

أحكام التعامل مع غير المسلمين

Rules on How to Interact with Non-Muslims

Written by

Dr. Khalid b. Muhammad al-Maajid

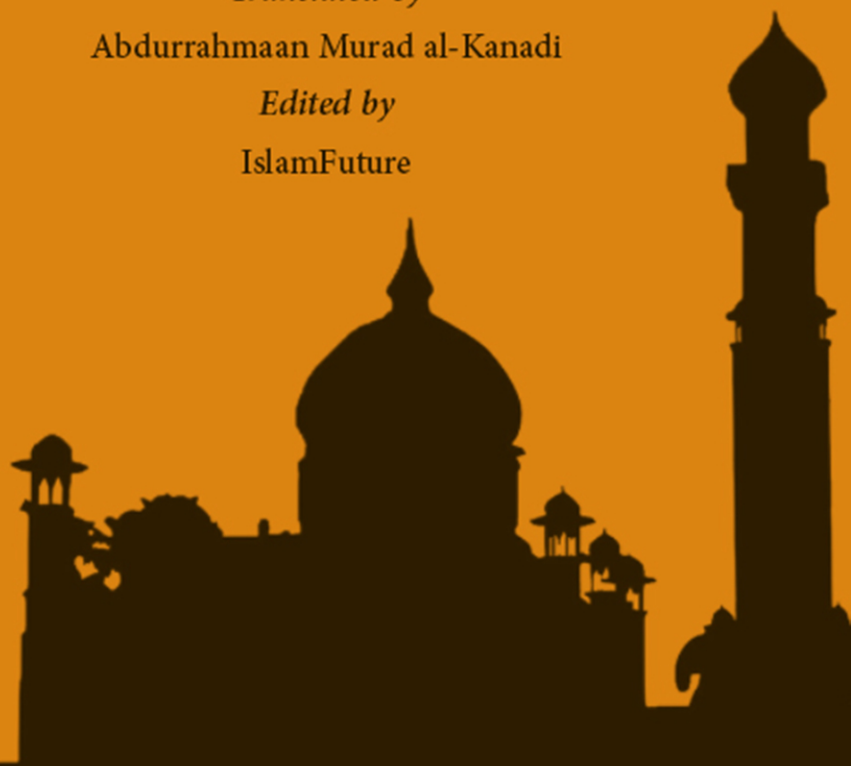
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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Bismi Allahi Alrrahmani Alrraheemi

*In the name of Allah, the most
Beneficent, the most Merciful*

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Terminology used in this Book

1. ***Rubb***: Some prefer to translate the term '*Rubb*' into 'Lord.' Beside the fact that the latter is a Biblical term referring to the alleged lordship of the slave of Allah, Prophet Jesus, the word 'lord' which is limited to 'master', 'chief', 'proprietor', or 'ruler', can never convey the conclusive signification of the term '*Rubb*'. Among other signification, the term '*Rubb*' means, the Creator, the Fashioner, the Provider, the One upon Whom all creatures depend for their means of subsistence, and the One Who gives life and causes death.

2. ***Deen***: The word translated as religion is '*Deen*', which in Arabic commonly refers to a way of life, which is both private and public. It is an inclusive term meaning: acts of worship, political practice, and a detailed code of conduct, including hygiene or etiquette matters.

3. [ﷺ] ***Sal'lal'laaho a'laihi wa sal'lam***. Some translate it as peace be upon him. This translation is incorrect; the correct translation is, may Allah exalt his mention, and render him and his household safe and secure from every derogatory thing.

4. [ﷺ] ***Radi Allahu anhu***. This means: 'with whom Allah is pleased.' It is said when the Companions name's are mentioned.





I begin with the name of Allah, the Most Merciful, the Beneficent

All praise is due to Allah, *Rubb* of the worlds, and may Allah exalt the mention of his Prophet, Muhammad, and render him and his household and companions safe from every derogatory thing.

The aim of this booklet is to educate new Muslims about laws that pertain to non-Muslims in matters of *Aqeedah* (creed) and *Fiqh* (Jurisprudential Law) and the stance one should acquire from them, and how he should interact with non-Muslims in his country, and other related issues.

I have written this in response to the request of the brothers from Sulai Da'wah Office in Riyadh who felt it was important to clarify these rulings to new Muslims in a concise and inclusive way.

Who is a Non-Muslim?

He is the one who disbelieves in the Message of our Prophet Muhammad ﷺ or does not believe in a pillar of the *Deen* or something known by necessity therein. Legally, they are called: '*Kaafir*'.

Types of non-Muslims

First Type: A person who is non-Muslim openly and privately. They are known as ‘Obvious *Kaafir*’. Obvious *Kaafirs* can be categorized into two categories:

First Category: *Original Kaafirs*. They are the ones who have not accepted Islam previously. This category includes People of the Book, Majians, and others. They have specific rules which vary according to their religions.

Second Category: *Apostates*. They are the ones who accepted Islam, and then apostatized; whether they accepted Islam after the age of puberty or were raised as Muslims or their fathers were Muslims and then later, they apostatized.

Second Type: Those who openly show that they are Muslims, when in fact they conceal *Kufr* (disbelief) in their hearts. They are called hypocrites (*munafiq*).

Creedal Rulings

1. Rulings pertinent to the Hereafter.

The one who dies as a non-Muslim would be from either of the two types mentioned below:

First Type: One who is not charged with religious duties, such as the insane, and child who has not reached the age of puberty. The scholars are at variance regarding their rule in the Hereafter. Some of them stated that Allah would judge them according to His knowledge...for He indeed knows who of them would accept Islam, and who of them would reject it had they been sane or had they reached the age of puberty. This opinion is weak, for Allah only holds the slave accountable for that which he actually did.

Some scholars said that they would enter *Jannah* (Heavenly Abode) and would be treated similarly to insane Muslims and their children.

Other scholars said that they would be tested by Allah similar to the 'People of *Fatrah*' who lived in the period wherein Allah did not send a Prophet¹, neither was there a correct *Deen*. The last two opinions are more correct than the first opinion.

Second Type: He has reached the age of puberty, wherewith the duties of Islam would be charged upon him. These non-Muslims are of two categories.

¹ This is the period between P
.rophet Eesa (Jesus) ﷺ and Prophet Muhammad ﷺ.

First Category: Those who heard about Islam in an appropriate manner, such that they understand it, know its basic beliefs, and laws, and then refuse to accept it. These would enter the Fire and dwell therein forever. Allah ﷻ says:

﴿Surely those who disbelieve from among the followers of the Book and the polytheists shall be in the Fire of Hell, abiding therein; they are the worst of men.﴾ (98:6)

And He ﷻ says:

﴿And (as for) those who disbelieve, for them is the fire of Hell. Neither will it have a complete killing effect on them so that they die, nor shall its torment be lightened for them. Thus do We requite every disbeliever.﴾ (35:36)

Second Category: He who has not heard of Islam or it was conveyed to him in an inappropriate manner, such that he could not discern truth from falsehood, nor could he search for the truth. These people are called ‘*Ahlul-Fatrah*’ (i.e. People of the Period). Allah would test them in the Hereafter, by creating for them what seems to be Fire, which is in fact *Jannah*. He would ask them to enter it, whoever obeys Him would certainly be a Muslim, and would enter *Jannah*. Whoever disobeys Him is a disbeliever and would enter Hell-Fire. The proof of this is in the words of Allah ﷻ:

﴿And We never punish until We have sent a Messenger (to give warning).﴾ (17:15)

Even though every *Kaafir* would dwell in Hell-Fire, their punishments vary according to the level of their disbelief, and enmity towards the Truth. Whoever's enmity and disbelief is more relentless would be punished more severely.

The hypocrites would receive the most severe and painful torment in the Hereafter, due to the severity of their disbelief and their danger upon the Muslims. Allah ﷻ says:

﴿Verily the hypocrites will be in the lowest depth of the Fire; no helper will you find for them.﴾ (4:145)

2. Rulings pertinent to this world

1st Ruling: One must believe that every religion other than the *Deen* of Islam is *Kufr* (infidelity) and that only Islam would be accepted in the Hereafter. Allah ﷻ says:

﴿And whoever seeks a *Deen* other than Islam, it will never be accepted of him, and in the Hereafter he will be one of the losers.﴾ (3:85)

One must believe that all non-Muslims are *Kaafir*, no matter what religion they adhere to, and that they are misguided. Allah ﷻ says:

﴿Is he then whose bosom Allah has opened for the acceptance of Islam, so that he possesses a light from his *Rubb*, like him who is groping in the darkness of disbelief? Woe, then to those whose hearts are hardened against the remembrance of Allah! They are in manifest error.﴾ (39:22)

Muslims should apply what they can of the rules that are pertinent to non-Muslims.

They should firmly believe that if non-Muslims die upon *Kufr*, while the Message of Islam reached them in an appropriate manner such that the evidence has been established against them, they are certainly from the People of the Fire even if they are People of the Book. The proof of this is in the Hadeeth of Abu Hurairah رضي الله عنه that the Prophet ﷺ said:

‘By the One in whose hands is my life, no one from this *Ummah* whether Jew or Christian who hears of me and does not believe in what I have been sent with, except that he is from the People of the Fire.’

(Muslim)

2nd Ruling: The incumbency of disowning and disavowing the disbelievers and their nations, and to show enmity to them both openly and privately without differentiating between them. The reason for this is that they have rejected the right of Allah which is to worship Him alone and not associating any partners to Him, and they have rejected the Message of our Prophet ﷺ. Allah ﷻ says:

﴿There is a good model for you in Ibraheem and those with him, when they said to their people, ‘We have nothing to do with you and with that which you worship beside Allah. We disbelieve all that you believe. There has arisen enmity and hatred between us and you forever, until you believe in Allah alone.﴾ (60:4)

Allah ﷻ says:

﴿O you who believe! Take not those for friends who make a jest and sport of your religion from among those who were given the Book before you, and the disbelievers. And fear Allah if you are believers.﴾

(5:57)

Allah ﷻ says:

﴿O you who believe! Take not the Jews and the Christians for friends. They are friends one to another. And whoso among you takes them for friends is indeed one of them. Verily, Allah guides not the unjust people.﴾ (5:51)

Hating and showing enmity to them should be done proportionately according to their disbelief and enmity to Islam.

To disavow them means to be displeased with them and their nations and to be displeased with their residing on the falsehood. To hate them denotes hating them from a religious perspective or to love them without reason which would mean loving and being pleased with their disbelief or giving precedence to their love over the love of Allah. As for loving them for a worldly purpose or for a certain reason such as the love a person holds for his father or a husband for his wife or a colleague for his colleague who is well mannered, and the one who is kind for his kindness, there is no sin in this.

To show enmity to them means hating them and not taking them as friends by helping them against the Muslims whether physically, monetarily, verbally or otherwise.

3rd Ruling: It is prohibited to imitate any of them in their specific customs such as baptizing children in church, or celebrating their religious holidays, such as Christmas. It

is also prohibited for a person to imitate them in their manner of dress, and appearance and holding festivals similar to their festivals such as birthdays, and wedding anniversaries.

Allah ﷻ says:

﴿Say, O People of the Book! Exceed not the limits in the matter of your religion unjustly, nor follow the evil inclinations of a people who went astray before and caused many to go astray, and who have strayed away from the Right Path.﴾ (5:77)

Allah ﷻ also says:

﴿O you who believe! Be not like those who have disbelieved...﴾ (3:156)

The Prophet ﷺ said:

‘Whoever imitates a people he is from them.

(Abu Dawood)

Rulings Pertinent to Non-Muslims in Matters of Fiqh (Islamic Jurisprudence)

1st Category: Rules that are pertinent to non-Muslims in acts of worship:

All acts of worship are subject to a general rule ...acts of worship would not be accepted from a non-Muslim. Allah ﷻ says:

﴿And nothing has deprived them of the acceptance of their contributions save that they disbelieve in Allah and His Messenger. And they come not to Prayer except lazily and they make no contribution save reluctantly.﴾ (9:54)

Islam is the main condition for the acceptance of acts of worship...even though this is a prerequisite for the acceptance of good deeds, they are charged with the acts of worship, and would be punished for not doing them. Allah ﷻ says:

﴿What has brought you into the Fire of Hell? They will say, ‘We were not of those who offered prayers, nor did we feed the poor.﴾ (74:42-44)

Therefore, the first thing a Muslim should call a *Kaafir* to, is to enter the folds of Islam, which is accomplished by uttering the two Testimonies of Faith. This is what the Prophet ﷺ advised Mu’adth ؓ with when he sent him to Yemen. He ﷺ said:

‘You will be approaching People of the Book, so let the first thing you call them to be the Testimony, that there is no true god worthy of worship except Allah alone, and that Muhammad is the last Messenger...’(Agreed Upon)

Rules that are pertinent to non-Muslims in *Taharah* (cleanliness) and *Salah* (prayers):

First of All: Allah ﷻ says:

﴿O you who believe! Surely, the idolaters are
unclean.﴾ (9:28)

The preponderant opinion is that the meaning of ‘filth’ in this verse refers to spiritual filth which is acquired through disbelief in Allah, and not the actual filth. That is why it is lawful for a Muslim to marry women from the People of the Book who are *Muhsanah*², and for men to shake the hands of their men if they greet us. It is also lawful to wear clothes that they have tailored, and even those that they have worn, as long as no filth has touched it, similar to the clothes of Muslims.

Second of All: Using Non-Muslims’ utensils. These utensils can be categorized into two categories.

First: Utensils which are made from unlawful material, such as dog or pig skin, or utensils made from gold or silver, or it is stolen or taken by force...it is not lawful to use these things. Had these items (made from such things and acquired in similar way) belonged to Muslims they would be unlawful to use as well, so by right, things that belong to non-Muslims are unlawful to use as well.

² i.e. a chaste woman who has not committed fornication nor does she approve of it.

Second: Utensils which are made from pure material such as rock, wood, other metals or glass. If a Muslim buys these things when new, using them is lawful. The ruling varies if non-Muslims use these items to cook, eat and drink from them.

a. If it is considered that they do not use these utensils for unlawful drinks and food, then it is lawful to use directly without washing them. Jabir b. Abdullah رضي الله عنه said:

‘We would accompany the Messenger of Allah ﷺ and acquire utensils of the polytheists, and we would use them, and he would not blame us for that.’ (Ahmed & Abu Dawood)

b. If it is considered that they use these utensils to cook their meats and drink their unlawful beverages and a Muslim can get utensils besides these ones, then it is unlawful for him to use them. If he cannot find any other utensils, then he should purify them to remove the traces of filth, after that he can use them. The proof of this is in the Hadeeth of Abu Tha’labah al-Khushani رضي الله عنه that he said: ‘O Messenger of Allah we live in a land of the (in which majority of people are) People of the Book...should we eat from their utensils? The Messenger of Allah said:

‘If you find other utensils then do not eat from their utensils. But if you cannot find any other utensils then wash them and use them.’ (Bukhari)

c. If a person is doubtful, he should wash the utensils. According to the above, it is lawful to perform prayers using their clothing and carpet which are pure and lawful.

Third: When a person accepts Islam he should take a bath as in the Hadeeth of Qais b. Aa'sim. When he accepted Islam Prophet ﷺ ordered him to take a bath with water and *Sidr* (leaves from Lote tree).' (Ahmed, Nasa'ee, Tirmidhi, Abu Dawood)

A Muslim can force his Christian or Jewess wife to bathe after she becomes pure from her menstruation and post-natal bleeding, and to cleanse herself from urine in observance of his complete rights, even though she should take a bath in any case.

Fourth: When a person enters the folds of Islam, he should be circumcised even if he is elderly, except if he fears that he would die or become terminally ill. In this case, it is not compulsory to circumcise in order to protect his body and self. Circumcision is a *Sunnah* which the Messengers adhered to. Ibraheem عليه السلام circumcised himself when he was 80 years old.

Fifth: It is not lawful to perform prayers in temples or places of worship which do not belong to Muslims, such as churches, synagogues, and Houses of Fire. It is only lawful to perform prayers in these places in dire situations, such that a Muslim cannot find any other place to pray, such that he is held captive therein. If he can remove the pictures and statues in front of him he should

do so. Otherwise, he should pray in the side of the temple where the fire or statues are not in front of him.

Sixth: It is not lawful for non-Muslims to enter the Masjid al-Haraam (in Makkah) at all, even if they are given permission by Muslims or due to a dire need or to bring their hearts closer to Islam.

As for other *Masajid*³, the scholars are at variance regarding it. The preponderant opinion is that it is lawful for them to enter the *Masjid* for a dire need. The proof of this; the *Kuf'faar*⁴ (non-Muslims) would enter the *Masjid* of the Prophet ﷺ in Madinah, and he did not prevent them from entering it. He even held Thumaamah b. Uthaal captive in his *Masjid* before he accepted Islam.

Seventh: It is not lawful for a Muslim to give a *Mushaf* (Qur'an) sell it, or bequeath it or give it as collateral to a *Kaafir*, for they would possibly disrespect the *Mushaf*, and it is unlawful for them to touch it. Allah ﷻ says:

﴿O you who believe! Surely, the idolaters are unclean.﴾ (9:28)

It is lawful to give them a translation of the meanings of the Qur'an if it is hoped that they would accept Islam. But, if it is feared that they would disrespect it or use it to

³ Plural of *Masjid* (i.e. the prayer place of the Muslims).

⁴ Plural of *Kaafir*.

attack Muslims and increase their enmity against them, then it is unlawful to give a copy to them.

Eighth: It is not lawful for a Muslim to perform prayers in a place where non-Muslims perform prayers such as a Church. Likewise, it is not lawful for a Muslim to perform acts of worship at the times they do their acts of worship, such as the time when the sun rises a spear's length in the sky, except if a specific proof specifies the legality of acts of worship during that time such as *Jinaazah* (Funeral) prayer. It is lawful to perform it before sunset and sunrise.

Ninth: It is lawful for a Muslim to visit a non-Muslim if he falls sick. The Prophet ﷺ visited his Jewish neighbor. He can ask Allah to cure him, but should not supplicate Allah to grant him reward and forgive him. It is also lawful for a Muslim doctor to tend to him, and try his best in that...he may even recite Qur'an upon him, as is mentioned in the Hadeeth of Abu Sa'eed al-Khudri which is agreed upon. Likewise, in the story of the Companion who recited Surah al-Fatihah to cure the chief of the tribe who was bitten by a scorpion. The Prophet ﷺ thereafter approved of his action.⁵

Some scholars even mentioned that it is lawful to offer condolences to a non-Muslim if a relative of his passed away. He should say in his condolence to them, if the deceased is a non-Muslim, 'May Allah replace you with better' because they are not among those who deserve

⁵ Muslim

reward and mercy. He should in any case seek to bring their hearts closer to Islam. A Muslim may also visit a non-Muslim's grave to heed. He should not greet the dead, nor supplicate Allah for them, or seek forgiveness for them. The proof of this is in the Hadeeth of Abu Hurairah رضي الله عنه, in which the Prophet ﷺ said:

‘I sought permission from my *Rubb* to ask forgiveness for my mother, and He did not grant it to me. I then sought permission to visit her grave, and He allowed me (to visit her grave.)’ (Bukhari)

It is not allowed for a Muslim to wash a non-Muslim's body, or shroud him because the Messenger of Allah ﷺ tossed the bodies of the polytheists in the well at Badr without washing or shrouding them. Allah ﷻ says:

﴿And never pray for any of them that die, nor stand by his grave; for they disbelieved in Allah and his Messenger and died while they were disobedient.﴾ (9:84)

It is not allowed to supplicate Allah to grant them mercy and forgiveness. Allah ﷻ says:

﴿It is not befitting for the Prophet and those who believe that they should ask Allah forgiveness for the idolaters, even though they may be kinsmen, after it has become plain to them that they are the people of Hell.﴾ (9:113)

It is not lawful for a Muslim to take charge of burial procedures for a non-Muslim. If the non-Muslim has no

relative to bury him...a Muslim may bury the body in order to prevent people from being harmed by its stench. It is also unlawful for a Muslim to walk in the burial procession, carry it, or to attend the burial itself. Allah ﷻ says:

﴿nor stand by his grave.﴾ (9:84)

It is not lawful for them to be buried in Muslim cemeteries. Rather, he should be buried in non-Muslim graveyard, for the Prophet ﷺ did this, and the scholars have unanimously agreed on this.

If a woman from the People of the Book has passed away, while her husband is a Muslim and she is pregnant and the fetus is three months old, she should be buried in a Muslim cemetery. Her back should be faced to the *Qiblah*⁶ so that the fetus would face the Qiblah. The reason for this is that the fetus is a Muslim, because its father is a Muslim, and it is unlawful to bury a Muslim in a non-Muslim cemetery, so in observance of its right, the mother is buried in a Muslim cemetery.

⁶ The direction a Muslim faces in prayers, which is the Ka'bah in Makkah.

Rules that are pertinent to non-Muslims in Zakah (Poor-due):

First of all: It is unlawful to give Zakah of one's wealth or that of *Fitr*⁷ to non-Muslims. The Prophet ﷺ said to Mu'aadth رضي الله عنه when he sent him to Yemen:

'Inform them that Allah has prescribed upon them *Sadaqah* (charity) –which is the Zakat- which is to be taken from their rich and given to their poor.'

(Agreed Upon)

In this Hadeeth the rich and poor refers to Muslims. Zakah may be given to non-Muslims if their conversion to Islam is imminent, or to those from whom goodness is hoped for when they are given or their evil is kept away from Muslims. Allah ﷻ says:

﴿And those whose hearts are to be reconciled.﴾
(9:60)

Second of all: It is lawful for a Muslim to give charity to a non-Muslim as long as he is not a *Harbi* (non-Muslim who held arms against Muslims). Likewise, he may bequeath him a portion of his wealth, and give gifts to him. He may be generous to him, and reward him for the good that he does, for this is from the *Birr* (goodness) which a Muslim may offer to them. Allah ﷻ says:

⁷ *Zakat al-Fitr*, this is a kind of Zakah that is due at the end of the month of Ramadhan. It is incumbent on every Muslim who owns an excess of food over his family's need. It must be given out in food, such as barley, wheat, dates, rice, etc.

﴿Allah forbids you not, respecting those who have not fought against you on account of your religion, and who have not driven you forth from your homes, that you be kind to them and act equitably towards them; surely Allah loves those who are equitable.﴾ (60:8)

The Prophet ﷺ said:

‘One would receive reward for showing kindness to every living thing.’ (Agreed Upon)

Asmaa bint Abi Bakr ؓ said that her mother -who was a polytheist- visited her, and Asmaa ؓ sought the permission of the Messenger of Allah ﷺ to give charity to her mother, and he allowed her. Umar ؓ gave his polytheist brother a silk garment. Nevertheless, it is unlawful to give an unbeliever a gift if the occasion is inappropriate, such as giving a gift to them during their religious functions.

It is lawful for a Muslim to accept the gift of an unbeliever as long as it is lawful. The Prophet ﷺ accepted the gift of al-Moqoqas and he was an unbeliever.

Rules that are pertinent to Non-Muslims in Jihad

First of all: Non-Muslims can be categorized into two categories concerning legality of fighting them or not.

First Category:

Fighters: They are those with whom no treaty, agreement or truce exists between them and Muslims. It is appropriate to fight them according to capability. In some cases fighting them may be deemed *Fard Ain* (Individual Duty); this is the case when they invade a Muslim country to colonize it, and kill the Muslims and take their wealth. In this circumstance, it is a must for every able Muslim within that country to fight them. If they are in need of their brother's help from other countries then all Muslims should help and support them with men, money and weapons until they are strong enough to face them. Allah ﷻ says:

﴿But if they seek your help in the matter of religion, then it is your duty to help them.﴾ (8:72)

Fighting them may even be classified as *Fard Kifayah* (collective duty) if there are enough Muslims; in this case it is not compulsory upon other Muslims. This is the case when the unbelievers prevent their peoples from learning out about Islam and accepting it. If the Muslims are strong, it is a must upon a sufficient number to fight them. Allah ﷻ says:

﴿And fight them until there is no persecution, and religion is freely professed for Allah. But if they

desist, then remember that no hostility is allowed except against the aggressors.﴾ (2:193)

Thereafter, fighting unbelievers in this case is praiseworthy upon other Muslims. It is unlawful for Muslims to initiate fighting them, until they call them to accept Islam. If they refuse, they should call them to accept a truce and pay *Jizyah*⁸ to non-Muslims. If they refuse, it is lawful to fight them.

Second Category:

Civilians: These are people between them and Muslims are a peace accord or treaty, and they have not done anything to rescind it. This category includes three types of people:

a. *Ahludth-Dhim'mah*: They are the unbelievers who reside in Muslim countries and are pleased with the laws of Islam concerning them. They pay *Jizyah* and abide by the laws pertaining to them. Majority of the scholars are agreed that this status can only be given to Jews, Christians and Majians. Any other unbeliever would have to accept Islam or be killed. Other scholars are of the opinion that any unbeliever living in Muslim lands is given this status, and this is the preponderant opinion. The proof of this are the words of Allah ﷻ:

﴿There should be no compulsion in *Deen*.﴾ (2:256)

⁸ It is a head tax imposed on all non-Muslims living under the protection of an Islamic government.

b. *Mu'aahid*: They are the unbelievers who reside in non-Muslim countries between whom there is a treaty and peace accord.

c. *Mos'ta'man*: They are citizens of non-Muslim countries which are at war with Muslims and the Imam or other Muslims have allowed them to take asylum in Muslim countries whether they are People of the Book or other unbelievers. There is only one rule regarding them ...their lives and properties are to be safeguarded, it is unlawful to shed their blood, and take their property. Allah ﷻ says:

﴿Fight those from among the People of the Book who believe not in Allah, nor in the Last Day, nor hold as unlawful what Allah and His Messenger have declared to be unlawful, nor follow the true *Deen*, until they pay the tax with their own hand and acknowledge their subjection.﴾ (9:29)

And He ﷻ says:

﴿And if anyone of the idolaters asks protection of you, grant him protection so that he may hear the word of Allah; then convey him to his place of security. That is because they are a people who have no knowledge.﴾ (9:6)

It is praiseworthy to be kind and just to them, to bring them closer to Islam. It is a must that Muslims preserve their lives and properties, as long as they are under the protection of Muslims, from anyone who wants to harm

them, regardless if the transgressor is a Muslim or non-Muslim. The proof of this is in the words of Ali عليه السلام:

They have paid the *Jizyah* so their wealth must be treated similar to our wealth, and their lives to be valued as our lives.

It is a must that the Muslims ransom the captives of the people of *Dhimmah* with money, for this is part of the pledge of safeguarding them.

Whenever Muslims fear the *Mu'aahid* or *Musta'min* would breach the treaty, it is lawful to annul the treaty and inform them of that and then fight them. Allah ﷻ says:

﴿So if you catch them in war, then by routing them strike fear in those that are behind them, that they may be admonished.﴾ (8:58)

Whenever they breach the treaty it is lawful to wage war against them, and it is not a must to annul the treaty, for the betrayal was on their part. The Prophet ﷺ fought the infidels of Quraish without informing them that the treaty was annulled, when they betrayed and breached it. This took place during the year of the Conquest of Makkah. As for the people of *Dhim'mah* their treaty should not be annulled until they actually do something which necessitates that; for they are subject to the rules of Islam. Furthermore, the damage that would be caused from their annulment of the treaty is less harmful. If they breach the treaty then those who breached it alone would

be punished and it is lawful for the Muslims to shed their blood and take their wealth as a penalty for the annulment of the treaty. The treaty is breached when they break one of its conditions agreed on. For example if they swear at Allah, or His Messenger ﷺ or the *Deen* of Allah or make fun of something therein, or fornicate with a Muslim woman, or help the infidels against the Muslims, or spy against them or the like.

As for the apostates who apostatize from Islam, if their infidelity has been affirmed, they would be given the choice to return to Islam within three days...if they return to Islam it would be accepted from them, otherwise, they would be given the rule of apostates and killed.

As for hypocrites whose hypocrisy relates to their belief⁹ they are treated as Muslims, but whoever openly declares his hypocrisy would be treated like an apostate.

⁹ Hypocrisy is of two types; Creedal Hypocrisy. The one who upholds it displays Islam and conceals infidelity. This type condemns those who uphold it to the lowest level of Hell-Fire. The second type is Practical Hypocrisy, which is possessing a trait of the hypocrites while retaining Iman in his heart. A person who upholds it combines both Iman and hypocrisy. The traits of the hypocrites is mentioned in the following Hadeeth: The Prophet ﷺ said:

'Four traits, whoever possesses them is a sheer hypocrite. And whoever possesses one of them would possess a trait of hypocrisy until he relinquishes it. When he is entrusted, he betrays the trust, and when he speaks, he lies, and when he enters into a treaty he behaves treacherously, and when he disputes with others he behaves immorally.' (Bukhari)

Second of all: When Muslims fight non-Muslims for a valid reason, the warfare has certain rules which the Muslims should abide by, the most important of which are:

1. Not killing women, children, elderly or monks who are in their places of worship, as long as they do not take part in the battle, then they are to be killed like the rest.

2. Not to mutilate the dead or burn their bodies, except in retaliation to what they have done. Allah ﷻ says:

﴿And the recompense of an injury is an injury the like thereof; but whoso forgives and his act brings about reformation, his rewards is with Allah. Surely, He loves not the wrongdoers.﴾ (42:40)

3. Being faithful to the treaty and not being treacherous. The Hadeeth of Buraidah رضي الله عنه clearly exemplifies the conduct one should uphold. The Prophet ﷺ said:

‘Fight in the path of Allah, and do not go into excess. Do not breach the trust nor mutilate or kill a newborn.’ (Muslim)

In the Hadeeth of Ibn Umar رضي الله عنه the Prophet ﷺ saw a woman who was killed during one of the battles and he forbade killing woman and children. (Agreed Upon)

Third of all: It is a must upon Muslims to migrate from the land of the infidels to the land of Islam under the following conditions:

- a. If a Muslim cannot openly practice the rites of his *Deen* in the land of *Kufr*, or he is fearful that he, his family or wealth would be subject to trials and tribulations.
- b. If a Muslim can afford the journey to the land of Islam and also the costs of *Hijrah* (migration).
- c. Accessibility to a Muslim country where he can live legitimately, and he can also openly practice the rites of his *Deen*.

If one of the previous conditions are not present then *Hijrah* is not compulsory on him, rather it is praiseworthy or lawful.

Fourth of all: The rule of living in a *Kaafir* country differs according to one's association with that country.

- a. If he is a legitimate citizen of the *Kaafir* country, and he holds that country's citizenship, it is lawful for him to stay in that country if one of the previously mentioned conditions is not met (mentioned in the previous point).
- b. If he is not a citizen of that country...rather he wants to live in it while leaving a Muslim country. It is not lawful in its original state. The Prophet ﷺ said:

‘I am innocent of a Muslim who lives among the infidels...their two fires should not be visible to each other.’ (Abu Dawood)

A Muslim's creed and mannerisms might be affected due to the danger of living in a *Kaafir* country which no sane man can deny.

It is lawful to stay in a *Kaafir* country under the following circumstances:

a. There is a valid reason to stay, such as the necessity of an appropriate *Hijrah*...If a Muslim fears for his *Deen*, life, wealth, honor, his children, and he cannot find any Muslim country to flee to...and the *Kaafir* country receives him, and he is safe and secure therein. Another valid reason is when a person goes there to receive medical attention, business relations or for further education, while these services are not found within Muslim countries...or he goes officially to represent a Muslim country.

b. If a person goes with the intention of temporary stay...staying there permanently means that a person is migrating from the lands of Islam to the lands of *Kufr* and this is in direct conflict with the *Shari'ah*, which states the incumbency of migrating from the lands of *Kufr* to the lands of Islam.

c. The non-Muslim country which one wants to stay in is not at war with Muslims.

d. Freedom of religious practice in the land of *Kufr*, and sense of safety and security in that country, and a person can safeguard himself and his family from tribulations, and he can learn, teach and practice his *Deen*. Furthermore, he can practice the rites of his *Deen*

openly...for this is more important than safeguarding one's self and wealth.

e. A Muslim should remain faithful to Islam and his brothers...he should not favor his relation to the *Kaafirs* over his Muslim brothers.

If these conditions are prevalent, it is lawful for a Muslim to reside in a *Kaafir* country and acquire a residency permit therein. It is also lawful for him to take the citizenship of that country if he cannot reside in that country otherwise.

Fifth of all: Fighting with non-Muslims differ according to those who are being fought.

First:

a. If Muslims are fought, whether they are individuals, groups or countries, and the non-Muslims initiated the war against them, then it is not lawful to fight with the non-Muslims as this is considered as befriending the *Kaafir*, which would cause one to exit the folds of Islam. It is a must upon Muslims to support the Muslims against them, or it is praiseworthy according to ones capability and condition.

If the Muslims are the ones who initiate the war, and they were not oppressive in doing so, it is not lawful to fight alongside the non-Muslims...for it is not lawful to fight Muslims under any circumstance. Furthermore, it is not lawful for him to fight against the *Kaafirs* if there is a treaty between them. Allah ﷻ says:

﴿But if they seek your help in the matter of religion, then it is your duty to help them, except against a people between whom and yourselves there is a treaty. And Allah sees what you do.﴾
(8:72)

If there is no treaty between Muslims and non-Muslims, it is appropriate for him to fight the *Kaafirs* alongside the Muslims. It may be incumbent upon him or praiseworthy according to his capability and situation.

If the Muslims were the ones who started the aggression and he was able to stop their oppression, then he should do so. Otherwise, he should not fight either side, and it is not lawful for him to help or aide anyone.

Second:

If those who are fought are non-Muslims...the following circumstances would apply:

a. There is a treaty between him and the side that is being fought. In this case it is not lawful to fight them, even if they had oppressed the others, for he must abide by the treaty.

b. If there is no treaty between him and those being fought, and the war was waged wrongfully by the *Kaafirs*...it is not lawful for him to fight them, even if he has pledged to help them, since it is not lawful to support and aide the wrongdoers, even if they are Muslims! Therefore, by right it is not lawful to do so when they are *Kaafir*.

If the oppression is from the opposing party of *Kaafirs*, he should fight with them against them if he has agreed to do so, for it is incumbent to fulfill treaties, and it is lawful if the Muslims would benefit...and it is unlawful if there is no benefit to be gained nor is there a treaty between him and the *Kaafirs*. It is not lawful to fight unless in the case of fulfilling vows and treaties or to benefit the *Deen*, or Muslims, and this is not the case here.

Sixth of all: It is lawful for a Muslim to work in public offices and in the parliament under three conditions:

a. The work that a person does there is lawful; for it is not lawful for a Muslim to work in unlawful fields in a Muslim country, so to do so in a non-Muslim country, by right is unlawful as well...so it is unlawful for a person to work in a wine factory, bank or pub.

b. Muslims would not be harmed by this work. It is lawful to work for a non-Muslim as long as that work would not harm him or his *Deen* or the Muslims such as working as a spy against Muslims whether they are individuals or governments, or working on weapons development for the non-Muslims...except if the Muslim studies in this field to gain experience to benefit the Muslims. Similarly it is unlawful to learn how to wage war ‘electronically’ against Islamic websites, and to learn the basics of warfare to harm the Muslims. If he would be able to benefit Muslims with this knowledge or position it would be lawful, such as being appointed as a

minister over religious affairs, or in charge of migration or a member of municipal affairs. He would be able to benefit Muslims through his position in this case.

c. That the position he has maintained does not require of him to do things which conflict with the *Shari'ah*, whether it be a thing which pertains to *Aqeedah* (creedal issues) such as taking part in polytheistic celebrations; or they pertain to acts of worship such as not performing prayer in the Masjid under the pretext of not being tolerant of other religions...whether or not they pertain to transactions such as approving of usury based transactions or in the field of mannerisms such as forcing Muslim women to remove their *hijab*¹⁰ during work.

Seventh of all: Taking part in elections is lawful whether or not these elections are federal, municipal or local. It may even be compulsory upon Muslims to take part, whenever a benefit is sought from these elections or an evil would be waived. This is considered from ordering with the good and forbidding evil.

Eighth of all: To abide by the laws of non-Muslim countries...this differs according to the type of law.

a. If the law does not conflict with *Shari'ah*, such as the laws that relate to traffic order, issuing permits, respecting the rights of others and their properties, a

¹⁰ Hijab is the women's head cover.

Muslim must abide by these, for he resides in a country, and he must abide by these things. Allah ﷻ says:

﴿O you who believe! Fulfill your compacts.﴾ (5:1)

b. They conflict with the laws of *Shari'ah*...if he can avoid them, such as unlawful transactions, he should avoid them...he would not be harmed for the fact that they are present in his community. Allah ﷻ says:

﴿O you who believe! Be heedful of your own selves. He who goes astray cannot harm you when you yourselves are rightly guided.﴾ (5:105)

If he cannot avoid these things...he should look at the reason that brought him to the *Kaafir* country. If he chose to move to the *Kaafir* country, then it is not lawful for him to remain there...and he must migrate from it. If he is forced and has no other way, he should fear Allah as much he can and avoid these transactions. Thereafter, whatever he falls into would be considered a necessity, and dire needs legalize unlawful things.

Ninth of all: The scholars are at variance regarding seeking the help of *Kaafirs* in *Jihad*. Majority of the people of knowledge stated that it is not lawful. Their proof is the Hadeeth of A'ishah ؓ in which a polytheist said to the Prophet ﷺ: 'I want to fight with you and get the booty.' The Prophet ﷺ said to him:

'Do you believe in Allah and His Messenger?' He said: 'No' so the Prophet ﷺ said to him: 'Go back, for I will not use the help of a polytheist.' (Muslim)

In another Hadeeth narrated by Ahmed¹¹ the Prophet ﷺ said:

‘We do not seek the help of polytheists against polytheists.’

Other scholars stated that it was lawful for Muslims to seek the help of polytheists in this regard under three conditions:

- a. The necessity of seeking help from others.
- b. The one whom Muslims seek help from are not a people of treachery, such that they would not betray the Muslims or spy on them.
- c. The Muslims are more in number and possess more weapons than those they seek help from. The proof of this is that the Prophet ﷺ sought the help of Safwaan b. Umay'yah in the Battle of Hunain and he was a polytheist. He borrowed his armor and took him along with him.

¹¹ i.e. Imam Ahmed b. Hanbal, may Allah have mercy on him. He was a great scholar and compiler of Hadeeth.

Rules that are Pertinent to Non-Muslims in Money Transactions

First of all: It is lawful for Muslims to do business with non-Muslims, such as bartering, and all other transactions. The laws applicable to Muslims in this regard are also applicable to non-Muslims as well.

Second of all: It is lawful for a Muslim to open a company with *Dhimmi*, *Mu'aahd* or *Mosta'min* as a business partner...under the condition that the Muslim can ensure that *Shari'ah* is upheld, and that all dealings are done accordingly. He should not allow his non-Muslim partner to use the money as he wishes unless close supervision is maintained, so that he would not use the money in an unlawful manner.

Third of all: It is not lawful for a Muslim to engage in un-Islamic transactions such as usury and gambling. Nor should he deal with him in unlawful things such as drugs and the like, for this would lead to spreading evil on earth, and Allah does not like evil.

Fourth of all: People of knowledge have differed whether it is lawful for a Muslim to overbid after the sale has been concluded to a non-Muslim, such that the non-Muslim and the seller have agreed on a certain price, and before taking the money, someone offers a higher price. They also differed regarding the case where an individual

sells an item at a bargain to a certain individual; thereafter another seller comes and agrees with the seller to buy it.

The preponderant opinion is that it is lawful regardless if the non-Muslim is a *Dhimmi* or otherwise; for the original state in this is that it is lawful. The prohibition mentioned¹² relates to Muslims overbidding and outselling their brothers...A *Kaafir* cannot be considered a brother to a Muslim, since the meaning of brotherhood in this instance is the brotherhood of Islam.

Fifth of all: It is lawful to loan a non-Muslim and to take loans from them. It has been authentically affirmed that the Companions during the Prophet's life used to take loans from the Jews in Madinah and the Prophet ﷺ agreed with them...In order for this to be correct, the following conditions are to be met:

- a. The loan is usury free.
- b. The Muslims would not be harmed by this.
- c. The Muslim would most likely retrieve his loan, if the Muslim is the one who is loaning.

Sixth of all: It is lawful for a Muslim to deputize a non-Muslim as long as the following conditions are met:

- a. Deputizing a non-Muslim would not be tantamount to giving him authority over a Muslim, such as deputizing a non-Muslim to divorce his wife on his

¹² Abu Hurairah ؓ said that the Messenger of Allah ﷺ forbade that one should urge somebody to return the goods to his brother so as to sell him his own goods. (Bukhari)

behalf, or taking care of his children, or to have authority over an Islamic endowment, or to execute his will, or to divide his inheritance, or to appoint him as a judge among Muslims. Allah ﷻ says:

﴿And never will Allah allow those who deny the truth to harm the believers.﴾ (4:141)

b. He should not deputize him to perform acts of worship on his behalf (wherein deputization is lawful); such as slaughtering a sacrificial animal, to lead prayers, call *adthan* (call to prayer) or offer the Friday Sermon. These acts of worship are not accepted from a non-Muslim. Allah ﷻ says:

﴿And nothing hinders their spending being accepted from them, except that they disbelieve in Allah and in His Messenger.﴾ (9:54)

c. A Muslim should not deputize a non-Muslim to do unlawful things on his behalf...such as ratifying a contract of usury, or to do something unlawful such as to buy liquor for him. Also one should not deputize a non-Muslim in things a Muslim can solely do, such as officiating his marriage or buying a Muslim slave.

Seventh of all: It is lawful for a Muslim to borrow things from a non-Muslim and to loan him things, such as books etc, as long as he is not a warring infidel. This is considered from *Ihsaan* (kindness and generosity) and is lawful to be shown to them. A condition on the item that

is lent to the non-Muslim must be present, such that it is lawful for a non-Muslim to benefit from it, such as a car, and a computer. On the other hand, if the item is not among those things that are lawful to be lent to non-Muslims, then it is unlawful...such as a *Mushaf* (Qur'an) and a Muslim slave.

Eighth of all: It is lawful for a Muslim to accept the trust-items of non-Muslims, and to entrust them with Muslims trust items. If non-Muslims are given trust items; besides the condition of being non-warring infidels they must be trustworthy, and it is almost certainly thought they would not betray the trust.

Ninth of all: It is lawful for a Muslim to accept and exchange gifts with non-Muslims. The Prophet ﷺ accepted the gift of al-Moqoqas, King of Egypt, which included the slave girl Maariyah, the Coptic. Umar رضي الله عنه gave his polytheist brother a silk garment, which the Prophet ﷺ had given him.

Tenth of all: The wealth of non-warring infidels which Islamic law has approved of are considered respectable property which is unlawful to destroy, even if it is among those things a Muslim is not allowed to hoard or keep under his possession like liquor. As for the wealth of the warring infidels, it is lawful for Muslims to destroy it as long as this is a beneficial course of action. Allah approved of the Prophet's actions and that of his

Companions when they cut down the date-palms of Bani Nadheer during the Battle of Khaibar. Allah ﷻ says:

﴿Whatever palm-tree you cut down or leave standing upon its roots, it is by Allah's command, and that He may abase the transgressors.﴾ (59:5)

Eleventh of all: The foundling of a non-Muslim has a right on the Muslims who found him...that is, to take care of him in similar manner as the foundling of a Muslim. Allah ﷻ says:

﴿And surely We have honored the children of Adam.﴾ (17:70)

He is considered a Muslim when he utters the two *Shahaadah* (Testimonies of Faith) after he reaches the age of discretion, which is usually at seven years.

Rules that are pertinent to non-Muslims in Inheritance

First of all: The preponderant opinion is that a Muslim cannot inherit a non-Muslim even if he is related to him through lineage, marriage, or emancipation. The proof of this is the words of the Prophet ﷺ:

'A Muslim cannot inherit a *Kaafir*, and a *Kaafir* cannot inherit a Muslim.' (Bukhari)

Second of all: If non-Muslims ask us to judge between them in matters pertaining to inheritance, we should divide their inheritances and estates according to the laws of Islam. In this circumstance non-Muslims who come to Muslims to settle their disputes in this regard are from one of the following categories:

- a. The deceased and the heir adhere to the same religion...in this case; the inheritance is to be divided as it is divided amongst Muslims.
- b. The deceased and the heir do not adhere to the same religion. For example, the deceased is a Christian, and the heir is a Jew. The scholars in this matter have differed and hold three opinions:

First Opinion: Non-Muslims who are adherents of different religions do not inherit from each other. The proof of this is the words of the Prophet ﷺ:

'No two adherents of different religions would inherit (from each other).' (Ahmed, Abu Dawood, Nasa'ee)

Second Opinion: They would inherit from each other regardless of the difference of religion, as long as they reside in countries whose relationship is friendly, for the *Kufr* is one nation. Allah ﷻ says:

﴿And (as for) those who disbelieve, some of them are the guardians of others.﴾ (8:73)

Third Opinion: People of the Book would inherit from each other (i.e. Jews and Christians) since they are people who received a Divine Scripture. Non-Muslims who are not from the People of the Book would not inherit from those who are since this common factor is missing.

Any of the above three opinions may be put into application since there is no decisive proof to determine the preponderancy of one of these opinions.

Rules that pertain to non-Muslims in Family Relations:

First of all: It is not lawful for a Muslim to look at a non-Muslim woman unless he is considered her male *Mahram*¹³; the proof of this is taken from the generality of the words of Allah:

﴿Say to the believing men that they cast down their looks and guard their private parts; that is purer for them; surely Allah is aware of what they do.﴾
(24:30)

It is not lawful for a Muslim to touch or shake the hand of a non-Muslim woman (or even a Muslim woman), for the Prophet ﷺ said:

'It is better for a man to have an iron nail stabbed into his head than touch a woman who is not lawful for him.' (Tabraani –authentic as stated by Sheik Al-Albani, may Allah have mercy on him)

It is lawful to look at a woman under certain circumstances, such as looking at a woman before marriage, or for a judge or witness, or a doctor.

As for a Muslim woman, it is lawful for her to look at a non-Muslim woman and vice versa. Some scholars are of the opinion that a Muslim woman should not display her adornment to a non-Muslim woman.

¹³ *Mahram*: a male escort such as a husband, or one of the woman's male siblings who are not lawful for her to marry.

Second of all: A non-Muslim has no guardianship over his female relative in terms of marriage. Allah ﷻ says:

﴿And never will Allah allow those who deny the truth to harm the believers.﴾ (4:141)

Her guardian in this condition is her Muslim relative, and if she has no Muslim relative then the Muslim ruler or his representative such as a judge or head of a Muslim community, would be considered her guardian. If this is not possible then she should deputize a good Muslim as her guardian in this regard.

Third of all: It is not lawful for a non-Muslim to marry a Muslim woman...regardless if he is from the People of the Book or not. Allah ﷻ says:

﴿If you find them to be believing women, do not send them back to the unbelievers; neither are these (women) lawful for them, nor are those (men) lawful for them.﴾ (60:10)

Allah ﷻ says:

﴿And do not give (believing women) in marriage to idolaters until they believe.﴾ (2:221)

Fourth of all: It is not lawful for a Muslim to marry an infidel who is not from the People of the Book. Allah ﷻ says:

﴿And do not marry idolatresses until they believe.﴾ (2:221)

A Muslim should avoid marrying a woman from the People of the Book, due to the dangers that ensue from it; yet if he wants to marry from them, it is lawful. Allah ﷻ says:

﴿This day (all) the good things are allowed to you; and food of those who have been given the Book is lawful for you and your food is lawful for them; and the chaste from among the believing women and the chaste from among those who have been given the Book before you (are lawful for you when you have given them their dowries, taking (them) in marriage, not fornicating nor taking them as mistresses in secret.﴾ (4:5)

There are five conditions which must be met in order for it to be lawful for a Muslim to marry a woman from the People of the Book:

- a. She must be *Muhsanah* (i.e. chaste).
- b. The marriage is concordant to *Shari'ah* law.
- c. The father must not fear non-Islamic things to arise from this contract, such that the children would be under the jurisdiction of the mother, or the mother adheres staunchly to her religion, and teaches her children, or she takes her children to the church or synagogue...this is a great danger which the children would suffer from...such that they would be satisfied with disbelief after belief.

- d. The conditions pertinent to the marriage contract must be met, which are:
 - 1. Both husband and wife are happy with the marriage...the wife must be aware that this is an actual marriage and not an illicit relationship.
 - 2. The guardian of the wife must be present.
 - 3. Dowry must be offered by husband to the wife.
 - 4. Two witnesses must be present to attest to the marriage.
 - 5. The approval of the wife's guardian, such that he says: 'I have married you so and so who is under my guardianship.' And the approval of the husband, such that he says: 'I agree to this marriage.'
- e. No debarment of marriage should be present...such that she is in her waiting period. A Muslim who is marrying a non-Muslim matron should make sure that she has waited the appropriate period. If she was divorced her waiting period (if she is pregnant) ends with delivery of the baby. If she is not pregnant then she should wait for three menstrual periods. If her husband died, then she should wait for four months and ten days.

Fifth of all: The Muslim husband should live with his wife righteously. He should be just and kind to her as he

would behave with his Muslim wife. It is permissible for him to love her the way a husband would love his wife. This love is not considered love for her *Deen*...He should call her to Islam, since this is considered as ordering with the good and forbidding evil, and is incumbent upon all Muslims, each according to their ability. He can order her to purify herself, and can ask her to remove extra hair. He may also order her to take a bath, for this would give him complete pleasure, and it is a right she owes him, and she must obey him in this matter.

Sixth of all: If a Muslim divorces his wife who is from the People of the Book, she must observe a waiting period of three menstrual bleedings. If she is pregnant then the waiting period ends with child-birth. She must observe this period before marrying anyone else similar to a Muslim woman. She must also observe *ihdaad* (avoid all means of beautification) after his death, if she is still married to him. Both observance of the waiting period and *ihdaad* are exclusive rights the wife owes to the husband.

Seventh of all: Upon divorce or separation of any kind between husband and wife, custody of children is given to the father since they are Muslims and he is a Muslim as well. Allah ﷻ says:

﴿And never will Allah allow those who deny the truth to harm the believers.﴾ (4:141)

Eighth of all: Islam acknowledges marriage contracts of non-Muslims...and they are not requested to renew them if they accept Islam, for the Prophet ﷺ approved and acknowledged of marital contracts of non-Muslims whether or not they were from the People of the Book upon accepting Islam, and he did not render them null and void.

If they accept Islam together, their marriage is correct and they may continue their marital life together. If the man accepts Islam before the woman, and she is from the People of the Book, their marriage is correct and they can continue their marital life. But if they are not from the People of the Book, and he did not have an intercourse with her, their marriage would be rendered null and void, without any need to utter the divorce. If one of them accepts Islam after the consummation of the marriage, the marital condition would depend on the waiting period, whether it is by child birth (in case the wife is pregnant) or three menstrual periods. If she accepts Islam during that period, she would remain his wife, and the contract would not have to be renewed. If the waiting period has passed, and she has not accepted Islam, their marriage would be rendered null and void...the period is considered from the time the husband accepts Islam. Allah ﷻ says:

﴿And hold not your matrimonial ties with the disbelieving women.﴾ (60:10)

And Allah ﷻ says:

﴿And marry not idolatrous women until they believe.﴾ (2:221)

If the wife accepts Islam before the husband, whether she is from the People of the Book or not, the ruling previously mentioned regarding a man who accepts Islam and his wife is not from the People of the Book is applicable here, with the same detail. Allah ﷻ says:

﴿Then if you find them true believers, send them not back to the disbelievers. These women are not lawful for them, nor are they lawful for these women.﴾ (60:10)

Rules that are pertinent to non-Muslims in Castigations, retaliatory and normal punishments

First of all: If a non-Muslim (who is legally in a Muslim country) does an action which necessitates a retaliatory punishment the choice is given to those who have been harmed, to demand the punishment, ask for blood-money, or pardon the individual. If the non-Muslim killed a Muslim, the guardians of that individual would be given the choice (from the above choices). If a non-Muslim harms a Muslim by amputating one of his limbs such as his leg or poking his eye out, the one harmed would be given the previous choices. If a person is harmed in such a way that no retaliation of same nature can be instituted, then the individual who is harmed would be given the choice between the blood-money and pardoning the individual. In this matter the non-Muslim is treated like a Muslim. Allah ﷻ says:

﴿And therein We prescribed for them: A life for a life, and an eye for an eye, and a nose for a nose, and an ear for an ear, and a tooth for a tooth, and for other injuries equitable retaliation. And whoso waives the right thereto, it shall be an expiation for his sins.﴾ (5:45)

And Allah ﷻ says:

﴿O you who believe! Equitable retaliation in the matter of the slain is prescribed for you: the free man for the free man and the slave for the slave,

and the female for the female. But if one is granted any remission by one's brother, then pursuing the matter for the realization of the blood-money shall be done with fairness and the murderer shall pay him the blood-money in a handsome manner.﴾

(2:178)

Second of all: If a Muslim harms a non-Muslim whether he be a *Dhimmi*, or a *Mosta'man* by either wounding or killing him, he would have certainly accumulated a grave sin. The Messenger of Allah ﷺ said:

'Whoever kills a *Dhimmi* or *Mu'aahid* would not smell the scent of *Jannah*.' (Bukhari)

This individual would also be deserving of punishment, and he must pay the blood-money to him...but he is not to be killed or wounded. The Messenger of Allah ﷺ said:

'A Muslim is not to be killed for a *Kaafir* (in retaliatory punishment).' (Bukhari)

Similarly, if a *Dhimmi* kills a warring infidel, who deserves a castigatory punishment, he would not be punished, and he does not have to pay blood-money, nor atonement, for he killed a warring infidel whose life is not respected.

Third of all: The preponderant opinion is that the *diyyah* (blood-money) of an inviolable person from the People of the Book who is killed unintentionally is half the *diyyah*

of a Muslim. If a man is killed, then the blood-money would equal to half of a male's...and if a female is killed, then the blood-money is equal to half of a female Muslim's. The proof of this is in the Hadeeth of the Prophet ﷺ which is narrated by Amr b. Shu'aib on the authority of his father on the authority of his grandfather that the Prophet ﷺ set the blood-money of a person from the People of the Book as being half of a Muslim's. (Ahmed)

If a person from the People of the Book is murdered and it was premeditated and the murderer is a Muslim...Imam Ahmed was of the opinion that the blood-money would be doubled and thus would equal that of a Muslim's. This also has been mentioned on the authority of Uthman b. Affan ؓ...Majority of the people of knowledge are of the opinion that it should not be doubled.

Fourth of all: If a non-Muslim, *Dhimmi* or *Mu'aahid*, committed a crime in a Muslim land which necessitates a castigatory punishment -first of all- the nature of the crime has to be assessed; if it is something that Islam acknowledges for them in their religion such that they can practice it privately, such as consuming liquor, they would not be punished. On the other hand, if the individual openly displays this sin, it is lawful to punish him with an appropriate punishment which would prevent him from doing it again. If the sin is a thing which Islam has not acknowledged for them, such as

fornication, he would be punished with the castigatory punishment of fornication. Allah ﷻ says:

﴿**The fornicatress and fornicator –flog each one of them with a hundred lashes.**﴾ (24:2)

In the Hadeeth of Ibn Umar رضي الله عنه the Prophet ﷺ stoned two Jews (to death) who had engaged in adultery in Madinah when they raised the issue to the Prophet ﷺ. (Agreed Upon)

Similar to this crime is, is the crime of theft and slandering chaste woman of illicit relations.

It is necessary to clarify here that some scholars do not necessitate establishing any castigatory punishment upon them, except if they raise their issue to Muslim courts, or the one who is harmed by them is a Muslim. If the matter is between them, and no Muslim is involved, and they did not raise their issue to us...judging between them in this instance is not a must, nor is establishing any castigatory punishment against them.

Fifth of all: If a Muslim harms non-Muslims whether he is a *Dhimmi* or *Mo'aahid* with a thing that necessitates a castigatory punishment, such as fornicating with a woman from the People of the Book or sodomizing one of them, or stealing their respected property; the Muslim would be punished with a castigatory punishment. He would receive similar punishment were it to be committed against a Muslim. If he blames their chaste women of committing fornication, engaging in illicit relations or sodomy, it would not be necessary to punish

the Muslim with castigation; but he should be disciplined to stop him from talking about them and harming them.

Sixth of all: No castigatory or retaliatory punishment can be established upon a Muslim while he is living in a non-Muslim country, whether or not this country is at war with Muslims or not. Although, the punishment would not be waived in that case...rather it would be delayed until he comes to a Muslim country and there he would be punished accordingly, as long as all the conditions are observed. This is the preponderant opinion. The proof of this if it occurs in a country which is at war with Muslims is the Hadeeth of Bishr b. Abi Ar'ta'ah that a man was brought who had stolen during the battle, and he said: 'Had it not been for the fact that I heard the Messenger of Allah ﷺ saying: **'Do not cut hands-off during battle.'** I would have chopped your hand off. (Abu Dawood)

Sa'eed b. Mansoor narrated that al-Ahwas b. Hakeem said that his father said that Umar instructed the head of the army and battalion to not lash anyone therein while they are fighting, so that he would not be affected by Satanic desires and join the infidels. Abud Dardaa ؓ and Hudhaifah b. al-Yamaan ؓ also narrated similar to this Hadeeth.

So if this is the ruling that pertains to Muslims who are in battle while they are under Muslim control...then by right this ruling should be put into effect regarding the Muslims who live in a *Kaafir* country which is at war with Muslims.

Furthermore, if a Muslim commits a crime that is punishable in Islam with castigatory punishment in a non-Muslim country which is friendly to Muslims...and they have no authority to establish any such punishment or to rule by the laws of Allah...or the non-Muslim country considers establishing these punishments outside of its judicial courts a crime; then in this case, a Muslim should not do things which would make them liable for punishment. Therefore, these necessary castigations should not be implemented in a non-Muslim country due to the fact that Muslims are incapable of establishing them.

The proof that the castigation is to be established upon the criminal when he enters a Muslim country is from the general proofs that necessitate establishing castigations against criminals. In this case, the castigation was delayed due to a circumstance, similar to delaying some duties (incumbent) upon a Muslim due to sickness.

Rules that are pertinent to animals slaughtered by non-Muslims and their foods

First of all: Non-Muslims foods other than meat products which must be slaughtered according to *Shari'ah* are Halal (lawful)...such as fish, vegetables, fruits and things that are processed and made from these products. The prime condition here is the same condition that is considered in Muslim foods, such that it is lawful and pure. Since there are no proofs which point to its prohibition, these foods remain in their original state of purity and lawfulness. Allah ﷻ says:

﴿He it is Who created for you all that is in the earth; then He turned towards the heavens, and He perfected them as seven heavens; and He knows all things.﴾ (2:29)

Second of all: It is unlawful to eat animals that are slaughtered by non-Muslims. Allah ﷻ says:

﴿And eat not of that on which the name of Allah has not been pronounced, for surely that is disobedience.﴾ (6:121)

Animals slaughtered by Jews and Christians are excluded from this ruling. It is lawful to eat of what they slaughter under the condition that they slaughter according to Islamic *Shari'ah* if the animal has to be slaughtered, such as a sheep, such that they cut its throat with a knife and sever the animal's windpipe, food-tract, and two jugular veins. If the sacrificial animal is a camel

it should be killed with a spear, until the blood flows out of it. Allah ﷻ says:

﴿This day all good things have been made lawful for you. And the food of the People of the Book is lawful for you, and your food is lawful for them.﴾
(5:5)

If the animal is killed in any other way it is considered a *Mai'tah*¹⁴ and is unlawful to consume. Similarly, if a Muslim slaughters in a way other than what the *Shari'ah* specifies, it is unlawful. On the contrary, the illegality of a non-Muslim's animal which is killed in this method is more intense than the Muslim's, as he kills an animal in a non-Islamic method, so this is a non-Muslim's *maitah*.

A Muslim would be categorized in one of three categories according to his knowledge of how animals are slaughtered by non-Muslims.

- a. If he is sure or almost certain that the animal was slaughtered in a non-Islamic manner, it is not lawful to eat from it.
- b. If he is sure or almost certain that the animal was slaughtered in an Islamic manner, it is lawful to eat from it.
- c. If he is doubtful and uncertain regarding this...he may eat from it, since the original state in this matter is that they are lawful to eat, but it is an act of piety to avoid consuming this.

¹⁴ *Maitah*: A dead animal. i.e. the animal which has not been slaughtered in the manner prescribed by the Islamic Law.

Rules that are pertinent to non-Muslims in Judicial laws and Evidences

First of all: It is not lawful for a non-Muslim to assume a vital post in a Muslim country such as ruler, minister, or judge. Similarly, it is not lawful for a non-Muslim to assume a lesser position such as head of an administration, whether this post is a civil or military one. Allah ﷻ says:

﴿And never will Allah allow those who deny the truth to harm the believers.﴾ (4:141)

Furthermore, these positions require the individual who assumes them to be strong and trustworthy. A non-Muslim is not trustworthy when he is put in charge of Muslims interests. This matter has been unanimously agreed upon by the People of Knowledge. As for normal jobs, it is lawful to hire them, as long as it serves the best interest of the Muslims, and they would not be harmed...whether or not this job has no authority such as a doctor, architect, engineer, hard laborer or the like...or jobs that have a certain degree of authority such as a trainer in the private sector or for the military.

Second of all: If a non-Muslim raises a complaint against a Muslim it would be accepted and listened to. It is a must upon the judge who judges between them to rule with justice, as he would between Muslims in general. Allah ﷻ says:

﴿And if you judge, judge between them with justice. Surely, Allah loves those who are just.﴾
(5:42)

Third of all: The testimony of a non-Muslim against a Muslim is not accepted in a judicial court of law...since the condition for its acceptance is that the individual be trustworthy. A non-Muslim is not trustworthy...as for their testimonies against each other, the scholars are at variance regarding this...possibly the preponderant opinion in this issue is that it is accepted, regardless whether the one giving the testimony is from the same religion as the one who he is testified against or not. Furthermore, it may be difficult to find a Muslim who would attest and testify for them in their disputes due to the limited interaction with Muslims. If their testimony is not accepted among them, this would lead them to losing their rights, which is unlike the Muslims who would easily find someone to testify for or against him from the Muslims.

Fourth of all: When a non-Muslim takes an oath in a dispute, it would be accepted from him. The proof of this is in the Hadeeth of Ibn Abbas ؓ:

'The Prophet ﷺ had given the verdict that the defendant had to take an oath.' (Bukhari)

In the Hadeeth of al-Ash'ath b. Qais, that a dispute occurred between him and a Jew, regarding a piece of land, and this matter was taken to the Prophet ﷺ, and he

said to al-Ash'ath: **'Do you have a piece of evidence?'** He said: 'No' so the Prophet ﷺ told the Jew: **"Swear an oath."** (Bukhari)

But the non-Muslim should only swear an oath by Allah...the Prophet ﷺ said:

'Whoever swears an oath let him do so by invoking Allah or keep quiet.' (Agreed Upon)

The Judge should ask a Jew to take an oath by saying: 'I swear by the One who has revealed the Torah to Moses' and the Christian should say: 'I swear by the one who has revealed the Gospel to Jesus.'

The judge may be critical of the oath taken by a non-Muslim such as to force him to take an oath in a specific time and place which they magnify.

Finally, we praise Allah the *Rubb* of the Worlds, and may Allah exalt the mention of our Prophet and render him, his household, and Companions safe from every derogatory thing.

Khalid b. Muhammad al-Majid

23/4/1425H

Glossary

- 1. Aqeedah:** Creed.
- 2. Bid'ah:** An innovation; in this book it refers to religious innovations.
- 3. Fitnah:** Trial, strife and tribulation.
- 4. Hadeeth:** Prophetic Tradition.
- 5. Hudood:** Castigatory punishments in Islam.
- 6. Hukum:** Ruling.
- 7. Ijtihaad:** In general, it is the exertion of effort. In this book it refers to exertion of one's effort to reach a ruling in an issue. Ijtihaad is specific for the scholars; since issuing rulings and verdicts in Islam is not the duty of every individual.
- 8. Iman:** Belief.
- 9. Jannah:** This is the heavenly abode which Allah grants the pious slaves in the Hereafter. It is mistranslated as 'Paradise'.
- 10. Kaafir:** pl. Kuf' faar, a disbeliever.
- 11. Kufr:** Disbelief.

12. Mahram: a male escort such as a husband, or one of the woman's male siblings who are not lawful for her to marry.

13. Maitah: A dead animal. i.e. the animal which has not been slaughtered in the manner prescribed by the Islamic Law.

14. Shari'ah: Islamic Jurisprudential Law.

15. Shirk: Associating partners with Allah.

16. Sunnah: Has more than one meaning. It may refer to:

- a. Prophetic Traditions.
- b. Rulings; i.e. it would then mean that the act is an act endorsed by the Sunnah.
- c. or to signify that an act is praiseworthy.

17. Taqwah: Piety.

18. Ummah: Nation.

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