



The Merits of Islam: Justice in Legislation and Punishment

من محاسن الإسلام العدل في التشريع والجزاء



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Abstract

This study addresses the merits of Islam through the principle of justice in legislation and punishment. In the legislative sphere, the study examines, in particular, justice in the treatment of non-Muslims in both the religious and social dimensions. In the sphere of punishment, it discusses the aspect of justice underlying the jizya and slavery, without overlooking their consequences in terms of achieving security and peace for both the individual and society. The study concludes by presenting the most important findings reached through the research.

Keywords: merits, Islam, legislation, punishment.

الملخص:

يتناول هذا البحث موضوع محاسن الإسلام من خلال العدل في التشريع والجزاء، وقد تناولت الدراسة في المجال التشريعي: خصوص العدل في معاملة غير المسلم في الجانبين الديني والاجتماعي، ثم تطرقت في المجال الجزائي لبيان وجه العدل في عقوبتي الجزية والرق، دون إغفال للأثر المترتب عليها من حيث تحقيق الأمن والسلم على الفرد والمجتمع. وختمت البحث بذكر أهم النتائج المتوصل إليها من هذه الدراسة.

الكلمات المفتاحية: محاسن، الإسلام، التشريع، الجزاء.

Introduction

The debate over perceptions of the other has persisted throughout the ages and across different periods, retaining its religious and philosophical dimensions at the level of legislation, legal institutions, and organizations. These bodies have sought to establish new approaches to grounding human-rights culture and providing it with the necessary guarantees. Ideas have consequently multiplied around this objective, and perspectives have become increasingly intense in this field. As a result of the significance of this demand—and unsurprisingly—local, regional, and international associations, organizations, and institutions have emerged, all seeking to defend the marginalized other because of their affiliation, color, or race, and hoping to establish the foundations of social justice and highlight its features.

The debate continues to exist alongside the innate and doctrinal differences among human beings. In the face of this debate, human-rights movements and intellectual elites have been unable to reach a model capable of accommodating everyone. This is because, whether in theorizing and establishing principles or in implementation and enforcement, they remain influenced by their doctrinal legacies and by the tendency toward superiority over the other embedded in the depths of the human psyche. As it was said long ago:

Injustice is among the traits of human souls; and if you find one who is chaste from it, It may be because of an affliction that prevents him from being unjust.

Accordingly, there can be no effective solution except through a law that rises above human whims and human afflictions, represented by divine legislation, which recognizes everyone's right to life according to principles that encompass all people equally.

Since justice is often unattainable even among members of the same tribe, as revealed by inherited customs, and is not fully realized—even to some extent—among people of the same religion because of the class distinctions found in many religious communities and sects, its realization in relation to those who differ is even more difficult and, therefore, more deserving of emphasis.

This study therefore seeks to demonstrate the merits of Islam through justice in legislation and punishment, focusing in particular on the religious and social dimensions of legislation and on the punishment of *jizya* and slavery in the sphere of punishment, all in relation to rulings concerning non-Muslims. In doing so, it highlights an exemplary

model founded upon justice, with the consequent spread of security and the establishment of stability.

Problem Statement

The foregoing makes clear the central problem arising from the obscurity that has persisted throughout a long history among those who have failed to recognize the merits of Islam. The problem may be formulated as follows:

What are the manifestations of the merits of Islam and its tolerance through the value of justice?

What is their effect on the peace and security of individuals and societies?

Significance of the Topic and Reasons for Its Selection

The topic is of considerable importance, which motivated its investigation and treatment. This includes the following:

- Islam is subjected to an intense campaign by some detractors on the grounds that its rulings are inconsistent with justice and wisdom. Clarifying the falsity of this claim is therefore an urgent duty, as it is said.
- Many governmental organizations in non-Muslim contexts portray non-Muslims under Islamic legislation as oppressed and wronged persons, particularly in matters of legislation and punishment. This study therefore seeks to refute this misrepresentation by demonstrating the opposite.
- Addressing such topics constitutes an invitation to Islam and a dissemination of the culture of Islam's tolerance.
- Justice is the foundation of security and peace in societies.

For these and other reasons, this study was undertaken.

Methodology

The study adopts the descriptive and deductive approaches by presenting aspects of legislation and providing supporting evidence for them, then examining what reinforces

them through an investigation of scholars' statements, and subsequently deducing their consequences in order to establish the general principle of Islam's tolerance and merits.

Previous Studies

I found no study by researchers that has addressed the topic under the same title and with the same approach. However, the subject of justice in Islam and the demonstration of its merits has received considerable attention. Studies that are related to the present topic from certain perspectives include the following:

- *The Concept of Justice in Islam and Examples of Its Splendor*, by Lakhdar Ben Goumar, a scholarly article published in *Al-Dhakhira for Islamic Research and Studies*, issued by the Division of Islamic Sciences at the University of Ghardaïa, Algeria, Volume 1, 1438 AH/2017 CE.
- *Justice in Islam and Its Effect on the Dissemination of Islamic Culture*, by Al-Daw Adam and Musa Nour, a doctoral dissertation at Omdurman Islamic University, Sudan, 2012.
- *Islam and Equality between Muslims and Non-Muslims throughout the Eras of Islamic History and in the Modern Era*, by Counselor Dr. Abd al-Mun'im Ahmad Baraka, Shabab al-Jami'a Foundation, 1990, Arab Republic of Egypt.

This study differs from the preceding studies in that it seeks to elucidate the merits of Islam specifically through the manifestation of justice in legislation and punishment in relation to non-Muslims.

The question addressed in this presentation is examined through the following two sections.

First Section: Islam's Justice toward Non-Muslims in Legislation and Its Effect on Achieving Security

Among the merits of Islamic law, and manifestations of its complete wisdom and concern for the interests of those subject to legal obligations, is that it gives every legally responsible person what is appropriate for them in legislation according to their differing

circumstances. This principle extends even to those who do not fall under its authority, thereby genuinely representing the universality of its perfection and demonstrating that it is a law of justice and virtue. To clarify some of the foundations of the justice inherent in legislation for those whom its perfection encompasses even though they have not submitted to its authority, the following two subsections are presented.

First Subsection: The Religious Dimension

The relevant matters may be summarized under the following branches.

First Branch: The Right to Receive the Call to Islam

God Almighty said: “Say: O mankind, indeed I am the Messenger of Allah to you all” (Qur'an 7:158). All people are equal with regard to the right to receive the message, and non-Muslims are among those addressed by it. The forms of address directed toward them varied, including the following:

First: The right of non-Muslims to education: The Prophet ﷺ did not refrain from engaging non-Muslims in dialogue. Rather, he showed humility toward them and answered their questions, even when their purpose was obstinacy and disputation. Abdullah ibn Mas'ud reported:

While I was walking with the Prophet ﷺ in a field, and he was leaning on a palm branch, he passed by a group of Jews. Some of them said to one another, “Ask him about the spirit.” They said, “What makes you uncertain about him? He may tell you something you dislike.” They then said, “Ask him.” One of them stood up and asked him about the spirit. The Prophet ﷺ remained silent and did not answer him. I realized that revelation was coming to him. I remained where I was, and when the revelation descended, he said: “They ask you about the spirit. Say: The spirit is of the command of my Lord” (Qur'an 17:85). (Al-Bukhari & Muslim, as cited in the original source)

The Prophet's ﷺ concern with conveying the message to non-Muslims extended beyond teaching and answering questions to praying for their guidance. Abu Musa reported that the Jews used to sneeze in the presence of the Prophet ﷺ, hoping that he would say to them, “May Allah have mercy on you.” Instead, he would say: “May Allah guide you and rectify your affairs.” (Al-Tirmidhi, as cited in the original source).

Second: Argumentation in the best manner: This falls under the general command to speak well. God Almighty said: “And speak to people good words” (Qur'an 2:83). Abu Ja'far and 'Ata' ibn Abi Rabah stated, concerning the verse “And speak to people,” that it means “to all people” (Al-Tabari, 2001). Moreover, speaking well was placed before the command to perform prayer and give zakat because a good word is a means toward compliance and a means of attracting people.

Al-Hasan al-Basri stated regarding the expression “good”: “Gentleness in speech is part of good and beautiful manners and noble character, and it is among what Allah approves of and loves” (Al-Tabari, 2001). Al-'Aliyah stated: “Speak to people what is good” (Al-Tabari, 2001). This also includes the statement of God Almighty: “And do not argue with the People of the Scripture except in a way that is best” (Qur'an 29:46). Ibn Jarir al-Tabari stated:

God Almighty says: “And do not argue,” O believers in Allah and His Messenger, with the Jews and Christians, who are “the People of the Scripture, except in a way that is best,” that is, with beautiful speech, calling them to Allah through His signs and drawing their attention to His proofs. (Al-Tabari, 2001)

The verses therefore include the command to speak in the best manner, and this constitutes **justice in addressing others**. It is a right of the person being invited that they should receive from the one issuing the invitation, and the latter is obligated not to deprive them of it.

Among the effects of this is the hope that the non-Muslim will comply and respond and enter into the covenant of servitude and submission to Allah, Lord of the worlds, as God Almighty said: “So speak to him with gentle speech that perhaps he may be reminded or fear [Allah]” (Qur'an 20:44). It is evident that **the submission of all people to a law that governs them and regulates their affairs contributes to the realization of comprehensive justice**.

Second Branch: No Compulsion in Religion

God Almighty said: “There is no compulsion in religion” (Qur'an 2:256). Ibn Abbas reported that it was revealed concerning a man from the Ansar who had two Christian

sons. He was a Muslim and said to the Prophet ﷺ, “Should I compel them, since they refuse anything except Christianity?” Thereupon Allah revealed this verse concerning the matter (Al-Tabari, n.d., as cited in the original source).

Ibn Kathir stated: “Do not compel anyone to enter the religion of Islam, for it is clear and manifest in its proofs and evidences and does not require anyone to be compelled to enter it” (Ibn Kathir, 1999).

Islam therefore guarantees the right to religion and prohibits forcing a person into another religion, because this is contrary to what Allah has ordained in creation: that submission to His law is intended to be voluntary. God Almighty said: “If We will, We can send down to them from the heaven a sign for which their necks would remain humbled” (Qur'an 26:4). Thus, it becomes clear that God's intention is that people enter His religion by choice rather than under compulsion.

This is a form of justice toward creation, since people are not forced against their inclinations. Even if they were compelled, their entry into His religion would not be valid except through genuine submission.

The effect of this legislation on establishing justice and social security is the non-Muslim's sense of reassurance and trust toward the Muslim and the security of their person. This also enables the Muslim to be safe from the harm and treachery of the non-Muslim, because a person who enters a religion under compulsion will continually lie in wait for opportunities to escape from what they have been forced into by any means available. The resulting disturbance and lack of security are therefore evident.

Third Branch: Respect for Places of Worship

Among the forms of justice toward non-Muslims in legislation is that Islamic law requires Muslims to respect the places of worship belonging to others and prohibits their destruction or desecration (Al-Siba'i, 1999). God Almighty said: “And if it were not that Allah checks the people, some by means of others, there would have been demolished monasteries, churches, synagogues, and mosques in which the name of Allah is much

mentioned” (Qur'an 22:40). He also said: “And do not insult those they invoke other than Allah, lest they insult Allah in hostility without knowledge” (Qur'an 6:108).

Al-Qurtubi stated:

He prohibited the believers from insulting their idols because He knew that if they insulted them, the unbelievers would turn away and increase in disbelief. It is therefore not permissible for a Muslim to insult their crosses, their religion, or their churches, nor to do anything that leads to such an act, because it is tantamount to inciting disobedience. (Al-Qurtubi, 1964)

It is thus established that justice requires one to treat people as one would wish to be treated oneself. Among the things that a Muslim wishes for is not to be harmed in their mosque or restricted therein. One of the means of achieving this objective is therefore to prohibit restricting others, preventing them from worshipping, or insulting their deities.

The effect of this just legislation on security is evident, because when the weak become strong, they may seek to restore their sacred rights and respond in kind. This can lead to disorder, conflict, and the unjust shedding of blood. Al-Qurtubi stated: “This verse also contains an aspect of truce and constitutes evidence for the obligation of ruling according to the principle of blocking the means [to harm]” (Al-Qurtubi, 1964).

It has been reported that the motive that led Abraha to destroy the Ka'bah was the burning of a church he had built by some young men from Quraysh, who sought to prevent people from making pilgrimage to the House. It has also been said that some Arabs went to it and desecrated it. When the custodians saw what had happened, they reported the matter to Abraha and told him: “Some of Quraysh did this out of anger over their House, which you have built this structure to rival.” Abraha then swore that he would march to Mecca and destroy the House stone by stone. Abraha's punishment was what Allah related in His Book as recompense for his transgression against the Sacred House (Ibn Kathir, n.d., as cited in the original source).

Thus, legislation requiring respect for places of worship and consideration for the feelings of their adherents contributes to the establishment of security and the spread of stability.

Fourth Branch: Exemption from Some Religious Obligations

Among the manifestations of God's justice toward non-Muslims is that He exempted them from some religious obligations. Among the obligations lifted from them is the payment of zakat, because giving wealth without voluntary willingness may cause psychological discomfort and hardship. Evidence that zakat is not obligatory upon them is found in the report narrated by Al-Bukhari and Muslim concerning Ibn Abbas and the Prophet's ﷺ dispatch of Mu'adh to Yemen. The Prophet ﷺ said:

“Let the first thing to which you invite them be the worship of Allah ... If they do that, then inform them that Allah has made obligatory upon them a charity taken from their wealth and returned to their poor.” (Al-Bukhari & Muslim, as cited in the original source)

Islam therefore made Islam a condition for calling them to zakat and for its obligation upon them. This is the position of Islamic scholars. Imam Malik stated: “There is no charity [zakat] due from the protected non-Muslims, nor from the Magians on their palm trees, vineyards, or livestock, nor is charity due on their crops” (Malik ibn Anas, 1992). Al-Nawawi stated: “Our companions, in agreement with the textual statements of al-Shafi'i, hold that zakat is not obligatory upon the original unbeliever, whether a belligerent or a protected non-Muslim. He is not required to pay it while in unbelief, and if he embraces Islam, he is not required to pay it for the period of unbelief” (Al-Nawawi, n.d.).

It is therefore an aspect of justice in legislation that Allah prescribed the jizya from the non-Muslim in return for zakat in the case of the Muslim. It is also an aspect of justice that Allah did not impose two financial burdens upon them.

Among the effects of this exemption from certain obligations that involve a degree of hardship, either because they are burdens that people naturally dislike, such as fighting, or because they involve giving something that people value, such as zakat, is that they can comply with the other obligations without feeling that they are being subjected to injustice or oppression, as is the case with the imposition of the jizya.

Second Subsection: The Social Dimension

Among the merits of Islamic legislation is its consideration of the social dimension of non-Muslims in a manner characterized by justice and benevolence, far removed from injustice, transgression, and aggression. God Almighty said: “Indeed, Allah commands justice and excellence” (Qur'an 16:90). Al-Hasan stated: “This verse has left no good deed without commanding it and no evil without forbidding it” (Ibn Rajab, 2001). Ibn Rajab stated: “Its apparent meaning indicates that He has prescribed benevolence toward every creature” (Ibn Rajab, 2001). Among the manifestations of justice in legislation concerning the social dimension and non-Muslims are the following branches.

First Branch: The Right to Security

God Almighty said: “And We have certainly honored the children of Adam” (Qur'an 17:70). Abu al-Su'ud stated that “the children of Adam” refers to all of them, as a comprehensive honor encompassing both the righteous and the sinful (Abu al-Su'ud, n.d.). This includes the right to security; indeed, this right has an even stronger claim. God Almighty said: “And if any one of the polytheists seeks your protection, then grant him protection so that he may hear the words of Allah. Then deliver him to his place of safety” (Qur'an 9:6). Al-Sa'di stated: “And if any one of the polytheists seeks your protection,” that is, asks you to grant him protection and prevent harm from reaching him so that he may hear the words of Allah and examine the state of Islam. “Then grant him protection so that he may hear the words of Allah.” If he embraces Islam, then that is the outcome; otherwise, “deliver him to his place of safety,” that is, the place where he will be secure (Al-Sa'di, 2000).

The Prophet ﷺ also said: “Whoever kills a mu'ahid will not smell the fragrance of Paradise” (Al-Bukhari, as cited in the original source). Ibn Taymiyyah stated: “The original non-Muslim who is not among those who fight is not to be killed, according to most scholars, such as Abu Hanifah, Malik, and Ahmad” (Ibn Taymiyyah, 1995).

The effects of justice in the right to security between Muslims and others are numerous. These include its contribution to removing hostility, eliminating a mentality of revenge, and returning good to those who have shown favor when in a position of strength. The Prophet's ﷺ granting of security to some individuals who were liable to punishment resulted in recognition of his favor, support in times of hardship, acceptance

of the truth from him, and the preservation of trust to the fullest extent. One example, which is sufficient to demonstrate the point, is the following:

Ibn Abbas reported: “Abdullah ibn Abi Sarh used to write for the Messenger of Allah ﷺ, but then he joined the unbelievers. The Messenger of Allah ﷺ ordered that he be killed, but Uthman sought protection for him, and the Messenger of Allah ﷺ granted him protection” (Al-Hakim, 1990).

This granting of protection produced peace, security, loyalty, support, and assistance. Ibn Hajar stated that Abdullah ibn Abi Sarh witnessed the conquest of Egypt and was commander of the right wing in the campaign with Amr ibn al-'As during the conquest of Egypt. He had commendable roles in the conquests, and Uthman appointed him governor of Egypt. When the civil strife occurred, he settled in Ascalon and did not pledge allegiance to anyone. Ibn Sa'd included him among the Companions who settled in Egypt, and he was the one who conquered Ifriqiya during the reign of Uthman (Ibn Hajar, 1994).

Thus, his life became a source of life for many, and the security granted to him became a source of security for many.

Second Branch: The Right to Work

Ibn Umar reported: “The Messenger of Allah ﷺ gave the Jews of Khaybar the right to cultivate and work its land, and they were entitled to half of what it produced” (Al-Bukhari, as cited in the original source). The Prophet ﷺ died while his armor was pledged to a Jew in exchange for thirty sa' of barley (Al-Bukhari, as cited in the original source).

It is therefore an essential and complete aspect of justice that non-Muslims are permitted to work for or alongside Muslims.

Among the effects of the right to work are fostering positive relations with Islam, encouraging an inclination toward it, and abandoning hostility toward its adherents. It

also contributes to eliminating idleness and unemployment and reducing social ills such as theft and plunder, which may lead to killing. Furthermore, it strengthens bonds of affection and mercy among members of the same society. **This necessarily contributes to security and peace in society and reduces disorder.** A documented living example of this significant effect is the report of Anas ibn Malik:

A Jewish boy who used to serve the Prophet ﷺ became ill. The Prophet ﷺ went to visit him, sat at his bedside, and said to him: “Embrace Islam.” The boy looked at his father, who was present, and his father said to him: “Obey Abu al-Qasim.” So he embraced Islam. (Al-Bukhari, as cited in the original source)

This is a living, realistic, and practical example of the Muslim's social relationship with others, producing harmony and compliance, trust, and acceptance of the other without hatred or coercion.

Third Branch: The Right to Compassion and Consolation

Among the manifestations of social justice in legislation is offering compassion and support to non-Muslims in ways that may incline them toward Islam. This is something that, according to the study, is not found in any law other than Islamic law. This includes the following matters.

First: Financial support. This includes contributing to their support through zakat in the hope that they may embrace Islam. God Almighty said: “and those whose hearts are to be reconciled” (Qur'an 9:60). It also includes providing financial assistance and support to a person who has a right arising from neighborhood, kinship, or family relationship, even if that person is an unbeliever. God Almighty said: “Allah does not forbid you from those who do not fight you because of religion and do not expel you from your homes—from being righteous toward them and acting justly toward them” (Qur'an 60:8). Ibn al-'Arabi stated: “That is, that you give them a share of your wealth as an act of maintaining ties. This does not mean that justice applies only to those who have fought and not to those who have not fought; rather, justice is obligatory toward both those who fight and those who do not” (Ibn al-'Arabi, 2003).

Second: Offering condolences in times of bereavement. The Prophet ﷺ demonstrated this by standing when the funeral procession of a Jew passed by him and explaining his action by saying: “Is it not a soul?” (Muslim, as cited in the original source). Likewise, Qays ibn Sa'd and Sahl ibn Hunayf stood when a funeral passed by them at al-Qadisiyyah. When they were asked about this, they replied: “It is one of the people of the earth” (Muslim, as cited in the original source). For this reason, Muslim scholars explicitly stated that it is permissible to offer condolences to a non-Muslim upon the death of a relative. Khalil stated: “It is reported from Malik that he may offer condolences to his non-Muslim neighbor upon the death of his non-Muslim father because of the neighbor's protected status.” Sahnun said that one may say to him: “May God compensate you for your loss.” The author of *Al-Bayan* stated: “If it is permissible to offer condolences to a non-Muslim upon the death of another non-Muslim, then offering condolences to a Muslim upon the death of a non-Muslim is even more appropriate” (Khalil ibn Ishaq, 2008).

The effect of fulfilling the right to justice through compassion and consolation is evident. Its outcomes include the following:

First: Winning hearts. This is because benevolence influences the heart and inclines it toward the benefactor, generating mutual compassion and responsiveness to the benefactor's call. Abu Hurayrah reported:

The Messenger of Allah ﷺ was visited by a guest who was an unbeliever, so the Messenger of Allah ﷺ ordered that a sheep be brought for him. He drank its milk, then another was brought and he drank its milk, and then another, until he had drunk the milk of seven sheep. The next morning, he embraced Islam. (Muslim, as cited in the original source)

Second: A sense of belonging. Neglecting others tends to produce extremism, alienation, division, and disagreement, whereas compassion and consolation—particularly during times of calamity and the spread of disasters—generate a sense of belonging. Through this, the seeds of tolerance and coexistence are cultivated. This was attested to by Will Durant, who stated: “The Christian, Zoroastrian, Jewish, and Sabian protected communities enjoyed under the Umayyad Caliphate a degree of tolerance for which we find no equivalent in the Christian countries of these days” (Durant, 1988).

Third: A sense of favor and gratitude. This occurred among the protected non-Muslim communities under Muslim rule, who throughout their lives remained conscious of the favor shown to them by Muslims. In response to such benevolence, some of them sought to perform good deeds to the extent of their abilities, thereby providing remarkable examples of peaceful coexistence. One example was the medical treatment provided by their skilled physicians to kings and caliphs. It is reported that “a Byzantine physician gave Ali ibn Abdullah ibn Abbas advice to preserve his eyesight” (*Akhbar al-Dawlah al-'Abbasiyyah*, as cited in the original source). Al-Tabari and Ibn Kathir also mentioned that the Abbasid caliphs, including al-Mansur and his sons al-Rashid and al-Amin, had a non-Muslim physician named Bukhtishu', who was known as “the physician of the caliphs” (Al-Tabari, 1387 AH; Ibn Kathir, 1988). The historian Will Durant also stated that “Bukhtishu', the physician of al-Rashid, al-Ma'mun, and the Barmakids, possessed enormous wealth and received one hundred thousand dirhams from the caliph for performing cupping twice a year” (Durant, 1988).

Fourth: The right to litigation. God Almighty said: “And let not the hatred of a people cause you to swerve from justice. Be just; that is nearer to righteousness” (Qur'an 5:8). Al-Tabari stated: “Be just,” O believers, toward everyone, whether they are an ally or an enemy (Al-Tabari, n.d.). God Almighty also said: “And when you judge between people, judge with justice” (Qur'an 4:58). Al-Sa'di stated: “This encompasses judging between them in matters of blood, property, and honor, whether little or much, and whether the parties are near or distant, righteous or immoral, allies or enemies” (Al-Sa'di, 2000).

Among the effects of justice in judicial rulings are the following:

First: The proper ordering of affairs and the balance of the cosmic and legal order. Abdullah ibn Rawahah was sent by the Prophet ﷺ to assess the fruits and crops of the people of Khaybar. They attempted to bribe him so that he would treat them leniently. He said: “O community of Jews, you are the most hated of God's creation to me. You killed the prophets of Allah Almighty and lied about Allah. Yet my hatred of you does not cause me to be unjust toward you.” They replied: “By this the heavens and the earth were established” (Ahmad ibn Hanbal, n.d.). That is, justice is what makes the affairs of life orderly and enables them to continue in a state of calm and balance.

Second: Protection from causes of destruction, discord, and resentment. The Prophet ﷺ said: “As for the means of salvation: justice in anger and satisfaction ...” (Al-Tabarani, n.d.). Thus, justice was counted among the means of salvation.

Third: Achieving peaceful coexistence. This has manifested itself as a practical necessity and an established reality, as demonstrated and acknowledged by those encompassed by justice and benevolence. This human value is illustrated by the following account:

Malik reported that Umar ibn al-Khattab had a dispute brought before him between a Muslim and a Jew. Umar found that the right belonged to the Jew and ruled in his favor. The Jew then said to him: “By Allah, you have judged with justice” (Malik ibn Anas, n.d.).

The Second Section: The Justice of Islam toward Non-Muslims in Punishment and Its Effect on Achieving Security

By *punishment* is meant penalties. This aspect is one of the manifestations of wisdom in the noble Sharia. Its establishment upon the foundation of justice in punishment, without injustice or excess, produces submission and fulfills the objective of deterring disobedience. The manifestations of justice in Islamic legislation concerning punishment are evident in numerous aspects. We shall highlight two of them, while explaining their effects on security and the establishment of peace for individuals and societies, in the following two sections.

The First Section: The Jizya as a Punishment

Allah the Almighty says: “Fight those who do not believe in Allah or in the Last Day, who do not forbid what Allah and His Messenger have forbidden, and who do not follow the religion of truth among those who were given the Scripture, until they pay the jizya willingly while humbled” (Qur'an 9:29). Al-Mughira ibn Shu‘ba said to Kisra: “Our Prophet ﷺ commanded us to fight you until you worship Allah alone or pay the jizya” (Al-Bukhari, *Sahih al-Bukhari*, Book of Jizya, Hadith 3159).

The aspect of justice in it can be explained as follows:

First: It protects lives. Al-‘Adawi, citing Ibn Rushd, stated: “What is taken from the people of disbelief as a payment in return for guaranteeing their security and protecting their blood while allowing them to remain in their disbelief.” It is derived from *jaza’* (recompense), meaning reciprocal exchange, because they reciprocated the security granted to them by providing wealth, while we reciprocated by granting them security, and they reciprocated by providing wealth (Al-‘Adawi, 1994, p. 491; Ibn Rushd, 1988, p. 368).

In return for paying the jizya, they were given the opportunity to learn about Islam and to be saved from eternal residence in Hell. This represents the highest degree of granting respite and establishing an excuse. Ibn al-‘Arabi stated: “If the unbeliever is killed, he loses hope of attaining success and becomes liable to destruction. But if he pays the jizya and is granted respite, perhaps he may contemplate the truth and return to what is right” (Ibn al-‘Arabi, *Ahkam al-Qur'an*, 2/482).

Second: It is comparable to zakat for the Muslim. For this reason, scholars mention it in comparison with the obligatory zakat imposed upon Muslims (Malik, *Muwatta’*, Hadith 746, 1/290). It is also a means toward accepting Islam and attaining the dignity of both worlds. Al-Kiya al-Harrasi stated: “Just as praise, exaltation, and supplication for him are associated with zakat, humiliation and blame are associated with the jizya. When it is collected in this manner, it is more likely that they will not remain upon disbelief... This is more appropriate to wisdom and more fitting to the purpose of the Sharia” (Al-Kiya al-Harrasi, 1405 AH, 4/190).

Third: It is in return for security and protection. It is stated in Khalid ibn al-Walid’s letter to the people of al-Hira: “They have what those under covenant have, and upon us is their protection” (Abu Yusuf, *Kitab al-Kharaj*, p. 157). Imam Malik stated: “This is because the jizya was imposed upon them and they entered into a peace agreement on the condition that they remain in their lands and that their enemy would be fought on their behalf” (Malik, *Muwatta’*, Hadith 746, 1/290).

Therefore, when the Muslims became occupied with fighting the Byzantines and were unable to protect some of the *dhimmis*, they returned their tax to them. Al-Baladhuri stated: “When Heraclius mobilized armies against the Muslims, and the Muslims learned that they were approaching them for the Battle of Yarmouk, they returned the tax to the

people of Homs and said: ‘We have been occupied with defending you and protecting you, so you are free to manage your affairs’” (Al-Baladhuri, 1988, p. 139).

Fourth: The incapable and weak are exempt from paying it. Abu Yusuf reported that Umar ibn al-Khattab passed by an elderly blind man who was asking for assistance. When Umar learned that he was a Jew and that his need and old age had compelled him to ask for the jizya, Umar took him by the hand, brought him to his home, gave him something from the household, and then instructed the treasurer of the public treasury to look after him and others like him, saying: “By Allah, we have not treated him justly if we have consumed his youth and then abandoned him in his old age” (Abu Yusuf, *Al-Kharaj*, p. 139).

Among the effects of the embodiment of justice in the jizya are the following:

First: Non-Muslims preferred the rule of the Muslims to the conditions under which they had previously lived. This was because of the security, justice, and stability provided by Muslim rule. Al-Baladhuri reported that when the Muslims returned the tax because they had been occupied with fighting the Byzantines and therefore unable to protect them, the people of Homs said: “Your rule and your justice are more beloved to us than the oppression and injustice in which we previously lived.” They therefore closed the city gates and guarded them, as did the inhabitants of other cities whose Christian and Jewish populations had entered into agreements with the Muslims. When Allah defeated the Byzantines and granted victory to the Muslims, they reopened their cities and paid the tax (Al-Baladhuri, 1988, p. 139).

Second: Equality among members of society in their obligations toward the state. A Muslim has obligations toward society, and the same applies to the non-Muslim as long as he lives under Muslim rule. Al-Qattan stated that this contribution enables them to participate in the state budget that protects their lives, property, and honor. He explained that the jizya corresponds to the obligations imposed upon Muslims, including zakat and other financial obligations, and that the jizya is spent on public interests and on the poor among the *dhimmis* (Al-Qattan, *Taysir al-Tafsir*, 2/130).

The Second Section: The Punishment of Slavery in Islam

Slavery is sanctioned in Islam, but it is not an end in itself, as was the case with previous religious laws and the practices of pre-Islamic societies that opened and expanded the means leading to it. They enslaved people merely because of the captive's need and poverty, because of a debt owed by him, because of the injustice of his enslaver, or because of his color. Islamic law prohibited all these means and blocked them. Abu Hurayra, may Allah be pleased with him, reported that the Prophet ﷺ said: "Allah said: 'There are three whose adversary I shall be on the Day of Resurrection,'" among whom he mentioned: "A man who sells a free person and consumes his price" (Al-Bukhari, *Sahih al-Bukhari*, Book of Sales, Hadith 2227).

In Islam, however, its cause was disbelief in Allah and fighting against Allah and His Messenger. Al-Shinqiti stated: "The cause of ownership through enslavement is disbelief and fighting against Allah and His Messenger" (Al-Shinqiti, 1995, 3/29).

This occurred after granting the opportunity for justification and offering a choice between a dignified life through Islam, a lesser form of life with the payment of jizya, or fighting, whose outcome was uncertain and in which the chances were divided and amounted to a gamble, while Muslims were often inferior in number and equipment. What greater opportunity for justification and fair treatment could there be? Burayda reported that the Messenger of Allah ﷺ said:

"...When you encounter your enemy among the polytheists, invite them to three alternatives. Whichever of them they accept, accept it from them and refrain from fighting them. Then invite them to Islam. If they respond to you, accept it from them and refrain from fighting them... If they refuse, ask them to pay the jizya. If they respond to you, accept it from them and refrain from fighting them. But if they refuse, seek Allah's help and fight them" (Muslim, *Sahih Muslim*, Book of Jihad and Expeditions, Hadith 1731).

The aspect of justice in this is that it was applied only to an opponent. It is also more merciful to the enslaved person than killing, which deprives a person of life, whether noble or humble, and less severe than captivity, which constitutes a complete restriction of freedom. It is also more effective in preventing the spread of the obstinacy of those who persist in opposition, since it was applied to the unbeliever only because he was an unbeliever who opposed [Islam]. Since his freedom could become a cause of injustice,

assistance to injustice, or an obstacle to the supremacy of truth and the establishment of justice, it was part of complete justice to restrict that freedom so that peace might prevail and goodness might spread. It could also become a cause for the enslaved person to embrace Islam and enter Paradise. The Prophet ﷺ alluded to this when he said: “Allah marvels at people who enter Paradise in chains” (Al-Bukhari, *Sahih al-Bukhari*, Book of Jihad and Expeditions, Hadith 3010). Ibn Hajar explained, citing Ibn al-Jawzi, that they were initially captured and bound, but after recognizing the truth of Islam, they entered it willingly and thus entered Paradise (Ibn Hajar, 1379 AH, 6/145).

The aspect of justice becomes even clearer when it is compared with slavery outside Islam. According to the cited source, slavery in the modern international system has taken forms of injustice and exploitation, including the exploitation of the resources of peoples and states, interference in their affairs, restrictions on travel, the withholding of their wealth, racial discrimination, the imposition of debt, and the subjection of people to exploitative labor relations (Islam Q&A, 2007).

In the past, however, the injustice was apparent, as animals were considered more honorable than slaves, while slaves were subjected to various forms of punishment and remained enslaved indefinitely, with no possibility of freedom whatsoever.

Thus, consideration of the punishment of slavery in Islam should be undertaken from this comprehensive perspective in order to recognize its beneficial dimension for individuals and societies and to understand that it is a consequence of Allah’s wisdom concerning punishment.

Among the effects of the embodiment of justice in the punishment of slavery are the following:

First: Its effect on security. Among the fruits of justice toward enslaved people is that it made them and Muslims a single hand against those who opposed them, such that the security of Muslims was connected to their security, and any disturbance affecting them affected Muslims as well. Shaykh al-Islam Ibn Taymiyyah secured the release of Muslim captives from the Tatars and refused to accept their release until those enslaved people and members of their protected non-Muslim communities who were with them were also released. Ibn Taymiyyah stated:

“The Christians all knew that when I spoke to the Tatars about releasing the captives, he agreed to release the Muslims but said to me: ‘But we have Christians with us, and these will not be released.’ I said to him: ‘Rather, all those with you among the Jews and Christians who belong to our protected communities—we shall ransom them, and we shall not leave a single captive, whether from the people of our faith or from the protected communities.’ We released as many Christians as Allah willed. This is our conduct, our benevolence, and the reward is with Allah. Likewise, regarding the Christians held as captives by us, everyone knows our benevolence, mercy, and compassion toward them...” (Ibn Taymiyyah, *Majmu‘ al-Fatawa*, 28/617–618).

Second: Its Effect on Peaceful Coexistence

Treating enslaved people in accordance with divine law made them integral members of Muslim society. In this regard, Gustave Le Bon stated: “What I consider to be true is that slavery among Muslims is better than among others, that the condition of slaves in the East is better than that of servants in Europe, and that slaves in the East become part of the family... and that those who wish to gain their freedom obtain it simply by expressing their desire. Yet, despite this, they do not resort to exercising this right” (Le Bon, *The Civilization of the Arabs*, pp. 459–460, as cited in Islam Q&A, 2007).

Conclusion

This section presents the principal findings and recommendations of the study.

First: Study Findings

The principal findings can be summarized as follows:

- Islam demonstrates tolerance in all its legislative and penal rulings.
- Islam is a law of justice and mercy for all those subject to its obligations.
- Islam encompasses all dimensions of life and addresses diverse issues across different places and periods. Its justice toward non-Muslims is evident in both legislation and punishment, and this justice contributes to submission and the establishment of security.

- Through its comprehensiveness, Islam is capable of fostering security, achieving social justice, and cultivating its values. Any deficiency is attributable to the improper application of some of its teachings.
- The mechanisms for achieving social justice and the principles for promoting security and peace in societies are, in general, rooted in the merits of Islam and its enduring civilization in addressing this essential human need.
- The allegations made by those hostile to Islam against its tolerant teachings, which are founded on justice and benevolence, are untenable. This is demonstrated through examples of coexistence between Muslims and others, as well as through the testimony of non-Muslims to this observable reality.

Second: Main Recommendations

The study suggests the following recommendations:

- There is a need to examine the various legislative provisions of Islam and identify the dimensions of wisdom and benefit embodied in them.
- Islamic rulings should be compared with other legal and legislative systems so that the divine nature of the Islamic message and the suitability of its rulings for all times and places may become evident, while comparison may also reveal the limitations and temporal nature of other laws and legislative systems.
- Claims directed against Islamic law and its tolerance in its various rulings should be critically examined, with their weaknesses and inconsistencies clearly demonstrated.
- Further attention should be given to demonstrating how Islam addresses the requirements of contemporary women and to clarifying the dimensions of justice in the legislation pertaining to them.

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