Religious Minorities

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Introduction

In January of 2016, scholars from around the world gathered in Marrakesh, Morocco to discuss a very pressing concern: the status of religious minorities in Muslim-majority lands.¹ This issue has emerged to the forefront of international concerns thanks to the mortifying actions of ISIS, who have sought to kill, enslave, and exile others based on religious differences.² Over two hundred and fifty scholars, as a result, committed to attending the conference in order to reestablish environments of religious tolerance and peace. To do so, they returned to the basis of legal and historical texts – primarily the Charter of Medina that was contracted by the Prophet between Muslims and other religious groups after he migrated to the city of Medina. These leaders from over one hundred and twenty countries and a wide variety of backgrounds concluded their conference with an official statement known as the Marrakesh Declaration, which denounced all forms of bigotry and intolerance and called for commitment to the principles of justice, freedom, and equality for all.

Historical and legal texts alike have spanned centuries debating the issues related to non-Muslim minorities. Modern scholarship has swung in both directions, with some academics such as Bat Ye’or denouncing Islam as an oppressive religion that incites intolerance, and others such as Milka Levy-Rubin arguing that the agreements contracted by the early Muslims with minorities were far more progressive than the precedent set by their neighbors.³ Despite their contrasting viewpoints, these conversations are important in helping shape the type of paradigm that can accommodate our relations today.

This paper is not intended to highlight all of the legalities that relate to

¹ www.marrakeshdeclaration.org
² i.e. https://www.theguardian.com/world/2016/mar/15/isis-genocide-of-religious-minorities-us-house-statement
religious minorities, nor does it seek to defend the actions of Muslims or non-Muslims in regard to religious minorities; rather, it seeks to provide an overview of the topic at hand through contextualization. As this paper will demonstrate, there are varying scholarly opinions in addition to political, social, and economic circumstances that affect the discourse on religious minorities, making it nearly impossible to examine all of the factors in one book, let alone a single paper. Providing context to this discussion, however, will lead to a greater understanding of the topic as a whole and hopefully will provide resources that will clarify particular questionable instances that one may come across.

The Protected People

To begin, we need to first grasp the basic terminology relevant to the study of religious minorities. Religious minorities are known as dhimmīs, short for ahl al-dhimmah, or people of the dhimmah, a term that later became synonymous with the People of the Book. The original meaning of al-dhimmah, however, meant protection, and it was often short for dhimmat-Allah wa-rasūlih, or the “protection of God and His Prophet.” In short, the concept originally had a divine connotation, or a meaning that was directly related to the power of God. However, the concept soon morphed into a technical legal term with the progression of classical scholarship, and it consequently lost its transcendent dimension. As a result, ahl al-dhimmah, or people of the dhimmah, has become a legal term and not a divine charge to protect the people of God. It is important to discuss the etymology of the word because it demonstrates the significance of the people of the dhimmah, who at the very root of it all, are people who were to be protected on behalf of God and His Prophet - an immense

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4 In many cases, the non-Muslims were actually the majority, but were referred to as a minority in a cultural and political sense; Uriah Furman, “Minorities in Contemporary Islamist Discourse,” Middle Eastern Studies 36 (2000): 2.
5 Levy-Rubin, 41.
responsibility. This status is awarded to People of the Book (who according to many scholars includes Zoroastrians and others) who agree through contract to pay the jizyah, or poll-tax, in exchange for that protection. In sum, the formation of the people of the dhimmah was rooted in religious minorities paying a tax that exempted them from military service. Much more nuance can be embedded within all of these terms that are sometimes highly contested among scholars, but considering the limited scope of this paper, we will move forward to address the larger picture at hand.

The power of the Muslim state was dependent on their ability to provide two precious resources to their people: security and justice. Christians and Jews and other minorities, were not technically citizens of the Muslim state, but were considered outsiders under the protection of the state, which is how they received the title of dhimmah, or protected people. Their protection was guaranteed in a number of ways: by providing them with legal autonomy - meaning they could maintain their religious practices without interference – and protection during war. That being said, there have no doubt been incidents throughout history in which that protection was threatened or revoked and the Muslim ruler engaged in persecution of religious minorities. The fact remains, however, that there was never widespread systematic persecution of Christians, for example, in the Islamic world as there was in the late Roman Empire. And the hostile circumstances that did occasionally arise, were not due to Islamic

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7 Based on evidence from hadith, Ibn al-Qayyim asserts that the scholars have reached a consensus that *al-majūs*, also known as Magians or Zoroastrians, are among the People of the Book; Ibn Qayyim al-Jawzīyah, *Akhām ahl al-dhimmah*, ed. Yusūf al-Bakrī and Ahmad al-ʿArāūrī (Dammām: Dār Ramādī li-l-Nashr, 1418/1997), 79.
9 Goitein, 163.
10 An infamous persecution of Christians that has been recorded was led by the Fatimid Caliph al-Ḥakīm who retracted his efforts at the end of his reign and reinstiuted traditional measures of tolerence; Cl. Cahen, “Dhimma,” in *Encyclopaedia of Islam, Second Edition*, ed. P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs. Accessed via Brill Reference Online.
legislation per se, but were rather a result of an amalgam of social, political, and economic circumstances. So while Christians historically at times suffered at the hands of Muslims, it was almost never a result of their being Christian, or their beliefs, but a result of various factors related to the pursuit of power.\(^{12}\)

**Historical Foundations**

**The Charter of Medina**

Before delving into the technicalities, it is important to begin by reflecting on some of the historical foundations relevant to the treatment of religious minorities. We begin at the time of the Prophet (saw), who upon his arrival in Medina, contracted a treaty with the non-Muslims that essentially established rights and responsibilities between the various Muslim groups and the Jewish tribes. Although the authenticity of this document is doubted among some academics, it is crucial to note that historians, both Muslim and non-Muslim alike, recognize its significance because despite that there is no original document available, its conditions have been attested and adhered to by Muslims throughout history.\(^{13}\) So, for example, when Muslim scholars discuss the issue of religious minorities, this document is frequently cited and is widely held to be authentic.\(^{14}\)

This treaty was discussed in the news in 2016 when the group of scholars met in Morocco to discuss the treatment of religious minorities in the Muslim world. The conclusion reached at this conference was that our current leaders need to be held accountable and that the treatment of minorities today must reflect the justice and ethics designed by the Prophet in the Charter of Medina. In any case, to sum up, this treaty serves as our starting point for interreligious relationships; in essence, it allowed Jews to continue their lives without interference, while obligating them to help

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\(^{12}\) Griffith, 148.


\(^{14}\) Ibn al-Qayyim, 14; Levy-Rubin, 59.
defend the city if necessary, which was expected of all people participating in the treaty and not particularly limited to the Jews.

**The Pact of ʿUmar**
The second, and ostensibly the more historically impactful document is the Pact of ʿUmar, or al-shurūṭ al-ʿumarrīyah, which is a list of agreements written up between Umar b. al-Khattab (ra) during his caliphate and the people of Syria.¹⁵ It is to this pact that the "controversial issues" are traced back. The pact has been broken down into various sub-themes by later scholars but can essentially be summarized as promoting Christian and Jewish self-government and legal autonomy, while also requiring their support against enemies of the state when needed. The nuances of this pact are important to discuss because as we will come to see, later Muslim scholars based a lot of their legal arguments about religious minorities on it. Imam Ibn al-Qayyim (ra), the student of Ibn Taymīyah, for example, wrote what is considered to be the most comprehensive work on the regulations pertaining to religious minorities in his compendium, Aḥkām ahl al-dhimmah, which spans close to two thousand pages.¹⁶ One of the most commonly cited sources that is encountered in this massive legal text is the Pact of ʿUmar, to which Ibn al-Qayyim actually dedicates an entire portion of his compendium for analysis.¹⁷ He also goes as far as mentioning that the Pact is so well-known among the people that it was not necessary to cite its isnād, or chain of authority.¹⁸

Now, when you take a closer look at the details of the ordinances conceived of in the pact, you will come across what a lot of Islamophobes and Orientalists cite as evidence for Muslim intolerance of non-Muslims. Take for example the notion that Christians and Jews must dress differently from the Muslims. This example is one among many that are interpreted as

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¹⁷ Ibn al-Qayyim, 14.
“discriminatory laws” rooted in humiliating the non-Muslim, but let us first take a closer look.

Albrecht Noth, a scholar well known for his analysis of the Pact of ʿUmar argues that these regulations were designed for a long-term coexistence between Muslims and non-Muslims, and by no means sought to persecute non-Muslims. At the same time, however, the Pact mainly deals with what he calls the "sensitivities of Muslims" and not the victimization of religious minorities. The reality of the matter was that the Muslims were at war and then entered a new place as minorities. When the Muslim army entered a newly conquered land the inhabitants of that land were presented with one of three options, according to the hadith of the Prophet (saw): respond to the call of Islam, surrender through treaty and become a dhimmī, or leave the land. As you can imagine, the majority of situations resulted in the people agreeing to remain as Christians, Jews or Zoroastrians in exchange for abiding by the rules that they themselves agreed to. At the end of the day, the Muslims were initially outnumbered so they needed to take extra precautions to ensure that their authority would not be challenged. This new alien environment also posed a threat to the still developing Muslim identity. Hence, when examining the ordinances, it is understandable that they would favor Muslims as they now governed the land.

There are a few approaches that can be taken when discussing the nature of these laws. First, we should consider a more contextual perspective on the so-called "discriminatory laws." Take for example the ghiyār element, which is the term later developed to express the requirement that non-Muslims dress differently. To start, distinctive dress codes were very

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20 Noth, 105.
21 Ibn al-Qayyim, 87.
22 Noth, 122.
common in this era to demonstrate one's social ranking, and Milka Levy-Rubin provides evidence of this occurring normally throughout the Sasanian Empire. More interesting, however, is the origin of the dress code. A famous piece of clothing that the Christians and Jews were required to wear was the zunnār or belt. Historically, however, the belt was foreign to Arab Muslims, considering its Greek origin. And so presumably the Arab Muslims only encountered the belt as the Islamic Empire expanded. The belt, in essence, was a piece of item introduced by the non-Muslims to the Muslims, so at the end of the day the Pact of 'Umar required them to wear something they had always worn. Noth further argues that the other ghiyār elements were also customs the non-Muslims presumably already followed. Thus, he posits that non-Muslims were not being forced to wear clothes that were discriminatory; rather, they were required to not copy the Muslims in their dress. And for the record, this is still not discriminatory, because the Prophet (saw) himself commanded Muslims to not dress or act like the non-Muslims, so this law was in effect a two-way street. Some scholars have even contended that the point of creating these physical distinctions was simply for administrative purposes, so as to not wrongfully punish a non-Muslim for selling wine or to collect the jizyah tax from a Muslim because the collector was confused as to who was Muslim and who was not.

The uniqueness of the Pact of 'Umar arises from the broader expectations it had for a society of both Muslims and non-Muslims. The heart of the Pact consists of ordinances that promote religious legal autonomy. So what exactly does that imply? Islamic society was composed of multiple religious communities living together with each following its own law and religious leader. This was by no means common historically. In Hellenistic

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23 Noth, 115.
24 Noth, 116-7.
26 Cahen, “Dhimma.”
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societies and under Roman rule, most emperors before Constantine persecuted Christians. There was no option of living autonomously.\textsuperscript{27} By allowing religious communities to adhere to separate bodies of law, boundaries were created between those communities. \textsuperscript{28} That also translated into the Muslim government not interfering with these systems and thus allowing them to continuously develop.\textsuperscript{29} There are two potential ways you can view this construction of society: you can either say to yourself, “Well that's great, religious people can continue to follow their religions respectively”, or you can see it as creating a rigid demarcation between dhimmīs and Islamic society at large. For Muslims, the shariah encompasses both creed, as well as religious laws. So the permission for religious minorities to freely adhere to their own respective shariah is one of the strongest indicators of tolerance found in the Pact of ʿUmar. Many Christians and Jews also affirm the positive aspects of this Pact, as discussed below.

Both legal scholars and social historians have acknowledged that law in general can be used as a form of social control, so the Christian and Jewish communities at that time no doubt appreciated the power to continue administering their own religious law.\textsuperscript{30} An example of lack of Muslim interference within communal spheres is demonstrated in a group of Nestorians, a Christian sect. The synod of George the First in the late 7th century allowed their church to legalize marriages in the presence of a Christian judge, because prior to that new ruling, marriages in this group of Nestorians occurred only through the civil courts.\textsuperscript{31} At the time, however, the Muslim rulers appointed judges on behalf of the Nestorians, but the Nestorians required that judges be chosen through the consent of the

\textsuperscript{29} Morony, 9.
\textsuperscript{30} Simonsohn, 10-11.
\textsuperscript{31} Morony, 13.
community. As a result, Imam Abu Hanīfah allowed them to appoint their own judges. This example demonstrates that not only did the Muslim authority not intervene in other religious communities, but these communities also sought to maintain their own religious autonomy.

Along with religious autonomy came the option for Christians and Jews to seek legal counsel from the Muslim courts. But this was a concern for the Christian and Jewish religious elites because it threatened their judicial authority. If members of their congregation were turning away from their respective courts to seek justice from the qāḍīs, or Muslim judges, then you can only imagine how that would strip these elites of their social and legal power. You cannot command people in your community to do things based on your religious calls and create a culture of normative behavior if they are not turning to you for religious advice. Those religious leaders who sought to preserve their authority consequently went out of their way to ensure that their communities remained loyal. Jewish women in the Umayyad period, for example, would lose their property rights if they sought a divorce in rabbinical courts, so naturally many of these women would go to Muslim courts to get a divorce in order to prevent that loss. In turn, the rabbis issued a new decree in which women could sue for divorce without losing their property rights. As a result, more Jewish women remained within their communities and continued to maintain religious autonomy.

As a side note, you might notice that the regulations for minorities were based on a society that was defined by religion. People were associated with their religious communities as markers of their "national" identity. Neophyte Edelby argues "the Semites were unique among ancient peoples in that they never conceived any form of social organization other than theocracy, with God as the sole source of law." For a long time, the only

32 Morony, 11.
social groups in the East were groups formed by religious communities. Islam, in particular, views religions as nationalities because for every nation, God has sent a scripture. Either way, in the modern context, when we think about many of the laws regulating minorities, we consider them to be a form of religious discrimination, but the reality of the matter is that religion was the only form of distinctive identity in that era. So the regulations were not necessarily because someone was inherently Jewish or Christian, but because, before the rise of the nation-state, religion was the distinctive marker of identity.

Historical Precedence

Let us return to the main discussion of contextualizing our understanding of religious minority treatment. If we trace back a little earlier before the pacts with the ahl al-dhimmah, or the protected people, became more formalized, the Muslims were engaging in relationships with non-Muslims. This was around the period of the futuḥāt, or during the Muslim expansion. Throughout this period, when a city had to surrender to the Muslim army out of weakness, they would initiate contracts and present stipulations that were all self-imposed measures on their own behalf. Albrecht Noth's research demonstrates that a lot of those self-imposed measures parallel what later appeared in the shurūṭ. In other words, a lot of the supposedly discriminatory ordinances in the Pact of ʿUmar were among the stipulations non-Muslims had set for themselves upon surrender.

More interesting, however, is the historical precedent set by the Byzantine and Sasanian empires, the two main powers that preceded the Islamic Empire. When tracing back to that time, it is evident that Muslim conquerors actually employed the same framework for surrender

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34 Edelby, 45.
36 Noth, 107.
agreements as those empires.\textsuperscript{37} In her book Non-Muslims in the Early Islamic Empire, Milka Levy-Rubin analyzes the forms of contracts created in the Byzantine and Sasanian Empires, among others, to determine whether or not the Islamic process was novel. Among her conclusions was that Muslim sources describe a method analogous to the process known from the pre-Islamic Near East: once a city surrendered, it received amān, or security, also referred to as pistis in the Roman Empire.\textsuperscript{38} The granting of amān was usually accompanied by a document listing the conditions that were agreed upon in the ṣuḥl or peace agreement. On a similar note, throughout the Byzantine Empire, various groups also had certain regulations imposed on them; so for instance, Jews could not testify against Christians and were banned from holding public office. In both the Byzantine and Sasanian Empires, furthermore, public distinction was made between Christians and non-Christians, and Zoroastrians and non-Zoroastrians, respectively.\textsuperscript{39} So intermarriage, for example, between the two groups was highly contested or prohibited.\textsuperscript{40} Sasanians also implemented a tribute tax similar to the jizyah upon able-bodied men in exchange for military protection.\textsuperscript{41} The purpose of these few examples is to demonstrate that the Muslims did not introduce some foreign paradigm that enraged the non-Muslims. Yes, these regulations at times were limiting, but in the sociopolitical context of the time it was not only normative but also liberating in many ways.

\textbf{From Theory to Practice}

So what exactly happened in reality? There was a lot of legal content circulating on the place of religious minorities in Muslim societies, but at the end of the day, these laws were rarely implemented except in prominent Muslim centers or capitals, and even then incompletely and

\textsuperscript{37} Levy-Rubin, 26.
\textsuperscript{38} Levy-Rubin, 36.
\textsuperscript{39} Levy-Rubin, 121.
\textsuperscript{40} Levy-Rubin, 116-7.
\textsuperscript{41} Morony, “Religious Communities,” 7.
sporadically.\textsuperscript{42} For instance, many scholars maintained that non-Muslims could not serve in government positions. Yet, the Caliph Al-Mansur was among many caliphs who did not abide by that rule and hired non-Muslims, like a Jew named Musa, to be a revenue collector.\textsuperscript{43} Even so, not long after, Caliph Al-Mutawakkil reenacted the law that no non-Muslim should be in government service.\textsuperscript{44} The experience and knowledge of Christians and Jews who already held government positions was more useful in the service of the caliph, not to mention they did not pose a threat to their rule.\textsuperscript{45} Thus, Caliph Al-Mutawalkil promoted the concept of non-Muslims in government service despite its prohibition or discouragement by many scholars.

Or take the example of a Christian vizier, in Baghdad, ʿAbdūn b. Sāʿid, who visited the qāḍī, Ismail b. Ishāk, who rose up to greet him.\textsuperscript{46} He noticed people disapproved and so when the vizier left, the qāḍī turned to the people and quoted the verse of the Quran: “Allah does not forbid you to have dealings with those who have not fought with you for religion’s sake, nor driven you out of your homes, from being righteous toward them and acting justly towards them; indeed Allah loves those who are just” [60:8]. The qāḍī then stated, “This man manages the business of Muslims; he is the ambassador between us and the caliphs.” So from this example, and countless others, it is apparent that the practical implementation of regulations regarding religious minorities was dependent ultimately on the whims of the ruler and those he placed in positions of power.

Since the role of religious minorities in the Islamic Empire was left to the final authority of the sultan, oftentimes, scholarly opinions were entirely disregarded. Under many circumstances, nevertheless, the ruler would appoint a chief judge or scholar to deal with the rights of religious

\textsuperscript{42} Uriel I. Simonsohn, \textit{A Common Justice}, 7; Cahen, “Dhimma.”
\textsuperscript{43} A.S. Tritton, \textit{The Caliphs and their Non-Muslim Subjects}, 22.
\textsuperscript{44} Tritton, 23.
\textsuperscript{45} Levy-Rubin, 108.
\textsuperscript{46} Tritton, 24.
Religious Minorities (among other issues). It is necessary to consider the various legal rulings on these issues because whether or not they were actually implemented, the opinion of a prominent local scholar would no doubt shape the opinions and attitude of the general public, and consequently, the overall environment that Muslims and non-Muslims shared.

Classical Scholarship

As mentioned earlier, Ibn Qayyim al-Jawzīyah’s text, Aḥkām ahl al-dhimmah, is a foundational source in regard to the rulings related to the protected people. The text is truly unparalleled, particularly as a result of the author’s process of providing proofs for his arguments. In order to arrive at his conclusions, Ibn al-Qayyim references the most popular scholarly opinions on each matter and then proceeds to discuss the strengths and weaknesses of their arguments. Essentially, reading Ibn al-Qayyim's book and his positions on many issues, involves also reading the opinions of Imam Mālik, Imam Aḥmed, Abu Ḥanīfah, Imam Shāfiʿī, and the like.\(^{47}\) The work was originally composed in response to a number of questions Ibn al-Qayyim was asked on various related issues such as: how the jizyah was assigned, its purpose, how much was charged, and for whom it was required. Besides probing into the matter of the jizyah, the book also addresses practical questions that result from relationships with religious minorities; e.g., is their meat permissible; are they permitted to sell wine?

Considering the depth of Ibn al-Qayyim’s work, the focus here is on analyzing his opinions in the first section on the jizyah as a means of identifying some of his overarching views on religious minorities. Among his foremost discussions, Ibn al-Qayyim defines who falls under the category of People of the Book (i.e., potential dhimmīs). He contends early

\(^{47}\) Many other scholars who focused on the rules of religious minorities are also cited. These include, but are not limited to, Qāḍī Abū Yūṣuf (d. 183 AH) in his book Kitiḥb al-kharāj, al-Khallāl (d. 311 AH) in his Aḥkām ahl al-milal, and al-Farrā’ (d. 458 AH) in his Al-Aḥkām al-Sulṭānīyyah.
on that the Zoroastrians are considered among the People of the Book by way of consensus of the scholars as evinced in Prophetic narrations. Imam Abu Ḥanīfah goes as far as extending the community of dhimmah to include foreign pagans, allowing far more than simply Christians and Jews to be included among those who are to be protected by the Muslim state. Furthermore, the companions of al-Shafi‘ī asserted that since the jizyah is in exchange for military protection, it is only taxable upon potential male fighters, and thus, women, children, monks, and the disabled are exempt from the tax. Hence, in certain places like Jurjān and Darband, minorities who provided military service were exempted from paying the jizyah all together.

In regard to the technicalities related to the jizyah, nuances stem from the translation and understanding of verse 29 in surah al-Tawbah:

Fight those who do not believe in Allah or in the Last Day and who do not consider unlawful what Allah and His Messenger have made unlawful and who do not adopt the religion of truth from those who were given the Scripture - [fight] until they give the jizyah willingly [ʿan yadin] while they are humbled [ṣāghirūn] [Quran 9:29].

In his analysis of this verse, Ibn al-Qayyim explores countless scholarly viewpoints that are frequently contrasted; an indication that there are multiple perspectives from which to understand these highly nuanced terms. The most often debated concepts in the verse center around what the jizyah is, how it is paid, and what it signifies. Among the numerous opinions, Ibn al-Qayyim highlighted the position of his shaykh, Ibn Taymīyah, who asserted that the word jizyah is derived from al-jazāʾ, or

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48 Ibn al-Qayyim, 79.
49 Ibn al-Qayyim, 87; Ibn al-Qayyim also states that all disbelievers should pay the jizyah, People of the Book or not, implying that even pagans can join the dhimmī community; Ibn al-Qayyim, 89.
50 Ibn al-Qayyim, 122.
51 Levy-Rubin, 49.
52 Translation from Sahih International, obtained from www.quran.com
compensation, because the jizyah can either be seen as a form of subjugation as a compensation for non-Muslim disbelief, or can be seen as a form of gentleness as a compensation for Muslim guardianship.\footnote{Ibn al-Qayyim, 119; This is also the view of al-Qāḍī Abu Ya‘lā in his al-Aḥkām al-Sulṭāniyyah.} This implies that the formation of dhimmī communities based on compensation of the jizyah can be viewed from varying perspectives: if a dhimmī continues to defy Muslim rule, then his punishment is his payment, but if a dhimmī accepts the rule and pays the jizyah, then he will be rewarded with the protection of the Muslim Empire. In both cases, the dhimmī is required to pay the jizyah, but it is noteworthy to emphasize this alternative perspective because it indicates that the payment of the jizyah did not necessarily have to be something negative in the eyes of the Muslim or non-Muslim. On that account, Ibn al-Qayyim additionally posits that the notion of šīgār, often translated as “humiliation”, could simply imply the obligation of the dhimmī to pay the jizyah and remain under the rule of the Muslim community.\footnote{Ibn al-Qayyim, 121.} Therefore, once a dhimmī rebels against the rule, he threatens the notion of šīgār and consequently forfeits his rights and protection. The dhimmīs are a community being granted protection in exchange for that loyalty, so once one of those factors is denied, the other is omitted as well.

In terms of the amount of the jizyah to be paid, Ibn al-Qayyim confers that judgment to the scholar responsible for collecting the jizyah because there is no set amount declared in sources for the shariah.\footnote{Ibn al-Qayyim, 131.} He also adds that the type of payment does not need to be limited to gold or silver, but can be collected in the form of any material item (e.g., clothes or weapons), or “whatever is easiest for them.”\footnote{Ibn al-Qayyim, 129.} I highlight these words because Ibn al-Qayyim, as was evident throughout many portions of his text, constantly reiterated the necessity of easing the circumstances of the non-Muslim community. To support this notion, Ibn al-Qayyim also provides scholarly opinions from ‘Umar (ra) and Imam Shāfi‘ī, among others, who assert that
the amount of the jizyah should depend on the economic status of the payee: the poor and rich should pay a fee relative to their means (i.e., the poor should pay less). The jizyah should therefore not overburden the one who cannot afford it, and the payee should also be given the option of paying through non-monetary means if that is easier for them. The jizyah, furthermore, is only taxable upon able-bodied men (i.e., men who can fight in battle) and not women, children, the poor, the sick, or even monks since they would not typically engage in battle. This contrasts with the zakah tax that Muslim men, women, and children are all obliged to pay, in addition to the military service Muslim men must engage in. Thus, in many ways the jizyah tax can be considered as similar to the zakah tax that Muslims are required to pay.

Ibn al-Qayyim further insists on this point by dedicating another section of his text to the protection of the dhimmī. In order to demonstrate the enormity of infringing upon their rights, he utilizes anecdotes that occasionally incorporate Prophetic hadith and Quranic witnessing a group of people in Palestine suffering under the jizyah, proclaimed that the Prophet said, "Verily on the Day of Judgment God will torment those who torment people in this world." Through the citation of this narration, Ibn al-Qayyim reminds us of the humanity of the protected people, and warns against taking advantage of them by any means. In a later example, Ibn al-Qayyim cites the actions of the Caliph ʿUmar who was once approached with a lot of wealth that was collected as jiyzah. Based on the great amount of money that he was given, the Caliph exclaimed, "I think you have destroyed the people!" Those who collected the money responded that it was not true - they only collected the amount without interrogation, distress, or harm to the verses. The first anecdote, for instance, narrates the story of a man named Hāshim who, after people, to which ʿUmar responded, "Praise be to God who did not place that [responsibility] in my

57 Ibn al-Qayyim, 132-133.
58 Ibn al-Qayyim, 137.
59 Ibn al-Qayyim, 139.
hands nor under my rule." This particular incident of the Caliph demonstrates the justice and compassion with which he acted, and strengthens Ibn al-Qayyim’s demand that dhimmīs be treated with generosity and mercy. On a similar note, when Muslim-ruled Syria was threatened by oncoming Roman troops, the Arab general and Companion, Abu ʿUbaydah b. al-Jarrāḥ, wrote hastily to his governors to return the jizyah to the people with treaties in that land:

"We give you back the money that we took from you, as we have received news that a strong force is advancing against us. The agreement between us was that we should protect you, and as this is not now in our power, we return you all that we took. But if we are victorious we shall consider ourselves bound to you by the old terms of our agreement."60

In response to Abu ʿUbaydah’s orders, many Christians praised their Muslim overlords and prayed for their victory over the Romans since the latter would have stolen all of their wealth.61

One of the most striking aspects about Ibn al-Qayyim’s compendium is that his legal rulings are far from generous; in many instances, his interpretation of the law takes the strictest approach. His constant reminders on the necessity of acting with kindness and compassion, however, counter this stringency. He ardently declares that the purpose of the jizyah is to strip non-Muslims of their dignity, but then shortly follows thereafter by calling upon Muslims to treat non-Muslims in a respectful manner. The irony is very much present. In essence, Ibn al-Qayyim is putting forth a notion that while paying the jizyah may be theoretically demeaning, in practice, non-Muslims should always be treated with dignity. This serves as a reminder of the legitimacy and power of the

61 Arnold, 61.
Muslim community – the word of God is held high on earth. But along with this power must come the righteous treatment of all of God’s creation, and that can only be achieved through many of the characteristics Ibn al-Qayyim demands of the Muslim community: justice, mercy, and kindness.

Conclusion

The rights and responsibilities of religious minorities, as we have seen, are not always a simple matter. Throughout history there have been diverse scholarly opinions on the laws regarding relationships between Muslims and non-Muslims; however, the manifestations of these regulations were dependent on the judgment of the sultan in his respective political, economic, and social milieu. The dhimmī paradigm that was established at an early stage of Islamic civilization was consequently flexible in nature, and has generally resulted in tolerant societies. Many scholars today, nevertheless, want to move beyond the mere concept of "tolerance" since the notion of a minority citizenship often leads to forms of discrimination. Hence, prominent scholars such as Yusuf al-Qaradawi have taken crucial steps in creating a "fiqh of citizenship" in Muslim-ruled nations that advocates for equal rights among Muslims and non-Muslims by adopting modern forms of citizenry.

In any case, when reflecting on the dhimmī model that took precedence throughout Muslim societies historically, it is important to also reflect on the standard that is set in America today. We too have a system that requires taxation and submission to the state through various responsibilities. An American citizen is treated rather distinctly from a non-American citizen - we have different rights and responsibilities. As citizens, we live with a privilege that many times blinds us from recognizing our exclusive lines at airports, or the priority we are given in applying for schools and jobs, or the ease of obtaining visas for travel. These are all

forms of honor that we have been granted simply on account of our citizenship. And we too have a form of taxation upon individuals that in essence symbolizes one's submission to the state. So before reflexively criticizing the practices of former societies, one needs to understand the historical context of those practices and reflect on current-day parallels.