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**THE POSITION AND RIGHTS OF *KAFIR DHIMMIS* UNDER  
THE ISLAMIC CRIMINAL LAW**

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Academic Project Report submitted in fulfillment for the degree of  
BACHELOR OF SYARIAH AND JUDICIARY

Perpustakaan KUIM



1000012335

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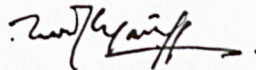
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## AUTHOR DECLARATION

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## ACKNOWLEDGEMENT

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

*Alhamdulillah*, first of all, the researcher would like to express her thousand gratitude to Allah S.W.T who has given her physical and spiritual strength, which without His assistance this paper would not accomplish. She also would please to thank the Faculty of Syari'ah and Law, Islamic University College of Malaysia (KUIM) for their guidance and advice in preparing this paper. The researcher also would like to express her sincere thanks to all lecturers in the faculty especially the respected learned lecturer Mr. Syed Salim bin Syed Shamsuddin as her supervisor, who has devoted his time to teach, guide and supervise her since the beginning of this paper up to its final stage.

In this opportunity, the researcher would like to express the deepest gratitude to various libraries such as the Library of Islamic University College of Malaysia (KUIM) itself, Library of Islamic Studies of University of Malaya (UM) Kuala Lumpur, Tun Sri Lanang's library of National University of Malaysia (UKM), Malaysian National Library, Library of International Islamic University of Malaysia and Islamic Center's Library Kuala Lumpur.

The heartiest gratitude also goes to the researcher's beloved mother Hajjah Wan Hasnah binti Wan Omar, who has been teaching, caring and guiding her without any tiresome. The everlasting thanks are also presented to her respected and beloved father Hj. Yusof bin Husin, her elder brothers and sisters, and her nephews for their devoted concern and love.

Thousand thanks are also given to Ustaz Lili Yulyadi, who has willingly given his assistance and spented his time in translating this research up to its final. Last but not least, the deepest gratitude presented to the researcher's colleagues and friends who have directly or indirectly supported and contributed to her paper till its final stage. Indeed their help and cooperation and sacrifices are very much appreciated. May Allah S.W.T reward their sincere help and contribution.

## ABSTRAK

Penulisan ilmiah ini adalah merupakan satu usaha untuk menjelaskan dan memberikan gambaran sebenar kedudukan kafir Zimmi sebagai *non-Muslim* di dalam sebuah negara Islam. Perbincangan menyeluruh penulisan ini telah menekankan kepada kedudukan dan hak-hak kafir Zimmi di bawah undang-undang jenayah Islam. Kedudukan ini dilihat melalui pendefiniasian kafir Zimmi dari segi bahasa dan istilah serta daripada dalil-dalil yang telah digariskan menurut al-Qur'an dan al-Sunnah dan juga amalan sahabat. Kedudukan kafir Zimmi juga telah ditinjau dari perspektif Islam itu sendiri yang menerangkan bahawa kafir Zimmi merupakan sebahagian daripada warga bukan Islam yang berada dalam negara Islam yang perlu diberikan perhatian dan keistimewaan khusus. Hak-hak keistimewaan yang diberikan oleh negara Islam kepada kafir Zimmi ini mencakupi hak dalaman ataupun luaran sebagaimana yang dinikmati oleh umat Islam, dengan menyentuh kepada aspek politik, ekonomi dan juga sosial. Penulisan ini juga membentangkan khusus mengenai undang-undang berkaitan jenayah terhadap kesalahan-kesalahan yang melibatkan kafir Zimmi dalam negara Islam. Perbincangan ini meliputi kepada pengertian jenayah itu sendiri yang menjadi satu aspek penting dan asas kepada tindakan jenayah terhadap kafir Zimmi. Ini dilihat juga dari sudut pembahagiannya dalam undang-undang jenayah Islam. Tiga aspek yang diutarakan terhadap golongan kafir Zimmi adalah berkaitan qisas, hudud dan juga ta'zir. Ketiga-tiga aspek ini menjelaskan secara terperinci kepada bentuk-bentuk hukuman dan juga perlaksanaan dalam Islam yang dikenakan terhadap kafir Zimmi yang melakukan kesalahan-kesalahan jenayah. Perbincangan ini diakhiri dengan satu rumusan dan dapatan dari penulis bahawa sesungguhnya negara Islam begitu menitikberatkan dan bertanggungjawab dalam melindungi kedudukan dan hak-hak kafir Zimmi yang berada di bawah kerajaannya. Kedudukan dan hak-hak ini dilihat dari setiap aspek termasuklah di bawah aspek undang-undang jenayah Islam itu sendiri. Hakikat dan kebenaran ini amatlah jelas dalam meningkatkan lagi gambaran dan kefahaman sebenar kita terhadap negara Islam dan undang-undang Islam itu sendiri yang berperanan dalam menjamin sesebuah kehidupan bermasyarakat yang unggul.

## ABSTRACT

This study attempts to discuss the position of dhimmis as non-Muslims in an Islamic state. The discussion devotes the position of dhimmis and their rights under the Islamic criminal laws. In this study, dhimmi has been defined in its literal and technical meanings with the ample of direct evidences from the Qur'an, Sunnah and the early companions practices. According to the Islamic perspective, dhimmis are considered as non-Muslim citizens in an Islamic state, who suppose to be given special attention and privileges. Their privilege rights, which should be granted, include internal as well as external rights as they have been enjoyed by Muslims citizens such as political, economics and social rights. This study also presents criminal laws for any blamable deeds done by dhimmis in an Islamic state. It defines crime as a significant and basic aspect of injustice towards dhimmis. The crime is also seen from its types in Islamic criminal laws. Basically three types of crime have been identified for dhimmis such as in the category of *qisas*, *hudud*, and *ta'zir*. These three categories of crime trigger specific form of punishment and its implementation for dhimmis, who committed crime in an Islam state. Finally the writer finds that indeed an Islamic state emphasizes and being responsible in protecting the position of dhimmis and their rights under the Islamic state. Their position and rights are seen from any aspects including an aspect of Islamic criminal laws. In fact this is very obvious that enhancing our deep understanding on Islam state and Islamic laws plays a significant role in granting the prestigious social life.

## ملخص البحث

هذه الدراسة تبحث عن موقف الذمي في الدولة الإسلامية, حيث أنها تكتف بموقف الذمي وحقوقه في القانون الجنائي الإسلامي. ومن أجل ذلك أوردت الباحثة في هذا البحث تعريف الذمي لغويا واصطلاحيا مع الأدلة الواضحة من القرآن والسنة وعمل الصحابة. يعتبر الذمي في الإسلام عضوا غير المسلمين في الدولة الإسلامية فتهتم حقوقه الفاضلة. وتحت هذه الحقوق هي الحقوق السياسية و الاقتصادية والاجتماعية. ولذلك قد يشعر الكافرون حقائق الإسلام في تطبيقها الإدارية في الدولة الإسلامية. ويمكننا أن نرد سوء فهمهم عن موقف الذمي ورعاية حقوقه. وهذا البحث أيضا يناقش ما يتعلق بالجنايات أو الجرائم التي يقوم بها الذمي. فتعريف الجريمة يكون أمرا مهما ليحكم من يقوم بما. فتتقسم الجريمة إلى ثلاثة أقسام في القانون الجنائي الإسلامي, وهذه الثلاث هي ما يتعلق بالقصاص والحدود والتعزير. وتؤدي هذه الجرائم الثلاث إلى أنواع العقوبات وتطبيقها في المجتمع الذمي الذي يرتكب بالجريمة. يختتم هذا البحث بالآراء التي وصلت إليها الباحثة أن الإسلام يهتم بموقف الذمي ورعاية حقوقه والسؤال من المسلمين. فلذلك ظهر لنا أن القانون الجنائي الإسلامي يراعي موقف الذمي وحقوقه. فبهذا المفهوم الصحيح لتلك الظاهرة يوضح لنا حقيقة دين الإسلام الحنيف وأحكامه الغراء وحقيقة الدولة الإسلامية وقوانينها للضمان على حياة المجتمع الفاضلة وسعادتها.

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## GLOSSARY

Al-‘ata’	Donation.
Al-dhimmah	Protection, care, custody, agreement and guarantee.
Amil	Who is responsible for the collection or distribution of <i>zakat</i> .
Aqidah	The Islamic faith and belief. It is the foundation of Muslim’s thinking.
Dhimmi	Non-Muslims, normally Jews, Christians and others, who have concluded a permanent agreement with a Muslim authority.
Hadd	Boundary, limit, barrier, and obstacle. A specific form of punishment laid down in the Qur’an.
Haram	Unlawful.
Hirabah	Robbery.
Hudud	Several specific crimes and punishments laid down in the Qur’an.
Hukm	Legal ruling.
Ijma’	General consensus of scholars, expressed or tacit, on matters of law and practice.
Jarimah	Crime.
Jizyah	It is a protection tax levied on non-Muslims living under Islamic rulers, confirming their legal status.
Kafir harbi	Hostile infidel.
Karahah	Reprehensible.
Kharaj	A type of taxes to the Dhimmis for protection assurance.
Kitabiyyat	Non-Muslim women from the People of the Book.
Millah	Religious community.

Naskh	Abrogation.
Qazf	Accuser of adultery.
Qisas	Retaliation.
Rajm	Stoning to death.
Riba	Usury.
Riddah	Apostasy.
Sariqah	Theft. Taking someone else's property by stealth.
Shari'a	Islamic Law: the two sources are the Al-Qur'an and the Al-Sunnah
Sunnah	Saying, deeds and approvals of the Prophet S.A.W.
Syurb	Drinking alcohol.
Ta'zir	To repeal and to prevent. Discretionary punishment for offences not amounting to <i>hudud</i> .
Takhsis al-amm	Specification of the generality.
Tasamuh	Transparent.
Ulama'	Plural of ' <i>alim</i> , Islamic scholars.
Ummah	The Islamic community, as defined by the adherence of its members to the Islamic revelation and the traditions of the Prophet S.A.W of Islam. By extension other religious communities are also known to Muslim as the <i>ummah</i> of different Prophets.
Zakat	One of the pillars of Islam is <i>zakat</i> , which means purification and increment of one's wealth. A Muslim who has money beyond a certain quantity is to pay <i>zakat</i> . It is also called the alms due or poor due. It is to be used in eight categories for welfare of the society that are mentioned in the Qur'an, namely: the poor, the needy, the sympathizers, the captives, the debtors, the cause of Allah, the wayfarers, and for those who are to collect it.
Zina	Adultery or fornication. Sexual intercourse between a man and a woman who are not, and do not suspect to be, validly married to each other.

## ABBREVIATIONS

H	Hijriah
M	Masihi
n.a	no author
n.d	no date
n.pb.	no publisher
n.pl.	no place
p.	page
R.A	radiallahu ‘anhu
S.A.W	salla Allah alayh wa sallam
S.W.T	subhanahu wa taala
Vol.	Volume

# CHAPTER I

# CHAPTER I

## CHAPTER 1

### RESEARCH BACKGROUND

#### 1.1 INTRODUCTION

In the name of Allah, most Gracious, Most Merciful. Praise be to Allah, Lord of the worlds, Him do I praise for all His favours, and from Him do I beg increase of His kindness and His generosity. May Allah's blessing and peace be upon the Prophet Muhammad S.A.W, upon the families and companions of him and upon all the believers.

An Islamic state is essentially an ideological state, and is thus radically different from a national state.<sup>1</sup> This statement made by Mawdudi lays the basic foundation for the political, economical, social and religious system of all Islamic countries which impose the Islamic law.

Basically, Islamic population was based on the Islamic *Aqidah* as the life concept for every Muslim. It is also as the source of *Hukm* and guidance in all daily matters, therefore *Aqidah* is the foundation of Muslim's thinking. People, who live in the Islamic state, can be divided into two, Muslims and non-Muslims, who are different in their beliefs and ideologies.

The issue that being raised nowadays is about the non-Muslims who lives in Islamic state. The main question that always been raised is who are the non-Muslims or what

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<sup>1</sup> Maududi, S. Abul 'Ala'. 1982. *The Rights of Non-Muslims in Islamic State*. Lahore: Islamic Publications.

is the definition of non-Muslims and also what are their position and rights in Islamic state? Besides that, the question also touch about their position and rights under the Islamic Law particularly Islamic Criminal Law.

Allah S.W.T says in the Qur'an:

" يَا أَيُّهَا الَّذِينَ ءَامَنُوا كُونُوا قَوْمِينَ لِلّٰهِ شُهَدَآءَ بِالْقِسْطِ وَلَا يَجْرِمَنَّكُمْ شَنَاٰنُ قَوْمٍ عَلَىٰ ءَلَا تَعْدِلُوا ءَعْدِلُوا هُوَ أَقْرَبُ لِلتَّقْوَىٰ وَاتَّقُوا اللّٰهَ إِنَّ اللّٰهَ خَبِيرٌ بِمَا تَعْمَلُونَ "

**Translation:** *O ye who believe! Stand out firmly for God, as witnesses to fair dealing, and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just: that is next to piety: and fear God. For God is well acquainted with all that ye do.*<sup>2</sup>

According to the verse cited above, this Qur'anic command shows a warning from Allah S.W.T to Muslims to avoid from any injustice to non-Muslims. Their blood and properties are to be respected and must be protected by the state and by their fellow Muslim citizens against any violation from any external or internal sources. This right is common to all citizens of the state, by virtue of the sanctity of the human blood and of the legitimate personal ownership guaranteed by Islam.

Allah S.W.T also says:

" يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللّٰهِ أَتْقَىٰكُمْ إِنَّ اللّٰهَ عَلِيمٌ خَبِيرٌ "

**Translation:** *O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise each other). Verily the most honoured of you in the sight of God is (he who is) the most righteous of you. And God has full knowledge and is well-acquainted (with all things).*<sup>3</sup>

<sup>2</sup> Al-Qur'an. Al-Ma'idah 5:8. (All Quranic translations in this writing is based on 'Abdullah Yusuf 'Ali. 1994. *The Holy Qur'an, Text, Translation*. Islamic Book Trust Kuala Lumpur: Percetakan Zafar Sdn. Bhd. Translations from other sources will be cited accordingly)

<sup>3</sup> Al-Qur'an. Al-Hujurat 49:13.

Yet, from the above verse, the Qur'an commands to all citizens of the state, Muslims and others, to treat each other equally in all legal cases: criminal or civil. Thus, non-Muslim citizens should not suffer any constraints or discrimination, nor should they be deprived of any of the services such as health, education, economic, or others.

According to the Muslim theory of international relations, the Muslim jurists have classified non-Muslims, in this respect, into four categories; they are *dhimmi*, *musta'min* or *musta'man*, *mu'ahad* or *halif* and *harbi*. In this research, the scope of discussion will be focused on the first category especially in term of the position and rights of *dhimmi* under the Islamic criminal law.

Therefore, the researcher divided the discussion into five chapters. The first chapter will discuss about the research background, and in the next chapter will be concerned on the position of *dhimmi*s in Islamic state. Then, chapter three will discuss about the rights of *dhimmi*s in Islamic state. Chapter four is about categories of crimes under the Islamic criminal law, and for the chapter five is about the punishment in Islam to *dhimmi*s.

In conclusion, the term "*dhimmah*" itself means protection and also guarantee of safety. Non-Muslims whose protection and safety are guaranteed known as *dhimmi*s because they get a guarantee from Allah S.W.T, from the Holy Prophet Muhammad S.A.W and also Muslim society who allow them to live under the Islamic state. Therefore, *dhimmi*s are allowed to practice their life and religion under the Islamic Law. The meaning of guarantee and protection here is they are having citizenship status similar with the Muslims such as fundamental liberties and rights in freedom of religion, rights of equality and rights to have property. Due to this fact, *dhimmi*s are responsible to keep and practice all of their rights peacefully in order to determine a peaceful society and successful development for the nation and the Islamic government especially.

Finally, the researcher hope Allah S.W.T blesses her effort in explaining the position of *dhimmi*s and their rights in Islamic Criminal Laws so that it will be taken into consideration by the related parties especially non Muslims. The researcher would

pray may Allah S.W.T gives His guidance and assistance so that these granted privilege rights will not be seen as negative efforts by the related parties.

## 1.2 STATEMENT OF THE PROBLEM

The status of non-Muslim in Islamic state under Islamic *Shari'ah* has been one of the most controversial subjects of the Islamic Law. It is because they are confused about their rights and positions under an Islamic State. This phenomenon will cause fear among the non-Muslims particularly of something relating to their position under the Islamic Criminal Law. In their perception also under the Islamic government there are no chances for them to have their rights. It is a fact that during the age of the Prophet S.A.W and the four Pious Caliphs there are two types of citizenship, either Muslims or non-Muslims. All of them had been treated equally based on the *Shari'ah* Law. Dhimmis, as a part of non-Muslims citizenship in Islamic state, have certain rights whenever they live in the state. The problem is how to decide their rights if they commit offences related to the crimes under the Islamic Criminal Law especially pertaining to the three categories of crime namely *hudud*, *qisas* and *ta'zir*. This is how the Islamic Law provides an alternative way to punish the dhimmis who make offences such as adultery, theft, liquor drinking and others. Hence, this research tries to present the position and rights of dhimmis in Islamic Criminal Law in such matter so as to prove it to be equivalent to contemporary concepts of citizenship and nationality.

## 1.3 OBJECTIVE OF THE STUDY

The objectives of this research are:

- 1) To know the position and rights of the dhimmis under the Islamic Criminal Law; and highlight their rights as a part of citizens under the Islamic government.

- 2) To show that Islam is a religion of justice, which proved by the principle “*There is no compulsion in religion.*” (Al-Baqarah 2:256)
- 3) To know the responsibility of Islamic state towards any aspects that related for the dhimmi as a part of citizen in Islamic country.
- 4) To discuss the criminal cases where *Shari'ah* treats the Muslims and dhimmis on different footing involved such offences which are exclusively grounded in religious belief, such as eating of pork, gambling and drinking of liquor.

#### 1.4 SCOPE OF THE STUDY

The researcher focuses this research especially to the dhimmis as a part of non-Muslims citizen in Islamic country. This research will be discussing several important elements about the dhimmis, which focus on the position and rights of the dhimmis under the Islamic Criminal Law. Hence, the researcher tries to prove their position and rights in Islamic state, by highlighting historical realities during the time of the Prophet Muhammad S.A.W and the governance of the fourth Pious Caliphs, Saidina Ali Ibn Abi Talib R.A. This topic will discuss the reality of Islamic state, the matters that related to the non-Muslims like dhimmis in this Islamic government as well as their citizenship and nationality. It also will discuss the meaning of the word “*dhimmi*” in literal sense and also from the *Syara'* perception. The researcher also looks at what the Quran and Hadith say about the word “*dhimmi*” and its position. We can see that some Muslims scholars, on the other hand, try to present the position and rights of the dhimmis in such a manner so as to prove it to be equivalent to contemporary concepts of citizenship and nationality under the Islamic Law especially focusing on the Criminal Law. Under this topic also the researcher tries to show the responsibilities of Islamic state to implement the Islamic punishments for the dhimmis, if they commit offences under the *qisas*, *hudud* and *ta'zir* punishment.

## 1.5 METHODOLOGY

In this research, the researcher uses few methods to collect the data. The methodology used to get the data is by secondary data or sources from magazines, daily newspapers, journals and also books on specific to this research. All of the secondary data or sources were used to complete this research. Besides that, in order to make the task easier, the researcher has collected the data and information through library research. Therefore, she made her researches by going to some libraries nearby such as the Islamic Centre Library, National Library, Public Library of Kelantan, and also from the IPTA libraries in Malaysia like IIUM, UKM, UM and KUIM itself. The researcher has also collected and analyzed the data by looking at theses and project papers from previous researchers, as well as articles from various web pages in the internet. Overall, the researcher has applied sources from general data, secondary data and also primary data in her research.

## 1.6 LITERATURE REVIEW

Maziah Hj Embong in her research entitled "*Kedudukan Kafir Dhimmi Dalam Negara Islam*"<sup>4</sup> deals with the position of dhimmis in Islamic state. It is about a group of non-Muslims focused on the dhimmis as citizens in Islamic state, also about their obligations and rights especially the guarantee of safety and rights of equality in the state. The research also explains the obligations and responsibilities of the dhimmis in the Islamic state such as they are obliged by law to pay *jizyah*. There is an action that will be imposed on the dhimmis to get certain rights as a guarantee of their safety to live and stay in this Islamic government. However, in this study, the researcher makes a different approach which focused on the position and rights of dhimmi under the Islamic Criminal Law.

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<sup>4</sup> Maziah Hj. Embong. 1986. *Kedudukan Kafir Dhimmi Dalam Negara Islam*. (Penulisan Ilmiah). Perpustakaan Universiti Kebangsaan Malaysia.

Besides, Abdul Qadir 'Oudah found in his book '*Criminal Law Of Islam*'<sup>5</sup> that there are some criminal cases where the *Shari'ah* treats the Muslims and dhimmis on different footing involved such offences which are exclusively grounded in religious belief, for instance, eating of swine's flesh and drinking of liquor. It is known that under the *Shari'ah* law drinking of liquor and eating of swine's flesh is unlawful. Thus, justice demands that this prohibition should be applied to the Muslims only, since they do believe in their unlawfulness. But to apply it to the non-Muslims who do not regard these things as unlawful would be wrong, inasmuch as enforcement of absolute equality would make non-Muslims accountable for acts that are not forbidden by their religion, and therefore it would be tantamount to sheer injustice. Hence, to meet the demands of justice the *Shari'ah* confines the above prohibition to the Muslims. According to this reality, the researcher however has focused the discussion about the judicial aspect where particular penalization should be imposed to the dhimmi under the Islamic criminal law.

On the other hand, in Journal Hamdard Islamicus, Sheikh Showkat Hussain in his article had examined the issue of "*Status of Non-Muslims In Islamic State*".<sup>6</sup> The status of non-Muslims subjects of an Islamic state under Islamic *Shari'ah* has been one of the most controversial subjects of the Islamic law in recent past. On one side there are Western writers in the book *War and Peace in the Law of Islam* according to whom, "A non-Muslim as a subject of Muslim state suffered certain disabilities which reduced him to the status of a second class citizen." Some Muslim scholars, on the other hand, try to present the position of non-Muslims in Islamic *Shari'ah* in such a manner so as to prove it to be the equivalent to contemporary concepts of citizenship and nationality. It may be safely concluded from the discussion that non-Muslims in an Islamic state enjoy a dual status one by virtue of being the subjects of the state and another by virtue of being the members of their religious communities. There are distinct rights and obligations flowing from the kinds of status. Whereas in this study, the researcher gives an explanation and elaboration for each rights that given to the

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<sup>5</sup> Abdul Qadir 'Oudah. 1991. *Criminal Law Of Islam*. New Delhi: International Islamic Publisher. Vol. 2.

<sup>6</sup> Sheikh Showkat Hussain. 1993. "Status of Non-Muslims In Islamic State". *Journal Hamdard Islamicus*. Hamdard Foundation Pakistan: Bait al-Hikmat. Vol. 16. No.1.

dhimmis such as in economy, education and their dignity. From this explanation, it is shown and proved that the position of dhimmis is similar with the Muslims.

Meanwhile, Dr. Abdul Rahman Awang in his book '*The Status of The Dhimmi In Islamic Law*'<sup>7</sup> tries to present the status of the dhimmis under the Islamic Law. Any discussion of the concept of dhimmis involved some aspects of the Islamic law of nations. For the dhimmi's judicial status, position as well as his rights in all major branches of Islamic, viz. criminal, family, and contract was surveyed. In criminal law, although its provision is clearly articulated, as to the modes of offence and its punishments, in the major texts of the Islamic law, the jurists nevertheless, in their interpretations of the law, in some cases are in disagreement in the course of its application vis-à-vis the dhimmi. For that reason, the researcher tries to spread out the positions and rights of dhimmi under the Islamic Criminal Law. The researcher furthers the discussion to the three types of Islamic Criminal Law namely *hudud*, *qisas* and *ta'zir*. For example, the researcher focused to six categories of *hudud* criminal that relate with dhimmi and punishment imposed for them.

Besides that, in the book of *The Criminal Law*<sup>8</sup> written by Prof. Dr. Anwarullah, discusses about the punishment in Islamic Law, it means the *hudud*. It presents us with a potential conflict between the specific rules and the overriding objectives of *Shari'ah*. It also discusses some specific issues and made suggestion as to the ways how this bill can be developed. On this research the researcher also discusses about the punishment for the crimes liable to *qisas*, *hudud* and *ta'zir* but focuses on the position and rights of the dhimmis under the Islamic Criminal Law. The researcher tries to elaborate the forms of punishment that should be imposed to the dhimmis in *qisas*, *hudud* and *ta'zir* offences according to the four schools opinion.

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<sup>7</sup> Abdul Rahman Awang. 1994. *The Status of The Dhimmi In Islamic Law*. Kuala Lumpur: International Law Book Services.

<sup>8</sup> Anwarullah. 1997. *The Criminal Law Of Islam*. Kuala Lumpur: A.S. Noordeen.

# CHAPTER II

## CHAPTER 2

### DHIMMIS IN ISLAMIC STATE

#### 2.1 MEANING OF DHIMMIS

##### 2.1.1 LITERAL MEANING

"*Al-dhimmah*" literally means protection, care, custody, security, inviolability, immunity, safeguard, guarantee, compact, pact and agreement.<sup>9</sup>

##### 2.1.2 TECHNICAL MEANING

The word dhimmis in technical meaning is those non-Muslims, normally Jews, Christians and others, who have concluded a permanent agreement with a Muslim authority. They pledge loyalty to the state, pay *jizyah* and become subjects of the Islamic state. In return, the state, by virtue of the agreement, affords them positive protection and security as to their lives (and family), property and religion.<sup>10</sup>

For example as Ali bin Abi Talib *Karramallahu Wajhah*, the fourth Caliph said: "The contract has been granted so that their properties (are to be considered) as our properties and their blood as ours." For this reason, the dhimmis are granted certain rights and their position in the Islamic state, from the very beginning, is unique. In

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<sup>9</sup> Rohi Baalbaki. 2001. *Al-Mawrid, A Modern Arabic English Dictionary*. Beirut, Lebanon: Dar El-Ilm Lilmalayin. p. 120.

<sup>10</sup> Abdul Rahman Awang. 1994. *The Status of The Dhimmi In Islamic Law*. International Law Book Services. p. 16.

return, they accept Islamic rule, pay *jizyah* and some other obligations towards the state.<sup>11</sup>

## 2.2 DHIMMIS IN THE LIGHT OF AL-QUR'AN AND AL-SUNNAH

### 2.2.1 DHIMMIS IN THE AL-QUR'AN

Actually there are so many proofs in the Holy Qur'an that touch about the dhimmis. Some of the particular proofs as mentioned by Allah S.W.T in the Holy Qur'an are as follows:

i) Allah says in the Qur'an:

" يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَىٰكُمْ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ. "

**Translation:** *O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise each other). Verily the most honoured of you in the sight of God is (he who is) the most righteous of you. And God has full knowledge and is well-acquainted (with all things).*<sup>12</sup>

ii) Allah had said:

" يَا أَيُّهَا الَّذِينَ ءَامَنُوا كُونُوا قَوَّامِينَ لِلَّهِ شُهَدَاءَ بِالْقِسْطِ وَلَا يَجْرِمَنَّكُمْ شَنَاٰنُ قَوْمٍ عَلَىٰ ءَآلٍ تَعْدِلُوا ءَدِلُوا هُوَ أَقْرَبُ لِلتَّقْوَىٰ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ خَبِيرٌ بِمَا تَعْمَلُونَ. "

**Translation:** *O ye who believe! Stand out firmly for God, as witnesses to fair dealing, and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just: that is next to piety: and fear God. For God is well-acquainted with all that ye do.*<sup>13</sup>

<sup>11</sup> Abdul Rahman Awang. 1994. *The Status of The Dhimmi In Islamic Law*. p. 17.

<sup>12</sup> Al-Qur'an. Al-Hujurat 49:13.

<sup>13</sup> Al-Qur'an. Al-Ma'idah 5:8.

iii) Allah S.W.T. also said:

" هو الذى خلقكم فمنكم كافر ومنكم مؤمن والله بما تعملون بصير. "

**Translation:** *It is He Who has created you; and of you are some that are Unbelievers, and some that are Believers: and God sees well all that ye do.*<sup>14</sup>

iv) In the Holy Qur'an Allah S.W.T also said:

" لا ينهكم الله عن الذين لم يقاتلوكم فى الدين ولم يخرجوكم من دياركم أن تبروهم وتقسطوا إليهم إن الله يحب المقسطين. إنما ينهكم الله عن الذين قتلوكم فى الدين وأخرجوكم من دياركم وظهروا على إخراجكم أن تولوهم ومن يتولهم فأولئك هم الظالمون. "

**Translation:** *God forbids you not, with regard to those who fight you not for (your) Faith nor drive you out of your homes, from 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, and 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.*<sup>15</sup>

v) Allah S.W.T. had said:

" ولا تجادلوا أهل الكتاب إلا بالتي هي أحسن إلا الذين ظلموا منهم وقولوا ءامنا بالذى أنزل إلينا وأنزل إليكم وإلهنا وإلهكم واحد ونحن له مسلمون. "

**Translation:** *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)."*<sup>16</sup>

<sup>14</sup> Al-Qur'an. Al-Taghabun 64:2.

<sup>15</sup> Al-Qur'an. Al-Mumtahanah 60:8-9.

<sup>16</sup> Al-Qur'an. Al-'Ankabut 29:46.

vi) Allah S.W.T says in the Qur'an:

"الذين أخرجوا من ديارهم بغير حق إلا أن يقولوا ربنا الله ولو لا دفع الله الناس بعضهم ببعض لهدمت صوامع وبيع وصلوات ومسجد يذكر فيها اسم الله كثيرا ولينصرن الله من ينصره إن الله لقوى عزيز."

**Translation:** (They are) those who have been expelled from their homes in defiance of right- (for no cause) except that they say, "Our Lord is God". Did not God check one set of people by means of another, there would surely have been pulled down monasteries, churches, synagogues, and mosques, in which the name of God is commemorated in abundant measure. God will certainly aid those who aid His (cause); - for verily God is full of Strength, Exalted in Might, (able to enforce His Will).<sup>17</sup>

### 2.2.2 DHIMMIS IN THE AL-SUNNAH

There are several evidences or *dalil* from the traditions of the Prophet S.A.W, which related with the non-Muslims as a part of citizenship of the Islamic state. This is as mentioned by the Prophet S.A.W in the following Hadiths. These Hadiths found in the book *Ummah The Muslim Nation* written by Muhammad Abd. Rauf:

a) The Prophet S.A.W said:

"إن الله عز وجل يعذب الذين يعذبون الناس في الدنيا."

**Translation:** Allah, the Almighty God, shall punish severely (on the Day of Judgment) those who cause pain to people on this earthly life.<sup>18</sup>

<sup>17</sup> Al-Qur'an. Al-Hajj 22:40.

<sup>18</sup> Muhammad Abd. Rauf. 1991. *Ummah The Muslim Nation*. Kuala Lumpur: Dewan Bahasa dan Pustaka. p. 34-35.

b) In a Hadith, the Prophet S.A.W also said:

"ألا من ظلم معاهدا أو انتقضه أو كلفه فوق طاقته أو أخذ منه شيئا بغير طيب نفس فأنا حجيجه يوم القيامة."

**Translation:** *Whosoever does wrong to a "mu'ahad", "a contractee", or encroaches upon his right or burdens him beyond his ability or takes away from him anything against his will, I myself shall claim justice on behalf of the oppressed party on the Day of Judgment.*<sup>19</sup>

c) He S.A.W also said:

"من قتل معاهدا لم يرح رائحة الجنة، وإن ريحها ليوجد من مسيرة أربعين عاما."

**Translation:** *Whosoever encroaches on the life of "mu'ahad", will never taste the sweet smell of Paradise, although its smell travels as far as the distance, which takes a journey of forty years.*<sup>20</sup>

### 2.3 DHIMMIS IN ISLAMIC PERSPECTIVE

Allah S.W.T says in the Qur'an:

"فأما الذين آمنوا و عملوا الصلحت فيدخلهم ربهم في رحمته ذلك هو الفوز المبين."

**Translation:** *Then, as to those who believed and did righteous deeds, their Lord will admit them to His Mercy that will be the Achievement for all to see.*<sup>21</sup>

<sup>19</sup> Muhammad Abd. Rauf. 1991. *Ummah The Muslim Nation*. p. 33.

<sup>20</sup> Muhammad Abd. Rauf. p. 37.

<sup>21</sup> Al-Qur'an. Al-Jathiyah 45:30

Allah S.W.T has said:

"وأما الذين كفروا أفلم تكن آياتي تتلى عليكم فاستكبرتم وكنتم قوما مجرمين."

**Translation:** *But as to those who rejected God, (to them will be said): "Were not Our Signs rehearsed to you? But ye were arrogant, and were a people given to sin!"*<sup>22</sup>

According to the previously mentioned Qur'anic verses as well as the sayings of the Prophet S.A.W, Islam divides people at large into two major groups, Muslim and non-Muslims. This division is based solely on man's acceptance of Islam. It rejects all other peripheral basis whether social status, origin, race, colour, or any other denominational basis.

As mentioned earlier, in page ten, dhimmis is one part of non-Muslims categories. In Islamic perspective, Islam views dhimmis as a part of non-Muslims who got a citizenship status in Islamic state as a result through 'aqd al-dhimmah' agreement. The functions of this agreement are to allow them to live and reside in Islamic state peacefully. Thus, dhimmis have their own rights and were responsible with several of obligations like Muslims. This opportunity was given by Islam through this agreement as a one step to attract and introduce them for Islamic religion. Whenever dhimmis lives and hobnob with Muslims society, it's will show that Islam is a religion of maintaining peace and harmony.

For examples, the Islamic country has been founded by the Prophet Muhammad S.A.W in Madinah during his period of ruling in the year 622-632M. There were several sects and groups from different tribes and beliefs who lived in this Islamic region in the respective date; they were from the Jews, Christians, Pagans, Hypocrites (*Munafiqun*) and the Muslims as well. As a fair and generous leader, the Prophet S.A.W treated these people known as (*ahl-dhimmah*), who were from non-Muslims societies in the same manner as how he did to his own Muslims citizens. It was what that every leader should do as how it is mainly endorsed in the principle of '*Sahifat al-*

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<sup>22</sup> Al-Qur'an. Al-Jathiyah 45:31.

*Madinah*’ which came along with the guides revealed by Allah S.W.T from time to time up to the end of his life in the year 10H.<sup>23</sup>

With the special treats and compromises, the non-Muslims groups retrieved all kinds of right and freedom as what the other citizens deserved to obtain especially the Muslims. For example, their life and freedom to practice their own faith (religion) were well secured by the Islamic governments and there would not any interference by other parties to deter their private matter that concern to their believes. This means that there would not be anyone could be forced to change their religion where it is clearly mentioned in the Al-Baqarah 2:256. The non-Muslims have been proved to live in a harmonious and peaceful life for about thirteen centuries under their Islamic rulers without any skepticism of being betrayed.

In respect to the security of the life of people, especially the non-Muslims, Islam preserves a special affirmation to protect them from any threat and danger. There was an obvious example to prove this as it happened in 1492M where the Jews had once been abused by the Christian during the Spain domination. They went to seek the Muslim ruler for asylum where they granted armament under the allocation of the non-Muslims legitimate in the Islamic country. Hence, they lived in a secure life as well as could also be able to own and run their daily routines and businesses peacefully.

“The treatment that these people procured from the Islamic ruler shown that Islam is transparent and *tasamuh* in its practice. It also pays a serious attention towards implementing its roles in securing the rights of all people without any prejudice among Muslims and non-Muslims. This is for sure, is performed due to the command of Allah and the loyalty of the rulers towards His order. On the other hand, the Prophet S.A.W is the best guide for the rest of the rulers after him when they are dealing with non-Muslims in their countries”.<sup>24</sup>

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<sup>23</sup> Abdul Monir Yaacob et al. 2000. *Pemerintahan Islam dalam Masyarakat Majmuk*. Kuala Lumpur: Institut Kefahaman Islam Malaysia (IKIM). p. 203.

<sup>24</sup> Abdul Monir Yaacob et al. 2000. *Pemerintahan Islam dalam Masyarakat Majmuk*. p. 207.

Then, during the period of Caliph Ali bin Abi Talib R.A, the non-Muslims were also treated the same way as it was. He had ever given them donation (*al-'ata'*) to the poors and put them at the same position as those of Arabs and '*Mawali*' (Arab mixed with other races). Ali had also supervised his officers to be kind and equitable to the al-dhimmah. It was claimed that he had ever put an effort to dig a special waterway designated for the purpose of these people. Accordingly, non-Muslims were quite fairly treated, especially by the early Muslim generations. As an example of the treatment of non-Muslims in the classical age of Islam, by the following story:

The Fourth Caliph, himself, Ali Ibn Abi Talib *Karramallahu Wajhah*, found his coat of arms which had dropped unnoticed from his camel, in the hands of a Jew who claimed that it was his. The Caliph did not attempt to take it from him by force, but suggest to take the case up to the court. So, they walked to the Qadi's office. The Qadi, "Judge", who did not doubt the truth of Imam Ali's claim ruled in favour of the Jew because of lack of witnesses in favour of the Caliph! The Jew, struck by the modesty of the Caliph who had walked with him to the court, and with Muslim justice, confessed the truth and returned the disputed coat to the Imam who gave it to him as a gift.<sup>25</sup>

This particular incident alone speaks very eloquently of the justice with which non-Muslims were treated when Islam was the most powerful force in the whole world. In conclusion, from those methods, the dhimmis will appreciate and accept Islamic religion practiced as a way in their lifestyle. Automatically, it is not impossible if most all of them convert and choose Islam as a lifestyle.

### **2.3.1 The Aspect of Islamic Law Against Dhimmis**

Muslim Muftis agree that the contract of the dhimmis should be offered primarily to the People of the Book that is Christians and Jews. However they disagree on whether any contract should be signed with other groups such as communists or atheists.

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<sup>25</sup> Muhammad Abd. Rauf. 1991. *Ummah The Muslim Nation*. Kuala Lumpur: Dewan Bahasa dan Pustaka. p. 38.

The Hanbalites and the Shafī 'ites believe that no contract should be made with the ungodly or those who do not believe in the supreme God. Hanafites and Malikites affirm that "*Jizyah* may be accepted from all infidels regardless of their beliefs and faith in God. Abu Hanifa, however, did not want pagan Arabs to have this option because they are the people of the Prophet SAW." They must be given only two options accept Islam or be killed.

Islamic Law views that the obligation should be taken from the non-Muslims to pay *jizyah*. *Jizyah* literally means penalty. It is a protection tax levied on non-Muslims living under Islamic regimes, confirming their legal status. Paying the *jizyah* is a symbol of humiliation and submission because dhimmis are not regard as citizens of the Islamic state although they are in most cases, native to the country.

The *jizyah* can only be exempted from the dhimmis who becomes a Muslim or dies. The Shafī 'e reiterates that the *jizyah* is not automatically put aside when the dhimmis embraces Islam. Exemption from the *jizyah* has become an incentive to encourage dhimmis to relinquish their faith and embrace Islam.<sup>26</sup> The purpose of the *jizyah* is to spare the blood of the dhimmis to be a symbol of humiliation of the infidels and as an insult and punishment to them, and as the Shafī 'ites indicate, the *jizyah* is offered in exchange for residing in an Islamic country.<sup>27</sup>

In the Holy Qur'an Allah says:

"قاتلوا الذين لا يؤمنون بالله ولا باليوم الآخر ولا يحرمون ما حرم الله ورسوله ولا يدينون دين الحق من الذين أوتوا الكتاب حتى يعطوا الجزية عن يد وهم صاغرون."<sup>28</sup>

**Translation:** *Fight those who believe not in God nor the Last Day, nor hold that forbidden which hath been forbidden by God and His Apostle, nor acknowledge the religion of Truth, (even if they are) of the People of the Book, until they pay the 'jizyah' with willing submission, and feel themselves subdued.*<sup>28</sup>

<sup>26</sup> Olganebo Sylvie Gondokusumo. 25 March 2002. "Hak-hak warganegara non-Muslim di negara Muslim". *Nasional*. national@mail2.factsoft.de. (in English). p. 3.

<sup>27</sup> Olganebo Sylvie Gondokusumo. 25 March 2002. "Hak-hak warganegara non-Muslim di negara Muslim". p. 3.

<sup>28</sup> Al-Qur'an. Al-Taubah 9:29.

The another example, when we evaluate from the aspect of Islamic law, the dhimmi is free to perform whatever act allowable according to his religion though the same act is prohibited, by Islam, for the Muslims such as consuming pork, wine, or the like. The same is true with regard to his practices in religion and personal laws concerning marriages, divorce, and others. For the position of Islam, in this respect, is clear in a maxim which says: "Leave them with whatever they believe." Hence, in no case, can the Muslim authority intervene in this domain of the so-called "social and religious autonomy of the Protected People."<sup>29</sup>

Beside that, in the aspect of Islamic law that the dhimmi also should abstain from committing any act which is prohibited in their religion such as adultery or any abominable act. This prohibition runs concurrently both in Muslim and non-Muslim sides.

### 2.3.2 The Aspect of Tolerance Against Dhimmis

Talking about the aspect tolerance offered by Islam to the adherents of different faith like Muslims and non-Muslims, Islam allows a Muslim to marry a non-Muslim woman from the People of the Book "*kitabiyat*". As a rule, a Muslim must not get married except to Muslim women. But special consideration is given to dhimmi women that a Muslim can marry them. Conversely, under no circumstances can the Muslim woman marry a non-Muslim man.

The Qur'an says:

" اليوم أحل لكم الطيبات وطعام الذين أوتوا الكتاب حل لكم وطعامكم حل لهم  
والمحصنات من المؤمنات والمحصنات من الذين أوتوا الكتاب من قبلكم إذا آتيتموهن

<sup>29</sup> Abdul Rahman Awang, 1994. *The Status Of The Dhimmi In Islamic Law*. Kuala Lumpur: International Law Book Services. p. 66-67.

أجورهن محصنين غير مسافحين ولا متخذى أخدان ومن يكفر بالإيمان فقد حبط عمله  
وهو في الأخرة من الخاسرين."

**Translation:** *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 if any one rejects faith, fruitless is his work, and in the Hereafter he will be in the ranks of those who have lost (all spiritual good).*<sup>30</sup>

According to the majority view of the Muslim jurists this verse clearly expresses the permission for the Muslims to marry a free *kitabī* woman. It may indeed be recalled that one of the Prophet S.A.W wives was a Jewish woman named Mariam al-Qibtiyyah. But there was a report that Ibn Umar said it was reprehensible (*karahah*). The same was the opinion of Malik, and some jurists said it was forbidden.<sup>31</sup> They argued with the verse which says "Wed not idolatresses till they believe"<sup>32</sup>

But the majority rejected the view that the above verse was a general prohibition of marrying non-Muslim women, which was properly specified by the verse in Surah al-Ma'idah (5:5).

It is also contended that this verse was revealed later than the above verse (al-Baqarah 2:221). So these two apparent contradictory verses, which speak on the same issue, should be construed under the rule of "specification of the generality" (*takhsis al-amm*). It is worth noting that from among the Companions who agreed to mixed marriages were Umar, Uthman, Talhah, Hudhayfah, Salman and Jabir. Nevertheless, according to Ibn Qudamah Umar at one time, ordered those who married *kitabiyyat* to divorce them. Hence, the permission to marry *kitabiyyat* includes all *kitabiy* whether

<sup>30</sup> Al-Qur'an. Al-Ma'idah 5:5.

<sup>31</sup> Abdul Rahman Awang. 1994. *The Status Of The Dhimmi In Islamic Law*. Kuala Lumpur: International Law Book Services. p. 78.

<sup>32</sup> Al-Qur'an. Al-Baqarah 2:221.

they are *dhimmi*, *mu 'ahad* or *harbi* women except the opinion of Ibn Abbas who says that the Muslim is not allowed to marry a *harbi* woman.<sup>33</sup>

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<sup>33</sup> Abdul Rahman Awang. 1994. *The Status Of The Dhimmi In Islamic Law*. Kuala Lumpur: International Law Book Services. p. 79.

# CHAPTER III

## CHAPTER 3

### THE RIGHTS OF DHIMMIS IN ISLAMIC STATE

#### INTRODUCTION

Islam is an ideology that protects not only rights and duties of Muslims but also that of all human being. All people are one community in Islamic state regardless different races and religions. There is no secured place for minority group of people except in Islamic state, which is ruled by laws of Allah S.W.T, the Creator of human being. In fact, only His rules can protect security and peace of human being, either they are Muslims or non-Muslims.

Dhimmis, who are willingly to be ruled by Islamic system, will enjoy their rights like other Muslims enjoy as it was outlined. Whatever facilities are provided by an Islamic state for Muslims are also given to dhimmis, either it is which are related to economics, education, health, or security. The state has duty to protect their rights as Muslims citizens. There is quota of neither in education, health nor in economics. All citizens will be served equally regardless color of skin, race or nations, for a citizen in an Islamic state is classified only by its faith and believe system (Islam) and loyalty to Islamic system (dhimmi). So that, the dhimmis that assume as minority groups have their own rights in Islamic state such other Muslims citizens.

This has been highlighted by Hadith as found in the book *Pemerintahan Islam Dalam Masyarakat Majmuk* written by Abdul Monir Yaacob et al. The Prophet S.A.W says:  
 “ Anyone who annoys a dhimmi, indeed he has annoyed me, and anyone who annoys me indeed he annoyed Allah ”.<sup>34</sup>

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<sup>34</sup> Abdul Monir Yaacob et al. 2000. *Pemerintahan Islam Dalam Masyarakat Majmuk*. Kuala Lumpur: Institut Kefahaman Islam Malaysia (IKIM). p. 161.

All people are one community in Islamic state, regardless different races and religions. Every citizen has rights and responsibilities, as it was highlighted by the laws. While discussing the rights of non-Muslims in Islamic state, it should be clearly borne in mind that an Islamic state is essentially an ideological state, and is thus radically different from a national state. An Islamic state precisely states as to what rights will be conferred upon its non-Muslim citizens and which of them will not be enjoyed by them. It also guarantees them certain specifically state rights.

When we are talking about the right of dhimmis, first principle that is commonly used in establishing the relations with dhimmis in Islamic state is giving their rights as they are enjoyed by Muslims except in certain cases.

Allah S.W.T says:

" يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا، إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ، إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ. "

**Translation:** *O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise each other). Verily the most honoured of you in the sight of God is (he who is) the most righteous of you. And God has full knowledge and is well-acquainted (with all things).*<sup>35</sup>

Allah S.W.T also says:

" وَإِنْ جَنَحُوا لِلسَّلْمِ فَاجْنَحْ لَهَا وَتَوَكَّلْ عَلَى اللَّهِ، إِنَّهُ هُوَ السَّمِيعُ الْعَلِيمُ. "

**Translation:** *But if the enemies incline towards peace, do thou (also) incline towards peace, and trust in God: for He is One that heareth and knoweth (all things).*<sup>36</sup>

<sup>35</sup> Al-Qur'an. Al-Hujurat 49:13.

<sup>36</sup> Al-Qur'an. Al-Anfal 8:61.

Dhimmis are given certain specific rights that explain the rights due to the dhimmis: -

### **3.1 RIGHT OF PROTECTION**

The first right is to get the security right provided by an Islamic state or Muslim society from their external enemy and internal injustices, to make sure that they are enjoying stable and convenient life.

#### **3.1.1 Right of Having Protection From Injustice Outside of State**

The protection is the same right that enjoyed by Muslim. This becomes the responsibility of Islamic society, especially Muslim rulers to grant the protection to the dhimmis. This is because the government has power to execute laws and military power that permit to grant the protection upon them as long as they are in the country even though in remote area.

Since the dhimmis are subjected to the Islamic laws and their contracts, they are permanent citizens. Therefore, they have right to get the protection as it has been granted to Muslims. Letting them to be exploited is an act of violating the contract that has been signed. According to Ibn Hazm, this right of protection is a consensus (*ijma'*) of Muslim scholars.<sup>37</sup>

#### **3.1.2 Right of Having Protection From Injustice Inside of State**

Protecting dhimmis from any injustices coming from outside or inside the country is required in Islam. Muslim is prohibited to annoy the dhimmis by their tongue and hands.<sup>38</sup>

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<sup>37</sup> Yusuf al-Qardawi. 1977. *Ghair al-Muslimin fi al-Mujtama' al-Islami*. Kaherah: Maktabah Wahbah. p. 9.

<sup>38</sup> Harun Taib. n.d. *Negara Islam*. n.pl : Dewan Ulama' PAS Pusat. p. 16.

Allah is not in favor to tyrants and not giving the guidance upon them, and in fact He showers the world torment and multiple punishment upon them in the Hereafter. This protection right has been clearly seen in several verses of the Qur'an, sayings of the Prophet S.A.W as well as the practice of the Pious Caliphs. Among the verses are:

In the Holy Qur'an Allah S.W.T says:

"وقاتلوا في سبيل الله الذين يقاتلونكم ولا تعتدوا، إن الله لا يحب المعتدين."

**Translation:** *Fight in the cause of God those who fight you, but do not transgress limits; for God loveth not transgressors.*<sup>39</sup>

Allah S.W.T also says:

"وقاتلوهم حتى لا تكون فتنة ويكون الدين لله، فإن انتهوا فلا عدوان إلا على الظالمين."

**Translation:** *And fight them on until there is no more tumult or oppression, and there prevail justice and faith in God; but if they cease, let there be no hostility except to those who practice oppression.*<sup>40</sup>

Both verses are very obvious on the prohibition of violating the right and doing injustices upon the dhimmis, either they are coming from outside or inside the country; regardless the victims are Muslims or non-Muslims. These verses were supported by several Hadiths which emphasizing self control from any act of violating the right or the tyranny.

The Prophet S.A.W warning against violation of their rights as stated in Hadith found in the book *Ummah The Muslim Nation* written by Muhammad Abd. Rauf.

<sup>39</sup> Al-Qur'an. Al-Baqarah 2:190.

<sup>40</sup> Al-Qur'an. Al-Baqarah 2:193.

The Prophet S.A.W said:

"ألا من ظلم معاهدا أو انتقضه أو كلفه فوق طاقته أو أخذ منه شيئا بغير طيب نفس فأنا حجيجه يوم القيامة."

**Translation:** *Whosoever does wrong to a "mu'ahad", "a contractee", or encroaches upon his right or burdens him beyond his ability or takes away from him anything against his will, I myself shall claim justice on behalf of the oppressed party on the Day of Judgement.*<sup>41</sup>

A Hadith found in the book *Pemerintahan Islam Dalam Masyarakat Majmuk* written by Abdul Monir Yaacob et al. In Hadith Prophet S.A.W said:

"Anyone who annoys a dhimmi, indeed he has annoyed me, and anyone who annoys me indeed he annoyed Allah".<sup>42</sup>

For example, the following part from the agreement made by the Prophet S.A.W with the Yemenite town, Najran. A Hadith found in the book *Ummah The Muslim Nation* written by Muhammad Abd. Rauf, which states:

"ولنجران وحاشيتها جوار الله وذمة رسول الله صلى الله عليه وسلم على أموالهم ومملتهم وبيعهم وكل ما تحت أيديهم من قليل أو كثير."

**Translation:** *The inhabitants of Najran and those in their neighbourhood are hereby assured the guarantee of Allah and the commitment of Muhammad, Messenger of Allah, (peace and blessings be upon him), to protect their wealth, their denomination and their houses of worship and all that their hands possess, little or much.*<sup>43</sup>

<sup>41</sup> Muhammad Abd. Rauf. 1991. *Ummah The Muslim Nation*. Kuala Lumpur: Dewan Bahasa dan Pustaka. p. 33.

<sup>42</sup> Abdul Monir Yaacob et al. 2000. *Pemerintahan Islam Dalam Masyarakat Majmuk*. Kuala Lumpur: Institut Kefahaman Islam Malaysia (IKIM). p. 161.

<sup>43</sup> Muhammad Abd. Rauf. 1991. *Ummah The Muslim Nation*. Kuala Lumpur: Dewan Bahasa dan Pustaka. p. 33.