibited in Dār al-Islām. This is because it is an invalid contract

after which Abū Yūsuf said: “and the people of Islam.” In the transmission of al-Bayhaqī it is mentioned: “I think he said: ‘and the people of Islam.’”

169. *Al-Umm*, vol.7, p.358 and the Dār al-Wafā’ edition, vol.9, p.248; transmitted by al-Bayhaqī in *Mārifah al-Sunan wa ‘l-Āthār*, vol.7, p.97; al-Zayla‘ī transmitted it from him in *Naṣab al-Rāyah fī Takbrīj Aḥādīth al-Hidāyah*, vol.4, p.44 and al-Zayla‘ī did not find a chain of transmission or verification for the ḥadīth of Makḥūl, saying “it has no basis with this wording” as al-Albānī clarified in *Silsilah Aḥādīth al-Dā‘ifah wa ‘l-Mawḍū‘ah*, no.6533. Makḥūl al-Shāmī was a trustworthy jurist, from the younger Ṭābi‘ūn. The ḥadīth here is mursāl, i.e. there is no narrator between him and the Prophet ﷺ and thus it cannot be utilised as a proof as the Imams hold, and likewise its narrators from Makḥūl are not known. The first to mention the narration was Abū Yūsuf and yet even he doubted its wording.

so it is an obligation [upon us] that we do not legalise the subject of the contract, as in the case of an [invalid] marriage [contract]. As for [Abū Ḥanīfah's] use of the ḥadīth of Makhūl as proof, the ḥadīth is mursal (a chain of narrators missing the Companion, i.e. it is weak), and mursal ḥadīths are not considered proof according to us. If their view was accepted for argument's sake, it would mean that there is no usury and would mean that the prohibition of usury has been annulled and the permissibility of usury. They cannot take it to mean the annulment of the prohibition of usury as we [as Shāfi'iyyah scholars] would also have to take it to mean the annulment of its permissibility. Furthermore, our understanding is more deserving of bolstering the generality [that usury is prohibited in all cases].

As for using it as a proof for their wealth and property being permissible without a contract, then it takes precedence that their wealth and property are made permissible via a contract. We do not accept that the issue is compulsory due to entering Dār al-Islām with a covenant of security [as the Ḥanafīyyah say] because their wealth and property does not become permissible [for a Muslim to take] either with a contract or with a void contract. If the issue was compulsory with the addition of the absence of the covenant of security the inference from another angle would not be accurate which is: if an enemy combatant enters Dār al-Islām it is allowed to make his wealth and property permissible without a contract, but it is not allowed with an invalid contract.¹⁷⁰

Abū Bakr b. al-ʿArabī al-Mālikī said:

[When Muslims] give their pledge [to combatant non-Muslims] and then enter their land, it becomes mandatory for them to faithfully adhere by the agreement and to not breach the covenant. This includes

170. *Al-Ḥāwī al-Kabīr*, vol.5, p.75

not transgressing on their wealth or anything else of their affairs. Furthermore, if non-Muslims allow usury, the sharia still does not allow it. If someone were to say: “Non-Muslims are not addressed by the laws of the sharia.” [I would respond] - but Muslims are addressed.¹⁷¹

Ibn Qudāmah stated:

Usury is prohibited in Dār al-Ḥarb, just as it is in Dār al-Islām. This is the stance of Mālik¹⁷², al-Awzā‘ī, Abū Yūsuf, al-Shafī‘ī, and Ishāq.¹⁷³ Abū Ḥanīfah stated: “Usury is not to be enacted between a Muslim and an enemy combatant within Dār al-Ḥarb;” he also held that if two people become Muslim within Dār al-Ḥarb they are not to indulge in usury between them. This is based on what has been relayed from Makḥūl from the Prophet ﷺ that he said: “There is not to be usury between Muslims and the people of war within Dār al-Ḥarb.” This is as their wealth and property is permitted yet a covenant of security within Dār al-Islām protects it, and whatever is otherwise is permitted.

Allāh says: “And Allāh has permitted trading and forbidden usury.” (Qur. 2:275) And His saying: “Those who consume usury will not stand (on the Day of Resurrection) except like the standing of a person beaten by Shaiṭān leading him to insanity.” (Qur. 2:275) Allāh also said: “O you who believe! Be afraid of Allāh and give up what remains (due to you) from usury...” (Qur. 2:278) The general reports necessitate the

171. *Alḥkām al-Quran*, Qur. 4:161, vol. 1, p.514.

172. He is Mālik b. Anas al-Aṣḥabī al-Madanī (179 AH/795 CE), the ‘Imam of Dār al-Hijrah [Medina]’ and one of the notable Imams. The ulema have agreed on his leadership, deen, conscientiousness and lofty station. His madhab in fiqh is one of the famous Four Madhabs and he authored *Al-Muwaṭṭā*. Some of his views and deductions were compiled by his students and companions and can be found in the book *Al-Muduwwanah*. For his biography refer to al-Dhahabī, *Sīyar*, vol.8, p.48, no.10.

173. He is Abū Ya‘qūb Ishāq b. Ibrāhīm al-Ḥanzalī al-Marwazī, widely-known as ‘Ibn Rāhawayh’ (d. 238 AH/853 CE), one of the senior Imams who combined between ḥadīth, fiqh, hifẓ, ṣidq, warā’ and zuhd. He also has some works such as *Al-Musnad*. For his biography refer to al-Dhahabī, *Sīyar*, vol.11, p.358, no.79.

prohibition of surplus usury. The Prophet ﷺ said: “Whoever increases or sought increase has indulged in usury.”¹⁷⁴ This is general as are the rest of the ḥadīths, and this is because whatever is prohibited in Dār al-Islām, such as usury between Muslims, remains prohibited in Dār al-Ḥarb, such as usury among Muslims and their report (from Makḥūl) is mursal, its authenticity is uncorroborated, and it implies a prohibition. It is not permitted to abandon refraining from what is prohibited in the Quran, or what is clearly outlawed in the Sunnah or what has been agreed on by consensus [of the scholars] with respect to its impermissibility on the basis of an unknown report which has not been relayed in the authentic collections, has no [acceptable] chain of transmission and no trusted documentation. The report therefore [of Makḥūl] is thus mursal and muḥtamal (implicative) as the intent of his words “there is not to be usury...” may be construed as a forbiddance of usury in the same manner in which Allāh says: “...there is no sexual relations and no disobedience and no disputing during Hajj.” (Qur. 2: 197) And what they [the Ḥanafī jurists] mentioned about its permissibility is in regards to the enemy combatant who enters Dār al-Islām – his wealth and property according to this view is permitted, except what has been protected by a covenant of security. It can also be taken to be applied to Muslims among themselves in the form of surplus usury which is prohibited by consensus.¹⁷⁵

174. Muslim, *Al-Ṣaḥīḥ*, no.1587 from the ḥadīth of ‘Ubādah b. al-Ṣāmit. Al-Baghawī explained in *Sharḥ al-Sunnah*, vol.8, p.60:

His statement “whoever increased or sought increase has committed riba” means: whoever gives an increase or takes an increase, as it has been reported that the one who consumes riba and the one who gives it for consumption are both cursed. The ḥadīth being “Allāh’s Messenger ﷺ cursed the one who consumes interest and the one who gives it for consumption.”

Reported by al-Bukhārī, *Al-Ṣaḥīḥ*, no.5962 from the ḥadīth of Abū Juhayfah; Muslim, *Al-Ṣaḥīḥ*, no.1597 from the ḥadīth of ‘Abd Allāh b. Mas‘ūd; also Muslim, *Al-Ṣaḥīḥ*, no.1598 from the ḥadīth of Jābir b. ‘Abd Allāh al-Anṣārī.

175. *Al-Mughnī*, vol.6, p.98, no.713.

Note: I conclude this part of the treatise by noting two conclusive and clarifying aspects to what was mentioned above:

First: this issue is based on what was explained before, from the consensus of the fuqahā, that the description of war is attached to every Dār al-Kufr by default.¹⁷⁶ This description, according to the Ḥanafīyyah, makes seizing anything in that land permissible. The scholars have agreed that protection pacts remove that permissibility for the duration of the pact, but they disagreed on what does not have a stipulated duration within the pacts, i.e. the description of war. We have explained that the fuqahā did not consider the possibility of the description of war being removed. We also clarified that in this [contemporary] era the removal of this feature has been ascertained due to states adhering to pacts, agreements and covenants which involve inter-state relations being based on peace first and foremost. This therefore obligates the full application of covenants and the feature of war has thus been removed first and foremost; what follows will confirm this.

Second: Those from our contemporaries who took the opinion of the Ḥanafīyyah, which allows some dealing of usury outside Dār al-Islām, did not adhere to their opinion being restricted to Dār al-Ḥarb [as explained above]. In fact some of these contemporaries actually say quite frankly that: “The entire world to us, as Muslims, is considered a Dār al-‘Ahd [abode of covenant] except for the Zionist state which calls itself Israel. We interact to this world around us based on the covenants of the United Nations, and based on our description as being Muslims who are members of this organisation [i.e. the UN].”¹⁷⁷

176. Refer to the sections of the book which detail the definitions of Dār al-Kufr and Dār al-Ḥarb.

177. These are the words of Dr Yūsuf al-Qaraḍāwī in his new book *Fiqh al-Jihād*, vol.2, p.900.

This is sufficient to refute any misuse of the opinion of the Ḥanafīyyah to justify contradicting the obligation of fulfilling covenants and pledges of safety. With that said, our aim in this part of the treatise is reached, and Allāh grants success.

Fourth Ramification

The permissibility of dealing with non-Muslims in buying, selling, gifting, loaning, mortgaging, and other lawful dealings and transactions

Monetary transactions between Muslims and non-Muslims are based on two broad principles: 1) the legitimacy of possession and 2) the subject, such as the items, for which the contract is made.

As for the issue of possession, Muslims do not have to investigate the manner in which the item came into the possession of a non-Muslim and/or whether it was gained lawfully, or unlawfully, and according to our sharia laws, except if it is known to have been stolen or taken by force.

As for the items being traded, they must be lawful themselves in our sharia. Muslims are not allowed to deal in pork or alcohol, or anything else that is prohibited, just as it is not permitted for them to accept a gift of something that is forbidden, whether it is from a Muslim or a non-Muslim.

Taking these two principles into consideration, Muslims can deal with non-Muslims without objection. The Messenger of Allāh ﷺ used to deal in selling, buying, loaning, and mortgaging with polytheists and the People of the Book. He ﷺ also used to accept gifts from them and eat from their food, without asking how they earned their wealth, that is, as long as the food was, in itself, lawful and pure.

Regarding the following statement of Allāh:

﴿ وَأَخَذَهُمُ الرِّبَا وَقَدْ نُهُوا عَنْهُ وَأَكْلِهِمْ أَمْوَالَ النَّاسِ بِالْبَاطِلِ وَأَعْتَدْنَا لِلْكَافِرِينَ مِنْهُمْ عَذَابًا أَلِيمًا ﴾

And their taking of usury though they were forbidden from taking it, and their devouring of men's substance wrongfully (bribery)... (Qur. 4:161)

Abū Bakr b. al-‘Arabī al-Mālikī said:

Allāh made it clear in these verses that dealing in usury and taking wealth unlawfully is forbidden. If this [prohibition] is a statement about what was revealed to Muḥammad ﷺ in the Quran, and disbelievers are addressed as well, then this is a good [statement]. If this is a statement about what Allāh revealed to Mūsā in the Torah, and which [the People of the Book] changed, corrupted, defied, and transgressed, then [I ask]: is it permissible for us to do business with them, after they have spoiled their wealth [by committing prohibited transactions] in contradiction to their own religion? A group of scholars thought that dealing with [the People of the Book] is not allowed due to their wealth being corrupt. The correct stance is that it is allowed to deal with them, regardless of whether their wealth was from usury or from indulging into what Allāh made forbidden for them. There is conclusive evidence from the Quran and Sunnah which establishes this point. Allāh says: “The food (slaughtered cattle, edible animals) of the People of the Scripture (Jews and Christians) is lawful to you.” (Qur. 5:5)

This verse involves [dealing with the People of the Book] pertaining to some branches of the sharia. For instance, the Prophet ﷺ had business transactions with Jews. In fact, he ﷺ died while his armour was pawned with a Jew for some barley he ﷺ took for his family.¹⁷⁸ It was narrated

178. Al-Bukhārī, *Al-Ṣaḥīḥ*, no.2069, from the narration of Anas b. Mālik who said: “The Prophet ﷺ mortgaged his armour to a Jew while he was in Medina, and he took barley;” meaning, for his family.

that ‘Umar b. al-Khaṭṭāb was asked about those who use earnings from alcohol sales for jizyah tax and trading. He said: “Let them control selling it, and take one-eighth of its revenue [as jizyah tax].”¹⁷⁹ The definite cure for the sickness of doubt and dispute is that the Imams agree to the permissibility of trading with combatants, because the Prophet ﷺ travelled to [Syria] as a merchant.¹⁸⁰ This is definite proof of the permissibility of traveling to their areas and trading with them.

Some may claim that this happened before the prophethood. We state that the Prophet ﷺ did not contaminate himself before his prophethood with anything forbidden; this is proven through a large number of narrations. He ﷺ never reversed his former actions either [i.e. traveling to areas of the People of the Book for trade] after his

This ḥadīth was also collected by Al-Bukhārī, *Al-Ṣaḥīḥ*, no.2916, and Muslim, *Al-Ṣaḥīḥ*, no.1603, from the ḥadīth of ‘Ā’ishah who said: “The Messenger of Allah ﷺ died while his armour was mortgaged to a Jew in exchange for 30 measures of barley.”

179. Reported by ‘Abd al-Razzāq b. Hammām, *Al-Musannaf*, nos.9886, 10044, 14853, 19396, from the narration of Suwayd b. Ghafalah who said: It reached ‘Umar b. al-Khaṭṭāb that his workers would collect jizyah tax in the form of alcohol and advised them with three points to which Bilāl said: “They do that.” ‘Umar said: “Do not do that; however let [the non-Muslims] sell it, for fat was prohibited to the Jews, then they sold it and consumed its profit.” The chain of narration for this ḥadīth is authentic, and the narrators are all trustworthy. Imam Aḥmad b. Ḥanbal said: “Its chain is very good.” This narration was collected by Ibn Qayyim in *Aḥkām Abl al-Dhimmah*, vol.1, p.183; it was also graded authentic by Ibn Ḥazm in *Al-Muḥallā bi’l-Āthār*, vol.8, p.148; it was also collected by Abū ‘Ubayd al-Qāsim b. Sallām in *Al-Anwāl*, p.62, with a different chain of narration that is also authentic, and his narration reads: “Do not take [these prohibited items] from them, but rather, let them control selling it and then you take from the sale price.” Ibn Ḥazm classified this last text as weak, however this is incorrect. Abū ‘Ubayd said:

This indicates that Muslims used to take alcohol and swine as jizyah tax from [dhimmis] and as a tax on their land based on their value and then the Muslim’s would assume responsibility for selling [these items]. This is what Bilāl disapproved of, and ‘Umar also forbade it. Then, ‘Umar allowed them to take jizyah tax from the sale price of such items if the dhimmis were the ones in control of selling it. This is because alcohol and swine are a part of the wealth of the dhimmis and cannot become wealth owned by Muslims.

180. This is in reference to when the Prophet ﷺ travelled to the Levant for trade. This occurred once with his uncle Abū Ṭālib, and another time when he went to the Levant to trade on behalf of Khadijah. Both of these travels occurred before the message was revealed to Muḥammad ﷺ. Refer to Ibn Hishām, *Al-Sirah al-Nabawiyah*, vol.1, pp.180 and 187.

prophethood, nor forbade that after he was sent as a Prophet. None of the Companions ever stopped [traveling to areas of the People of the Book] during the Prophet's ﷺ lifetime, nor did any Muslim cease that after his death. They used to travel to free prisoners, which is an obligation, and to be emissaries conducting peace pacts, just as the Prophet ﷺ sent 'Uthmān¹⁸¹ and others, which too, is an obligation or at times, recommended. As for travelling to [non-Muslim areas] for the sole purpose of trading, it is permitted.¹⁸²

This principle is clear for every rational Muslim to be convinced. Even so, Shaiṭān has placed in the hearts of some weak Muslims who reside in the West the idea that all dealings with the people of those countries are forbidden, because of the prevalence of usury and unlawful actions in their transactions and dealings. This paranoia caused them to consider all of the forbidden transactions to be lawful, and to make the wealth of non-Muslims lawful through stealing and cheating. We ask Allāh to save us and grant us uprightness.

181. 'Uthmān b. 'Affān t, the third of the Four Rightly-Guided Caliphs. The Prophet ﷺ sent 'Uthman to the people of Mecca to negotiate with them about Muslims entering Mecca to perform 'umrah; this occurred in the end of the sixth year after the migration (628 CE). Refer to Ibn Hishām, *Al-Sīrah al-Nabawīyyah*, vol.2, p.315.

182. Abū Bakr Ibn al-'Arabī, *Aḥkām al-Qur'ān*, vol.1, p.515, Qur. 4:161.

Fifth Ramification

A Muslim who enters the lands of disbelieving combatants [who are at war with Muslims] with the intention of conducting military operations against them, and requests from them to enter under their protection, and they grant him safe passage: such a Muslim has a religious and moral obligation to abide by the contract of protection, including refraining from committing violent aggression against them or betraying them

This ramification has nothing to do with Muslims who are residing in the West, because they went there seeking protection and/or to acquire means of living and stability. However, it is not without merit to present here the great principles discussed by the fuqahā of Islam regarding international relations in times of war and peace, as well as establishing respect of covenants and contracts, and emphasizing fulfilling them as being a part of obedience to Allāh. Al-Sarakhsī said:

If a group of Muslims reached the territorial boundaries of combatant [non-Muslims] and said to them, intending to trick them: “We are messengers from the caliph” and produce a document resembling the caliph’s writing, or they do not produce any evidence, and the non-Muslims grant them entry in to their land, they are not allowed to kill any of the [non-Muslim] combatants/citizens or take any of their property, as long as they are in their land because this involves deception.

If the combatants say to this Muslim group: “Enter” and they enter Dār al-Ḥarb, then it is not permissible for them to kill any combatant or take their wealth so long as they are within their land. This is because

what [the Muslims] have made apparent to [the combatants], if it is sincere, means that they have entered a covenant of security with the combatants, and in turn, they also have an covenant of security from the Muslims - so it is not permitted to dishonour them in anything.

This is the ruling for messengers (of the caliph) if they enter their lands as we have explained. The same applies to when [the messengers] make that apparent from themselves as [the combatants] have no way of knowing the true intent of those who have entered their land. Hence, the ruling is only based on what is made apparent for the obligation of being free from falling into betrayal.

And this is what we have clarified: the issue of protection is important, so the slightest suggestion [of appearing to assure or seek a non-hostile status] is enough [to establish a pledge of safety]. Therefore, whatever [group of Muslims] profess as being their intention is the same as [directly] asking for the assurance of safety. If Muslims seek protection from non-Muslims and they are then granted protection, then they must fulfil and abide by those agreements. Likewise, they must abide by their offering protection to non-Muslims, if they have done [or said] anything that indicates they are granting them protection. Furthermore, they must abide by any agreement of protection [granted to them] if they say they are coming as merchants while their true intent was sinister; even if they were really merchants as they made apparent, it would not be lawful for them to betray the combatants, and the same applies to if they made that [lie] apparent to them [so as to gain entry].¹⁸³

183. *Sharḥ Kitāb al-Siyar al-Kabīr*, vol.2, p.508; al-Sarakhsī goes to some length in mentioning the detailed aspects of this issue.

Sixth Ramification

If a group of Muslims secure a promise of safety from combatant non-Muslims after which war breaks out between those non-Muslims and another group of Muslims, the Muslims who are under protection are not allowed to support their Muslim brothers, until they nullify the contract of protection they have with the combatant non-Muslims and inform them

Imam al-Shāfi‘ī said:

If a group of Muslims enter Dār al-Ḥarb with a guarantee of safety, and then its people take other Muslims as captives, the protected group is not allowed to fight the captors to free [the captured Muslims] until they first terminate their own treaty with them. If they rescind their treaty, give a notice of warning, and peace is thus broken between them, they are then allowed to fight them. However, [protected Muslims] are not allowed to fight [non-Muslims who gave them safety] during the period of protection.¹⁸⁴

Al-Shāfi‘ī also said:

If a group of Muslims enter a warring land with a guarantee of safety, then combatant enemies of that area become safe from them until they leave [their land], or until the time in which they were guaranteed safety ends. Muslims are not allowed to oppress or betray them [in the meantime]. If such combatants take Muslim children and women as captives, I prefer that [Muslims who live under their protection] do not betray the contract with the captors. Instead, I prefer they seek

184. *Al-Umm*, vol.4, p.375; Dār al-Wafā’ edition, vol.5, p.677.

annulment of the guarantee of safety, and rescind the treaty. If they do that, they can then fight [such combatant non-Muslims] to free the Muslim children and women.¹⁸⁵

The proof for this stance is clear in Allāh's Statement:

﴿ إِنَّ الَّذِينَ آمَنُوا وَهَاجَرُوا وَجَاهَدُوا بِأَمْوَالِهِمْ وَأَنْفُسِهِمْ فِي سَبِيلِ اللَّهِ وَالَّذِينَ آوَوْا وَنَصَرُوا أُولَئِكَ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ وَالَّذِينَ آمَنُوا وَلَمْ يُهَاجِرُوا مَا لَكُمْ مِّنْ وَلَايَتِهِمْ مِّنْ شَيْءٍ حَتَّىٰ يُهَاجِرُوا وَإِنِ اسْتَنْصَرُوكُمْ فِي الدِّينِ فَعَلَيْكُمُ النَّصْرُ إِلَّا عَلَىٰ قَوْمٍ بَيْنَكُمْ وَبَيْنَهُم مِّيثَاقٌ وَاللَّهُ بِمَا تَعْمَلُونَ بَصِيرٌ ﴾

Verily, those who believed, and emigrated and strove hard and fought with their property and their lives in the Cause of Allāh as well as those who gave (them) asylum and help, — these are (all) allies to one another. And as to those who believed but did not emigrate (to you O Muḥammad), you owe no duty of protection to them until they emigrate, but if they seek your help in religion, it is your duty to help them except against a people with whom you have a treaty of mutual alliance; and Allāh is the all-seer of what you do. (Qur. 8:72)

Therefore, Allāh forbids the believers from giving support to their brothers in religion if supporting them entails breaching the covenant Muslims have with a community of non-Muslims. Allāh forbids violating the conditions of truces and treaties. The scholars of tafsīr did not differ regarding this being the interpretation; Ibn 'Aṭīyah¹⁸⁶ said:

185. Ibid., vol.4, p.284; also refer to the edition by Dār al-Wafā', vol.5, p.606. Examine the words of Imam al-Shāfi'ī and how wonderful, noble, honourable and graceful they are. May Allāh be pleased with him and grant him the best rewards.

186. Abū Muḥammad 'Abd al-Ḥaqq b. Ghālib b. 'Abd al-Raḥmān b. 'Aṭīyah al-Muḥāribī al-Gharnāṭī (d.542 AH/1148 CE), a mufasssīr, faqīh and expert on the rulings deduced from ḥadīth; he also wrote poetry. Among his works are *Al-Muḥarrar al-Wajīz fī Tafsīr al-Kitāb al-Azīz*. He also collected a list of his narrations and the names of his ḥadīth teachers. His

[Allāh's] statement: "But if they seek your help..." means: If those believers, who did not migrate [to Muslim areas], request your help against a non-Muslim people, it is your obligation to give them support, except if they are asking for your support against non-Muslims with whom you have a pact and a pledge to abstain from fighting them. In such a case, do not support such Muslims against them, because that would be a breaching of the contract, a violation of the treaty, and a disregard of the sanctity of the covenant and of honouring it.¹⁸⁷

In addition, Ibn Kathīr said:

Allāh says here: If those [Arab] Bedouins, who did not migrate [to a Muslim area] ask for your help in a religious fight against an enemy of theirs, then give them your support, for it is obligatory on you to support them because they are your brothers in religion. Except, if they ask for your support against a group of non-Muslims: "...with whom you have a treaty of mutual alliance." This is in reference to a truce for a certain period of time. Therefore, do not breach the pledge, and do not break your oath with those with whom you have a treaty. This [explanation] is reported from Ibn 'Abbās.¹⁸⁸

The Prophet ﷺ used to assert the significance of keeping covenants; he prohibited breaking pledges in any way or form. His honourable Companions followed in that same way, may Allāh be pleased with all of them, as is clearly reported in their practices and statements.

For instance, Sulaim b. 'Āmir narrated:

There was a treaty between [the caliph] Mu'āwiyah b. Abī Sufyān and the Romans. Mu'āwiyah moved about within their area [with his

biography is found in al-Dhahabī, *Siyar*, vol.19, p.587, no.3373.

187. *Al-Muḥarrar al-Wajīz*, Qur. 8:72.

188. *Tafsīr al-Qur'ān al-Azīm*, Qur. 8:72.

army], so that when the period of time agreed on in the treaty was over, he could resume war with them. Then a man on riding-beast, or a horse, started shouting: “Allāhu Akbar (Allāh is the Greatest)! Faithfulness, not betrayal! Faithfulness, not betrayal!” This was ‘Amr b. ‘Abasah al-Sulamī. Mu‘āwiyah said to him: “Why are you saying this?” ‘Amr said: “I heard the Messenger of Allāh ﷺ say: ‘Whoever has a treaty with another group of people should not untie the pledge or strain it, until it has expired or else he cancels the treaty.’” So, Mu‘āwiyah took his people and left.¹⁸⁹

189. Reported by Abū ‘Ubayd al-Qāsim b. Sallām, *Al-Anwāl*, p.212; Aḥmad, *Musnad*, vol.4, p.111, no.17015, vol.4, p.113, no.17025, vol.4, p.385, no.19436; Abū Dawūd, *Sunan*, no.2759; al-Tirmidhī, *Al-Jāmi‘*, no.1580; al-Nasā‘ī, *Al-Kubrā*, no.8732; Ibn Ḥibbān, *Ṣaḥīḥ*, no.4871. Al-Tirmidhī said: “this ḥadīth is ḥasan ṣaḥīḥ”. Al-Albānī stated in *Silsilah Ahādīth al-Ṣaḥīḥah*, no.2357: “its chain of narration is reliable and its narrators are trustworthy.” I say: Sulaym b. ‘Āmir is Abū Yahyā al-Ḥimṣī, a trustworthy narrator from the Levant who met a group of companions. Al-Dhahabī said about him in *Sīyar*, vol.5, p.185:

He narrated from Abū al-Dardā’, Tamīm al-Dārī, al-Miqdād b. al-Aswad, ‘Awf b. Mālik, Abū Hurayrah, ‘Amr b. ‘Abasah and a group [of others]. His narrations from al-Miqdād may be considered mursal as he did not encounter them.

Ibn Abī Ḥāṭim also transmitted it in *Al-Marāsīl*, no.310, from his father who said that “Sulaym b. ‘Āmir neither encountered ‘Amr b. ‘Abasah nor al-Miqdād b. al-Aswad.” He died in 112 AH as stated by Aḥmad b. Muḥammad b. ‘Isā al-Baghdādī, the author of *Tārikh al-Ḥimṣiyyin* and al-Dhahabī transmitted this and depended on it; he said:

He lived to 102 years of age, as for the view of Muḥammad b. Sa’d and Khalīfah b. Khayyāt, that he died in 130 AH then this is far from being accurate, for I do not believe that he lived up to this time because if he did he would have heard from Ismā‘īl b. ‘Ayyāsh and his contemporaries.

Thus, al-Dhahabī intended that Sulaym lived up to 102 years of age not that he died in the year 102 AH, as al-Dhahabī noted that he had a long life and further said about Sulaym:

He lived a long life and used to say: “I received Islām from its beginning” which indicates that he lived during the time of the Prophet ﷺ. Thus, al-Dhahabī did not take the view of Ibn Abī Ḥāṭim that Sulaym could not have heard from ‘Amr b. ‘Abasah and al-Miqdād b. al-Aswad. Rather, it is confirmed that Sulaym heard from Ibn ‘Abasah but not al-Miqdād. ‘Amr b. ‘Abasah is a noble Companion from the first and foremost to embrace Islām and it is concurred that he resided in Homs where he also died, the date of his death however is unknown. However, al-Dhahabī stated in *Sīyar*, vol.2, p.460: “perhaps he died after the year 60 AH.” Ibn Ḥajr stated in *Tahdhīb al-Tahdhīb*: “His death was at the end of the caliphate of ‘Uthmān according to what I think. I did not find any mention of him during the fitnah or during the caliphate of Mu‘āwiyah.” Thus, it is highly possible that Sulaym b. ‘Āmir heard from ‘Amru b.

Yazīd b. Hārūn¹⁹⁰ commented:

Mu‘āwiyah did not want to attack them before the treaty expired. Instead, he wanted the treaty to expire while he was still in their land, so he could attack them while they were being complacent. ‘Amr b. ‘Abasah disapproved of this so as not to enter their land without informing them of the situation of the annulment of the treaty, and letting them know of an imminent attack.¹⁹¹

Shaykh al-Islam Ibn Taymiyyah said:

The Sunnah states that anything a non-Muslim understands as a guarantee of safety is considered a safety promise... [He then mentioned the ḥadīth of ‘Amr b. ‘Abasah.] It is known that he prohibited what Mu‘āwiyah intended, to safeguard against deceiving those who have a treaty [with the Muslims], even though the act may not deviate from the letter of the covenant. Therefore, it became known that contradicting the essence and the norms of treaties is itself an act of betrayal, and as such, is forbidden.¹⁹²

Some people have expressed unease regarding this sound and clear

‘Abasah t and if he did not hear from him then he heard this ḥadīth from Mu‘āwiyah b. Abī Sufyān as his death was in 60 AH, Allāh knows best.

190. Yazīd b. Hārūn al-Wāsiṭī (d.206 AH/821 CE): a major scholar, trustworthy narrator of ḥadīth, scholar of Sunnah, zāhid and consistent worshipper of Allāh. His biography is found in al-Dhahabī, *Sīyar*, vol.9, p.358, no.118.

191. Transmitted by Abū ‘Ubayd in *Al-Amwāl*, p.212 who said: “Allāh’s Messenger ﷺ did likewise for the time period with whoever he had a covenant with up until the time it expired; this is what has been revealed in the Quran.” His statement “So as not to enter their land without informing them...” is what is found in the book of Abū ‘Ubayd and transmitted by Ibn Zanjawayh in *Al-Amwāl*, p.661, without the words “...so as not to...”. I came across a new edition of the book by Abū ‘Ubayd published by Dār al-Hudā al-Nabawī in Egypt, edited by Sayyid b. Rajab and I found this sentence as related by the old print and the editor did not have any observations on it even though he based his research on three manuscripts!

192. Ibn Taymiyyah, *Al-Fatāwā al-Kubrā*, vol.3, p.112.

legislative ruling which has no doubts. They claim that this ruling fails in some aspects of the Islamic brotherhood that oblige Muslims who reside in the West to give aid, help, and support to their oppressed brothers in Palestine, and in other countries. However, this claim is invalid. What this claim pertains to was not mentioned in the verse, or in the understanding of the scholars regarding it. This claim understands the verse to mean the prohibition of supporting believers in need. However, the verse only mentions supporting such Muslims in distress by actual fighting when a preventative factor is involved, that is, the existence of a treaty of peace as the verse explains: “If [such Muslims] annul the treaty [they have with combatant non-Muslims], warn them [of its annulment], and consequently, peace is broken between them, they are allowed to fight them.” These are the words of al-Shāfi‘ī.

Furthermore, there are ways to support such Muslims in distress, without breaching covenants or rescinding peace treaties. There are numerous methods that do not contradict peace pledges or contracts, such as the current situation of Muslims who reside in Western countries. There are laws in those countries which allow their Muslim population to carry out various political and social practices and activities. They can support their brothers in a substantial way, such as, collecting funds, engaging mass media, aiding them through relief organisations, and other types of help and support.

However, what is forbidden is for Muslims to think that they are not bound by the terms of protection contracts [or various types of visas, political asylum, immigration, permanent residency or citizenship] they have with the non-Muslim countries they reside in and which they committed themselves to when they entered those lands voluntarily. Not believing that Muslims are restricted by a covenant they are a party to, can cause some of them to commit

detrimental acts, such as bombings, killing, and causing mischief on the earth. These actions contradict the obligation of being faithful to promises, and the commitment to covenants.

The sound understanding we mentioned here has been embraced by the most famous scholar of this time, ‘Abd al-‘Azīz b. ‘Abd Allāh b. Bāz.¹⁹³ He wrote in a letter to one of the scholars who had issued a legal opinion asserting the obligation to combat and fight the British in every country, generally, because of their fighting and aggression against Egypt [during the last century]:

You said that it is obligatory on every Muslim in every area on earth to fight [the British] and to strike them wherever they are found, regardless of whether they are civilians or soldiers, and so on. I say: this generalisation and absoluteness is questionable, for it includes Muslims who are residing in Egypt and also other Muslims [in other areas]. The correct stance is that, Muslims who are citizens in countries that ascribe themselves to Islam, who have a treaty between them and the English, are not permitted to breach the contract. This is because the war the English wage against Egypt is not a breaching of treaties between them and other Islamic countries. Therefore, no Muslim citizen in a country that is party to such a treaty [with Britain] is allowed to combat the English because of their aggression against Egypt... The proof for this stance is found in Allāh’s statement about the Muslims who did not migrate: “But if they seek your help in religion, it is your duty to help them except against a people with whom you have a treaty of mutual alliance.” (Qur. 8:72) Also, in the Sunnah, there is the story of Abū

193. ‘Abd al-‘Azīz b. ‘Abd Allāh b. Bāz (d.1420 AH/1999 CE): the scholar of Ahl al-Sunnah in this era. He worked as a judge and teacher, and was appointed to many important religious duties in the Kingdom of Saudi Arabia, the highest being the Grand Mufti and president of the Council of Major Scholars, until he died. He was known for his vast knowledge, courage in spreading the truth, high determination, and generous character. He has many fatāwā, treatises, and research works of which many were collected in *Majmū‘ Fatāwā wa Maqālāh Mutanawwi‘ah*, in 30 volumes.

Jandal and Abū Baṣīr. They ran away from the Quraysh during the time when there was a truce [between the Quraysh pagans of Mecca and the Prophet ﷺ], and the story is no secret to your eminence.¹⁹⁴

The story that the Shaykh mentioned here occurred when the Prophet ﷺ signed a peace treaty with the polytheists of Mecca at Ḥudaibiyyah, on the sixth year after the migration. Among the conditions of the treaty was that the Prophet ﷺ would return any person escaping Mecca for Medina who became Muslim or wanted to become Muslim.¹⁹⁵ It was during this time when Abū Jandal b. Suhail b. ‘Amr came to the Prophet ﷺ to join the Muslims, and the polytheists of Mecca demanded his return. The Prophet ﷺ returned Abū Jandal to them. Abū Jandal shouted out, at the top of his voice: “O, Muslims! Am I to be returned to the polytheists while I have become a Muslim! Don’t you know what I have suffered?!” -in reference to the severe torture he had endured for the sake of Allāh for having embraced Islam in Mecca before fleeing it. The Messenger of Allāh ﷺ said:

« يَا أَبَا جَنْدَلٍ اصْبِرْ وَاحْتَسِبْ ، فَإِنَّ اللَّهَ عَزَّ وَجَلَّ جَاعِلٌ لَكَ وَلِمَنْ مَعَكَ مِنَ الْمُسْتَضْعَفِينَ فَرَجًا وَمُخْرَجًا ، إِنَّا قَدْ عَقَدْنَا بَيْنَنَا وَبَيْنَ الْقَوْمِ صُلْحًا ، فَأَعْظِمْنَاهُمْ عَلَى ذَلِكَ ، وَأَعْظُونَا عَلَيْهِ عَهْدًا ، وَإِنَّا لَنْ نَعْدِرَ بِهِمْ »

O Abū Jandal! Be patient and expect reward [from Allāh], for Allāh ﷻ will give relief and a way out for you and for those oppressed who are with you. We have made a peace treaty between us and the people (of Mecca); we agreed to their conditions, and in return, they gave us their pledge. Certainly, we will not betray them.¹⁹⁶

194. *Al-Rasā'il al-Mutabādalah Bayn al-Shaykh Bin Bāz wa 'l-Ulamā'*, p.595.

195. *Ibn Hishām, Al-Sīrah al-Nabawīyya*, vol.2, pp.308-327.

196. Aḥmad, *Musnad*, vol.4, p.325, from the ḥadīth of ‘Urwah b. al-Zubayr, who narrated it from al-Miswar b. Makhramah and Marwān b. al-Ḥakam using these words. The basis of

The Messenger of Allāh ﷺ was faithful to his covenant with the polytheists, even when some Muslims were able to escape from Mecca and seek refuge in the Islamic state of Medina in the meantime.

In the story of Ḥudaibiyyah, the Prophet ﷺ returned to Medina, and Abū Baṣīr, a man from Quraish, came to him as a Muslim and the pagans of Mecca sent two men to retrieve him. They said: “The pledge you made to us!” The Prophet ﷺ handed Abū Baṣīr over to the two men and they left. When they reached Dhu ‘l-Ḥulaifah¹⁹⁷, they stopped to eat some dates they had brought with them. Abū Baṣīr said to one of the men: “By Allāh O so-and-so, I see you have a fine sword!” The man drew it out and said: “Yes, by Allāh, it is indeed very fine and I have used it many times.” Abū Baṣīr said: “May I have a look at it?” and when the man let him look at it Abū Baṣīr hit him with it until he died and the other man fled until he returned to Medina and ran into the masjid. The Messenger of Allāh ﷺ said when he saw him: “This person has seen some horror!” When he reached the Prophet ﷺ, he said to him: “By Allāh my friend was killed, and by Allāh I will be killed.” Then, Abū Baṣīr arrived, and said: “O Prophet of Allāh, you have fulfilled your oath. You returned me to them, and then Allāh saved me from them.” The Prophet ﷺ said:

« وَيْلٌ أُمِّهِ مِسْعَرَ حَرْبٍ لَوْ كَانَ لَهُ أَحَدٌ »

Woe to his mother (a word of exclamation)! What an excellent war kindler he is, if only he had supporters!

When Abū Baṣīr heard that, he knew that the Prophet ﷺ was going to return him to the polytheists again, so he left and travelled, until he

this ḥadīth is found in *Ṣaḥīḥ al-Bukhārī*, as we will soon mention.

197. A place near Medina.

reached the western seashore of Arabia. Abū Jandal also escaped and joined Abū Baṣīr. Thereafter, every Muslim man who escaped from the Quraysh polytheists would also join Abū Baṣīr, until they became a large group. By Allāh, they would not hear of a caravan belonging to the Quraysh on its way to the Levant, but would intercept it, kill the caravan's caretakers, and confiscate their property. The Quraysh then sent a message to the Prophet ﷺ, appealing to him by Allāh and by blood relation to send [a message to Abū Baṣīr and his group], and declared that whoever came to the Prophet ﷺ [from Mecca to join the Muslims] would be safe.¹⁹⁸ So, the Prophet ﷺ sent this news [to Abū Baṣīr].¹⁹⁹

198. The Quraysh sent a request to the Prophet r, pleading to him by Allah and by the blood relations they shared, and imploring him, to order Abū Baṣīr to refrain from attacking their caravans. Refer to al-ʿAinī, *Umdah al-Qārī*, vol.14, p.16.

199. Al-Bukhārī, *Al-Ṣaḥīḥ*, nos.2711, 2712, 2731, and 2732, from the ḥadīth of ʿUrwah b. al-Zubayr, who narrated this story from al-Miswar b. Makhramah and Marwān b. al-Ḥakam.

Seventh Ramification

The permissibility of taking a copy of the Quran while travelling to non-Muslim areas which are at peace with Muslims

‘Abd Allāh b. ‘Umar narrated that the Prophet ﷺ used to forbid taking [a copy of] the Quran when travelling to the land of the enemy, out of fear that they may take it.²⁰⁰

The ‘allāmah al-Nawawī said:

This ḥadīth mentions the prohibition of travelling with the muṣḥaf (a copy of the Quran) to the land of non-Muslims, due to the reason mentioned in the ḥadīth, which is for fear they may take it and desecrate its sacredness. However, if there is no fear of the muṣḥaf being taken by non-Muslims, such as if the muṣḥaf is being carried by soldiers in a Muslim army who overcome their enemy, then it is not disapproved of, and no scholar prohibited it, because the reason behind the prohibition is not applicable here. This is the sound stance, and Abū Ḥanīfah and al-Bukharī held this opinion, while Mālik and a group of the Shāfi‘iyyah held it absolutely prohibited.²⁰¹

Al-Sarakhsī said:

If a Muslim enters [non-Muslim lands] with a guarantee of safety, then there is no restriction if they enter while carrying a muṣḥaf with them, if [the non-Muslims] are people known to fulfil their covenants. In such a situation, it is ensured that the non-Muslims will not transgress

200. Reported by al-Bukhārī, *Al-Ṣaḥīḥ*, no.2990; Muslim, *Al-Ṣaḥīḥ*, nos.1869 and the wording is his.

201. *Sharḥ Ṣaḥīḥ Muslim*, vol.13, p.13, no.1869.

on anything the Muslims have carried with them. However, if they are a people who may not fulfil their covenants, then Muslims should not carry the muṣḥaf with them when they enter their land, even under a guarantee of safety.²⁰²

The ‘allāmah Muḥammad b. Ṣāliḥ al-‘Uthaymīn²⁰³ said:

It is not permissible for a person to travel to the lands of non-Muslims with a muṣḥaf, because of the concern that it may fall into their hands and they might desecrate and degrade it. The Quran is too honourable and exalted for it to fall in the hands of the enemy. This is the stance, if there is such a concern. However if it is not a concern, like the situation in current times, then it is permissible. Therefore, [Muslims] are allowed to carry the Book of Allāh with them when they travel for business or to study in the lands of non-Muslims, and there is no sin on them in this case.²⁰⁴

The Shaykh also said:

It is acceptable for a person to carry the Quran to non-Islamic lands, as some of the people of knowledge only mentioned the prohibition of carrying the Quran to Dār al-Ḥarb. There was a fear that their enemies would confiscate the muṣḥaf and desecrate it. As for countries that have a covenant (are at peace) with your country, as is typical between

202. *Sharḥ al-Siyar al-Kabīr*, vol.1, p.206.

203. Muḥammad b. Ṣāliḥ b. Muḥammad b. ‘Uthaymīn al-Muqbil al-Wuhaybī al-Tamīmī (d.1421 AH/2001 CE): One of the most prominent scholars of our time who followed the way of the righteous Salaf, and a profound faqīh. He was a teacher in the College of Sharia in the Al-Qassim branch of Imam Muḥammad b. Sa‘ūd’s University, and a member of the Council of Senior Scholars in the Kingdom of Saudi Arabia. He was distinguished by his knowledge, wisdom, forbearance, and vision. He was also known for his sound fatāwā, and excellent classes. His knowledge became widespread in the world through recordings and numerous books and treatises were extracted and printed from them. His legacy is preserved on his official website.

204. *Sharḥ Riyāḍ al-Ṣāliḥīn*, no.1794.

countries today, then there is no sin if a person carries the Book of Allāh with them so as to read it and for non-Muslims in those areas to read, for this will benefit everyone.²⁰⁵

This ruling is founded on ensuring benefit and averting evil. Based on this principle, numerous matters are facilitated pertaining to the current situation of Muslims residing in non-Islamic lands. Among these aspects are: the establishment of the Friday prayer, congregational prayers, Islamic holidays, building masjids and Islamic schools, establishing Islamic organisations and centres, translating Islamic books and publishing and distributing them, and various other Islamic activities.

205. *Fatāwā Nūrun ʿala ʿl-Darb*, and within the words of the Shaykh are a clear indication of the removal of the feature of ‘war’ due to the presence of covenants: http://www.ibnothaimeen.com/all/noor/article_6389.html.

Eighth Ramification

Muslims who live in peace in the lands of non-Muslims are not to institute Islamic laws of punishment among themselves, because they are not living under an Islamic ruler. However, they must adhere to relevant Islamic rulings and laws that pertain to committing sins and that merit expiation, such as to repent, fast, offer expiation or blood money, etc. which are all religious obligations

Muslim scholars agree that applying Islamic laws of punishment is one of the duties of an Islamic government and that individual Muslims and groups cannot apply any of them, except while living under a legitimate Islamic authority, that is, if and when legal Islamic authorities authorise such punishments.²⁰⁶

Muslims who are residing in non-Islamic lands are [by definition of the area they live in] not subjected to Islamic rule. Also, the laws of non-Islamic countries do not allow their Muslim minorities to establish the Islamic laws of punishment amongst them. Such countries consider establishing Islamic penal codes within their area and boundaries as being contrary to the authority of the country, an intrusion on its sovereignty over its lands, and as breaking with the set of conditions regulating citizenship and legal residence. Therefore, such Muslims are not allowed to establish Islamic penal laws amongst themselves. However, this doesn't absolve individual Muslims who commit sins or crimes from the necessity of penance

206. Ibn al-Mundhir, *Al-Awsat*, vol.11, p.278; al-Bayhaqī, *Al-Sunan al-Kubrā*, vol.8, p.245; al-Shirāzī, *Al-Muhadhab*, vol.3, p.241; *Badā'ī' al-Ṣanā'ī'*, vol.7, p.57; *Bidāyah al-Mujtahid*, vol.4, p.228; *Al-Jāmi' li Ahkām al-Qur'an*, Qur. 2:179, vol.3, p.89; *Al-Mawsū'ah al-Fiqhiyyah*, vol.17, p.144-145.

or from the consequences of breaching religious rulings, nor will it avert the punishment to come in the Hereafter (if they don't duly repent in this life).

This issue is derived from a similar one in which early Muslim scholars studied and which pertains to the topic of jihād, namely, establishing Islamic laws of punishment among a Muslim army when they are in the land of the combatant enemy, or while guarding fortified Muslim borderline cities and areas. This situation shares commonalities with our issue here, which pertains to the presence of a group of Muslims outside the boundaries of Muslim lands and outside the authority of Muslim leaders. Muslim scholars differed pertaining to this aspect as follows:

The Mālikiyyah and Shāfi'iyyah said that Muslim leaders must establish the Islamic laws of punishment on those who deserve it, because establishing such laws is an obligation like prayer, fasting, and giving zakat. Therefore, none of the laws of Islam should be abolished even if committed in Dār al-Ḥarb.

The Ḥanafiyyah came to the conclusion that Islamic penal laws should not be applied on offenders living in Dār al-Ḥarb, even after they return to Dār al-Islām.

The Ḥanābilah said that Islamic laws of punishment are obligatory. However, they are not to be established in Dār al-Ḥarb, but only after the offending persons return from it.²⁰⁷

Despite the difference of opinions they have, the scholars did not differ in the fact that establishing Islamic laws is only performed by a Muslim leader who has the right to do so.

Therefore, whoever holds the opinion that the commander of a Muslim army has authority delegated to him from the leader of the Islamic State or his representative, state that the commander should

207. *Al-Mawsū'ah al-Fiqhiyyah*, vol.20, p.209, article 'dār al-ḥarb.'

establish the Islamic code of punishment. This is the opinion of al-Awzā'ī who said:

Whoever is made commander over an army, even if he did not actually rule over any land, then he is to establish the Islamic laws of punishment among his soldiers.²⁰⁸

Those of the opinion that the jurisdiction of the commander of a Muslim army is limited to commanding warfare activities have stipulated the presence of the leader or his representative to establish Islamic penal laws:

Abū Yūsuf said:

If he goes outside of the domain and his authority, as he is not the leader of that location or city, he is just the leader of the army during their battles; how then can a commander of a military expedition establish the law of punishment even though he is not a judge or a leader [of any land] who has the right to give such judgment? Have you ever seen commanders or emirs establish the Islamic laws of punishment in Dār al-Islām? Then likewise, they cannot do so if they enter Dar al-Ḥarb.²⁰⁹

Al-Shāfi'ī said:

The emir of an army can establish the Islamic laws of punishment wherever he is on earth, providing he is given the authority to do so. However, if he does not have the authority, then the witnesses to the act that required punishment should take the offender to the person who has authority, whether he is in the lands of the combatants or the lands of Islam. There is no difference between Dār al-Ḥarb and Dār al-Islām over what Allāh made obligatory for His creation regarding the

208. *Al-Radd ʿalā Siyar al-Awzāʿī*, p.80; *Al-Umm*, vol.7, p.354 and Dār al-Wafāʾ edition, vol.9, p.236; *Mukhtaṣar Ikhtilāf al-ʿUlamāʾ*, vol.3, p.473.

209. *Al-Radd ʿalā Siyar al-Awzāʿī*, p.80; *Al-Umm*, vol.7, p.354 and Dār al-Wafāʾ, vol.9, p.236; also refer to *Sharḥ al-Siyar al-Kabīr*, vol.5, p.1851.

Islamic laws of punishment.²¹⁰

Al-Shāfi‘ī also said:

Whatever [violations] Muslims do against each other in Dār al-Ḥarb are still subject to the laws of punishment, no matter where they are, if proper authority was given to their commander that is.²¹¹

Accordingly, it becomes clear that Muslim scholars agree that the presence of legal jurisdiction from the leader of the Muslims or his representative is a condition in establishing the Islamic laws of retribution and punishment.

As for Islamic rulings other than the Islamic laws of retribution and punishment, such as rulings regulating marriage, divorce, oaths, expiations, blood-money, inheritance, sales, loans, and all other rulings, it is obligatory for every Muslim to abide by and implement them. This stance is based on the requirement of fulfilling the rights of Allāh to be worshipped and obeyed, and to submit to His sharia, as was explained before. These requirements are obligatory on all of Allāh’s slaves, in every time and place, depending on their ability and capability to do so.

Imam al-Shāfi‘ī emphasised:

Muslim prisoners of war who are imprisoned in the lands of war: if the crimes of murder, injury or usurpation have been committed among themselves then when they return to the lands of Islam the Ḥudūd punishments are to be implemented on them. An abode does not prevent the rule of Allāh from being implemented (within Islamic lands), and all zakat payments which are obligated on them have to be

210. *Al-Umm*, vol.7, p.355 and Dār al-Wafā’ edition, vol.9, p.237.

211. *Mukhtaṣar al-Muzanī*, p.272.

paid – an abode does not exempt them from their obligations.²¹²

Al-Sarakhsī said:

If a Muslim enters Dār al-Ḥarb with a safety guarantee and lives there for two years (for example), he/she must pay the zakat from what they have earned in Dār al-Ḥarb that they neglected to pay, because they are bound by the laws of Islam wherever they may be.²¹³

There is no doubt that establishing these Islamic rulings, as well as, other rulings which are more general in nature, falls under the ability of those who reside in the west. In fact, many Western governments allow practicing various rulings that pertain to civil matters which conform to the Islamic sharia. Western governments also grant official status to Islamic organisations and certify them. This is in regards to the Muslim communities, as for the Muslim minorities then they enjoy a vast number of rights.

212. *Al-Umm*, vol.4, p.245 and Dār al-Wafā' edition, vol.5, p.599.

213. *Al-Mabsūṭ*, vol.3, p.37.

Ninth Ramification

Muslims who reside in non-Muslims areas must deal with non-Muslims in a fair way, call them to Islam, and cooperate with them in that which Allāh has not made forbidden on Muslims. Muslims who live in such areas should not commit actions that may cause non-Muslims to turn away from the true religion, Islam, nor should they incite non-Muslims with behaviour that may result in Muslims and/or non-Muslims being harmed or abused

Muslims who reside in non-Muslim areas should first acknowledge that they are in a position that allows them to call to and convey Islam, and not in a state of warfare or fighting. There is a substantial difference between the two circumstances. This difference has a practical influence on the application of the laws of the sharia. Surely, everything has its proper time, and every situation has its rulings that pertain to its specific circumstance. Those who don't understand this aspect and don't act accordingly will have transgressed the boundaries of the sharia, as well as their natural disposition and sound intellect.

When in the position of calling to Allāh, it is mandatory that effort be made in conveying the religion of Allāh with proof and evidence using kindness, goodwill, and effective speech, with care given to guiding and directing the persons being called, to the true religion. This duty also requires having patience in dealing with the mistreatment callers to Allāh may receive from the people being called, pardoning them for their abuse, being forgiving and tolerant with them, and supplicating to Allāh for their benefit to be guided and reformed.

This was the way of the Messengers, peace and blessings of Allāh be on them all, with their respective nations. This is also the way Allāh ordered His final and best Prophet and Messenger, Muḥammad ﷺ, to emulate and practice. Muḥammad ﷺ stood amid his people, and all other peoples, in the best way any Prophet stood when calling to and explaining Allāh's message, by using kindness, mercy, and compassion.

Allāh said:

﴿ خُذِ الْعَفْوَ وَأْمُرْ بِالْعُرْفِ وَأَعْرِضْ عَنِ الْجَاهِلِينَ ﴾

Show forgiveness, enjoin what is good, and turn away from the foolish (i.e. don't punish them). (Qur. 7:199)

﴿ وَمَا خَلَقْنَا السَّمَاوَاتِ وَالْأَرْضَ وَمَا بَيْنَهُمَا إِلَّا بِالْحَقِّ وَإِنَّ السَّاعَةَ لَأْتِيَةٌ فَاصْفَحْ ﴾

الصَّفْحَ الْجَمِيلَ

And We created not the heavens and the earth and all that is between them except with truth, and the Hour is surely, coming, so overlook (O Muḥammad,) their faults with gracious forgiveness. (Qur. 15:85)

﴿ وَقِيلَ يَا رَبِّ إِنَّ هَؤُلَاءِ قَوْمٌ لَا يُؤْمِنُونَ ○ فَاصْفَحْ عَنْهُمْ وَقُلْ سَلَامٌ فَسَوْفَ يَعْلَمُونَ ﴾

(And Allāh has the knowledge) of (Prophet Muḥammad's) saying: "O my Lord! Verily, these are a people who believe not!" So turn away from them (O Muḥammad), and say: "Peace!" But they will come to know. (Qur. 43:88-89)

﴿ ادْعُ إِلَى سَبِيلِ رَبِّكَ بِالْحُكْمَةِ وَالْمَوْعِظَةِ الْحَسَنَةِ وَجَادِلْهُمْ بِالَّتِي هِيَ أَحْسَنُ إِنَّ رَبَّكَ

هُوَ أَعْلَمُ بِمَنْ ضَلَّ عَنْ سَبِيلِهِ وَهُوَ أَعْلَمُ بِالْمُهْتَدِينَ ﴾

Invite (humankind, O Muḥammad) to the way of your Lord (call them to Islam) with wisdom (with the Divine Revelation and the Quran) and fair preaching, and argue with them in a way that is better. Truly,

your Lord knows best who has gone astray from His path, and He is best aware of those who are guided. (Qur. 16:125)

﴿ وَإِنْ جَاهَدَاكَ عَلَىٰ أَنْ تُشْرِكَ بِي مَا لَيْسَ لَكَ بِهِ عِلْمٌ فَلَا تُطِعْهُمَا وَصَاحِبُهُمَا فِي الدُّنْيَا مَعْرُوفًا ﴾

But if they (both of your parents) strive with you to make you join in worship with Me others that of which you have no knowledge, then obey them not; but behave with them in the world kindly. (Qur. 31:15)

Allāh also forbade the believers from cursing the false gods of the polytheists, for this may incite their zeal and loyalty, causing them to curse the one true God. Allāh said:

﴿ وَلَا تَسُبُّوا الَّذِينَ يَدْعُونَ مِنْ دُونِ اللَّهِ فَيَسُبُّوا اللَّهَ عَدْوًا بِغَيْرِ عِلْمٍ ﴾

And insult not those whom they (disbelievers) worship besides Allāh, lest they insult Allāh wrongfully without knowledge. (Qur. 6:108)

In Mecca, the enmity and oppression of the polytheists gradually increased towards the Prophet ﷺ. They intensified their aggression and pressure against him and his call, and also tortured his Companions. So Allāh sent the angel of the mountains, who said to the Prophet ﷺ:

O Muḥammad! Allāh has heard what your people have said to you, and I am the angel of the mountains. Your Lord has sent me to do whatever you command me, so what do you want me to do? If you wish, I will cause al-Akshabān²¹⁴ to close in on them.

214. *Al-Akshaban*: the two mountains of Mecca, Abū Qubais and the mountain located opposite to it.

The Messenger of Allāh ﷺ said to the angel:

« بَلْ أَرْجُو أَنْ يُخْرِجَ اللَّهُ مِنْ أَصْلَابِهِمْ مَنْ يَعْبُدُ اللَّهَ وَحْدَهُ لَا يَشْرِكُ بِهِ شَيْئًا »

To the contrary, I hope that Allāh will create from their descendants those who will worship Allāh, alone, and who will not associate anyone [or anything] with Him.²¹⁵

‘Abd Allāh b. Mas‘ūd said:

It is as if I am looking now at the Prophet [Muḥammad] ﷺ talking about a Prophet whose people beat him and caused him to bleed, who said, while wiping the blood off of his face: “O Allāh, forgive my people, for indeed they do not know.”²¹⁶

Moreover, Abu Hurairah said:

It was said: “O Messenger of Allāh, supplicate against the polytheists!” He ﷺ replied: “I was not sent as a curse-maker; I was sent as a mercy.”²¹⁷

Some scholars held the opinion that these verses and ḥadīths, and similar texts that command kindness in calling to Islam and fair discussions, patience, pardoning, and forgiveness, were abrogated by the verses that command fighting. However, the correct stance of the muḥaqqiqūn, or scholars who research and verify, is that they were not abrogated,²¹⁸ and that each ruling has its own reason, place, and situations that justify its respective implementation.

Calling to Islam with wisdom and soft speech cannot be done without being kind towards those being called, being sincere

215. Reported by al-Bukhārī, *Al-Ṣaḥīḥ*, no.3231; Muslim, *Al-Ṣaḥīḥ*, no.1795, from the ḥadīth of ‘Ā’ishah.

216. Al-Bukhārī, *Al-Ṣaḥīḥ*, no.3477; Muslim, *Al-Ṣaḥīḥ*, no.1792.

217. Al-Bukhārī, *Al-Adab al-Mufrad*, no.321; Muslim, *Al-Ṣaḥīḥ*, no.2599.

218. Ibn Taymiyyah, *Al-Ṣārim al-Maslūl*, vol.2, p.413; al-Zarkashī, *Al-Burbān fī Ulūm al-Qur’ān*, vol.2, p.42; al-Suyūṭī, *Al-Itqān fī Ulūm al-Qur’ān*, vol.3, p.57.

towards them, and treating them well. Also, one should behave in a way that is non-threatening, such as when partaking in general customs, and by maintaining good relations with those being called to when engaging with them in human interactions such as studying and working. It is also recommended to maintain prevalent social customs such as being punctual, efficient, professional, and active in the affairs of society, and other traits that are advantageous and will produce goodness.

Shaykh al-Islam Ibn Taymiyyah al-Numayrī said:

Muslims living in Dār al-Ḥarb, or Dār al-Kufr, which are not actively fighting Muslims, are not commanded to contradict them in their ways, [if] that causes problems. It may be preferable for a man, even obligatory, to participate in some of their outward conduct sometimes, especially if there is a religious benefit, such as calling them to the religion.²¹⁹

The general rule concerning refraining from contradicting non-Muslims while living in their lands, as explained here, is conditional on the fact that Muslims cannot abandon the Islamic obligations or commit what is prohibited. Therefore, it is not allowed for Muslims to appease non-Muslims or participate in anything that opposes the laws of Islam in any way whatsoever, whether pertaining to an aspect of creed which resides in the heart, or a statement, or an action, either by committing [the prohibited] or abandoning [commandments].

The Prophet ﷺ lived in Mecca for 13 years after he was commissioned as Allāh's final and last Prophet and Messenger, calling its inhabitants to worship Allāh, alone. Only a few of its inhabitants answered his call. Even so, he ﷺ used to mingle with the

219. Ibn Taymiyyah, *Iqtīdā' Širāṭ al-Mustaḡīm*, p.177, al-Fiqī edition; vol.1, p.417, al-'Aql edition.

polytheists, attend their gatherings, and deal with them in selling, buying, loaning, mortgaging, trusts, and other dealings. He would eat the same kind of food they ate, wear the same kind of clothes they wore, and lived in the same area as they did. He only opposed what was obligatory for him to oppose, i.e. those matters which contradicted establishing monotheism, obedience to the laws of Allāh, honouring Allāh's religion and commandments, and avoiding His prohibitions.

Before the revelation and before the laws were established, the Prophet ﷺ opposed the polytheists only with respect to what his pure intellect and upright natural disposition refused, what his sound mind rejected, what his good nature and pure soul disallowed. Furthermore, before the revelation, Allāh protected his honourable Prophet ﷺ from the indecencies of the era of ignorance and from its wickedness and filth.

The polytheists, due to the certainty they had within the depths of their hearts, knew well Muḥammad's ﷺ honesty, trustworthiness and noble manners and they even used to keep their trusts with him. The Prophet ﷺ was not rude or harsh, nor was he arrogant or stubborn. To the contrary, he ﷺ was easy to be around, soft-hearted, well-mannered, pure in nature, merciful, and gentle in all matters. This is how Muḥammad's Lord, Allāh, described him in His statement:

﴿ وَمَا أَرْسَلْنَاكَ إِلَّا رَحْمَةً لِّلْعَالَمِينَ ﴾

And We have sent you (O Muḥammad) not but as a mercy to all that exists. (Qur. 21:107)

﴿ وَإِنَّكَ لَعَلَىٰ خُلُقٍ عَظِيمٍ ﴾

And verily, you (O Muḥammad) are on an exalted (standard of) character. (Qur. 68:4)

﴿ يَا أَيُّهَا النَّبِيُّ إِنَّا أَرْسَلْنَاكَ شَاهِدًا وَمُبَشِّرًا وَنَذِيرًا ۝ وَدَاعِيًا إِلَى اللَّهِ بِإِذْنِهِ وَسِرَاجًا مُنِيرًا ﴾

O Prophet! Verily, We have sent you as a witness, a bearer of glad tidings), and as a warner. And as one who invites to Allāh by His leave, and as a lamp spreading light. (Qur. 33:45-46)

This was Muḥammad’s ﷺ description in the *Torah*:

O Prophet We have sent you as a witness, a giver of glad tidings, and a protector of the unlettered. You are my slave and Messenger. I named you al-mutawakkil (who relies solely on Allāh); he is not rude, nor harsh, nor a noise-maker in marketplaces. He does not return evil with evil. Instead, he forgives and pardons. Allāh will not take him away until He employs him to abolish the crooked religion so that they (humankind) may say: “There is no deity worthy of worship except Allāh” and with this statement, he opens blind eyes, deaf ears, and closed hearts.²²⁰

The Prophet ﷺ was and will always be a good example and a role model of patience in the face of abuse, and in responding in the best

220. Al-Bukhārī, nos.2125 and 4838, from the noble companion ‘Abd Allāh b. ‘Amr b. al-‘Āṣ, who transmitted this text from the original *Torah*. “Ḥirz” literally means “protector,” that is: protector of the religion of the unlettered, who are the Arabs, since writing was rare among them during Muḥammad’s time. “I named you, al-mutawakkil,” is due to Muḥammad’s ﷺ contentment in having scarce resources, his total reliance on Allāh for sustenance and support, his patience in waiting for relief, his adhering to good manners, and his feeling complete assurance of the promise of Allāh. The Prophet ﷺ relied on Allāh alone, and was thus given this title. “He (Muḥammad) does not return evil with evil,” means, the Prophet ﷺ did not respond to evil by doing evil to a person who abused him, even though he was allowed and able to do so, unless the sanctities of Allāh were transgressed. Instead, he r always acted kindly. “Until He employs him to abolish...,” means, until Allāh uses Muḥammad ﷺ to abolish shirk and establish tawḥīd –which is in contradiction to the “crooked religion,” in reference to the religion of the Arabs before Islam appeared. Allah called it ‘crooked,’ because the Arabs then worshipped idols and spoiled the monotheistic religion of Ibrāhīm. Therefore, the Arabs deviated Ibrāhīm’s religion from its uprightness and purity, and became misguided, after initially following the straight religion. *Fatḥ al-Bārī*, vol.4, p.433 and vol.8, p.744; *Umdah al-Qārī*, vol.II, p.244.

of ways to harassment. The Prophet's ﷺ honourable biography is full of examples and I will suffice here with one:

‘Ā’ishah narrated that the Jews came to the Prophet ﷺ and said: “Al-ṣāmu ‘alaik (death to you)!” The Prophet ﷺ replied: “And to you!” Because of what they said, ‘Ā’ishah said to them: “May death come to you, and may Allāh curse you and be angry with you!” The Messenger of Allāh ﷺ said to her:

« مَهْلًا يَا عَائِشَةُ عَلَيْكَ بِالرَّفْقِ وَإِيَّاكَ وَالْعُنْفَ أَوْ الْفُحْشَ »

Be calm O, ‘Ā’ishah! You must be gentle and stay away from harshness and obscenity.

She said to him: “Did you not hear what they said?” He ﷺ answered:

« أَوَلَمْ تَسْمَعِي مَا قُلْتُ رَدَدْتُ عَلَيْهِمْ فَيُسْتَجَابُ لِي فِيهِمْ وَلَا يُسْتَجَابُ لَهُمْ فِيَّ »

Did you not hear what I said? I returned their greeting to them, and I will be answered (i.e. my invocation will be accepted) regarding them, while they will not be answered regarding me.²²¹

This ḥadīth provides evidence of the Prophet's ﷺ honourable manners when responding to the Jews who greeted him in an insulting and abusive way, out of hatred and jealousy for him. The Prophet ﷺ was rightly guided to answer them with one sufficient statement: “And upon you!” Therewith, what the greeters said as an insult was duly sent back to them and did not harm the Prophet ﷺ.

Ibn Baṭṭāl al-Qurṭubī said:

In this ḥadīth there is an example of the great manners of Islam; a caller (motivator) should be gentle with the ignorant and to pardon and overlook their abuse. Just as the Messenger ﷺ abstained from confronting the Jews by saying something similar to what they said, and

221. Reported by al-Bukhārī, *Al-Ṣaḥīḥ*, no.2935, and in *Al-Adab al-Mufrad*, p.311.

he forbade ‘Ā’ishah from being harsh in her response. He ﷺ said: “Be gentle, O ‘Ā’ishah,” for Allāh likes gentleness in all matters, based on the generality of the Prophet’s statement: “Surely Allāh likes gentleness in all situations.”²²² And although responding in the same manner as one is addressed is allowed, due to Allāh’s Statement: “And indeed whosoever takes revenge after he has suffered wrong, for such there is no way (of blame) against them,” (Qur. 42:41) patience is greater in reward, and a higher level [than impatience], due to Allāh’s statement: “And verily, whosoever shows patience and forgives that would truly be from the things recommended by Allāh.” (Qur. 42:43) Patience is characteristic of the Prophets and the righteous. It is obligatory to conform to their way and emulate them, and to subdue one’s inner-self, so as to suppress the desire to retaliate, hoping for the reward of Allāh in doing so.²²³

EXAMPLES OF OUTWARD CONFORMITY WITH NON-MUSLIMS

I believe it is beneficial to mention three examples of conforming to some outward matters and ways of the non-Muslims which many Muslims think is part of the prohibited type of conformity. After examination, we will realize that these aspects are actually among the permissible matters, because they are not connected to religious aspects:

First Example: Accepting Gifts From Non-Muslims During Their Holidays

It has been authentically reported that the rightly guided caliph ‘Alī b. Abī Ṭālib and others, accepted gifts from the Magians on the occasion of their holiday. Muḥammad b. Sīrīn narrated:

222. This is another wording of the ḥadīth of ‘Ā’ishah which was reported by al-Bukhārī in *Al-Ṣaḥīḥ*, no.6024 and in *Al-Adab al-Mufrad*, p.462; Muslim, *Al-Ṣaḥīḥ*, no.2165.

223. *Sharḥ Ṣaḥīḥ al-Bukhārī*, vol.9, p.226.

‘Alī b. Abī Ṭālib was given a gift on Nayrūz (Nouruz), and he asked: “What is this?” They said: “O, leader of the Believers! This is the Day of Nayrūz.” He replied: “Then make every day Fayrūz!”²²⁴

It is also reported that Abū Barzah used to receive gifts from some of the Magians during the Nouruz and the Mihragan.²²⁵ Yet, he used to say to his family: “The fruit eat it; anything else, give it back.”²²⁶

Also, Abū Zaybān and Ḥuşain b. Jundub al-Janabī narrated that a woman said to ‘Ā’ishah: “We have nursing mothers from the Magians, and when they have a holiday, they give us gifts.” She responded: “As for what they slaughter for that day, do not eat it, but eat from their trees (produce or fruit).”²²⁷

Shaykh al-Islam Ibn Taymiyyah said:

This proves that the holidays [of non-Muslim] have no effect on whether or not to accept their gifts. On the contrary, the ruling [of accepting gifts] during a holiday or any other time is the same, because this does not entail helping them in the rites of their disbelief. However,

224. Reported by al-Bayhaqī, *Al-Sunan al-Kubrā*, vol.9, p.234 via the trustworthy Hāfiẓ Abū Usāmah Ḥammād b. Usāmah al-Kūfī from Ḥammād b. Zayd, from Hishām b. Ḥassān al-Azdī from Muḥammad b. Sīrīn. The chain of narration is authentic and its narrators are all well-known and trustworthy. It was also reported by Abū ‘Ubayd in *Al-Amwāl*, p.674 and Ibn ‘Asākir in *Tārīkh Dimishq*, vol.42, pp.377-478, – both with another chain of transmission. ‘Alī’s words: “make every day Fayrūz” was commented on by Abū Usāmah who said “He disliked saying ‘Nayrūz.’” Nayrūz, or Nouruz, is a Persian word and it refers to a ‘new day’; it is the first day of the Iranian Zoroastrian calendar and occurs in the Spring of each year corresponding to 21 March CE. It is the largest national Zoroastrian festival. Refer to *Al-Muġam al-Wasīṭ*, article ‘Nūrūz.’

225. Mihragan is another Persian festival which is the autumn celebration. The Arabic rendition, ‘Mahrajān,’ is originally a Persian word formed from the first part ‘Mahr’ which means ‘sun’, and the last part ‘Jān’ which means ‘life’ or ‘spirit.’ See *Al-Muġam al-Wasīṭ*, article ‘al-Mihrajān’ and on both Nouruz and Mihragan, see *Nihayah al-‘Arab fī Funūn al-‘Adab*, vol.1, p.185.

226. Reported by Abū Bakr b. Abī Shaybah, *Al-Muṣannaḥ*, nos.24857 and 33342 – there is no problem with its chain of transmission. Abū Barzah is Naḍlah b. ‘Ubayd al-Aslamī, the well-known companion.

227. *Ibid.*, nos.24856 and 33341; this report’s chain of narration is good.

the topic of accepting gifts from non-Muslims, whether combatants or dhimmis, is a separate issue in itself on which there is a difference of opinion but this is not the occasion to go into details. [In general], it is only allowed to eat from the food of the People of the Book (Jews and Christians) during their holiday, whether the food is purchased, or received as a gift, etc., as long as it was not slaughtered [specifically] for their holidays. As for the slaughtered animals of the Magians, the ruling regarding it is well-known: it is forbidden [to consume], according to the general consensus (of the scholars).²²⁸ As for the sacrifices made by the People of the Book for their holidays, and also what they slaughter for other than Allāh which resembles what the Muslims slaughter and sacrifice seeking nearness to Allāh, such as sacrifices to the Messiah or Zahrah, then there are two reports from Aḥmad on the matter; the most famous of these statements reads: “It is not lawful to eat, even if they only mentioned Allāh’s name when conducting the slaughter. The prohibition [to consume such sacrifices] is reported from both ‘Ā’ishah and ‘Abd Allāh b. ‘Umar.”²²⁹

Second Example: Men Wearing A Head Covering

It is known that covering the head with a turban or another style of head covering is customary among Muslim men in some countries. Yet, the norm for non-Muslim men is to not cover their head. Therefore, Muslims who live amongst non-Muslims are permitted to do the same, even if it is the norm in their original country to cover the head. This is because covering the head is not an act of worship, not during prayer nor outside of it.

228. Ibn Taymiyyah means the general masses of the scholars, who do not consider the Magians to be from the People of the Book whom Allāh permitted Muslim men to marry from their women and eat from what they slaughter.

229. Ibn Taymiyyah, *Iqtidā’ Širāṭ al-Mustaqīm*, p.251 of al-Fiqī’s edition and vol.1, p.514 of al-‘Aql’s edition.

The ‘allāmah ‘Abd al-‘Azīz b. ‘Abd Allāh b. Bāz was asked about the ruling regarding an imam who leads the people in prayer and does not cover his head, to which he replied:

There is no sin in doing that, because the head is not a part that requires covering [in prayer]. The obligation [regarding suitable clothing for prayer] includes praying while wearing a lower and an upper garment, due to the statement of the Prophet ﷺ: “None of you should pray in one garment, without a part of it covering his shoulders.”²³⁰ However, it is better to wear an adornment [as the following verse states], and neat attire [including covering the head], due to the statement of Allāh: “O Children of Adam! Take your adornment (by wearing your clean clothes) while praying.” (Qur. 7:31) Furthermore, if one is in a country where it is not customary to cover one’s head, there is no sin in uncovering it.²³¹

‘Allāmah Muḥammad b. Šālīḥ al-‘Uthaymīn said about applying this matter within the context of Allāh’s statement, “O Children of Adam! Take your adornment while praying”:

It becomes clear to us that covering the head is better when done amongst people who consider covering the head as an adornment. However, if we are with people who do not consider it a way of adorning oneself, then we cannot say that covering is better, or uncovering is better.²³²

These two respectable scholars, may Allāh have mercy on them, explained that covering the head is a custom of Muslims, a custom that differs from one country to another. What then if a Muslim

230. Reported by al-Bukhārī, *Al-Šaḥīḥ*, no.359; Muslim, *Al-Šaḥīḥ*, no.516 – from the ḥadīth of Abū Hurayrah.

231. Ibn Bāz, *Majmū‘ Fatawā wa Maqālāh Mutanawwi‘ah*, vol.10, p.405.

232. Al-‘Uthaymīn, *Al-Sharḥ al-Mumtī‘ālā Zād al-Mustaḥqīq*, vol.2, p.166.

is in a non-Muslim country? There is no doubt that the blame is removed from him for concurring with the people of that land in this matter and he agrees with one of the two groups of Muslims. This matter is unknown to many students of knowledge and callers to Allāh who live in the west, let alone lay-Muslims. Some of them may become harsh with other Muslims with regards to this aspect, and we have experienced some strange dealings with young men who love their religion but fail to understand this point; and Allāh's help is sought!

Third Example: Men Wearing Trousers And Jackets And Other Items Of Clothing Which Fulfil The Sharia Conditions Of Covering The 'Awrah

A group of senior scholars of this era have ruled that this is permissible and have highlighted that the basis for different types of clothing is that they are permissible as they are from the matters related to customs. Allāh says:

﴿قُلْ مَنْ حَرَّمَ زِينَةَ اللَّهِ الَّتِي أَخْرَجَ لِعِبَادِهِ وَالطَّيِّبَاتِ مِنَ الرِّزْقِ قُلْ هِيَ لِلَّذِينَ آمَنُوا فِي الْحَيَاةِ الدُّنْيَا خَالِصَةً يَوْمَ الْقِيَامَةِ كَذَلِكَ نُفَصِّلُ الْآيَاتِ لِقَوْمٍ يَعْلَمُونَ﴾

Say, "Who has forbidden the adornment of Allāh which He has produced for His servants and the good [lawful] things of provision?"

Say, "They are for those who believe during the worldly life [but] exclusively for them on the Day of Resurrection." Thus do We detail the verses for a people who know. (Qur. 7: 32)

All that is exempted from this is whatever the sharia indicates as being prohibited or disliked such as silk for men, whatever is transparent and reveals the colour of skin underneath, whatever is figure-hugging. This all falls into uncovering the body which is impermissible, like the cloths which are specific to non-Muslims – these are neither permissible for men nor for women. The Prophet

ﷻ also forbade resembling the disbelievers and men and women resembling the clothes of one-another. Wearing trousers is not specific to non-Muslims, rather the general Muslims also wear them as do non-Muslims in many countries and states. Some Muslims in particular countries only avoid such clothing as not being accustomed to such attire even though it may be in agreement with the custom of other Muslims. However, what takes precedence for a Muslim if he is in a country wherein such clothes are not customary is that he does not wear them for prayer whether in general places of gathering or on the streets.²³³

They also propounded:

The basis of clothing is that they are permissible except for that which the sharia has absolutely exempted such as gold for men and silk. Wearing trousers is not specific to non-Muslims, however wearing tight-fitting trousers which outline the body and even the 'awrah is impermissible; as for baggy trousers then they are permitted except if the intent in wearing them is to resemble non-Muslims. The same applies to wearing a tie, it is not specific to non-Muslims and this is permitted to wear except if he intends by wearing it to resemble them. In summary: the basis for clothing is that they are permissible except whatever the sharia indicates is otherwise as mentioned prior.²³⁴

All that we have mentioned in this chapter is connected to agreement during situations of stability, as for situations of compulsion, dire necessity, fearing harm and counter-balancing between benefits and harms then these circumstances have their own detailed rulings

233. *Fatāwā al-Lajnah al-Dā'imah li 'l-Buḥūth al-Ilmiyyah wa 'l-Ifiā'*, vol.24, p.38, no.1620, signed by the following ulema: 'Abd al-'Azīz b. 'Abd Allāh b. Bāz, 'Abd al-Razzāq 'Afīfī, 'Abd Allāh b. Qu'ūd and 'Abd Allāh b. Ghudayyān, may Allāh have mercy on them all.

234. *Ibid.*, vol.24, p.40, no.4257, signed by the above-mentioned scholars.

which are documented in the books of uṣūl and fiqh. These rulings have specific situations which have been defined by the trustworthy people of knowledge who are well-known for sound creed, accurate foundations, holding the Quran and Sunnah in high regard and innocence from concessions and harshness. And Allāh grants success.

Tenth Ramification

It is required from Muslims that they must remember the favours granted them from non-Muslims who were good to them. They must thank them for their kindness, and repay them by being generous, mentioning them in a good way, and wanting and wishing good for them

There is no doubt that non-Muslims who grant Muslims guaranteed safety, protection, and care, perform a type of tangible good conduct. For that, they deserve thanks and gratitude from Muslims. The Messenger of Allāh ﷺ said:

« لَا يَشْكُرُ اللَّهُ مَنْ لَا يَشْكُرُ النَّاسَ »

Those who do not thank people will not be thankful to Allāh.²³⁵

Therefore, the Prophet ﷺ generalised giving thanks to all people and did not confine it to anyone's faith.

He ﷺ also ordered the repayment of every favour, by saying:

235. Reported by Aḥmad, *Musnad*, vol.2, p.295, no.7938; al-Bukhārī, *Al-Adab al-Mufrad*, p.219; Abū Dāwūd, *Sunan*, no.4811; al-Tirmidhī, *Al-Jāmi'*, no.1954; Ibn Ḥibbān, *Ṣaḥīḥ*, no.3407 – from the ḥadīth of Abū Hurayrah and the wording with al-Tirmidhī is: "Whoever has not thanked the people has not thanked Allāh." Al-Tirmidhī said: "the ḥadīth is ḥasan ṣaḥīḥ" and it is as he stated; refer to al-Albānī, *Silsilah al-Aḥādīth al-Ṣaḥīḥah*. Ibn al-Atheer said in *Al-Nihāyah*, article 'shakara':

This means that Allāh does not accept the thanks of [His] slaves (creation) for His bounties on them if the slaves do not thank the people for their kindness and are being ungrateful towards them, since [thanking Allāh and thanking people] are intrinsically connected. It was also said that the meaning here is, if someone's habit is to be ungrateful for the favours of people and does not thank them, then it will also be his habit to be ungrateful for the favours of Allāh and not thank Him. It was also said that it means, whoever does not thank the people then they are like the one who does not thank Allah, even if one does.

« مَنْ صَنَعَ إِلَيْكُمْ مَعْرُوفًا فَكَافِئُوهُ فَإِنْ لَمْ تَجِدُوا مَا تُكَافِئُونَهُ فَادْعُوا لَهُ حَتَّى تَرَوْا
أَنَّكُمْ قَدْ كَفَّيْتُمُوهُ »

Whoever does a favour for you, repay them. If you do not find what you can repay them with, supplicate for them, until you are satisfied that you have repaid them.²³⁶

Allāh said:

﴿ هَلْ جَزَاءُ الْإِحْسَانِ إِلَّا الْإِحْسَانُ ﴾

Is there any reward for good other than good? (Qur. 55:60)

‘Abd Allāh b. ‘Abbās said: “This verse applies to both Muslim and non-Muslims alike.”²³⁷ Also, narrated from Muḥammad b. al-Ḥanafīyah²³⁸ regarding this verse: “This is true for the pious and the sinful.”²³⁹

Furthermore, our honourable Messenger ﷺ is our best example and role model regarding this issue. The Prophet’s ﷺ paternal uncle, Abū Ṭālib, protected and safeguarded him, took care of him, supported him, stood by his side, and loved him greatly. However, he did not accept Islam. When he was about to die, the Messenger of Allāh ﷺ rushed to his bedside driven by his concern for Abū Ṭālib’s state of faith. He ﷺ encouraged Abū Ṭālib to be among the

236. Reported by Aḥmad, *Musnad*, vol.2, p.68, no.5365; al-Bukhārī, *Al-Adab al-Mufrad*, p.216; Abū Dāwūd, *Sunan*, no.1672; al-Nasā’ī, *Al-Mujtabā*, vol.5, p.82; al-Nasā’ī, *Al-Kubrā*, no.2359; Ibn Ḥibbān, *Ṣaḥīḥ*, no.3408 – from the ḥadīth of ‘Abd Allāh b. ‘Umar. Al-Nawawī authenticated it in *Riyāḍ al-Ṣāliḥīn*, p.1723 as did al-Albānī in *Silsilah al-Aḥādīth al-Ṣaḥīḥah*, no.254.

237. Reported by Ibn Mardawayh as in *Al-Durr al-Manthūr*, al-Raḥmān, 55:60.

238. Muḥammad b. ‘Alī b. Abī Ṭālib al-Qurashī al-Hāshimī: a major and noble tabi’ī scholar, meaning, from the second generation of Islam. He died in Medina around the year 80 AH/699 CE. His biography is found in al-Dhahabī, *Siyar*, vol.4, p.110, no.36.

239. Reported by al-Bukhārī, *Al-Adab al-Mufrad*, p.130, and al-Albānī in *Ṣaḥīḥ al-Adab al-Mufrad*, p.97, wherein he graded the chain of narration “ḥasan.”

successful in the Hereafter by embracing Islam. The Messenger of Allāh ﷺ said:

« يَا عَمُّ ، قُلْ لَا إِلَهَ إِلَّا اللَّهُ كَلِمَةً أَشْهَدُ لَكَ بِهَا عِنْدَ اللَّهِ »

O Uncle! Say: “There is no deity worthy of worship except Allāh,” a statement that will enable me to testify for you before Allāh!

However, the pagan leaders Abū Jahl and ‘Abd Allāh b. Abū Umayyah said: “O Abū Ṭālib! Are you going to turn away from (abandon, shun) the religion of ‘Abd al-Muṭṭalib?” The Messenger of Allāh ﷺ continued to implore his uncle to accept Islam. The polytheists who were there continued to repeat their statement, until the last thing Abū Ṭālib said was that he would die on the religion of ‘Abd al-Muṭṭalib, his father. Abū Ṭālib refused to say, “There is no deity worthy of worship except Allāh.” The Messenger of Allāh ﷺ then said:

« أَمَا لَا أَسْتَغْفِرَنَّ لَكَ مَا لَمْ أُنْهَ عَنْكَ »

As for me, I will continue to ask forgiveness for you as long as I am ordered not to do so.

Then, Allāh revealed:

« مَا كَانَ لِلنَّبِيِّ وَالَّذِينَ آمَنُوا أَنْ يَسْتَغْفِرُوا لِلْمُشْرِكِينَ وَلَوْ كَانُوا أُولِي قُرْبَىٰ مِنْ بَعْدِ مَا تَبَيَّنَ لَهُمْ أَنَّهُمْ أَصْحَابُ الْجَحِيمِ »

It is not (proper) for the Prophet and those who believe to ask Allāh’s forgiveness for the pagans, even though they be of kin. (Qur. 9:113)

Allāh also revealed this verse regarding Abū Ṭālib:

« إِنَّكَ لَا تَهْدِي مَنْ أَحْبَبْتَ وَلَكِنَّ اللَّهَ يَهْدِي مَنْ يَشَاءُ وَهُوَ أَعْلَمُ بِالْمُهْتَدِينَ »

Verily, you (O Muḥammad) guide not whom you like, but Allāh guides

whom He wills. (Qur. 28:56)²⁴⁰

This is how the Prophet ﷺ was faithful and thankful to his uncle during his life, and also after he died. Abū Ṭālib's dying a disbeliever did not make the Prophet ﷺ forget his uncle's favour on him, nor deny his kindness. Instead, the Prophet ﷺ invoked Allāh to grant him intercession for the benefit of his uncle, a special kind of intercession specifically for Abū Ṭālib. The Prophet ﷺ invoked Allāh that his uncle's punishment be lessened in the Hellfire, as mentioned in a ḥadīth from al-'Abbās b. 'Abd al-Muṭṭalib who asked the Prophet ﷺ: "How did you benefit your uncle; for he used to take care of you and get angry for the way you were treated?" The Prophet ﷺ replied:

« هُوَ فِي ضَحْضَاحٍ مِنْ نَارٍ وَأَوْلَا أَنَا لَكَانَ فِي الدَّرَكِ الْأَسْفَلِ مِنَ النَّارِ »

He is in a shallow place of Hellfire, and if it wasn't for me, he would be in the lowest depths of it.²⁴¹

After the death of Abū Ṭālib, the Prophet ﷺ lost his protector and supporter in Mecca, so he went to Ta'if, a town near Mecca, to seek their support. However, Ta'if's people greeted him with rejection and abuse. Subsequently, the Prophet ﷺ left Ta'if, and the matter became hard on him, and his trials became more difficult. He ﷺ couldn't re-enter Mecca because of the excessive harm and oppression Mecca's pagans committed against him, after the death of Abū Ṭālib. So he sent a messenger to al-Muṭ'im b. 'Adī in Mecca to ask for his protection.

240. Reported by al-Bukhārī, *Al-Ṣaḥīḥ*, no.1360; Muslim, *Al-Ṣaḥīḥ*, no.24 via the route of Sa'īd b. al-Musayyib from his father that when death approached Abū Ṭālib, Allāh's Messenger ﷺ went to him, then he mentioned the ḥadīth.

241. Reported by al-Bukhārī, *Al-Ṣaḥīḥ*, nos.3883, 6208 and 6572; Muslim, *Al-Ṣaḥīḥ*, no.209 – relayed from the ḥadīth of his son 'Abd Allāh b. 'Abbās. In *Ṣaḥīḥ Muslim*, no.212, from the ḥadīth of Abū Sa'īd al-Khudrī; al-Bukhārī, *Al-Ṣaḥīḥ*, nos. 3885 and 6564; Muslim, *Al-Ṣaḥīḥ*, no.210.

Ibn Hishām²⁴² said:

When the Messenger of Allāh ﷺ left the people of Ta'if, after they did not accept his message nor agreed to support him, he went to the [Cave of] Ḥirā'. Next, he ﷺ sent a courier to al-Akhnas b. Sharīq asking for his protection, but al-Akhnas said: "I am an ally and an ally cannot give protection." Then, he ﷺ sent a courier to Suhail b. 'Amr, asking for his protection, but he said, "Banū 'Āmir do not protect Banū Ka'b." After that, the Prophet ﷺ sent a courier to al-Muṭ'im b. 'Adī, asking for his protection, and he responded positively. Al-Muṭ'im b. 'Adī armed himself and his family, and they went to the Masjid (the Ka'bah). Then, he sent for the Messenger of Allāh ﷺ and told him to enter, so the Messenger of Allāh ﷺ did so and circumambulated around the House (the Ka'bah), prayed, then went home.²⁴³

Years passed, and the Messenger of Allāh ﷺ migrated to Medina. Al-Muṭ'im b. 'Adī died as a polytheist and the poet of the Messenger of Allāh ﷺ, Ḥasan b. Thābit eulogised al-Muṭ'im by recounting his honourable stance so that others would remember it, generation after generation:

*Weep O eye for the people's leader!
Be generous with thy tears,
If they run dry then pour out blood,
Mourn the leader of both pilgrim sites,
To whom men owe gratitude so long as they speak,*

242. Abū Muḥammad 'Abd al-Mālik b. Hishām b. Ayyūb al-Ḥumayrī al-Ma'āfirī (d.213 AH/828 CE): a historian, and a scholar of lineages, language and tales of the Arabs. He was born and raised in Basra, and died in Egypt. His most famous book is *Al-Sīrah al-Nabawiyyah*, known as, *Sīrah Ibn Hishām*, in which he condensed *Sīrah Ibn Ishāq*. His biography is found in al-Dhahabī, *Siyar*, vol.10, p.428, no.131.

243. Ibn Hishām, *Al-Sīrah al-Nabawiyyah*, vol.1, p.381; the story of the Prophet ﷺ entering Mecca under the protection of al-Muṭ'im is agreed on by scholars of Islamic history as being authentic.

*If glory could immortalise anyone,
 His glory would have kept Muṭ'im alive today,
 You protected Allāh's Messenger from them and they became,
 Your slaves so long as men cry out "We are at Your service" and wear the
 pilgrim's attire,
 If Ma'ad and Qabtān and all the rest,
 Of Jurham were asked about him,
 They would say that he faithfully performs his duty to protect.
 And if he makes a covenant he fulfils it,
 The bright sun above them does not shine,
 On anyone greater or more noble than him,
 More resolute in refusing yet most lenient in nature,
 Sleeping soundly on the darkest night though responsible for his guest.²⁴⁴*

Later on, the battle of Badr occurred in the second year after the migration to Medina, in 624 CE. It was a day of honour and victory for the Muslims; the day of criterion, when Allāh strengthened His allies over the leaders and the idols of the polytheists. Many polytheists were killed; many were taken as prisoners. The Quraysh pagan prisoners were brought to Allāh's slave, servant and Messenger, Muḥammad ﷺ, who looked at them while recalling their crimes against the Muslims in Mecca against him and against his Companions. He ﷺ recalled the physical and psychological abuse they used to inflict on him and his Companions. However, he did not desire revenge, and the elation of victory did not find a way into his pure heart. Instead, and while in that state of strength and triumph, he ﷺ recalled the stance taken by Muṭ'im b. 'Adī. Muḥammad ﷺ, the master of the faithful and honourable, said this about the pagan prisoners:

244. *Ibid.*, vol.1, p.380.

« لَوْ كَانَ الْمُطْعِمُ بْنُ عَدِيٍّ حَيًّا ثُمَّ كَلَّمَنِي فِي هَؤُلَاءِ التَّنْفِي لَتَرَكْتُهُمْ لَهُ »

Had al-Muṭ'im b. 'Adī been alive and he interceded on behalf of these foul people, I would have released them to him.²⁴⁵

This is the highest form of faithfulness and benevolence, to remember other people's favours on oneself, indicating nobility and high aspirations. Where are we from the manners of our honourable Prophet, peace and blessing of Allāh be upon him? O, Allāh, we seek your forgiveness!

245. Reported by Aḥmad, *Musnad*, vol.4, p.80, no.16733; al-Bukhārī, *Al-Ṣaḥīḥ*, nos.3139 and 4024; Abū Dāwūd, *Sunan*, no.2689 – from the ḥadīth of Jubayr b. Muṭ'im b. 'Adī.

Final Words

Perhaps it would be suitable to complete this research by mentioning some conclusions and recommendations:

CONCLUSIONS

This treatise has succeeded in illustrating the importance of protection pledges and covenants of security as this pertains to the relationship between Muslims and non-Muslims. This principle is at the core of such relationships, and based on it, various understandings, conceptions, attitudes, and behaviours are built.

Through documentation, research, and scientific analysis, this treatise has presented relevant proofs from the sharia and fiqhi traditions. Combined, these aspects represent a comprehensive religious, political, and social foundation on which the relationship between Muslims and non-Muslims is built, on the principles of justice, honesty, and mutual trustworthiness.

The biography of the Prophet ﷺ and his noble Companions presents practical examples of how to seek and accept refuge and pledges of protection from non-Muslims, and then, how to adhere to the consequences of such pledges. In addition to being evidence from the sharia, these examples also signify various religious and moral examples. They represent divine, exalted manners which Muslims are obligated to emulate in every place and time-frame, to follow and implement their guidance, and to take them as weighty examples and valuable models to follow:

﴿لَقَدْ كَانَ لَكُمْ فِي رَسُولِ اللَّهِ أُسْوَةٌ حَسَنَةٌ لِّمَن كَانَ يَرْجُوا اللَّهَ وَالْيَوْمَ الْآخِرَ وَذَكَرَ
اللَّهَ كَثِيرًا﴾

Indeed in the Messenger of Allāh (Muḥammad) you have a good example to follow for him who hopes for (the meeting with) Allāh and the (good of the) Last Day, and remembers Allāh much. (Qur. 33:21)

This treatise presents precise meanings for the terms Dār al-Islām, Dār al-Ḥarb, and Dār al-Kufr, through analysing their practical implications and historical significance. We were, thus, able to conclude that the term Dār al-Ḥarb is a temporary circumstance as compared to the other two terms, which must be preserved since they embody specific religious and practical characteristics; this research has also clarified the reason why the term is waived at present.

This treatise explains how this conclusion can be applied to current times. Having defined ‘protection’ and pinpointed its elements and wording, this treatise presented ten ramifications and consequences to be followed and observed by Muslims accepting protection and safety pledges from non-Muslims and/or legal residence and citizenship. These ramifications are a product of the very definitions being discussed in this treatise. By knowing these ramifications, one can, and should, preserve various rights and fulfil consequential obligations, while preventing contracts and pledges from being flawed, insufficient, and/or corrupt.

The ten ramifications mentioned here differ in the level of importance and the way they relate to protection contracts and pledges. Some of them pertain to the substance of contracts of protection and residence, while others pertain to conditions, requirements, and etiquettes included in protection pledges and pacts.

RECOMMENDATIONS

1. The author of this treatise recommends that Muslims carefully adhere to all that is found in the Quran and Sunnah, and the understanding of Muslim scholars, pertaining to the general principles and various detailed rulings regarding Muslim relations with non-Muslims. We recommend exerting effort in applying these principles and rulings in modern times, since the number of Muslims living outside of Dār al-Islām is increasing in great numbers, day-by-day.
2. Even if these principles and rulings are not being observed, whether entirety or partially, by current ruling systems and regimes, they still represent a collection of honourable manners that distinguish the Muslim nation. They do not need, nor do they require, any change, modification, or abrogation. Therefore, this author recommends that callers to Islam, educators, and students of knowledge, exert sincere effort in teaching these aspects to Muslims, call on them to implement them in their daily life, and encourage firm adherence to them. Consequently, Muslims are taught the religion and its manners from an early age, making such aspects the standard that governs their interaction with others, wherever they are and wherever they may go.
3. We recommend that care is given when teaching these rulings within the context of explaining the good aspects of Islam and refuting misconceptions about its laws. This effort should concentrate on confronting media campaigns that are biased against Islam and Muslims, helping victims from the complex of fear of 'Islamic Terrorism' and curing them from Islamophobia, so that fear of such things is

alleviated and their hearts are put to ease.

In the end, we testify that all the praises and thanks are due to Allāh, through whom all good things are accomplished.

Bibliography

Abū Hayf, ‘Alī Ṣādiq: *Al-Qānūn al-Dawlī al-‘Ām* (Alexandria, Egypt: Manshāah al-Ma‘ārif, 1962 AH)

Abū Jayb, Sa‘dī: *Al-Qāmūs al-Fiqhī: Luġhatan wa Iṣṭilāḥan* (Damascus: Dār al-Fikr, 2nd Edition, 1988 CE)

Abū Zahrah, Muḥammad: *Al-‘Alaqāt al-Dawliyyah fī ‘l-Islām* (Cairo, Egypt: Dār al-Fikr al-‘Arabī, 1415 AH)

Al-Aḥmadī, ‘Abd al-‘Azīz b. Mabruk: *Ikhṭilāf al-Dārayn wa Athbarahu fī Aḥkām al-Munākahāt wa ‘l-Mu‘āmalāt* (Medina, KSA: Islamic University, 1424 AH)

Al-Albānī, Muḥammad Nāṣir al-Dīn: *Zilāl al-Jannah* (within *As-Sunnah of Ibn Abī ‘Āṣim*)

_____ : *Ṣaḥīḥ al-Adab al-Mufrad* (Saudi Arabia: Maktabah al-Dalīl, 1418 AH).

_____ : *Irwā’ al-Ghaleel fī Takhrīj Aḥādīth Manār al-Sabīl* (Beirut: al-Maktab al-Islāmī, 2nd Edition, 1405 AH).

_____ : *Ṣaḥīḥ Sunan Ibn Mājah* (Riyadh, KSA: Maktabah al-Ma‘ārif, 1419 AH)

_____ : *Ṣaḥīḥ al-Jāmi‘ al-Ṣaḡhīr wa Ziyādatihi* (Maktab al-Islāmī, 1406 AH)

_____ : *Ṣaḥīḥ al-Tarḡīb wa ‘l-Tarḥīb* (Riyādh, KSA: Maktabah al-Ma‘ārif, 1st Edition, 1421 AH)

_____ : *Silsilah al-Aḥādīth al-Ṣaḥīḥah* (Riyādh, KSA: Maktabah al-Ma‘ārif, 1415 AH)

_____ : *Silsilah al-Aḥādīth al-Dā‘ifah* (Riyadh, KSA: Maktabah al-Ma‘ārif, 1415 AH)

Al-Anṣārī, Abū Yahyā Zakarīyā b. Muḥammad b. Zakarīyā: *Asnā al-Maṭālib fī Sharḥ Rawḍah al-Ṭālib* (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1422 AH, ed. Muḥammad Muḥammad Tāmar)

Al-Aṣḫānī, Abū Nuʿaym Aḥmad b. ʿAbd Allāh: *Ḥilyat al-Awliyāʾ wa Ṭabaqāt al-Aṣfiyāʾ* (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1418 AH, ed. Muṣṭafā ʿAbd al-Qādir ʿAṭā)

Al-Aṣḫānī, al-Rāghib Abu ʿl-Qāsim al-Ḥusayn b. Muḥammad: *Al-Mufradāt fī Gharīb al-Qurʾān* (Beirut: Dār al-Maʿrifah, ed. Muḥammad Sayyid Kaylānī)

Al-ʿAsqalānī, Abu ʿl-Faḍl Aḥmad b. ʿAlī b. Ḥajr: *Fath al-Bārī Sharḥ Ṣaḥīḥ al-Bukhārī* (Riyādh, KSA: Dār al-Salām, 1418 AH)

_____ : *Al-Talkhīṣ al-Ḥabīr fī Takhrīj Aḥādīth al-Rifāʾ al-Kabīr* (Dār al-Kutub al-ʿIlmiyyah, 1419 AH)

_____ : *Taghliq ut-Taʿlīq* (Beirut: al-Maktab al-Islāmī and ʿAmmān: Dār ʿAmmār, 1405 AH, ed. Saʿeed ʿAbd al-Raḥmān al-Qazqī)

_____ : *Taqrīb al-Tabdhīb* (Beirut: Dār al-Maʿrifah, 1395 AH, 2nd Edn., ed. ʿAbd al-Waḥhāb ʿAbd al-Laṭīf)

_____ : *Al-Iṣābah fī Tamyiz al-Ṣaḥābah* (Beirut: Dār al-Kutub al-ʿArabī, 1995, eds. ʿĀdil ʿAbd al-Mawjūd and ʿAlī Muʿawwidh)

Al-Bābartī al-Ḥanafī, Muḥammad b. Muḥammad b. Maḥmūd: *Al-Ināyah Sharḥ al-Hidāyah* (Beirut: Dār al-Fikr)

Al-Baghawī, Abū Muḥammad al-Ḥusayn b. Masʿūd: *Sharḥ al-Sunnah* (Beirut: al-Maktab al-Islāmī, 1403 AH, eds. Shuʿayb al-Arnaʿūṭ and Zuhayr al-Shāwīsh)

Al-Baghawī, Abū ʿl-Qāsim ʿAbd Allāh b. Muḥammad: *Musnad Ibn al-Jād* (Muʿassasah Nādir, 1410 AH, ed. ʿĀmir Aḥmad Ḥaydar)

Al-Balādhūrī, Aḥmad b. Yaḥyā b. Jābir: *Anṣāb al-Aṣbrāf* (Beirut: al-Matbaʿah al-Kathūlikiyyah, n.d., ed. Iḥsān ʿAbbās).

Al-Bayhaqī, Abū Bakr Aḥmad b. al-Ḥusayn: *Al-Sunan al-Kubrā*

(Indian Print, copy of Dār al-Maʿrifah Print, 1413 AH, ed. Muḥammad ʿAbd al-Qādir ʿAṭā; and Mecca, KSA: Maktabah al-Bāz, 1414 AH)

_____ : *Shūb al-Īmān* (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1410 AH, ed. Muḥammad al-Saʿīd al-Basyūnī).

_____ : *Dalāʾil al-Nubuwwah wa Mārifah Ahwāl Ṣāhib al-Sharīh* (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1408 AH)

_____ : *Mārifah al-Sunan wa ʿl-Āthār* (Beirut: Dār al-Kutub al-ʿIlmiyyah, ed. Sayyid Kasūrī)

_____ : *Al-Asmāʾ wa ʿl-Ṣifāt* (Jeddah: Maktabah al-Suwādī, ed. ʿAbd Allāh b. Muḥammad al-Ḥāshidī)

Al-Bazzār, Abū Bakr Aḥmad b. ʿAmr: *Al-Musnad* (Medina al-Munawwarah, KSA: Maktabah al-ʿUlūm wa ʿl-Ḥikam, 1409 AH, ed. Maḥfūz al-Raḥmān Zayn Allāh)

Al-Bukhārī, Abū ʿAbd Allāh Muḥammad b. Ismāʿīl: *Al-Jāmiʿ al-Ṣāḥiḥ* (Dār al-Rayyān, 2nd Edition, 1422 AH, ed. Aḥmad Muḥammad Shākīr)

_____ : *Al-Tārīkh al-Kabīr* (India: Dāʾirah al-Maʿārif al-ʿUthmāniyyah, copy of the Dār al-Kutub al-ʿIlmiyyah Print, Beirut)

Al-Bustī, Abū Hātīm Muḥammad b. Ḥibbān: *Ṣāḥiḥ Ibn Ḥibbān*

Al-Dāraquṭnī al-Baghdādī, Abū ʿl-Ḥasan ʿAlī b. ʿUmar: *Al-Sunan* (Beirut: Dār al-Maʿrifah, 1386 AH, ed. ʿAbd Allāh Hāshim Yamānī al-Madanī and Beirut: *Muʿassasah al-Risālah*, 1424 AH, ed. Shuʿayb al-Arnaʿūt and others)

Al-Dārimī, Abū Muḥammad ʿAbd Allāh b. ʿAbd al-Raḥmān: *Al-Sunan* (Beirut: Dār al-Kutub al-ʿArabī, 1407 AH, eds. Fawwāz Aḥmad Zumarlī and Khālid al-Subīʿ al-ʿAlamī)

Al-Dhahabī, Abū ʿAbd Allāh Muḥammad b. Aḥmad b. ʿUthmān al-Turkumānī: *Siyar Ālām al-Nubalāʾ* (Beirut: Muʿassasah al-Risālah, 1417 AH, ed. Shuʿayb al-Arnaʿūt and others)

Fatānī, Ismāʿīl Luṭfī: *Ikhṭilāf al-Dārayn wa Atharahu fī Ahkām al-*

Munākahāt wa 'l-Mu'āmalāt (Cairo, Egypt: Dār al-Salām, 1418 AH)

Al-Fayrūzabādī al-Shīrāzī, Abū Ishāq Ibrāhīm b. 'Alī b. Yūsuf: *Al-Muhadhab fī Fiqh al-Imām al-Shāfi'* (Beirut: Dār al-Fikr, n.d.)

Al-Fayrūzabādī, Majd al-Dīn Muḥammad b. Ya'qūb: *Al-Qāmūs al-Muḥīṭ* (Beirut: Mu'assasah al-Risālah, 1987 CE)

Al-Ghāzālī, Abū Ḥāmid Muḥammad b. Muḥammad b. Muḥammad: *Al-Muṣṭafā fī Uṣūl al-Fiqh* (Beirut: Mu'assasah al-Risālah, 1997 CE, ed. Muḥammad Sulaymān al-Ashqar)

Al-Ḥākīm, Abū 'Abd Allāh Muḥammad b. 'Abd Allāh: *Al-Mustadrak 'alā 'l-Ṣaḥīḥayn* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1411 AH, ed. Muḥammad 'Abd al-Qādir 'Aṭā)

Al-Harawī, Abū Ubayd al-Qāsīm bin Sallām: *Al-Amwāl* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1406 AH, ed. Muḥammad Khalīl Harrās)

Al-Haytamī, Aḥmad b. Muḥammad b. 'Alī b. Ḥajr: *Al-Zawājir 'an Iqtirāf al-Kabā'ir* (Saydah: al-Maktabah al-'Aṣriyyah, 1420 AH)

_____ : *Majmā' al-Zawā'id wa Manbā' al-Fawā'id* (Beirut: Dār al-Fikr, 1994 CE, ed. 'Abd Allāh Muḥammad al-Duwaysh)

Al-'Irāqī, Abū 'l-Faḍl 'Abd al-Raḥīm b. al-Ḥusayn: *Al-Mughnī 'an Ḥamal al-Asfār* (Maktabah Ṭabariyyah, 1415 AH, ed. Ashraf 'Abd al-Maqṣūd)

Al-Jamal, Sulaymān b. 'Umar: *Ḥāshiyah al-Jamal 'alā Sharḥ Minhaj al-Ṭullāb* (Beirut: Dār al-Fikr, n.d.)

Al-Jaṣṣās, Abū Bakr Aḥmad b. 'Alī: *Mukhtaṣar Ikhtilāf al-Ulamā'* (Beirut: Dār al-Bashā'ir al-Islāmiyyah, 1417 AH, ed. 'Abd Allāh Nadhīr Aḥmad)

Al-Kalābādhi al-Bukhārī, Abū Bakr Muḥammad b. Abī Ishāq: *Baḥr al-Fawā'id al-Mashhūr bi Mā'ānī al-Akḥbār* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1420 AH, eds. Muḥammad Ḥasan Ismā'īl and Farīd al-Mazīdī)

Al-Karabīsī al-Nayṣabūrī, As'ad b. Muḥammad b. al-Ḥusayn: *Al-Furūq* (Kuwait: Wizārah al-Awqāf wa Shu'ūn al-Islāmiyyah, 1402 AH)

Al-Kāsānī, ‘Alā al-Dīn Abū Bakr b. Mas‘ūd b. Aḥmad: *Badā’i‘ al-Ṣanā’i‘ fi Tārīḫ al-Sharā’i‘* (Beirut: Dār al-Kitāb al-‘Arabī, 1982 CE)

Al-Lajnah al-Dā’imah li Buḥūth al-‘Ilmiyyah wa ‘l-Iftā’: *Fatāwā* (Riyadh, KSA: Ri’āsah Idārat al-Buḥūth al-‘Ilmiyyah wa ‘l-Iftā’, 1425 AH, ed. Aḥmad b. ‘Abd al-Razzāq al-Duwaysh)

Al-Luwayḥiq, ‘Abd al-Raḥmān b. Mu‘alā: *Al-Ghuluw fi ‘l-Dīn* (Beirut: Mu’assasah al-Risālah, 1412 AH)

Madkūr, Muḥammad: *Māālim al-Dawlah al-Islāmiyyah* (Kuwait: Maktabah al-Falāḥ, 1983 CE)

Al-Mardāwī, ‘Alā’ al-Dīn Abī ‘l-Ḥasan ‘Alī b. Sulaymān: *Al-Inṣāf fi Mārīfat al-Rājih min al-Khilāf* (Beirut: Mu’assasah al-Risālah, 1414 AH, ed. ‘Abd Allāh b. ‘Abd al-Muḥsin al-Turkī and ‘Abd al-Fattāḥ al-Ḥilw)

Al-Marghiyānī, Abū ‘l-Ḥasan ‘Alī b. Abī Bakr al-Rāshidī: *Hidāyah Sharḥ Bidāyah al-Mubtadi‘* (Cairo: al-Maktabah al-Islāmiyyah)

Al-Māwardī al-Basrī, Abū ‘l-Ḥasan ‘Alī b. Muḥammad b. Ḥabīb: *Al-Ḥāwī al-Kabīr Sharḥ Mukhtaṣar al-Muzanī* (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1414 AH, ed. ‘Alī Mu’awwidh and ‘Ādil ‘Abd al-Mawjūd)

_____ : *Abkām al-Sultāniyyah wa ‘l-Wilāyāt al-Dīniyyah* (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1405 AH)

Al-Marwazī, Abū ‘Abd al-Raḥmān ‘Abd Allāh b. al-Mubārak: *Al-Zuhd* (Beirut: Dār al-Kutub al-‘Ilmiyyah, ed. Ḥabīb al-Raḥmān al-A‘zamī)

Al-Mawṣilī, Abū Ya‘lā Aḥmad b. ‘Alī b. al-Muthannā: *Al-Musnad* (Dār al-Māmūn li ‘l-Turāth, 1410 AH, ed. Ḥusayn Salīm Asad)

Al-Mawsū‘ah al-‘Arabiyyah al-‘Ālamiyyah (Riyadh, KSA: Sharikah A‘māl al-Mawsū‘ah li Intāḥ al-Thaqāfī, 1999)

Al-Mawsū‘ah al-Fiqhiyyah (Kuwait: Wizārah al-Awqāf wa ‘l-Shu‘ūn al-Islāmiyyah, 5th Edition, 2004 CE)

Al-Mizzī, Abū ‘l-Ḥajjāj Yūsuf b. ‘Abd al-Raḥmān: *Tabdhīb al-Kamāl fi Asmā’ al-Rijāl* (Beirut: Mu’assasah al-Risālah, 1405 AH, ed. Bashhār ‘Awād Ma‘rūf)

Muṣṭafā, Ibrāhīm and Ziyāt, Aḥmad: *Mūjam al-Wasīṭ* (Cairo: Majma' al-Lughah al-'Arabiyyah)

Al-Muzanī, Abū Ibrāhīm Ismā'īl b. Yaḥyā: *Mukhtaṣar Ikhtilāf al-Ulamā'* (Beirut: Dār al-Bashā'ir al-Islāmiyyah, 1417 AH, ed. 'Abd Allāh Nadhīr Aḥmad)

Al-Nasā'ī, Abū 'Abd al-Raḥmān Aḥmad b. Shu'ayb: *Al-Sunan al-Kubrā* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1411 AH, eds. 'Abd al-Ghaffār Sulaymān al-Bandarī and Sayyid Kasūrī Ḥasan; and Beirut: Mu'assasah al-Risālah, 1421 AH, ed. Ḥasan 'Abd al-Mun'im Shilbī)

_____ : *Al-Mujtabā min al-Sunan* (Maktab al-Matbū'āt al-Islāmiyyah, 2nd Edition, 1406 AH, eds. 'Abd al-Fattāḥ Abū Ghuddah)

Al-Nawawī, Abū Zakarīyā Yaḥyā b. Sharaf: *Rawḍah al-Ṭālibīn wa Umdah al-Muḥṭin* (Beirut: al-Maktab al-Islāmī, 1405 AH)

_____ : *Sharḥ Ṣaḥīḥ Muslim* (Beirut: Dār al-Kutub 'Ilmiyyah, 1415 AH)

Al-Nuḥās, Abū Ja'far Aḥmad b. Muḥammad: *Al-Nāsikh wa 'l-Mansūkh* (Kuwait: Maktabah al-Falāḥ, 1408 AH, ed. Muḥammad 'Abd al-Salām Muḥammad)

Ibn 'Ābidīn, Muḥammad 'Alā' al-Dīn b. Muḥammad Amīn al-Ḥusaynī al-Dimishqī al-Ḥanafī: *Radd al-Muḥṭār 'alā 'l-Durr al-Mukhtār* (Beirut: Dār al-Fikr, 2000)

Ibn Abī Shaybah, Abū Bakr 'Abd Allāh b. Muḥammad: *Al-Muṣannaf* (Beirut: Mu'assasah 'Ulūm al-Qur'ān, 1427 AH, ed. Muḥammad 'Awwāmah)

Ibn 'Aṭīyyah al-Andalusī, Abū Muḥammad 'Abd al-Ḥaqq: *Al-Muḥarrar al-Wajīz fī Tafsīr al-Kitāb al-'Azīz* (Qatar: Wizārah al-Awqāf wa 'l-Shu'ūn al-Islāmiyyah, 2nd Edition, 2007 CE, eds. 'Abd Allāh b. Ibrāhīm al-Anṣārī and others)

Ibn al-'Arabī, Abū Bakr Muḥammad b. 'Abd Allāh: *Aḥkām al-*

Qur'ān (Microfilm copy from Maktabah al-Riyāḍ al-Ḥadīthah, ed. 'Alī Muḥammad al-Bijāwī)

Ibn Abī Ḥāṭim, Abū Muḥammad 'Abd al-Raḥmān: *Al-Taḥfīr* (Saydah, Lebanon: al-Maktabah al-'Aṣriyyah, n.d., ed. As'ad Muḥammad al-Ṭayyib)

Ibn al-Athīr al-Jazarī, al-Mubārak b. Muḥammad b. Muḥammad: *Al-Nihāyah fī Gharīb al-Ḥadīth wa 'l-Athar* (Cairo: al-Maktab al-'Ilmiyyah, 1399 AH, eds. Maḥmūd al-Ṭanāḥī and Ṭāhir al-Zawāwī)

Ibn 'Asākir, Abū 'l-Qāsim 'Alī b. al-Ḥasan b. Hibbah Allāh b. 'Abd Allāh al-Shāfi': *Tārīkh Madīnah Dimishq wa Dhikr Fadlūhā wa Tasmiyah min Ḥallīha min al-Amāthil* (Beirut: Dār al-Fikr, 1995, ed. Muḥib al-Dīn Abī Sa'īd 'Umar b. Gharāmah al-'Umrī)

Ibn al-Athīr al-Jazarī: *Al-Lubāb fī Tahdhīb al-Anṣāb* (Cairo: Maktabah al-Qudṣī, 1357 AH)

_____ : *Al-Nihāyah fī Gharīb al-Ḥadīth wa 'l-Athar* (Pakistan: Anṣār al-Sunnah al-Muḥammadiyyah, eds. Maḥmūd al-Ṭanāḥī and Ṭāhir al-Zawāwī)

Ibn Bāz, 'Abd al-'Azīz b. 'Abd Allāh: *Majmū' Fatāwā wa Maqalāh Mutanawwi'ah* (Riyadh, KSA: al-Ri'āsah al-'Āmmah li 'l-Buḥūth al-'Ilmiyyah wa 'l-Iftā, n.d., ed. Muḥammad b. Sa'd al-Shuway'ir)

Ibn Balbān al-Fārisī, al-Amīr 'Alā' al-Dīn 'Alī: *Al-Iḥsān fī Taqrīb Ṣaḥīḥ Ibn Ḥibbān* (Beirut: Mu'assasah al-Risālah, 1418 AH, eds. Shu'ayb al-Arna'ūt and others)

Ibn Baṭṭāl al-Qurṭubī, Abū 'l-Ḥasan 'Alī b. Khalaf b. 'Abd al-Mālik: *Sharḥ Ṣaḥīḥ al-Bukhārī* (Riyadh, KSA: Maktabah al-Rushd, 1423 AH, ed. Abū Tamīm Yāsir b. Ibrāhīm)

Ibn Fāris b. Zakariyā, Abū 'l-Ḥusayn Aḥmad: *Mu'jam Maqayīs al-Lughah* (Beirut: Dār al-Jalīl, 1999 CE, ed. 'Abd al-Salām Muḥammad Hārūn)

Ibn al-Humām, Kamāl al-Dīn 'Abd al-Wāḥid al-Ḥanafī: *Faṭḥ al-Qadīr* (Beirut: Dār al-Fikr, n.d.)

Ibn Ḥazm al-Zāhirī, Abū Muḥammad ‘Alī b. Aḥmad: *Al-Iḥkām fī Uṣūl al-Aḥkām* (Cairo: Dār al-Ḥadīth, 1426 AH, ed. Maḥmūd Aḥmad ‘Uthmān)

_____ : *Al-Muḥallā bi ‘l-Āthār* (Beirut: Dār al-Jīl, copied from the al-Munīriyyah Print, n.d.)

Ibn Hishām al-Ḥimyārī al-Mu‘āfirī, Abū Muḥammad ‘Abd al-Mālik: *Al-Sīrah al-Nabawīyyah* (Copy of Mu‘assasah al-‘Ulūm Print, n.d., ed. Muṣṭafā al-Saqqā, Ibrāhīm al-Ibyārī and ‘Abd al-Ḥafīz Shilbī)

Ibn Ishāq b. Yasār al-Maṭlabī al-Madanī, Muḥammad: *Al-Sīyar wa ‘l-Maghāzī* (Damascus: Dār al-Fikr, 1978 CE, ed. Suhayl Zakkār)

Ibn al-Jārūd al-NaysAbūrī, Abū Muḥammad ‘Abd Allāh b. ‘Alī: *Al-Muntaqā min al-Sunan al-Musannadah* (Mu‘assasah al-Kitāb al-Thaqāfiyyah, 1408 AH, ed. ‘Abd Allāh ‘Umar al-Bārūdī)

Ibn al-Jawzī, Abu ‘l-Faraj ‘Abd al-Raḥmān: *Nawāsikh al-Qur’ān* (Madīnah al-Munawwarah, KSA: Islamic University, 2003 CE, ed. Muḥammad Ashraf al-Malībārī)

_____ : *Al-Wafā bi Aḥwāl al-Muṣṭafā* (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1408, 1st Edition, ed. Muṣṭafā ‘Atā)

Ibn Kathīr, Abu ‘l-Fidā’ Ismā‘īl b. ‘Umar: *Al-Bidāyah wa ‘l-Nihāyah* (Beirut: Dār Ibn Ḥazm, 1419 AH, eds. ‘Abd Allāh b. ‘Abd al-Muḥsin al-Turkī, based on the old al-Munīriyyah Print)

_____ : *Tafsīr al-Qur’ān al-Aẓīm* (Beirut: Dār al-Fikr, 1401 AH)

Ibn Khuzaymah, Abū Bakr Muḥammad b. Ishāq: *Al-Ṣaḥīḥ* (al-Maktab al-Islāmī, 1390 AH, ed. Muḥammad Muṣṭafā al-A‘zamī)

Ibn Mājah, *Sunan* (Beirut: Dār Ibn Ḥazm, 1419 AH)

Ibn Manzūr al-Afrīqī al-Miṣrī, Muḥammad b. Mukarram: *Lisān al-‘Arab* (Beirut: Dār Ṣādir)

Ibn Mulaqqin, Abū Ḥafṣ ‘Umar b. ‘Alī b. Aḥmad al-Anṣārī: *Al-Badr al-Munīr fī Takhrīj al-Aḥādīth wa ‘l-Āthār al-Wāqī‘ah fī ‘l-Sharḥ al-*

Kabīr (Riyadh, KSA: Dār al-Hijrah, 1425 AH, eds. Muṣṭafā Abū 'l-Ghayt, 'Abd Allāh b. Sulaymān and Yāsir b. Kamāl)

Ibn Mundhir al-Nayṣabūrī, Abū Bakr Muḥammad b. Ibrāhīm: *Al-Awsat* (Dār Ṭayyibah, 1414 AH, ed. Saghīr Aḥmad b. Muḥammad)

Ibn Nujaym, Zayn al-Dīn: *Al-Baḥr al-Rā'iq Sharḥ Kanz al-Daqā'iq* (Beirut: Dār al-Ma'rifah, n.d.)

Ibn al-Qayyim: *Ijtimā' al-Juyūsh al-Islāmiyyah* (Riyadh: Maktabah al-Rushd, 2nd Edition, 1415 AH, ed. Dr 'Awwād al-Mu'taq)

_____ : *Īlām al-Muwaqqfīn* (Beirut: Dār al-Jalīl, 1973 AH, ed. Ṭāhā Sa'd)

_____ : *Aḥkām Abl al-Dhimmah* (Beirut: Dār Ibn Ḥazm, 1418 AH, eds. Yūsuf Aḥmad al-Bakrī and Shākīr Ṭawfīq al-'Ayārūrī)

_____ : *Zād al-Ma'ād* (Beirut: Mu'assasah al-Risālah, 1986 CE, eds. Shu'ayb al-Arna'ūt and 'Abd al-Qādir al-Arna'ūt)

Ibn Qudāmah al-Maqdisī, Abū Muḥammad 'Abd Allāh b. Aḥmad: *Al-Mughnī* (Egypt: Dār al-Hijr, 1st Edition, 1409 AH, ed. Dr 'Abd Allāh b. 'Abd al-Muḥsin al-Turkī)

_____ : *Al-Rawḍah al-Nāzīr wa Jannat al-Manāzīr* (Riyadh, KSA: Maktabat al-'Ubaykān, 1422 AH, ed. Sa'd b. Nāṣir al-Shithrī)

Ibn Rahawayh, Abū Ya'qūb Ishāq b. Ibrāhīm b. Mukhallid al-Handhalī: *Al-Musnad* (Madīnah al-Munawwarah, KSA: Maktabah al-Īmān, 1991 CE, ed. 'Abd al-Ghafūr b. 'Abd al-Ḥaqq al-Balūshī)

Ibn Rushd, Abū 'l-Walīd Muḥammad b. Aḥmad b. Muḥammad: *Bidāyah al-Mujtahid wa Nihāyat al-Muqtaṣid* (Beirut: Dār Ibn Ḥazm, 1995 CE, ed. Mājid al-Ḥamawī)

Ibn Sa'd al-Baṣrī, Abū 'Abd Allāh Muḥammad: *Al-Ṭabaqāt al-Kubrā* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1418 AH, ed. Muḥammad 'Abd al-Qādir 'Aṭā)

Ibn Taymiyyah, Abū 'l-'Abbās Aḥmad b. 'Abd al-Ḥalīm: *Majmū' al-*

Fatāwā (Riyadh, KSA: Matba'ah al-Ḥukūmah, n.d., ed. 'Abd al-Raḥmān b. Qāsim and sons)

_____ : *Al-Fatāwā al-Kubrā* (Beirut: Dār al-Ma'rifah, n.d., ed. Ḥasnayn Muḥammad Makhluḥ)

_____ : *Iqtidā' Ṣirāt al-Mustaqīm Mukhālafāt Aṣḥāb al-Jahīm* (Cairo: Maṭba'ah al-Sunnah al-Muḥammadiyah, 1369 AH, ed. Muḥammad Ḥāmid al-Fiqqī; and Riyadh: Dār 'Ālam al-Kutub, 1419 AH, ed. Dr Nāṣir b. 'Abd al-Karīm al-'Aql)

_____ : *Al-Ṣārim al-Maslūl ʿlā Shātīm al-Rasūl* (Beirut: Dār Ibn Ḥazm, 1417 AH, eds. Muḥammad 'Abd Allāh 'Umar al-Ḥulwānī and Muḥammad Kabīr Aḥmad Shūdārī)

_____ : *Al-Jawāb al-Ṣaḥīḥ li man Baddala Dīn al-Masīḥ* (Riyadh, KSA: Dār al-Āṣimah, 2nd Edition, 1999 CE, eds. 'Alī b. Ḥasan b. Nāṣir, 'Abd al-'Azīz al-'Askar and Ḥamdān al-Ḥamdān)

Ibn Ḥanbal, Abū 'Abd Allāh Aḥmad b. Muḥammad, *Al-Musnad* (Egypt: Dār al-Ma'ārif, 1950 CE, ed. Aḥmad Muḥammad Shākir and Beirut: Mu'assasah al-Risālah, 1416 AH, ed. Shu'ayb al-Arna'ūt, based on the older print in Cairo: al-Maṭba'ah al-Maymaniyyah, 1313 AH/1896 CE)

Anas, Mālik b., *Al-Muwatṭa'ah* (Beirut: al-Maktabah al-Thaqāfiyyah, 1408 AH, numbered by Muḥammad Fu'ād 'Abd al-Bāqī)

Abū Yūsuf, Ya'qūb b. Ibrāhīm al-Anṣārī: *Al-Radd ʿlā Siyar al-Awzā'ī* (Beirut: Dār al-Kutub al-'Ilmiyyah, ed. Abū 'I-Wafā al-Afghānī)

Al-Qaraḍāwī, Yūsuf: *Fiqh al-Jihād* (Cairo: Maktabah Wahbah, 2009 CE)

Al-Qurṭubī, Abū 'Abd Allāh Muḥammad b. Aḥmad al-Anṣārī: *Al-Jāmi' li Aḥkām al-Qur'ān wa 'l-Mubayyin li mā Tadammanahu min al-Sunnah wa 'Āy al-Furqān* (Beirut: Mu'assasah al-Risālah, 1427 AH, eds. Dr 'Abd Allāh b. 'Abd al-Muḥsin al-Turkī and others; and Cairo: Dār al-Sha'b)

Al-Qushayrī, Abū 'I-Ḥusayn Muslim b. al-Ḥajjāj: *Al-Jāmi' al-Ṣaḥīḥ*

(Dār Ihyā' al-Kutub al-‘Arabiyyah, 1374 AH, ed. Muḥammad Fu’ād ‘Abd al-Bāqī)

Al-Ramlī, Shams al-Dīn Muḥammad b. Aḥmad b. Ḥamzah: *Nihāyah al-Muḥtāj ilā Sharḥ al-Minhāj* (Dār al-Fikr, 1404 AH)

Al-Rāzī, Fakhr al-Dīn Muḥammad b. ‘Umar: *Al-Taḥfīr al-Kabīr aw Maḥāṭib al-Ghayb* (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1421 AH)

Al-Sa’dī, ‘Abd al-Raḥmān b. Nāṣir: *Taysīr al-Karīm al-Raḥmān fī Taḥṣīr Kalām al-Mannān* (‘Unayzah, KSA: Markaz Ṣāliḥ b. Ṣāliḥ al-Thaqafī, 2nd Edition, 1421 AH and Beirut: Mu’assasah al-Risālah)

Al-Ṣan‘ānī, Abū Bakr ‘Abd al-Razzāq b. Ḥamām: *Al-Muṣannaḥ* (al-Maktab al-Islāmī, 1403 AH, 2nd Edition, ed. Ḥabīb al-Raḥmān al-A‘zamī)

Sarakhsī, Shams al-‘A‘immah Muḥammad b. Aḥmad b. Abī Sahl: *Sharḥ Kitāb al-Siyar al-Kabīr li Muḥammad b. Ḥasan al-Shaybānī* (Cairo: Ma’had al-Makhtūṭāt al-‘Arabiyyah, n.d., ed. Ṣalāḥ al-Dīn al-Munajjid)

_____ : *Al-Mabsūṭ* (Beirut: Dār al-Ma‘rifah, n.d.)

Al-Shāfi‘ī, Abū ‘Abd Allāh Muḥammad b. Idrīs: *Al-Umm* (Beirut: Dār al-Ma‘rifah, 1393, ed. Rif‘at Fawzī ‘Abd al-Muṭṭalib and Egypt: Dār al-Wafā’, 1426 AH, 3rd Edition)

Al-Sijistānī, Abū Dawūd Sulaymān b. al-Ash‘ath: *Sunan* (Cairo, Egypt: Dār al-Ḥadīth, 1420 AH, eds. ‘Abd al-Qādir ‘Abd al-Khayr and Sayyid Muḥammad Sayyid and Beirut: Dār Ibn Ḥazm, 1422 AH)

Al-Sindī, Abū ‘l-Ḥasan Nūr al-Dīn Muḥammad b. ‘Abd al-Hādī: *Ḥāshiyah Musnad al-Imām Aḥmad ibn Ḥanbal* (Qatar: Wizārat al-Awqāf wa ‘l-Shu‘ūn al-Islāmiyyah, 1428 AH, ed. Nūr al-Dīn Ṭālib)

Al-Suyūṭī, Jalāl al-Dīn ‘Abd al-Raḥmān b. Abī Bakr: *Al-Itqān fī Ulūm al-Qur’ān* (Beirut: Dār al-Fikr, 1416 AH, ed. Sa‘īd al-Mandūb)

_____ : *Al-Durr al-Manthūr fī Taḥṣīr bi ‘l-Māthūr* (Cairo: Markaz Hijr li ‘l-Buḥūth wa ‘l-Dirāsāt al-‘Arabiyyah wa ‘l-Islāmiyyah, 1424 AH, ed. ‘Abd Allāh b. ‘Abd al-Muḥsin al-Turkī)

Al-Ṭabarī, Abū Ja’far Muḥammad b. Jarīr: *Jāmi‘al-Bayān fī Tāwīl Āya*

al-Qurʿān (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1418 AH)

Al-Ṭaḥāwī, Abū Jaʿfar Aḥmad b. Muḥammad b. Salāmah: *Sharḥ Mushkil al-Āthār* (Beirut: Muʿassasah al-Risālah, 1987 CE, ed. Shuʿayb al-Arnaʿūṭ and others)

_____ : *Sharḥ Madānī al-Āthār* (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1399 AH, ed. Muḥammad Zuhri al-Najjār)

Al-Tirmidhī, Abū ʿĪsā Muḥammad b. ʿĪsā: *Al-Jāmiʿ* (Beirut: Dār Ibn Ḥazm, 1422 AH, eds. Aḥmad Muḥammad Shākir and Muḥammad Fuʿād ʿAbd al-Bāqī)

Al-Turkumānī, Abū ʿAbd Allāh Muḥammad b. Aḥmad b. ʿUthmān: *Tārīkh al-Islām wa Waḥyāt al-Mashābir wa ʿl-Ālām* (Beirut: Dār al-Gharb al-Islāmī, 1424 AH, ed. Bashhār ʿAwad Maʿrūf)

Al-Uthaymīn, Muḥammad b. Ṣāliḥ: *Al-Sharḥ al-Mumtiʿālā Zād al-Mustaḥqī* (KSA: Dār Ibn al-Jawzī, 1422 AH)

Al-Zabīdī, al-Murtaḍā Muḥammad b. Muḥammad b. ʿAbd al-Razzāq: *Tāj al-Urūs min Jawābir al-Qāmūs* (Kuwait, n.d.)

Al-Zarkashī, Badr al-Dīn Muḥammad b. Bihādir b. ʿAbd Allāh: *Al-Burhān fī Ulūm al-Qurʿān* (Beirut: Dār al-Maʿrifah, 1391 AH, ed. Muḥammad Abū ʿl-Faḍl Ibrāhīm)

_____ : *Al-Baḥr al-Muḥīt fī Usūl al-Fiqh* (Kuwait: Wizārah al-Awqāf wa ʿl-Shuʿūn al-Islāmiyyah, 2nd Edition, 1992 CE, ed. ʿAbd al-Qādir ʿAbd Allāh al-ʿĀnī)

Al-Zaylaʿī, Abū Muḥammad ʿAbd Allāh b. Yūsuf b. Muḥammad: *Naṣb al-Rāyah fī Takhrīj Ahādīth al-Hidāyah* (Muʿassasah al-Rayān, 1418 AH, ed. Muḥammad ʿAwwāmah)

Al-Zaylaʿī, Fakhr al-Dīn ʿUthmān b. ʿAlī: *Tabyyīn al-Ḥaqāʾiq fī Sharḥ Kanz al-Daqāʾiq* (Cairo: Dār al-Kitāb al-Islāmī, 1313 AH)

INDEX

- Abd Allāh b. Abī Rabīrah b. al-Mughīrah al-Makhzūmī 57
 Abd Allāh b. Abū Umayyah 185
 Abd Allāh b. Mas'ūd 123, 170
 Abd Allāh b. 'Abbās 184
 Abd Allāh b. 'Umar 157, 177
 Abū Bakr 16, 42, 50, 51, 52, 63, 65, 74, 104, 110, 126, 136, 142, 144, 176, 196, 197, 198, 199, 200, 202, 203, 205
 Abū Bakrah al-Thaqafī 44
 Abū Bakr b. al-'Arabī 42, 136, 142
 Abū Barzah 176
 Abū Baṣīr 153, 155, 156
 Abū Ḥanīfah 100, 109, 125, 126, 127, 134, 135, 136, 137, 157
 Abu Hurairah 45, 170
 Abū Iṣḥāq al-Shīrāzī 104
 Abū Jahl 185
 Abū Jandal 153, 154, 155
 Abū Salamah 'Abd Allāh b. 'Abd al-Asad al-Makhzūmī 55
 Abū Salamah b. 'Abd al-Asad b. Hilāl b. 'Abd Allāh b. 'Umar b. Makhzūm 53
 Abū Sufyān 70
 Abū Ṭālib 50, 53, 56, 65, 143, 184, 185, 186
 Abū Wā'il 71
 Abū Yūsuf 125, 126, 134, 135, 137, 163, 204
 Abū Zaybān 176
 Abū 'Aṭīyah 70, 71
 Abyssinia 50, 53, 54, 55, 56, 57, 61, 62, 63, 65, 66
 Accepting gifts from non-Muslims 175
 Adultery 22, 27
 Ahl al-Dhimmah 10, 44, 46, 75, 76, 114, 143, 203
 Aḥmad al-Murābiṭ al-Shinqīṭī 13, 14
 Al-Aman 35
 Al-Awzā'ī 102, 133, 134, 135, 137, 163, 204
 Al-Bayḍawī 43
 Al-Bukhārī 30, 43, 44, 45, 52, 95, 97, 111, 112, 113, 114, 115, 123, 138, 154, 157, 170, 174, 175, 178, 183, 184, 186, 189, 196, 198, 201
 Alcohol 25, 27, 125, 133, 141, 143
 Al-Fakhr al-Rāzī 96, 123
 Al-Karābīsī 130
 Al-Kāsānī 70, 104, 126
 Al-Khalīl 35
 Allāh 9, 11, 12, 13, 15, 16, 17, 19, 20, 21, 22, 23, 24, 26, 27, 30, 31, 32, 33, 34, 35, 37, 38, 39, 41, 42, 43, 44, 45, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 71, 72, 77, 88, 90, 91, 93, 95, 96, 97, 98, 102, 103, 107, 108, 110, 111, 112, 113, 115, 116, 117, 119, 120, 121, 122, 123, 124, 125, 134, 137, 138, 141, 142, 144, 145, 148, 149, 150, 151, 153, 154, 155, 156, 157, 158, 159, 163, 164, 167, 168, 169, 170, 171, 172, 173, 174, 175, 177, 178, 179, 180,

- 183, 184, 185, 186, 187, 188, 189, 191, 192, 194, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206
- Al-Marghīnānī 104
- Al-Māwardī 100, 135
- Al-Mughīrah b. Shu‘bah 102, 114
- Al-Munāwī 36
- Al-Muṭ‘im b. ‘Adī 50, 186, 187, 189
- Al-Najāshī 57, 58, 59, 60, 61, 62, 64, 65
- Al-Nawawī 105, 157
- Al-Rāghib al-Aṣḥabī 35
- Al-Sarakhsī 70, 75, 76, 88, 100, 101, 128, 131, 132, 146
- Al-Shāfi‘ī 43, 77, 96, 98, 99, 100, 105, 121, 135, 147, 148, 152, 164, 198, 201
- Al-Taif 50
- Al-Walīd b. al-Mughīrah 33
- Al-Walīd b. Yazīd 67
- Al-Zubair 62
- Al-Zubair b. al-‘Awwām 55
- Al-Zuhrī 63, 67, 99
- Al-‘Abbās b. ‘Abd al-Muṭṭalib 134, 186
- Al-‘Ainī 112
- Angels 26, 43
- Aqīdah 23, 24, 27, 64, 81, 82, 89, 94, 101, 119, 121, 171, 181
- Arabia 9, 81, 121, 153, 155, 158, 195
- Badr 56, 103, 112, 188, 202, 206
- Banū Ka‘b 187
- Banū Qurayzah 115, 116
- Banū ‘Āmir 187
- Barack Obama 81
- Barrah bint ‘Abd al-Muṭṭalib 53
- Bedouins 149
- Buying 17, 88, 89, 111, 113, 141, 172
- Byzantines 67
- Cairo 43, 80, 81, 195, 198, 199, 200, 201, 202, 204, 205, 206
- Christians 54
- Citizenship 29, 30, 72, 152, 161, 192
- Civil law 30
- Combatant 36, 37, 39, 70, 71, 72, 78, 89, 100, 103, 109, 110, 111, 113, 114, 115, 117, 125, 126, 127, 128, 129, 130, 131, 134, 136, 137, 138, 145, 147, 148, 152, 162
- Companions 9, 15, 17, 19, 52, 53, 56, 62, 63, 64, 65, 66, 99, 102, 108, 137, 144, 150, 169, 188, 191
- Contracts 29, 30, 31, 37, 49, 69, 87, 88, 89, 90, 91, 94, 105, 116, 125, 127, 128, 129, 130, 131, 132, 133, 135, 136, 141, 145, 147, 149, 153
- Covenants 41, 44, 50, 87, 93, 94, 95, 97, 121, 136, 139, 140, 145, 149, 152, 153, 157, 158, 159
- Dār al-Ḥarb 45, 73, 75, 76, 77, 78, 79, 84, 99, 100, 101, 102, 103, 104, 105, 109, 124, 125, 126, 128, 129, 130, 131, 132, 135, 137, 138, 139, 145, 147, 158, 162, 163, 164, 165, 171, 192
- Dār al-Islam 45
- Dār al-Kufr 73, 75, 76, 77, 78, 79, 80, 82, 84, 109, 132, 133, 139, 171, 192
- Dār al-Silm 79
- Dār al-‘Ahd 77
- Dhimmi 10, 100, 135, 143, 177
- Dhu ‘l-Ḥulaifah 155
- Divorce 23, 164
- Economics 28
- Egypt 15, 62, 80, 98, 151, 153, 187, 195, 198, 203, 204, 205
- Fasting 26, 90, 162

- Fiqh 9, 10, 16, 17, 23, 28, 32, 41, 43, 45, 49, 63, 69, 70, 73, 76, 77, 87, 88, 90, 94, 98, 100, 101, 102, 104, 121, 125, 126, 130, 131, 134, 137, 181
 Fuqahā 15, 29, 30, 36, 69, 70, 73, 74, 75, 76, 77, 78, 80, 84, 87, 100, 101, 104, 128, 130, 138, 139, 145
- Gifting 17, 89, 108, 113, 141
 Giving of protection 39
 Guardianship 23
- Ḥadīth 23, 30, 38, 39, 44, 45, 46, 53, 62, 63, 70, 71, 93, 94, 95, 98, 102, 103, 107, 108, 110, 111, 112, 113, 114, 121, 123, 125, 134, 135, 136, 137, 138, 142, 143, 148, 150, 151, 154, 156, 157, 174, 175, 176, 178, 183, 184, 186, 189
 Ḥajj 26
 Ḥanābilah 162
 Ḥanafīyyah 124, 126, 128, 129, 131, 132, 133, 134, 136, 139, 140, 162, 184
 Ḥasan b. Thābit 187
 Hellfire 26, 186
 Hijab 25
 Hishām b. ‘Abd al-Mālik 67
 House of Allāh 26, 51, 187
 Ḥudaibīyyah 114, 154, 155
 Ḥuṣain b. Jundub al-Janabī 176
 Hypocrites 94, 95
- Ibn al-Daghinah 16, 50, 51, 52
 Ibn al-Fāris 35
 Ibn al-Humām 104, 131, 201
 Ibn al-Munīr 113
 Ibn Baṭṭāl 52, 111, 174, 201
 Ibn Ḥajr 43, 46, 56, 71, 103, 110, 111, 113, 114, 115, 150
 Ibn Ḥajr al-Haitamī 46
- Ibn Ḥazm 66, 67, 100, 111, 116, 117, 143, 202, 203, 204, 205, 206
 Ibn Hishām 53, 55, 63, 110, 143, 144, 154, 187, 202
 Ibn Iṣḥāq 53, 54
 Ibn Jarīr al-Ṭabarī 93, 96
 Ibn Kathīr 45, 67, 121, 123, 149, 202
 Ibn Qayyim 76, 114, 115, 143
 Ibn Qudāmah 70, 88, 100, 102, 137, 203
 Ibn Taymiyyah 63, 77, 78, 79, 102, 114, 151, 170, 171, 176, 177, 203
 Ibn Zam‘ah 112
 Ibn ‘Ābidīn 104, 131, 200
 Ibn ‘Aṭīyyah 123, 148, 200
 Inheritance 23, 80, 87, 117, 164
 Iṣḥāq 38, 60, 63, 104, 110, 137, 187, 198, 202, 203
 Islamic jurists. *See* Fuqahā
 Islamic legal punishments 90
 Islamic movements 24, 25
 Islamic state 10, 78, 108, 128, 155, 162
- Ja‘far b. Abī Ṭālib 59
 Jews 142, 143
 Jinn 26
 Jizyah 46, 143
 Judgement Day 26, 31, 95, 107, 108, 192
- Khanaqin 71
 Kufah 70
- Law 15, 23, 25, 27, 28, 30, 49, 80, 123, 163
 Leasing 23
 Loaning 17, 23, 88, 89, 108, 141, 172
- Magians 175, 176, 177

- Makhḥūl 134, 135, 136, 137, 138
 Mālik 42, 67, 95, 100, 103, 111, 137, 142, 150, 157, 187, 201, 202, 204
 Mālikiyyah 100, 162
 Manners 11, 15, 20, 23, 66, 84, 94, 172, 173, 174, 189, 191, 193
 Marriage 23, 72, 87, 88, 94, 136, 164
 Mary 32, 54, 60, 61, 120
 Masjid 32, 79, 187
 Mecca 9, 50, 53, 54, 55, 56, 57, 61, 62, 63, 64, 70, 83, 98, 110, 111, 144, 154, 155, 156, 169, 171, 186, 187, 188, 197
 Media 25
 Medina 50, 52, 53, 56, 62, 65, 83, 102, 110, 111, 142, 154, 155, 184, 187, 188, 195, 197
 Men wearing a head covering 177
 Men wearing trousers and jackets 179
 Messenger of Allāh 13, 15, 17, 30, 33, 41, 44, 45, 49, 50, 52, 53, 54, 55, 56, 58, 62, 63, 64, 95, 96, 97, 102, 110, 111, 113, 121, 123, 134, 138, 141, 143, 150, 151, 154, 155, 168, 170, 171, 173, 174, 183, 184, 185, 186, 187, 188, 192
 Messengers 26, 145, 146, 168
 Migration 50, 53, 54, 55, 56, 62, 64, 65, 110, 144, 154, 188
 Mihragan 176
 Mortgaging 23, 89, 141, 172
 Mughīrah b. Shu'bah 102, 114
 Muḥammad Abū Zahrah 77, 80
 Muḥammad b. al-Ḥanafīyyah 184
 Muḥammad b. al-Ḥasan 77, 125, 127
 Muḥammad b. Ṣāliḥ al-ʿUthaymīn 80, 158, 178
 Muḥammad b. Sīrīn 175, 176
 Muḥarram 32
 Murder 22, 26, 27, 46, 59, 101, 164
 Muslim minorities 10, 32, 161, 165
 Muṣ'ab b. ʿUmair 55
 Mu'āwiyah b. Abī Sufyān 149, 150, 151
 Neighbour 22, 26, 38, 61
 Non-Muslim lands 9, 11, 16, 83, 90, 119, 124, 127, 157
 Nouruz 176
 Old Testament 21
 Paradise 26, 33, 44, 45, 54
 Partnerships 23
 Peace 9, 10, 15, 17, 23, 33, 64, 70, 75, 76, 77, 78, 79, 80, 81, 90, 108, 109, 128, 139, 144, 145, 147, 152, 154, 157, 158, 161, 168, 189
 People of the Book 31, 141, 142, 143, 144, 177
 Permanent residency 29, 30
 Persian 71, 176
 Politics 28
 Prayer 24, 26, 59, 74, 119, 120, 159, 162, 177, 178, 180
 Pre-Islamic period 39
 Promise of protection 39, 44
 Prophethood 52, 65, 143, 144
 Prophet of Allāh 9, 15, 16, 17, 19, 29, 30, 38, 42, 43, 44, 45, 49, 50, 52, 54, 55, 56, 58, 59, 60, 61, 63, 64, 65, 66, 69, 94, 95, 98, 102, 103, 108, 109, 110, 111, 112, 113, 114, 115, 116, 119, 120, 123, 134, 135, 137, 138, 142, 143, 144, 149, 150, 154, 155, 156, 157, 168, 169, 170, 171, 172, 173, 174, 175, 178, 180, 183, 184, 185, 186, 187, 189, 191
 Prophets 26, 120, 175
 Quran 15, 16, 17, 19, 21, 29, 42, 43, 49, 51, 60, 73, 76, 78, 80, 84, 90, 93, 96, 107, 121, 123, 135, 137, 138, 142, 151,

- 157, 158, 168, 181, 193; 2: 197 138; 2:208-209 120; 2: 243 37; 2:274 107; 2:275 103, 137; 2:278 137; 3:102 122, 123; 4:38 108; 4:161 137, 142, 144; 5:1 93, 94; 5:5 142; 5:8 96, 97; 6:108 169; 6:162 120; 7: 32 179; 7:199 168; 8:27 36; 8:72 148, 149, 153; 9:4 97; 9:6 38, 42, 45; 9:113 185; 9:128 64; 15:85 168; 16:43 32; 16:71 113; 16:125 169; 17:23-39 21; 19:19 60; 19:30-31 120; 21:107 172; 23:8 93; 24:48-52 33; 28:56 186; 31:15 169; 33:21 192; 33:26-27 116; 33:27 116, 117; 33:45-46 173; 34:13 37; 42:41 175; 42:43 175; 43:88-89 168; 51:56 119; 55:60 184; 57:27 54; 64:16 122; 68:4 172; 98:5 119
- Quraysh 50, 51, 54, 55, 56, 57, 60, 63, 110, 156, 188
- Ramadan 26
- Refugees 29, 54
- Romans 149
- Ruqayyah 55
- Safety-pact 36
- Salmān 112, 113
- Saudi Arabia 9, 81, 121, 153, 158, 195
- Sā'd b. Abī Waqqās 112
- Seeking protection 39
- Selling 17, 23, 89, 94, 108, 111, 112, 126, 130, 133, 141, 143, 172
- Shāfi'iyah 115, 157, 162
- Sharia 9, 11, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 39, 53, 73, 76, 79, 80, 82, 83, 84, 91, 98, 107, 109, 113, 127, 130, 132, 133, 134, 137, 141, 142, 164, 165, 167, 179, 180, 191
- Shirk 21, 173
- Sins 20, 21, 24, 27, 90, 135, 161
- S. M. Zwemer 81
- Sociology 28
- Statements that indicates granting safety 69
- Şuhayb 112, 113
- Sulaim b. Āmir 149
- Sunnah 15, 16, 49, 74, 76, 78, 84, 94, 95, 96, 123, 134, 138, 142, 151, 153, 181, 193, 195, 196, 201, 204
- Sweden 31, 34
- Swedish law 27
- Syria 143
- Tawhīd 21, 23, 101, 173
- Terrorism 24, 84
- Theft 27
- The Muslim World League 81
- The Organization of Islamic Conference 81
- Torah 142, 173
- Treaty of al-Ḥudaibiyyah 114
- Types of non-Muslims 108
- Umar b. al-Khaṭṭāb 71
- Umm Salamah 55, 56, 63
- United Nations 79, 80, 139
- Uşūl 100, 104, 121, 181
- Usury 103, 124, 127, 134, 137
- War 23, 38, 66, 73, 75, 76, 77, 78, 80, 82, 84, 89, 98, 100, 108, 109, 110, 111, 117, 128, 132, 134, 137, 139, 145, 147, 150, 153, 155, 159, 164
- Wills 23, 80, 124, 186
- Yazīd b. Hārūn 151
- Zakat 26, 59, 119, 162, 164, 165

الدُّخُولُ فِي أَمَانِ غَيْرِ الْمُسْلِمِينَ

وَأَثَارُهُ فِي الْفِقْهِ الْإِسْلَامِيِّ

تَأَلَّفَ

عبد الحق التركماني

تَقَرَّرَ

مَعَالِي الشَّيْخِ الدُّكْتُورِ عَبْدِ اللَّهِ بْنِ عَبْدِ الْمُحْسِنِ التُّرْكُمَانِيِّ

سَمَّاحَةَ الشَّيْخِ الْعَلَامَةِ أَحْمَدَ وَوَلَدِ الْمُرَابِطِ

فَضِيلَةَ الشَّيْخِ الدُّكْتُورِ عَبْدِ اللَّهِ شَاكِرِ الْجُنَيْدِيِّ

الدخول في أمان غير المسلمين وآثاره في الفقه الإسلامي - باللغة الإنجليزية -

ABOUT THE AUTHOR

Shaykh Abd al-Haqq Turkmani was born in Kirkuk, Iraq in 1969 where his father, Mullā Ḥaqqī ‘Alī Turkmānī, was a well-known imam and khaṭīb. He studied in Thānawīyyah Islāmiyyah in Kirkuk before moving on to higher studies at the Faculty of Sharia in Baghdad University. Due to the situation in Iraq at the time and health concerns, the Shaykh was unable to complete his studies. He then sought knowledge directly from scholars in the traditional manner, and his teachers included the Kurdish scholar Shaykh Muḥammad Amīn al-Zankanah (d. 1997), the ḥadīth specialists Shaykh Ḥamdī b. ‘Abd al-Majīd al-Salafī al-Kurdī (d. 2012) and Ṣubḥī al-Sāmīrā’ī al-Baghdādī (d. 2013), and Professor, Dr Bashār ‘Awād Ma‘rūf, from whom he obtained the skill of editing manuscripts. The Shaykh also obtained ḥadīth licences (ijāzāt) from a number of scholars including the ḥadīth specialist Shaykh ‘Abd al-Ghafār b. Ḥasan al-Raḥmānī (d. 2007) of Pakistan.

The Shaykh migrated to Turkey following the deteriorating conditions in Iraq and continuing health complications, before moving on to Sweden and then, the United Kingdom, where he established the Centre for Studies in the Interpretation of Islam. The Shaykh regularly participates in Islamic conferences in Saudi Arabia, Kuwait, etc., and continues to share a strong connection with many respected scholars in the Islamic World.

In 2010, the Shaykh was awarded the Naif Bin Abdulaziz Al-Saud International Prize for his contribution to a research paper entitled *Interaction with Non-Muslims According to the Prophetic Sunnah*; the Shaykh authored the first part of the paper consisting of 450 pages of topical ḥadīths and narrations with critical references and explanation. Aside from several other books and research papers covering creed, ḥadīth and contemporary Islamic issues, the Shaykh has also worked tirelessly in publishing the entire corpus of the famous Andalusian scholar Ibn Ḥazm al-Qurṭubī (d. 1064) and to date, has published over seven critical editions of Ibn Ḥazm’s books.

مركز الدراسات في التفسير
CENTRE FOR STUDIES IN
THE INTERPRETATION OF ISLAM

ISBN 978-1-9999605-0-6



9 781999 960506