

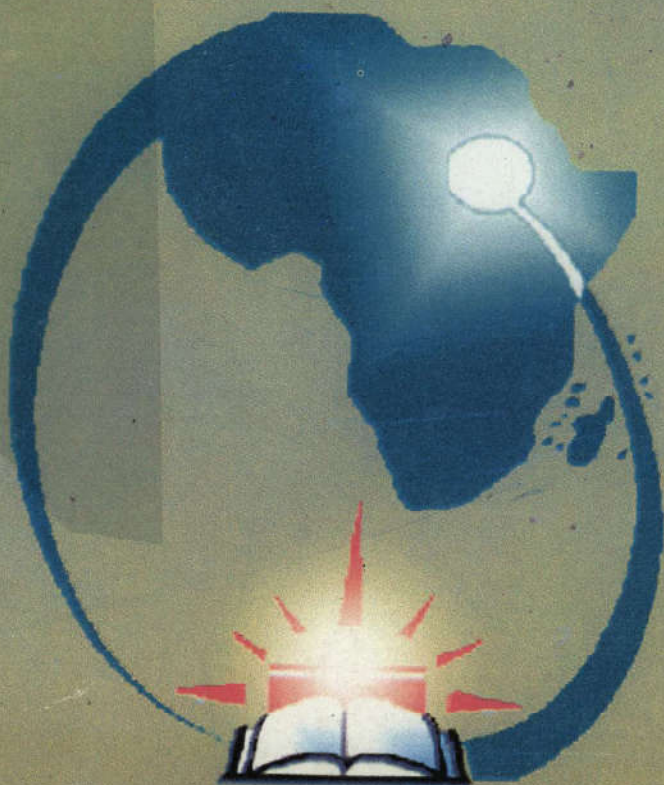
**INTERNATIONAL UNIVERSITY OF AFRICA
KHARTOUM - SUDAN**



AFRICAN UNIVERSITIES CONGRESS

**INTERACTION AND INTERRELATION
IN AFRICA**

ACADEMIC CONFERENCE RESEARCH PAPERS



KHARTOUM - JANUARY 2006

**INTERNATIONAL UNIVERSITY OF AFRICA
Khartoum – Sudan**

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(3)

Khartoum-January 2006

The congress of interaction and interrelation in Africa

The pages of this file include the papers presented to the congress of African universities. It aims at boosting the inter relation linkages between African Universities exemplified in: administration, teaching staffs, as well as students. These linkages may contribute in out cropping spiritual, intellectual, political as well as social interrelation flow, beside raising the awareness by Africa's actuality. Exchanging experts is needed for Africans in order to find out preliminary common visions for solving out the continent's problems.

This actually leads to acquaintance, and sinter-retention between African universities. And these and universities can discover out the most favourite methods for Africanizing the universities. Until they act as continents' tongue. The conference also aims at unifying Africans intellect so as to find out common joint. Springing form African-African debates and African African operation besides opening inter communicational channels between the Africans.

This Third file includes the researches that are received in the fixed date of receiver, for what enabled and facilitated the process of translating and printing them out in this file. Finally we hope all researches appeared in this conference are to be filed out.

Thanks,
Conference administration

THE ISLAMIC SYSTEM AND THE STATUS OF THE NON-MUSLIMS

Dr. Mohammed Salim Al A'wwa

1- Introduction:

The Islamic system is the order based on Islamic law (Sharia) and whose details are established according to its fundamental concepts in independent opinion (Ijtihad), deduction (Istinbat) interpretation (Tafsir) and explanation in (Ta'wie).

Non-muslims are co-partners of Moslims in home and citizenship. That is because Islam has its own state: the first state of Islam in Al Medina Almonawara” – that state which existed and continued to exist after the death and transition of prophet Mohammed (peace be upon him) to the upper company of Allah and up to our present day.

It is worth saying that it is one of Allah's ways in human social communication that different nations and races become neighbours to each other together with different tongues and different colours, and they are- after all- brothers and sisters from one father and one mother, despite the fact that long ages might have made them forget and loose this scene of human fraternity between roots and branches.

The Holy Quran stated this fact in saying (Subhanaho watala)

*Mankind! We created ye from a single
(pair of a male and a female, and made
ye into Nations and tribes, that ye may
know each other (not that ye may despise
(each other) verily the most honored of you*

*In the sight of Gods (he who is) the most
Righteous of you And God has full knowledge
(with all things).*

(sorat Al Hugorat A'Ya 13)

In a saying of Al Mustafa(P.B.U.H.) in the day of Hajjat Al wada'a (the last or farewell performance of pilgrimage to Mecca) he addressed the people saying...

“ Oh ye people! Your God is one, your father is one, you are all to Adam, and Adam is form dust)

2-Three Fundamentals:

The first principle is the arbitration of the Sharia texts stated in the Holy Quran and the correct tradition of the prophet (P.B.U.H). All that came through these principles should be applied as a must (Wajib) and all what is complying to it is in action is correct; otherwise the application will be at the expenses of the actor, being a human independent opinion (Ijtihad) and responsibility of the interpreter or he who is qualified for that and won the reward form Allah or otherwise he would have committed the sin for his wrongdoing.

The second principle: the acceptance of the requirements of the participation of living in the homeland (or citizenships in modern expression). That is, whatever that satisfied the interests of the participants is conceivable, and whatever had these interests spilled in vain is qualified for loss.

This rule was well understood by the “Sudtan” of the scholars (Alizz Ibn Abdul Sala) when he stated that: the Sharia is based on the basis of obtaining interests and to avert corruption, and that the repulsion of corruption is a priority before the wining of interests, and that any act that abstained to obtain its objective is false and of no avail.

These principles are certainly agreed upon by scholars and “faguih” of different denominations and their diverse orientations in independent opinion(Ijtihad), advisory opinion and deduction (Istinbatt).

The third principle: The activation of the spirit of human fraternity instead of neglecting it. Each say or opinion or action negative to this spirit of fraternity is opposing to a great Islamic principles which had its roots in the Holy Quran and the correct sunna, and was expressed in the sayings and deeds of the companions of the prophet (P.B.U.H), and their competent successors. Then these were followed in every period by the (Du’att) propagators of Islam who where conductors and rightly guided. Under the protection of the Islamic state always lived the subjects of the state of Islam since its

foundation, in their towns and villages, in their sorrow or their joy, in performing selling or purchasing, in their festivals or their seasons. Had it not been for the devotion and attachment of Muslims and non-Muslim to the virtuous rituals of their religion , no Muslim would have been acquainted with his Islam or an adherent of a revealed religion acquainted with his book.

3- The guidance of the Quoran

The constitutional relations between Muslims and others in the Holy Quoran relies on the saying of Allah S.W in surat

El Mumtahana- A'ya 8-9 (God forbids you not with regard to those who Fight you not for (Your) faith Nor drive you out of you homes, form dealing kindly and justly with them: for God loveth those who are just.

God only forbids you with regard to those who

Fight you for (your) faith,

Nor drive you out

Of your homes and support

(others in driving you out,

From turning to them for (Friendship and protection)

It is such as turn to them

(In these circumstances)

That do wrong

(Un tabarrohum)

For the word (Birr)In Islam, that means devotion and performance of good deeds, and the words(Gistt) and (Adl) mean equitability and justice. So these qualities, by the text of the Quoran are requested from a Muslim to all people, those who believed in Islam or those who denied it . The only exception is for those who fought the Muslim in his religion and worked for his removal from his homeland or supported others to do so (drive him from his homeland).

- This general Quoranic constitution comprises non-Muslims whatever might be their religion, but the people of the book" i.e the Jews and Christians, have in the Quoran more detailed rules to what complies with (bIRR) benevolence to them, what is legal and what is permissible to them in the Quoran in the frame of cordiality and affection.

Their food is permissible to Muslims and so is the food of Muslims is allowed to them. Can there ever be a dialogue in the home if one of the neighbours is prohibited from eating the food of his neighbour?

The Quoran says in surat Al Maida (The table):

A'ya(6)

*This day are (all) things
Good and pure made lawful
Unto you. The food of the
people of the book is lawful
unto you.*

*And yours is lawful unto them.
(Lawful unto you in marriage)
Are (not only) chaste women
who are believers, but, chaste
women among the people of
the book.*

*Revealed before your time.
When ye give them
Their due dowers, and desire
Chastity not lewdness,
Nor secret intrigues.*

The marriage from their women is admissible; and Islam had prohibited the marriage of their men from Muslim women. That prohibition is only a branch from an original decision in Islam concerning the organization of marital life, that the superintendence and the guardianship in Islam is for the man. The non-Muslim does not believe in Islam. Then to what extent can that woman be secured as a wife to a non- Muslim to perform the rituals her religion and obey her God, though some of these obediences and some of the forbiddances are deeply connected to marital life, and some of them are related to the special characteristics of the relation between man and wife? But when a Muslim marries a woman from the people of the book he is a believer in her religion as revealed to the prophets, and believer in the book revealed to that prophet, paying respect to him, and his belief is regarded in the Quaran as incomplete without

the belief in that all, so why does she fear for her religion from a Muslim? The life of those who participate in the same house and in homeland can not avoid the presence of controversial problems or problem atiques that lead to arguments. The Muslim has his own balance to weigh things so as to know what is permissible to him or what is not, and that is what God(S.W) says in the Quran, surat Al Ankabout (the Spider) 46.

46- *And dispute ye not
With the people of the book,
Except with means better
(than mere disputation,) unless it be with those of them
who inflict wrong (and injury),
But say: " we believe in the revelation which has come
down to us and in that which came down to you;
Our God and your God
Is one; and it is to Him
We bow(In Islam)*

This Quoranic text, though it is common , in every argument, envisaged to take place between Muslims and the people of th e book, the first thing that should be followed when the argument takes place in a religious affair, is to avoid misunderstanding and arising the fire of fanaticism and hatred in the hearts, the chastity of tongue is a obligatory on the Muslim even with the (mushrikin) the non-believers or the idolaters. On this category descended His words in the Quoran : surat A'al Imran.

*Bevile not ye
Those whom call upon
Beside God, lest
They out of spite
Bevile God
In their Ignorance.
Al An'am 108*

And in the Holy Quaran there are many texts that forbid befriending non-Muslims or non-believers i.e His saying in surat Al Imran 28.

*Let not the believers
Take for friends or helpers
Unbelievers rather than,
Believers: if any do that
In nothing will there be help
From God: except by way
Of precaution, that ye may
Guard yourselves from them.
But God cautions you
To (remember) Himself;
For the final goal
Is God.*

A'l Imran- 28

And also his words (Subhanalu wata'ala) in surat Annisa aya (144).

*Oye who believe!
Take not for friends
Unbelievers rather than
Believers: do you wish
To offer God an open
Proof against yourself?*

Another A'ya in surat Al Mujadala

22- *Thou wilt not find*

*Any people who believe
In God and the Last Day
Loving those who resist
God and his apostle,
Even though they were
Their fathers or their sons
Or their brothers, or
Their kindred.*

These verses and their alike, and they are numerous, state a Quoranic principle concerning the orientation of (wala'a), devotion and adherence of the Muslim to whom it should be oriented, and where the

Muslim has to stand when there is contention and struggle between the believers and polytheist and non-Muslims.

The Holy Quoran presents a straight forward and decisive answer to the question. The believer should stand only to the side of God, his apostle (prophet) and to the side of the co-believers.

This principle is surrounded by restrictions that stand against his diversion to religious animosity or ideological hatred or sectarian riots.

a) The prohibition is not for taking the adversaries in religion as friends because of their being compatriots or neighbours or companions in social life, but for befriending them when they became a hostile group against Muslims, characterized by their being distinguished for their religious distinction under a flag grouping the powers opposing Muslims, and the resistance to God and his Apostle (prophet). For this reason we find a repetition to the expression(Rather than believers) to articulate that the forbidden befriending is the one that implicates the alignment of the believer to the camp of the enemies of his religion and his faith whereby they are enemies of his religion and to his faith.

b) The forbidden befriending is to the one of those who resist the doctrine of God and his apostle (prophet), not only the adversaries or opposers even if they were peaceful with Muslims. The Quoran tied the prohibition in surat Al Mumtahana A'ya (1) on saying

(And have (on the contrary)

Driven out the Prophet

And yourselves, (from your homes)

Simply, because ye believe

In God your Lord.

c) A non- Muslim who does not fight Islam may have deserved friendship as a must and contact with him as a religious obligation. That is the case with the wife adherent to a revealed religion and her kinships who are uncles, and the Muslim sons, and the grandfather and grandmother, all of them

are relatives on the maternal side - their relation is from (ra'him) and their be friendship in Islam is a kinship (Gurba) is observed to bring the Muslim nearer to God, on the contrary, to boycott your relatives is a punishable sin. It suffices here to mention the Godly Hadith (Gudsi) where Allah revealed to his prophet- side from the Quoran,; (Kinship -Ra'him) is from me, he who works for its connection, I connect to him, and he who works for cutting it, I do cut from him).

d) It is no doubt that Islam highlights the religious bond to be on top of any other sort of connection, the Muslim is the brother of the Muslim, the believers are brothers, and the Moslem is nearer to the Moslem from any infidel, even if the latter was his father, brother or son. But that doesn't mean that Muslims meet the non- Muslims with animosity only because of the difference in religion or creed. The basis is the devotion and benevolence, and the exception- when need be - is that the Muslims desist form their befriending and alignment, to triumph for their religion and to ally with the kinship of their creed.

Thus the Holy Quoran settled the principles of the (relations) between Muslims and others, On the guidelines of these a'yat (verses), there should be a perspective for the organization of these relations and the evaluation of what took place in our history and heritage, and orienting towards what should be the present and future, so let us see what the 'Sunna' had done.

4- The Good deeds of the Prophethood

The first get- together between Islam- as a system for the state- and the non- Muslims- as citizens in the Islamic state, was that meeting which took place in ' Al Medina Al Munawara' as early as the arrival of Prophet Mohammed (P.B.U.H) at the town where the Prophet ' wrote' or ordered to write- the " paper" known in the political history of Islam as (sahifat Al Madina) i.e the scripture or constitution of Medina or the written message of the prophet (P.B.U.H) to the people of Medina. So what was there in that document concerning non- Muslims? We read in this document upon

which was initiated in accordance with it, the first Islamic state in history? That it is :

A(Kitab) message from Mohammed, the Prophet and Messenger of God between the believers and the Muslims form the tribe of Guraish and the people of Yathrib(Mediana) and to those who followed and adhered to them and fought with them that they are a ' Nation' from among all others.

- And that he who follows us form the Jews, will have our sponsorship and support on our example, not maltreated or looked upon as conquered citizens .

- That a (Mushrik) "a polytheist" hasn't the right to protect the wealth or any person from ' Guraish' and to protect a polytheist from a believer.

- That the Jews of Beni ouf are a nation (Umma) with the believers(Mominin) but the Jews have their religion and the Muslims have theirs – their supporters and themselves except those who committed injustice or sin.

- That the prophetic document ' Sahifa' counts nine kinships of the Jews in name, and decides that they have the same rights given to the Jews of Beni ouf with a complimentary that their supporters and their entourage are the same as themselves.

- And that they have the triumph- they and the Moslems- over him who fought the holders of this document, and they have the victory and advice (in between them), and the benevolence that excludes sinful act. And that the Jews of (Awos), their supporters and themselves, have the same as the holders of the document, and the benevolence away from sinful act, and that God is with the acceptance of truth to all what is contained in this paper (Sahifa).

So this document considers non-Muslims resident in the state of Medina as co-citizens in Medina , having the same rights as the Muslims, as well as the same duties.

We must join to these texts, which had been truly applied until the Jews breached and violated their contract with the messenger of God

(P.B.U.H), and accordingly he fought them, we join to them the following prophetic instructions:

- He who injured a non- Muslim(enjoying Muslim perfection) I am his adversary, and he whom I become his adversary I will be his adversary on the day of judgment. He who injured a non- Muslim enjoying Muslim protection, has offended me, and he who offended me has offended Allah.

- He who killed somebody under contract i.e (a free non-Muslim enjoying the Muslim protection) will not smell the fragrance of Heaven (Algenna) the sweet odor of which is smelt from a time span of forty years.

The conventions which the Prophet (P.B.U.H) wrote or ordered to write – to some people of the book is worth contemplation and a view as an example and a model to follow.

He wrote to the people of Nagra (And to Nagra and its entourage the neighbourhood and protection of God and the guarantee of Mohammed, the Prophet and Messenger of God protection of their wealth and themselves and their lands, their kinship, their present people or their absentees and all what is under their hands, much may it be or little, not to let a bishop change his diocese or a monk from his monasticism, and no army has to tread on their lands, and he who asked for his right, let justice be the rule, no oppressor or oppressed upon)

- the same was written in the script of Khalid to the people of 'Hira' and was authenticated by Khalifa Omer Ibn El Khattab. One great Muslim scholar Imam Abu Yusuf considered this pact of Khalid in his book "the Kharaj" as effective in the same way as accepted by Omer Bin AlKhattab up to the " last day"

- We have no doubt that these prophetic rules concerning the treatment of non-Muslims should be taken as a standard ruling the different jurist opinions in this sense; that whatever rules that conformed with the (Ijtihad)- the independent opinion- of the (Islamic) jurists we are then permitted and obliged to take it for granted unless it contradicts with the common interests in our present time.

But if it did oppose or contradict, then we are not rebuked if we cast it aside- in the endeavor of organizing the modern Islamic state and finally we have to drop it out.

5- Immunity (Zimma) is a pact and not a positive Law

(Zimma) in Arabic language is the contract, the security and the guarantee. In the judiciary idioms it is a supported contract implying the affirmation that non- Muslims can stick to their religion with enjoying the immunity and guarantee of the Muslim community, on condition that they pay the 'gizia' or of tribute with their acceptance of the rules of Dar Al salam (territory of peace) in matters other than their religious affairs.

This contract imposes on its parties exchangeable rights i.e rights to each party together with duties imposed on them. But before we define these rights and duties let us state the following facts:

* first, the idea of the immunity (Zimma) or contract is not, in the first place, an Islamic innovation, but it was an opinion that Islam found prevalent at the time of the mission of prophet Mohammed (P.B.U.H) and thus Islam gave it its legality and added to it a new immunity by changing the protection from the immunity of the protector to the immunity of Allah and his Messenger and the 'Momineen' (believers) i.e the immunity of the Islamic state itself, and made that contract an eternal one, not viable to nullification, and that is for the protection of the incomers to Islam from non-Muslims.

Secondly:

The tribute (Algizya) -though it had numerous explanations by many scholars, was not adhered to this contract in all cases as may be thought.

The most correct say of the Islamic jurists in the identification of ' gizya' is that it is a substitution for the participation of non-Muslims in the defense of the (home of peace), therefore it was annulated by the companions of the prophet and the good followers, who dropped it from those who accepted the participation in that defense: ' Suraga Ibn Amr' practiced that annulation with the people of Arminyya in 22 Hg , same was done by Habib Ibn Muslima Al Fihry with the people of Antacia, and he signed the same with

Alragima. These are Romans and citizens of a Turkish city in the epoch of Omer Ibn al Khattab (God bless him) and the reconciliation was later ratified by the representative of Abu Obaido Ibn Al Jarrah and was authenticated by the latter and his entourage from the companions of the prophet (P.B.U.H). Also the Muslims conciliated with the Nuba people in the period of Abdullahi Ibn AbiAlsarh' not on the protection (Gizya) but on some 'presents ' that should be exchanged between the two parties every year, and they also conciliated with the people of Cyprus in the epoch of Khalifa Mouawya on a land tax (Kharaj) accompanied by a pact of neutrality between the Muslims and the Romans.

- up to this point, we can say that non-Muslims who perform their duties as soldiers and contribute in the protection and defense of Dar Al Islam, the 'gizya ' will be dropped from them.

- In some books of jurisprudence there is a sort of description which does not comply with the Islamic justice being against the good conscious, i.e how can this tribute be collected when it becomes due on the non- Muslim, and this description had no origin in Islam, Iman Al Nawawi was right when he said: "This hated form of action is invalid and favoring it is assumed wrong to a large extent).

Thirdly: the existing Islamic state in the present time represents a new pattern of the Islamic sovereignty which the imitator scholars of jurisdiction (fiqh) did not embark upon its rules because it did not exist in their time. That is the sovereignty based on the presence of a Muslim majority, and not on the conquest of these states after a war between Muslims and its people.

This majority comprises co-citizens representing a minority, or minorities, of non- Muslims who participate with them in establishing and founding that state. Then how should be their status?

This present picture of the Islamic state requires an endeavor to suit with it in the application of the Islamic principles and to practice the juristic rules on it.

This is a generalization that needs to be ' detailed: we have to say that: the Islamic state that was established after the epoch of the

messenger of God(P.B.U.H) and after the many developments in the time of different and numerous Khalifs in successive periods where was formed what we call today the Islamic world ;i.e. in which was applied the juristic Islamic laws registered and presented in the books of jurisdiction up to day, this state stopped to exist as such because of the retreat and decline of the supremacy of the Islamic “ Khalifate” over most of its parts, and the domination of western Colonialism over its lands. This hampered the application of the Sharia laws in these states.

- The Islamic peoples did resist these colonial waves in spite of the overwhelming powers and resisted for many decades, sometimes that resistance exceeded a whole century. Muslims and non- Muslims, the two parties together resisted these invasions and fought together in defense battles, and the colonizing powers and tyrannies did not spare any of them, having used also the local agents of the colonization to resist as well.

In the chain of continuous resistance and the power of ever-renewed endurance, and with the movement of history in which Allah (S.W.T) exchange his ‘ days’ between peoples, from all that was established the present Islamic states of today. The tree of their independence was watered by the dear blood of its sons, and called for its freedom all the thinkers and politicians of these countries and the colonizer already left most of the lands of Islam which were divided to numerous states. So what can its sons do in this situation? Have they to fight each other so that the land belongs to some of them and the protection for the others; or, they have to co-operate to promote their homes and preserve each of them, the rights of the other, and that their Muslim majority might be guarded by the book of their Lord (Allah) and the good deeds of their prophet in stead of holding to remote opinions that were designed to suit times that passed and will not suit its times?

That is what is required for realizing the interest of the nation, and that was the perception towards the acts of companions of the prophet in more than one case in their treatment to non-Muslims, and that was surely identical to what the Prophet had done (P.B.U.H) when he established the first Muslims state in Al Medina Al Mounawara. So

we never doubt that had it not been for the breaching Jews breaching their contract and their betrayal to the Prophet and the Muslims despite the fact that the prophet kept and preserved that pact and fulfilled their full rights, nevertheless they double-crossed the Muslims and hence they were punished and forced out of Medina for ever.

- so what is concerning the affair of (Gizya) protection the Quoranic text for Gizya, as I see it, is the same affair in the Quoranic text concerning the out-lets of (Zakat). The consensus of the Companions (Sahaba) agreed to the opinion of Khalifa Omer not to give the 'heartedly reconceiled (AlMouallaftu golobohom) these who were brought together as new Muslims deserving Zakat as one of the eight out-lets of Zakat), Omer stopped giving them their share in Zakat, because Allah had cherished Islam and Muslims and enriched them. The Islamic jurists agreed that it was a wise and correct consensus and a sound juridical opinion because every rule has a cause that circulates with it, whenever the rule is there, and when the cause is annulated so will be the rule.

So the rule for the protection (gizya) is the same; the Muslim jurists thought that the cause of its legislation was the absence of the participation of non- Muslims in the defence of the Muslim-land (Darulislam), and so they decreed for its cancellation after their acceptance of participation in that defence.

The Quoranic text brought it about in the case of the fighting that finished and led the people of the book to be due to pay it, and that is not existing today.

Therefore we should look into the interests of Muslims, and even for the interest of the whole nation with all its elements, to cooperate and support each other, to develop strengthen, and rise up ,in stead of the animosity and hatred that give their enemies the opportunity that lead to their failure, weakness of their power and eventually to the loss of their venerations and their strength.

6- The rights and duties

- In the umbra of application of the rules of the protection- (Zimma) pact-many rights were conferred upon non-Muslims, all standing on a firm base that they have the same rights accorded to Muslims, and the same duties and responsibilities laid upon Muslims- (other than what has been excepted by a text or consensus) that was the essence of participation in citizenship of one country.

The first of these right is their enjoying the protection of the Islamic state, and that includes their protection form any external aggression and every internal grievances. As to what concerns their protection form external aggression they deserve whatever right given to Muslims, and the Muslim ruler is obliged to offer this protection to them(even if they were confined to their private country, because the rules in the Islamic state are applicable on them, confirming their pact, and incumbent upon both sides).

The Muslim jurist scholar ‘ Ibn Hazm Al zahiri ‘ as an example stated that (whoever was under protection of Muslims and was wanted by the belligerents(Dar Al Harb) who came for his extradition, we should fight them (against his deliverance) on foot or with armery) and die for their sake, preserving whom is under the custody of Allah and his apostle (messenger). That is because his deliverance will be neglect to the protection pact (Zimma).

Another scholar – ‘Al Gurafi(Maliky) comments on the text saying: (a pact that leads to the loss of souls and riches in protection of its requisites from loss, is a great one).

When the rightly guided jurist leadership was sitting for justice in its rightly place in the system lader of Islamic leadership was holding firmly those rules to the extent that sheikh Alislam Ibn Taiymia insisted on releasing the protected (Zimmis) form the captivity of the Tatars together with the release of moslims. He told the leader of the Tatars:(we shall not accept anying other than the release of all the captives including Jews and Christians because these are under our the (Zimma) protection. We shall not leave behind any

captive of the people of (Zimma) or the people of (Milla)i.e. Islamic nationals.

As for the injustice in the internal relations, there were multiple texts prohibiting it in the Quoran and in the Sunna, and was denounced as far as the protected (Zimmis) are concerned, by the 'Hadith' of the prophet (P.B.U.H) and the traditions of his companions: More than one of the scholars declared that the pillars of Islam imply that injustice to a(Zimmi) is more sinful than the grief committed against a Muslim.

The right of protection comprises blood, souls and money. Khalifa Ali (May Allah be pleased with him) said " whoever had enjoyed our protection, his blood is equal to ours and his religion is like ours.

- In the (Islamic) jurisdiction opinions agree and differ, and the qualified viewer chooses what is more reliable and complying with these origins and accepts it and turns back whatever opinion opposing to it, and doest take it or apply it accordingly.

The examples are numerous:

The more correct of the two options, say about the immunity or security for their money or material belongings even if it is invalidated or considered prohibited in Islamic view, like wines and pig meat; it includes as well giving them permission for constructing their places of worship, and the acceptance of their testimonies except in the religious affairs of Muslims live marriage and divorce and the like, and the permission concerning security for individuals and that depends on the consent of the Imam. If the Iman didn't give his consent then he has to turn back the immunized person to where he is safe. Also Islam guaranteed a decent life for old aged (Zimmis) and that is considered by law as one of the collective duties: that is if the state " money house" (beit el mal) could not afford it, it becomes obligatory for all moslims to accomplish, and will not be dropped unless by carrying out the order and releasing them from the hands of the belligerents. Also the fit and able person from among them is permitted for assuming the general posts in the state, with the exception of posts related to religious affairs, like the posts of Imam,

presidency of the state, leadership of the army in Jihad and the custody over the alms and the like. With these rights and the likes the (Zimma) pact fixes three duties on the protected:

First performing their financial obligations like (gizya), (Kharaj), tax, etc. we have already defined the reality of (Gizya) and in their charging with (Kharaj) and other taxes, they are equal to the moslims, nothing is indebted because of their difference in religion.

But it is incumbent of some kinds of money, commerce and plantations regardless of the owner if he is moslim or not.

Secondly: They are committed to observe the Islamic laws because it is the legislation of the state in which they are co-citizens and carry its nationality. Thus they are equal with moslims citizens in obligation and duty; without falsehood or over-ruling.

Thirdly: Observing the feelings of Muslims; they a must not be be vile or insult their God or their prophet or their religion or their Book in public and not to propagate opinions opposite to the creed of moslims unless it is a part of their religion like the trinity or the cross in the Christian religion. That should be propagated among their own fellowships of believers and not broadcast it among Muslims fellowship to seduce the believers against their religion.

This duty has its' equivalent for the Muslims who also have to respect the religions of the prophets who were sent before Mohammed (P.B.U.H)and to desist form argument with them except by what is best for all and with kindness and beneficence to them according to the right of the (Zimma) of Allah and his Messenger and the believers of Islam. If these rights and duties were transferred from the Ideological domain to the constitutional one, this will not affect or change the obligation of the modern Islamic state, which has the jurisdiction as far as it is a duty or constitutional right, and a religious one as it is having its reference to the origin of its initiation.

Under the Shadow of Fraternity

If somebody studies a system which had been applied in the world for more than ten centuries, he will not be just if he doesn't study it together with its rules and texts, its impacts as printed in the hearts represented in the relations between those who are subjected to

these laws, or if the national and international development had led us towards exerting more efforts in understanding some texts and some situations, then the scientific realities between the Muslims and other citizens of the state are more radiant and more impartial than what some inactive thinkers doubt or some of the fanatics from two parties propagate, and where the enemies of their unity who benefit from their disparity, their humiliation and weakness from the westerners or easterners alike try to provoke.

- It is in the quoted (Sunna) (Tradition) of the prophet (peace be upon him) his standing up when the funeral of a Jew was passing in front of his house,(and when asked why he did so) he said: (is it not a human soul?) also when the prophet died his shield was mortgaged for a man of the book (Zimmi) for some need of some alimentionation to his house, and his companions would have satisfied his needs if he desired. But he was practicing jurisdiction for the future of his nation to teach them how to transact with (non-moslems) in the best way.

- From the correct narration referred to Khalifa Omer Ibn Al Khattab (May God be pleased with him) that he used to question the incomers from the different districts (to Medina) about the conditions of the (Zimmis)- protected- and insist on that till they tell him (all we know about them is more fulfillment and pure devotion. and he says: AlHamdu lillali (thank God for that).

And then before he died he pressed on his successor (Khalifa) and councelled him to take good care of the (Zimmis) under the protection of the moslim state, and that object should even be fought for from behind them i.e to be protected, and also not to be over-burdened.

If we are bound to leap over the successive centuries in the history of Islam, we find that in the present century a testimony form the British commissioner in Egypt published in the British press in26/1/1911, the following text: (the Muslims and Copts will live generally together in tranquility and peace of mind if they were left alone (to themselves), and the worst service that we (the British)

could present to them(the Copts) is to treat them as a group or as a detached sect.

- This situation or opinion was not missing in the minds of the scholars. The Gurafi stated in the meaning of (berr)i.e devotion and reverence with them as(Compassion for their weak and poor ones, to provide food for their needy, clothes for their naked, soft speech for their favour and compassion, enduring their harm in neighbourhood even if we have the ability to repulse it, for courtesy and not for fear, pray and supplicate to God for their guidance, their happiness, and advice them in all their affairs, in their religion and the worldly life, or preserve their absence if they were obstructed and harmed, that God protect their money, and the chasteness of their family, and all their rights and interests, and the deliverance of all their rights to them).

- That is what we defined in the beginning of this study as the requisite of the human fraternity in which the Muslims and the non-Muslims lived under its' umbra.

So has any one other demands and guarantees? Or is there any sort of devotion and (berr) and bevolence over what is mentioned above? For that reason Khalifa Ali (may Allah be pleased of him) said to his representative in Egypt (and let your heart sensate compassion towards your subjects and offer then your love... and that your subjects are two categories: either your brothers in religion or your counter-part in creation) .

And Allah in His highness tell the truth in the Holy Quoran: (Say Sye we believe In God, and the revelation Given to us, and to Abraham, Ismail, Isaak, Jacob, And the tribes, and that given To Moses and Jesus, and that given To(all)prophets from their Lord: We make no difference Between one and another of them: And we bow to God (in Islam).(Sorat Al Bagarah (The Cow).A'aya 136.