

FROM DHIMMAH TO DHIMMITUDE: A THEORETICAL ANALYSIS OF THE INTERPRETATIONS AND MODELS OF THE INCLUSION OF NON-MUSLIMS UNDER AN ISLAMIC STATE

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ABSTRACT

Recently the term dhimmitude is being used in some English works for analysis and interpretation of the Arabic terms dhimmah or dhimmi, the term dhimmitude thus is being associated with some subjective conditions i.e. the second class citizen and dregetory status of non-Muslim subjects under Islamic rule. The paper deals with dhimmah as a model that Islam has provided for coexistence and peaceful living with the people of other religions from the very beginning. Quran and Sunnah of the prophet Muhammad (upon him be the peace and blessings) are replete with the examples of dealing with the people of other faiths. Quran provides the basis for the theological relations, interaction and coexisting with other faiths and particularly with the people of Book i.e Jews and Christians. While the practicing model of coexistence and peaceful living in Madinah period was provided through sunnah of Prophet peace be upon himself and the Jews were accommodated as non-Muslim citizen of Islamic state. The other communities that lived within the domain of Islamic polity were also accorded the status of ahl al kitab or dhimmi or mu'ahid prophet (upon him be the peace and blessings) set a unique pattern of granting the right of religious freedom and peaceful living within the context of an Islamic state. Thus the category of people of book was extended to the Magus of Bahrain by accepting Jizyah and granting them peace by Prophet (upon him be the peace and blessings) himself. In this way this model of coexistence was later on extended almost to all other religions by the Muslim rulers and Fuqaha as we shall see in the case of Muslim rulers of different eras. This paper aims to highlight the models adopted by the Muslim rulers for the non-Muslims living in their domain, while focusing on the fuqaha and jurist discourses on the subject. It also reflects on some recent interpretations of Islamic theory of ahl al dhimmah where the status of dhimmah is seen as a condition of deprivation.

Keywords: Dhimmah, dhimmitude, social inclusion, non-Muslim, pact, aman,

INTRODUCTION

Before indulging into the depth and details of the subject it seems pertinent to highlight the significance and scope of the theme itself. The first and the foremost importance of the subject rests in its relevance for our time and more so for our society, as we are living in an Islamic Democratic state that grounds its laws and regulations on Islam, secondly besides the foundation of the nation states an understated process of "otherizing" Islam and Muslim societies have set in. That is to say that academically the debates have emerged that focused on the intolerance nature of Islam and Muslim societies towards their non-Muslim subject during the centuries of the Islamic rule in respective communities As evidence such works have always referred to the status of "dhimmis" and the rules that deal with the treatment of non-Muslim subjects in Islamic state (Robert Spencer, 2007, p.180-181.). Likewise the term "dhimmitude" emerges in such discourses essentially as a discriminatory treatment and condition of the non Muslim subjects of Islamic states and territories (Jeroen Temperman, 2010, p.187.). Perhaps the first coinage of the term as a derogatory status of "dhimmitude" was introduced into Western discourse by the writer Bat Ye'or. She has used the term simultaneously in her various studies and discourses dealing with history of non-Muslim communities that lived under the Islamic rule at various periods in history (Bat Ye'Or 2002, p.21.). Whereas others have focused on the peculiarities of the laws governing the *dhimmah* in the Islamic state (Douglas

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Johnston, 2008, p.190.) Thus academically it is important to nuance the usage of these terms i.e. *dhimmah* and *dhimmitude* and their theoretical implications.

Finally, given to the realities of our time where many minorities and diasporas are existing around the globe as vulnerable groups among different religions and cultures, and where Muslim as well as other religious or ethnic minorities are at the stake of some majorities i.e Hindu, Buddhist, Communist, Christian, Jews or even so called Secular states, it is pertinent again to reflect back at the socio political model of *ahl al dhimmah* presented by Islam for inclusion of different communities under the Islamic state or society.

As far as the models for the accommodation of the non-Muslims that were provided from the very early period the very first model was that of a *mu'ahid* a *halif* or an equal party in a treaty; a model that can be discerned from the charter of Madinah.

DHIMMAH AS PACT: MU 'AHID OR HALIF

The practical model of granting the status of *muahid* or *dhimmah* was practiced by Prophet (peace be upon him) himself. The most prominent and flagrant group of non-Muslims to live within the Islamic state was the Jewish community of Madinah. Thus Prophet peace be upon him gave them the equal status with the Muslim citizen of Madina. The Medina Charter that was promulgated by Prophet Muhammad upon him be peace in Medina in truly sets a notable socio-religious model for the accommodation of the non-Muslims citizens.

Thus the Charter of Madinah provides the first model for such a peaceful inclusion of others by incorporating them in the very first written constitution of an Islamic state. Thus this charter provides the very first model of dealing with the non-Muslims in the Islamic state, the clauses that deal with the non-Muslims in Madinah i.e the Jews need to be analyzed from the modern socio political perspective before any generalization about the condition of *dhimmah* or the proposed *dhimmitude* can be made:

And the Jews of Banu 'Awf shall be considered as one political community (Ummat) along with the believers—for the Jews their religion, and for the Muslims theirs, be one client or patron. He, however, who is guilty of oppression or breach of treaty, shall suffer the resultant trouble as also his family, but no one besides (Hamidullah, 1985, p.62.).

The next clauses established the same for all other tribes of the Jews of Madina (26-35) and mentioned all of these by their names these included the Banu al-Najjar, Banu al-Harith, Banu Sai ida, Banu Jusham, Banu al-Aus, Banu Tha'laba, and the Jafna, a clan of the Tha'laba and the Banu al-Shutayba. The charter clearly stated that the loyalty is the basic condition for inclusion into these provisions of citizenship and that the friends and allies of these Jewish tribes will be treated as the Jews themselves (Hamidullah, 1985, p. 61)

While the final clauses pertaining to the further implications of fulfilling the conditions and violation thereof (Hamidullah, 1985, p. 62) These clauses (36-47) clearly outlined that all the groups have to accept the authority of prophet in the affairs related to the citizenship these included the bearing of financial responsibilities whenever applicable, loyalty and granting equal protection to the clients. The charter also made it equally binding for all groups to not wage a war or give refuge to anyone without consent from other stakeholders and that if any conflict emerges then it will be referred to Allah and his Prophet.

Now it is very important to consider it in the socio-political paradigm, Prophet peace be upon him extended his protection to the main Jewish tribes and their allies. And thus by granting the Jews with the rights of religious freedom, equality and protection this charter itself is a documented model of dealing with the non-Muslims, no matter they were a minority or majority, it guarantees all these rights to all those who abide by it, and that the transgressors will be persecuted though the ruling of *jizyah* was not yet revealed but it is very clear that the financial duties are there on the Jews as these are binding on Muslims.

DHIMMAH AS EXTENDING ALLIANCE: THE CHRISTIANS OF NAJRAN

Likewise the pact of Najran that was extended by the Prophet peace be upon him to the Christians of Najran provides with another socio-political model of *dhimmah*. Thus the Christians of Najran came as a delegation to prophet peace be upon him. This delegation stayed at Madina and the talks between the delegation and Prophet lasted three days. The details of these meetings and the manners in which the whole dialogue continued is a model unique to interreligious dialogue. The meeting with the Christians of Najran provides another model for the interreligious relations. A pact

was signed and granted to the Christians of Najran though there are various versions or part that have been quoted by classical seerah writers including Ibne Saad al Waqidi and al Baihiqi. A collective reading of all these fragments is really purposeful to understand the implication of the Pact and scope of the *dhimmah* granted to the Christians of Najran.

The document or the fragments of the said document when put together inform that it was granted in context of accepting the Prophet peace be upon him as their custodian. Prophet granted them peace, protection. The pact categorically mentioned that churches, chapels, oratories and the monasteries of their monks will be under the protection of prophet upon him be peace.

The tone of the pact of Najran is so overwhelmingly of an ownership and that of a trustee that needs to be considered to make a true estimate of the *dhimmah* in the context of the teachings of Prophet. The pact provided some special provisions regarding the exemptions and the amount of the tax. The pact set a limit of four *dirhams* per year on the ordinary Christians but the clerics, monks, or hermits were exempted from paying the *jizyah*. A detailed reading of the pact reveals that there were many other special sanctions related to the exemption of the travelers and those who did not own a land.

It further exempted the Christians who accepted this alliance from war and that their protection and peace will be the responsibility of the Muslims. The Christians were further exempted from provision of arms and equipments however if someone volunteered for the cause freely that will be a matter of praise. The pact further declared that no Christian will be made Muslim by force. The Pact also put some conditions on Muslims regarding their Christian fellows that include their assistance and taking care of their needs, not to harm them and let them suffer. Likewise regarding the marriage with the Christian women it was advised to marry them with the consent of their families (Hamidullah, 1985, p. 185-186.)

It is interesting to note that the details of the rights and provisions for the Christians as the Pact also detailed on not putting the Christian in danger by employing them for intelligence work and the like. The Pact concluded by making the Christians to be responsible and loyal towards the spirit of document (Hamidullah, 1985, p. 185-186.)

A quick and cursory summary of the different fragments of the Pact reproduced by the Seerah texts helps us to determine very easily that the model of this socio-political inclusion of Christian is not as today's perspective of minorities and majorities or Diaspora rather it is a settlement based on the mutual contacts deeply interwoven with the religious and political alliance. Thus, it is a socio-political treaty extended by Islamic state to those who want to abide by its procedures and includes certain privileges for those who are submitting to such a mutual contact. Time and again the document refers to the rights of religious freedom, exemption of taxes from the religious figures, granting the protection to the Christian tribes and their allies. Moreover, the protection of religious places and due repair was also granted.

The more interesting aspect of this model of socio-political inclusion was the detailed treatment of the different strata of the then Christian society. As to the dhimmis they could enter into such contract by surrendering eagerly to the Islamic state or the authority. The pact also presents another model for inclusion of *dhimmah* and that implied that any non-Muslim community or the individual can enter into a peaceful agreement with the Muslim authority as the people of Najran did during the time of the Prophet upon him be peace.

Hence the *dhimmah* is an obligation on the Islamic state to grant the freedom of practicing their faith and to protect their lives and properties as 'Ali b. Abi Talib may Allah be pleased with him said: "The contract has been granted so that their properties (are to be considered) as our properties and their blood as ours." This model of *dhimmah* implies that the non-Muslims entering into a treaty were granted certain rights and were accorded a social position and not a state of deprivation or a subjective condition and they were to accept Islamic rule, pay taxes and follow the rulings or conditions applied.

Thus, Prophet upon him be peace himself has provided the various models of socio-political inclusion of the non-Muslims in Islamic state in different perspectives that are not just limited to the Islamic state but include into it the settlers, travelers, neighbors and peace treaties during the wars.

DHIMMAH AS INCLUSIVE MODEL: MAJUS OF HAJR

The third model of socio political significance that we come across during the life of the prophet is the protection to the Majus of Hajr by accepting *jizyah* from them and granting them the

same social inclusion that of the ahl al kitab and ahl al dhimmah. Thus, according to al-Baladhuri, the acceptance of jizyah by the Prophet from the Majus of Hajr, extended the category of dhimmah beyond the Christians and the Jews. This third model is of more significance as it provided the base for further social inclusion of other religious communities thus 'Umar may God be pleased with him extended it to the Persians and 'Uthman may God be pleased with him to the Berbers of Africa. (Al Baladhuri, 1319AH, p.90.)

It is in this perspective that we need to talk about and revisit the Islamic model of dealing with the "dhimmis" and the conditions of "dhimmitude". The notion of dhimmi embraces all the non-Muslim citizens of the Islamic state who agree to abide by the laws of the Islamic state and who in turn are granted the protection and religious freedom under certain conditions. Thus, the term dhimmi or ahl al-dhimma means those Christians, Jews and others who agree to live in an Islamic state subject to the agreement and paying of nominal obligation, Jizyah. Thus, dhimmah is to be seen as that right of protection that was extended to all non-Muslims who agree to live in an Islamic state save the idolaters of Arab and not a subjective condition. It is also important to consider that this model of dhimmah or dhimmi emerged only after the conquest of Makkah based on the injunction:

{قَاتِلُوا الَّذِينَ لَا يُؤْمِنُونَ بِاللَّهِ وَلَا بِالْيَوْمِ الْآخِرِ وَلَا يُحَرِّمُونَ مَا حَرَّمَ اللَّهُ وَرَسُولُهُ وَلَا يَدِينُونَ دِينَ الْحَقِّ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ حَتَّى يُعْطُوا الْجِزْيَةَ عَنْ يَدٍ وَهُمْ صَاغِرُونَ - التوبة 29

"Fight those who believe not in God, nor the Last Day, nor hold that forbidden which hath been forbidden by God and His Apostle, nor acknowledge the religion of truth, (even if they are) of the people of the book, until they pay the jizyah with willing submission, and feel themselves subdued."

Thus, the acceptance of *jizyah* after a community of non-Muslims was subdued presented a model of *dhimmah* which is commonly referred to i.e. the subjective conditions. However even the subdued non-Muslim community or group will be by accepting the Jizyah and submitting to the Islamic state receive their right to practice their religion, peace and protection. This model of extending the social inclusion was always adopted by the various Muslim rulers after the conclusions of wars with the communities and religious groups that were subdued after war. As such model was based on the contracts during or after the wars it was always important from the perspective of the peace and security to include particular conditions for those who agree to fulfill the contract and accept peace instead of war.

DHIMMAH FOR THE FOREIGNERS AND DIASPORA (MUSTAMININ)

Another model for the social inclusion is based on granting the safety and security *aman* to the Diaspora individuals from other states or communities permitting them, their families to travel, resided and work in an Islamic state hence called the *musta'min*. A model of *dhimmah* for individuals and groups of non-Muslims for granting them chance to trade, travel and reside. This provision was granted in Qur'an as follows:

وَإِنْ أَحَدٌ مِنَ الْمُشْرِكِينَ اسْتَجَارَكَ فَأَجِرْهُ حَتَّى يَسْمَعَ كَلَامَ اللَّهِ ثُمَّ أَبْلِغْهُ مَأْمَنَهُ ذَلِكَ بِأَنَّهُمْ قَوْمٌ لَا يَعْلَمُونَ
التوبة: 6

"And if anyone of the idolaters seeketh thy Protection, then protect him so that he may hear the word of Allah, and afterward convey him to his place of safety. That is because they are a folk who know not."

This contract of *aman* may be granted by the ruler or his representative and even by the muslim communities based on their contacts locally and *aman* implied no *jizyah* on the *musta'min*.

NON-MUSLIM MAJORITIES AND DHIMMAH

An interesting model of the socio-political interaction with the majorities of those non-Muslims who were not mentioned in Quran and sunnah by their names emerged in the very early period of Ummayyad fath of Sindh. This model of dealing with the non-Muslim majorities in a given political system was unique and was adopted by the Muslim rulers and the theologians of the subcontinent. While in other parts of the Islamic world that were annexed to the Islamic state from the period of *Khilafat e Rashida* the non-Muslims who came to live under Islamic state as majorities or minorities were mostly Jews and Christians, and *Quran* and *sunnah* are replete with references to the Jews and Christians and as discussed above the nature of the dhimmah relationship that the Islamic state can evolve with them was defined categorically therein. But there was no direct reference to the Indian religious traditions in *Quran* or *Sunnah*. Thus in case of Indian sub continent Muslim rulers and scholars had to develop a model based on the models adopted in other Islamic lands. The first model

of *dhimmah* was extended by Umayyads during the time of Muhammad bin Qasim.(Nabi Bakhsh, ed., 1983, p. 291-300.)

Certainly, the Muslim rulers in the case of subcontinent had the rulings of *Quran* and *Sunnah* of the Prophet as the guiding principle that for the treatment of non-Muslims. The views and interpretations of the fuqaha regarding the concept of *Ahl al dhimmah* that encompassed the issue of religious freedom for different religious communities living under the Muslim state that developed during the period are very significant. Thus beside the direct reference from Quran and sunnah the rulings of fuqaha regarding the status of other religious communities was another guiding principle that Muslim rulers of the subcontinent had to consider. Here the Hindus were accommodated under a model of *dhimmah* that granted them the right of religious freedom and a detailed and flexible system of jizyah was applied without any subjective conditions since the local lords and the elites were assigned to materialize the jizyah h. Thus, *dhimmah* was adopted by Muhammad bin Qasim for the local Hindu and Buddhist population of Sindh by contextualizing and embracing the trajectories and of the situation at hand (Al Baladhuri,1319AH, p.292-293.)

This model of Dhimmah as social inclusion of non-Muslim majority with flexible conditions was extended shared some converse views on this model, and two contrasting interpretations emerged regarding this extension of dhimmah ; *Shafi'ah* and the *Hanabilah* insisted that only Jews, Christians and Zoroastrians may be included in the category of *ahl al-dhimma* (Zaydan, 1983, p. 24-26.) the *Malikiyah* and the *Hanafiyyah* on the other hand agreed to include all non-Muslims even idolators or polytheists who were not Arabs or apostates(Yusuf Qazi, 1352AH, p.139.) in the category of *ahl al-dhimma*. This view of the *Hanafi madhhab* enabled the Muslim rulers of the country to find legal justification for the policy of religious freedom and tolerance that they had adopted towards their non-Muslim subjects.

CONCLUSIONS

Few important conclusions and generalizations can be made from the above discussion regarding the nature of dhimmah and dhimmitude. Quran and Sunnah of the prophet Muhammad (upon him be the peace and blessings) are replete with the examples of dealing with the people of other faiths. Quran provides the basis for the theological relations, interaction and coexisting with other faiths and particularly with the people of Book i.e Jews and Christians. The very prime objective of Dhimmah is the coexistence and peaceful living with the people of other religions as it can be seen from the very first charter of Madinah. One practicing model of coexistence and peaceful living in Madinah period was provided through Sunnah of Prophet peace be upon himself and the Jews were accommodated as non-Muslim citizen of Islamic state through charter of Madinah. This citizenship was granted on equal terms and violation and treachery was penalized also on equal basis.

Thus through according them the status of ahl al kitab or dhimmi or mu'ahid Islam has set a unique pattern of granting the right of religious freedom and peaceful living within the context of an Islamic state. This socio political inclusion implied: Equality, Social justice, Religious freedom, Legal autonomy. Later we find that another model of dhimmah was extended to the Magus of Bahrain by accepting Jizyah and granting them peace by Prophet (upon him be the peace and blessings) himself. This model of coexistence was later on extended to almost all of the other religious communities by the Muslim rulers and Fuqaha as we shall see in the case of Muslim rulers of different eras. One such model of dhimmah as the socio-political inclusion of Buddhist and Hindus was devised by the Muslim rulers of Sindh that was extended to almost all of the population of Subcontinent during the later periods of Islamic rule the Delhi sultanate and the Mughals. This model was a more flexible adaptation as by and large no subjective conditions were applied and even Jizyah was not levied by all of the dynasties. It is pertinent to note that the socio-political inclusion of the non-Muslims was never influenced by the ratio of a particular religious group, thus minorities or majorities and even individuals were safeguarded equally by the Islamic political system. That the refugees may be also be included into this socio political system without paying Jizyah and that they may be entitled to all of their religious and social rights if they abide by the laws of the state and remain loyal to the state their security and peace is responsibility of the state.

Finally, that the interpretations of the dhimmah as a kind of subjective, derogatory, second class and deprived conditioned living of non-Muslims has emerged only recently. These interpretations are sometimes rightly claiming the subdued nature of non-Muslim subjects under

Islamic rule in the different historical settings, nevertheless these historical trajectories may not be used to generalize the Islamic model of sociopolitical inclusion of the non-Muslims as citizens, settlers and equal parties in mutual pacts thus granting them the rights of religious freedom, peace and protection. It is also important to consider that the citizenship, passports, and other civil rights that are granted to the people living in a modern state have the same implications for the people of other countries, communities and some time the rights minorities and diasporas are overlooked or neglected leaving the guarantee of these rights at equal level even more doubtful and questionable.

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