

Dhimmitude Past and Present : An Invented or Real History?

BAT YE'OR

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I call dhimmitude the comprehensive legal system established by the Muslim conquerors to rule the native non-Muslim populations subdued by *jihad* wars. It is my opinion that this system has not been fully investigated. However, one can rightly ask:

- 1) Did such a system in fact exist?**
- 2) If so, what are its characteristics?**
- 3) Was this system merely theoretical or actually implemented?**
- 4) If implemented, is there a debate today on the interpretation of *jihad* and dhimmitude, and if there is no debate, why?**

The *dhimmi* condition can only be understood in the context of *jihad* because it originates from this ideology. Muslim, as well as non-Muslim scholars, from the 7th century through the present, have acknowledged that all the lands from Portugal to Central Asia that constituted the Muslim Empires were conquered by Muslim armies. These vast territories were neither populated by Arabs - except in specific regions bordering the deserts – nor by Muslims. Around the Mediterranean, the population was Christian and Jewish. Along with other religious groups, Jews and Christians also lived in Iraq, Persia, and Arabia.

Beginning in the eighth and ninth centuries, Muslim theologians and jurists endeavored to give to the *jihad* – a war of conquest - a religious and legal structure. Living during and after the great wave of Arab-Muslim expansion on mainly Christian lands, they built their theory of *jihad* on their interpretations of the Koran and the *hadiths* (the sayings and acts attributed to the prophet Muhammad). Thus they elaborated the concept and doctrine of *jihad* that established the relationship between Muslims and non-Muslims in terms of belligerency, temporary armistices, or submission. The aims, tactics and strategies of *jihad* were defined, as well as the specific rules concerning the troops, the compulsory conditions for treaties, the treatment of prisoners, and the division of the booty. This conceptualization of war led to a considerable literature that constituted the classical

doctrine of *jihad*, which was fixed, from the mid-eighth century onward, in comprehensive theological and legal treatises.

JIHAD

The ideology, strategy and tactics of *jihad* constitute a most important part of Islamic jurisprudence and literature. Muslim theologians expounded that *jihad* is a collective, religious obligation (*fard 'ala al-kifaya*) binding the community and each individual (*fard 'ala al-ayn*) in different ways according to situations and circumstances.

Here are two definitions of *jihad* by recognized authorities: Abu Muhammad Abdallah Ibn Abi Zayd al-Qayrawani in the 10thc. (d. 966); and Ibn Khaldun in the 14th c.(d. 1406).

Ibn Abi Zayd al-Qayrawani wrote:

“Jihad is a precept of Divine institution. Its performance by certain individuals may dispense others from it. We Malikis [one of the four schools of Muslim jurisprudence] maintain that it is preferable not to begin hostilities with the enemy before having invited the latter to embrace the religion of Allah except where the enemy attacks first. They have the alternative of either converting to Islam or paying the poll tax (*jizya*), short of which war will be declared against them.”¹

And Ibn Khaldun:

“In the Muslim community, the holy war is a religious duty, because of the universalism of the (Muslim) mission and (the obligation to) convert everybody to Islam either by persuasion or by force.”²

One may ask: Who are the enemies? Here is a definition from al-Mawardi, the great jurist in Baghdad in the 11thc.(d. 1058).

“The mushrikun (infidels) of Dar al-Harb (region of war) are of two types: First, those whom the call of Islam has reached, but they have refused it and have taken up arms. The amir of the army has the option of fighting them in one of two ways that is in accordance with what he judges to be in the best interest of the Muslims and most harmful to the mushrikun: the first, to harry them from their houses and to inflict damage on them day and night, by fighting and burning, or else to declare war and combat them in ranks;

“Second, those whom the invitation to Islam has not reached, although such persons are few nowadays (....)if they still refuse to accept after this, war is waged

against them and they are treated as those whom the call has reached.”³

Jihad may be exercised by pen, speech or money. The 'enemies' are those who oppose the establishment of Islamic law and its sovereignty over their lands. The world of infidels is considered as one entity. It is called the *dar al-harb* (region of war) until, through *jihad*, it will come under Islamic rule. The war between the region of Islam (*dar al-Islam*) and the region of war is supposed to last so long as unbelief exists. According to Mawardi, the Muslim **“should give battle with the intention of supporting the deen [religion] of Allah ... and of destroying any other deen which is in opposition to it: “so as to render it victorious over all [other] deen even if the mushrikun detest it.” (Koran 9:33)⁴**

Islamic law forbids the killing of women, children, the elderly, the sick and the priests, unless they have helped the enemies. It also forbids the mutilation of corpses.

In this same chapter al-Mawardi examines the opinion of different jurists on the booty and on prisoners of war taken by the jihad. **“Prisoners of war refers to the fighting men from the unbelievers taken alive by the Muslims.”⁵**

He distinguish three cases:

1) The inhabitants who convert to Islam after their defeat - in this case they and their lands become part of the *dar al-Islam*.

2) **“The second thing that might occur is that Allah gives victory over them but they remain mushrikun, in which case their women and children are taken prisoner, and their wealth is taken as booty, and those who are not made captive are put to death. As for the captives, the amir has the choice of taking the most beneficial action of four possibilities: the first to put them to death by cutting their necks; the second, to enslave them and apply the laws of slavery regarding their sale and manumission; the third, to ransom them in exchange for goods or prisoners; and fourth, to show favour to them and pardon them.”**

3) **“The third possibility is that the enemy make a payment in return for peace and reconciliation.”**

The payment is of two sorts:

1. It is treated as a booty and paid once, but this does not prevent a *jihad* being carried out against them in the future when they stop paying.

2. **“They make a payment every year in which case it constitutes an ongoing tribute by which their security is established It is not permitted to resume the *jihad* against them as long as they make the payments, because the peace is being**

maintained by the regularity of these payments. If one of them enters Dar al-Islam, this contract of reconciliation guarantees safety for himself and his wealth. If they refuse to make payment, however, the reconciliation ceases, their security is no longer guaranteed and war must be waged on them - like any other persons from the enemy camp.” ⁶

According to Abu Yusuf, an important jurist of the 8th c., peace treaties can be signed for four months, and they can be renewed but should not extend for more than ten years.

In another chapter, devoted to the division of the booty, Mawardi states:

“As for land seized by the Muslims, it is of three types:

First, that seized by force and violence, when its inhabitants abandon it by their own deaths, or they are taken captive, or they emigrate.”

“Second, land which is acquired from the inhabitants without violence because they have abandoned it out of fear.”

“Third, land which is taken through treaty.”

- the people convert to Islam or pay the *jizya* and become *dhimmis*.⁷

Among the infidel peoples there are differences. Those who do not possess Revealed Scriptures - and all Arabs - have, in theory, the choice between Islam or death. The others - principally the Jews and Christians - are granted protection status, according to the modalities of the conquest. They become *dhimmis* - people protected by the law of Islam, by a *dhimma*.

From Islam's beginning the universality of *jihad* was proclaimed. *Jihad* has not been ordered only against specific groups or for specific times, but - like Muhammad's mission - it is a universal injunction till the only remaining religion is that of Allah (Koran 2:189). Today many Muslims reject such theories, but there are others who reaffirm the same standardized interpretation and conceptualization of international relations.

For example the late Prof. Ismail al-Faruqi, a Palestinian, who was Professor of Islamic Studies and the History of Religion at Temple University (1968-86), and who also taught at the University of Chicago and Syracuse University. In a forward to *Islam and Other Faiths* (1998 - a collection of Faruqi's articles), his former student John Esposito referred to him as “a Muslim trailblazer of the twentieth century” Here is Prof. Faruqi's position:

“The Islamic state is hoped by all Muslims some day to include the whole world. The *Pax Islamica* which the Islamic state offers is more viable than the United Nations... *Per contra*, the *Pax Islamica* is dominated by law, born out of nature and necessity, has law courts open to all plaintiffs, and is backed by the power of a standing, universal army.

The doctrine of Jihad or Holy War is valid in Islam. A Holy War could be entered into only for two reasons. The first reason is defence The second is the undoing of injustice wherever it takes place. Like the Muslim individual within *Dar al-Islam*, the Islamic state regards itself, and does so rightly, as vicegerent of God in space and time, a vocation which lays a great responsibility upon the Islamic state...to redress injustice wherever men have caused it – even if that has been the other side of the moon. The Muslim regards it as his religious duty to rise up and put an end to injustice.⁸

Today many Muslims reject such theories. As for states, only Turkey has officially rejected them. We can therefore affirm that the universality of *jihad* had implied also the universality of the rules pertaining in the past to the whole territory conquered by *jihad*.

DHIMMITUDE

Like the rules of *jihad*, the rules of dhimmitude were elaborated from the Koran, the *hadiths* and the biographies on the Prophet. Those laws and their religious justification were taught throughout the Islamic Empires. Despite some differences in the four schools of Islamic Sunni jurisprudence, there is a quasi unanimity in matters concerning the *dhimmis*. The fundamental rulings relevant to them were established quite early. We read of them extensively in Abu Yusuf (731-98), a follower of Abu Hanifa (d. 767) the founder of the Hanafi school of jurisprudence. He expounded them in a treatise written for the caliph Harun al-Rashid (786-809). Their implementation over the *dhimmi* populations is mentioned by numerous Muslim jurists throughout the centuries.

Now we must remember also that for centuries the vanquished populations, mainly the Christians, formed the majorities in the Mediterranean and Middle Eastern Muslim Empires. Being the targets, along with the Jews, of dhimmitude regulations, Christian chroniclers have left many testimonies of their implementation from the earliest time and in different regions. Hence, the enunciation of the rules that one reads in abstract legal treaties are confirmed by Christian sources which depict their lethal consequences. They reveal their human concretization, adding a perceptive insight that complements the dry legal texts.

The sources on dhimmitude

The literature on *jihad* by Muslim historians is quite extensive. It describes the conquest and the process of Islamization of Christian lands which integrate the rules of dhimmitude. Hence, the many sources on dhimmitude over the centuries comprise the Muslim legal and historic texts. Jurists from the later Middle Ages and after, usually list the successive ordinances of caliphs, which are usually referred to by Muslim historians and *dhimmi* sources.

Then there are the *dhimmi* sources, as I have mentioned, which are not uniform. Some are very meagre because of the disappearance of whole communities in some regions or at

some periods, while some are more abundant.

And then there are the numerous testimonies, including diplomatic records, left by Europeans Christian and Jewish pilgrims, as well as travellers, merchants, consuls and other diplomats. These foreigners observed and described the discriminatory rules imposed on the *dhimmi*s, and in general against infidels because they themselves had to conform to these rules. Not being aware of Islamic legislation, their testimonies are thus a valuable confirmation that the rules were enforced.

The characteristics of dhimmitude are manifold. They embrace the whole expression of life and rather than analyse each of them, which is impossible to do in a lecture, I shall instead examine if they belong to a permanent and homogeneous pattern in the *dar al-Islam*.

Characteristics of dhimmitude

The basic element of dhimmitude is a land expropriation through a pact: 'land for peace'. The vanquished populations of territories taken during a millennium of *jihad* were 'protected', providing they recognized the Islamic ownership of their lands, which had now become *dar al-Islam*, and that they submitted to Islamic authority.

The vanquished peoples are granted security for their life and possessions by the Muslim authority, as well as a relative self-autonomous administration under their religious leaders, and permission to worship according to the modalities of the treaties. This concept of 'toleration' is linked to a number of discriminatory obligations in the economic, religious and social fields. There are different opinions among the jurists concerning which transgression of these obligations can be considered as breaking the protection pact (*dhimma*), and what sanctions should be applied.

The first 'right' is the right to life, which was conceded on payment of the *jizya* (Koran 9:29), a poll-tax paid with humiliation by the *dhimmi*.. The refusal to pay the *jizya* is considered by all jurists as a rupture of the *dhimma*, which automatically restores to the *umma* its initial rights of war - to kill and to dispossess the *dhimmi*, or to expel him, because he has therefore returned to his former status of being an unsubjected infidel.

Hence Abu Yusuf wrote in his book on the *kharaj* (land tax) that it was not allowed for the governor to exempt any Jew, Christian, or other *dhimmi*s from the *jizya*: **“and no one can obtain a partial reduction. It is illegal for one to be exempted and another not, for their lives and belongings are spared only because of payment of the poll tax.”** ⁹

Protection is abolished if the *dhimmi*s rebel against Islamic law, give allegiance to a non-Muslim power, refuse to pay the *jizya*, entice a Muslim from his faith, harm a Muslim or his property, or commit blasphemy. The moment the pact of protection is abolished the *jihad* resumes, which means that the lives of the *dhimmi*s and their property are forfeited.

Today, one finds Islamists in Upper Egypt who kill and pillage Copts, because they argue that these *dhimmis* have forfeited their 'protection' as they no longer pay the *jizya*.

The Baha'i religion is not protected even today in Iran. In 1994 two Muslims kidnapped and killed a Baha'i. The Islamic court held that as the Baha'is were "unprotected infidels... the issue of retribution is null and void".¹⁰ This means that an infidel has no human rights, unless he is protected by Islamic law.

In the context of its time, the protection system presented both positive and negative aspects. It provided security and a measure of religious autonomy, but in a legal context of discrimination. These rules, mostly established from the eighth to ninth centuries by the founders of the four schools of Islamic law, set the pattern of the Muslim community's social behavior toward *dhimmis*.

Political aspects

Because protection was set in a context of war, some rules pertaining to the *dhimmis* have a military character. Among the military elements of the dhimmi condition is the prohibition for *dhimmis* to carry or possess weapons. It is mentioned in the earliest legal texts, from the beginning of the Islamic conquest and is attributed to the second caliph Umar b. al-Khattab (634-44). It was confirmed throughout the centuries and in different regions by many witnesses until the 19thc. and, in regions applying the *shari'a* until the 20thc. Many sources mention the prohibition on carrying arms for Jews and Christians in Palestine¹¹, Syria, Egypt, Armenia, the Maghreb, and Persia. Its debilitating and tragic consequences were analysed by foreign consuls. *Dhimmis* became prey to marauding, pillage, and massacre especially during periods of insecurity, such as rebellions and invasions. With the spread of the Islamic conquest, this prohibition was applied also in Anatolia and in the European Islamized provinces. British Consul Blunt noticed in his report to the Foreign Office in 1860 that Christians in the Ottoman province of Macedonia were not allowed to carry arms. British Consul in Jerusalem, James Finn, attributed to this interdiction, the cowardice of *dhimmis*. William Shaler, the American consul in Algiers (1816-26) mentions the prohibition for Jews and Christians to bear arms. In Yemen, Jews were forbidden to carry arms until their departure to Israel in 1949-50¹².

The deportations of *dhimmi* populations for slavery or for strategic reasons are mentioned in time of war, and in time of peace. During the Arab conquests many populations were deported as booty, from Iraq, Palestine, Egypt, Armenia and other regions. Muslim as well as Armenian and Coptic sources mention deportations in the 8 and 9th c. during rebellions. Muslim chronicles refer to the deportation of *dhimmi* population from towns and villages during warfare. Seljuk Turk rulers imposed deportations during the 11th c. from Armenia and Anatolia. Prof. Speros Vryonis¹³ has extensively documented this phenomenon for Anatolia, using contemporary Greek and Muslim sources, as did Greek, Serb and Bulgarian historians for the Ottoman period. Deportations from the Holy Land were

carried out by Arab tribes in middle of the 10th c., and in Anatolia under the Ottomans during the 15th – 17th centuries ¹⁴.

Population transfers motivated by economic causes affected *dhimmi* populations and were not restricted to newly subjugated or enslaved populations. Some chronicles provide information on these transfers. Departure had to take place on the same day or at very short notice - two or three days - making it impossible for the deportees to sell their possessions. In order to discourage flight, they were counted, closely supervised, and forbidden to move from their new place of residence, generally very far from their places of origin. After all had been deported, their houses were burnt down and the entire village destroyed.

Arakel of Tabriz has recorded the deportation of Armenians by Shah Abbas in 1604 from Julfa, with its terrible hardships, and the killing and abductions of girls and boys. He also describes the expulsion of the Armenians from Isfahan by Shah Abbas II, and the expulsion and forced conversions of the Jews in several cities of Persia at the same time (1657-61). Abraham of Crete, and Armenian priest, witnessed the deportation of Armenians by Nadir Shah in 1735 from the Ararat region. The deportation of Jews from Mashad (1839) and from Herat (1857-59) were described by Mattatya Gargi, the head of the Jewish community of Mashad ¹⁵.

Billeting and provisioning soldiers and horses were imposed by laws on *dhimmis* – another obligation which is stressed in every legal treatise on *dhimmis*. Abu Yusuf attributed it to the second caliph, Umar b. al-Khattab. Soldiers and beasts had to be lodged in the best houses, or in churches or synagogues, which were then abandoned because they became refuse dumps or stables. In the 19th c. British and French consuls and travelers mentioned this obligation in Bulgaria, Bosnia, Greece, Armenia, Syria and the Holy Land. ¹⁶

In the Maghreb during periods of instability and a change in monarch, Jewish quarters were plundered, men slaughtered or ransomed, and women and children abducted by tribes massed around the towns. This was witnessed by among others, the American consul Shaler in Algiers in the 1820s, and is described in local Jewish and diplomatic reports in the early 20thc. in Morocco. ¹⁷

Abduction of women and children for slavery or ransom in times of war and rebellion, or during peace time raids (i.e., razzias), was recurrent. Documentation is provided in Jewish *dhimmi* sources, but mainly in Christian chronicles: Syriac, Coptic, Armenian, Greek, Bulgarian, and Muslim. Coptic chronicles of the Middle Ages mention the abduction of Christian children as slaves or as a deduction of unpaid taxes. In Yemen, Jewish children under the age of 12, upon the death of their father, were removed from their families and converted to Islam. The law was retroactive, and was applied until the departure of the Jews to Israel in 1950. However, such practices are theoretically forbidden by Muslim law. According to al-Mawardi: “ **One may buy children of people residing in enemy**

territory, just as one may make them captive, but one may not buy children of dhimmi peoples or take them captive.”¹⁸

The revolt of *dhimmis* restored the rule of *jihad*, resulting in slaughter of the rebels, and slavery for their women and children. After the Greek and Serb revolts in the 19th c., thousands of women and children were enslaved. At the fall of Missolonghi (22 Apr. 1825) 3.000 to 4.000 Greek women were sold in slavery. Countless Armenians were enslaved during the massacres at the end of the 19th c. and during the genocide of 1915-17.

Religious slavery was widespread throughout the Islamic lands. Christian Nubia was obliged to deliver contingents of slaves from the beginning of the Arab conquest. The Mamluks who ruled Egypt and Syria for centuries, were all non-Muslim slaves, bought or captured. In the Ottoman Empire, for over 300 years under the *devshirme* system, Christian children were requisitioned annually for slavery in Albania, Greece, the Aegean Islands, Bulgaria, Serbia, Bosnia, Croatia, and Hungary. In Persia, the *koulars* or militia slaves represented a similar institution. This system of enslaved Christian militias also existed in Andalusia (Spain), where military slaves were particularly numerous.

Concerning the *dhimmi* peasantry ¹⁹, we see that chronicles from Egypt, Armenia, and Palestine in the 8th and 9th centuries onward describe a similar pattern concerning the taxes and the ransoms levied on the *dhimmis*, the general insecurity, the usurpation of lands by Arab immigrant tribes, the continuous extortion of the population, and its flight. A similar pattern developed centuries later with the penetration in Anatolia of Turkish tribes from the 11th c. During the early Middle Ages, strict control of the whole village *dhimmi* population, reinforced by severe penalties for those who fled, was needed to keep the peasants on their lands. Extortion under torture is mentioned in Palestine, Egypt, Armenia, and Mesopotamia. Abu Yusuf alludes to tortures inflicted on the tributaries to extract money by stating that this is forbidden. Coptic and Armenian *dhimmis* sources describe the same type of tortures.

The same fiscal oppression and the ransoming for security, was observed in the 19th c. for Christians and Jews in Syria, Palestine, and Lebanon ²⁰, as well as Mesopotamia, Armenia and Kurdistan, and some European provinces of the Ottoman Empire. It was reported by Edouard Engelhardt ²¹, the French plenipotentiary minister in Turkey in the middle of the 19th c. The same situation relating to Armenians some decade later is reported by an Anglo-French, and Russian Commission of Enquiry in the Sassun region after the massacres of 1894-95.

The general pattern for the *dhimmi* peasantry, most frequently discussed in texts related to the beginning of the conquest, concern the conditions of the conquest, the character of the Islamized lands, the fiscal regime, the sporadic deportations, the overall insecurity, and the

destruction of churches and synagogues. Even if all those evils were neither continuous nor generalized, and sometimes resisted by the Islamic central power, especially the Ottomans, they were recurrent enough to have destroyed, in some regions, the indigenous non-Muslim peasantry.

Since dhimmitude is the result of a war of conquest, it comprises the study of the *jihad* rules and of the modalities of the battles and the treaties with conquered peoples. For traditional Muslim jurists the modalities of conquest of each land or city was to determine for all time the jurisdiction to be applied there. Those points are constantly stressed by jurists. Here are some examples:

In the early fourteenth century, churches and synagogues were closed in Cairo and a legal opinion on this matter was requested from Ibn Taymiya, a renowned Hanbali jurist. He confirmed the legality of the closure by referring to the conditions of Egypt's conquest in the seventh century by the Muslims, that is, eight centuries earlier.

In the treatise (1739) of Shaykh al-DamANHuri, an Egyptian scholar from al-Azhar, we read an interesting examination of the opinions of the most prominent Islamic scholars on the building and restoration of churches and synagogues in Islamic lands. All opinions are based on the conditions of the conquest: if the land was taken by violence, by treaty or was occupied by Muslim colonists.

Another example comes from Morocco a century later. From 1836 to 1837 the Jews of Fez had asked the Sultan Abd ar-Rahman for permission to build a hammam (public bath) in their quarter. The most learned qadis (judges) were consulted; they produced twelve fatwas on the subject, going back to ancient chronicles that described the conditions of the Islamic conquest of the Maghreb more than a thousand years earlier. All of them - with one exception - ruled that Jews could not be granted the right to build a hammam because of the manner in which the conquest of the Maghreb had taken place in the 7thc. As late as 1898, the same request was again refused to the Jews.

Socio-religious aspects

The economic and social domain projects a much wider and deeper pattern of dhimmitude, because one can say that the Muslim peasantry was also – though in a much less severe way - victim of the period's vicissitudes. In wars, invasions and rebellions, there is a degree of uncertainty. This is not the case with the legal regulations determining the economic and social status of the *dhimmis*. As there is no time to develop this aspect, I will briefly enumerate them. Many are stated in Abu Yusuf, the rather open-minded 8th century jurist from the Hanafi school.

As we have seen, the *jizya* was mandatory under threat of jail, conversion, slavery, the abduction of *dhimmi* children, or death. *Dhimmis* paid double the taxes of the Muslims and were subjected to the most degrading corvées. In North Africa and Yemen, repugnant

obligations, such as executioner, gravedigger, cleaner of public latrines and the like, were forced on Jews, even on Saturdays and holy days. Religious restrictions were numerous, ranging from prohibitions in building, repair and enlargement of synagogues and churches to regulations imposing humility, silence and secrecy in prayer and during burial. The destruction, confiscation and Islamization of synagogues, and more often churches, were common and are often mentioned in legal treatises and *dhimmi* chronicles.

In the legal domain, specific laws ordained permanent inferiority and humiliation for the *dhimmis*. Their lives were valued at considerably less than that of a Muslim. The penalty for murder was much lighter if the *dhimmi* was the victim. Likewise, penalties for offenses were unequal between Muslims and non-Muslims. A *dhimmi* had no right to defend himself if he was physically assaulted by a Muslim; he could only beg for mercy. He was deprived of two fundamental rights: the right of self-defense against physical aggression, and the right to defend himself in an Islamic law court as his testimony was refused. *Dhimmis* could be judged under the provisions of their own legislation. However *dhimmi* legislation was not recognized in Muslim courts, whose judgements superseded *dhimmi* legal decisions.

Dhimmis were forbidden to have authority over Muslims, to possess or buy land, to marry Muslim women, to have Muslim slaves or servants, or to use the Arabic alphabet (confirmed by Colonel Charles Churchill in Syria and Lebanon during 1840-60).

In the social domain *dhimmis* had to be recognized by their discriminatory clothes whose shape, color and texture were prescribed from head to foot, likewise, their houses (color and size) and their separate living quarters. *Dhimmis* were forbidden to ride a horse or a camel, since these animals were considered too noble. A donkey could be ridden in towns but only on a pack-saddle, the *dhimmi* sitting with both legs on one side and dismounting on sight of a Muslim. A *dhimmi* had to hurry through the streets, always passing to the left (impure) side of a Muslim, who was expected to force him to the narrow side or into the gutter. He had to walk humbly with lowered eyes, to accept insults without replying, to remain standing in a meek and respectful attitude in the presence of a Muslim and to leave him the best place. If he was admitted to a public bath, he had to wear bells to signal his presence. Stoning Jews and Christians - especially in Arab-populated regions - was not unusual- likewise disdain, insults and disrespectful attitudes toward them were customary. Some regional rules represent an aggravation of this pattern. In Morocco and Yemen, Jews were forbidden any footwear outside their segregated quarter.

These laws are the basic regulations set down in the classical texts on *dhimmis* and they had to be enforced throughout the lands of dhimmitude. Muslim jurists strongly condemned the alleviation of these measures when it temporarily occurred. Dhimmitude covers more than a millennium of Christian and Jewish history and is a comprehensive civilization encompassing customs, legislation and social behaviour. Its various constituents were constantly imposed with lesser or greater severity depending on

circumstances - they may be found whether in the Balkans, in Anatolia, in the Levant, Persia, Yemen and the Maghreb.

Thus we can answer the questions posed at the beginning of this lecture as follows: yes, indeed, dhimmitude represents a comprehensive legal system; it was introduced throughout the lands conquered and Islamized by *jihad*; and it was implemented as recorded in numerous texts, and viewed or experienced by countless witnesses for thirteen centuries.

This comprehensive system has permeated Islamic civilization and culture from its inception, and is being revived today through the Islamist resurgence and the return of the *shari'a* in some countries. Hence this pattern is not transient but permanent.

Jihad-dhimmitude: a stable and enduring pattern

The considerable number of chronicles written by Muslims and non-Muslims provide copious information on the methods and implementation of *jihad* over the centuries. These texts make it possible to establish the close correspondence between actual Islamic military practices and the legal and theological prescriptions of *jihad*. The wars currently waged by Muslim states or through their proxies, in Israel, the Sudan, Nigeria, Kashmir, the Philippines, Indonesia, and other parts of the world, reproduce the classic strategy of *jihad*. For instance Abu Yusuf mentions the military conscription of pubescent and pre-pubescent children in *jihad* campaigns. Contemporary examples include: the Iraq-Iran war, the *jihad* against Israel (intifada), and the Islamist militias in the Sudan. The refusal to return enemy corpses (for example by the Lebanese Hizbollah) conforms to another opinion of Abu Yusuf. Raids on villages, killing of adult males, and the abduction and enslavement of women and children (Sudan, Indonesia), as well as terrorist campaigns against civilians infidels and apostates (Algeria), conform with the opinions of al-Mawardi, mentioned earlier. The victims of such actions are deprived of all rights.

Today, many aspects of dhimmitude remain active or potential political forces. Hence we see a return to the same situation in modern states where the *shari'a* is applied or constitutes the source of the laws, as in Egypt, Iran, Sudan, Nigeria, Pakistan, and until recently in Afghanistan.

The condition of Christians in some modern Muslim states is inspired by the traditional rules of dhimmitude relating to the laws of blasphemy, mixed marriage and apostasy, or those concerning the building and repairing of churches, and of religious processions. Discrimination in employment and in education occurs, as well in equality between Muslims and non-Muslims in penal law.

A recently published book by Canon Patrick Sookhdeo²² examined the condition known in Pakistan as “bonded labour”. This is of particular interest to the historian of dhimmitude because it was the condition of the Jewish and Christian peasantries, so often referred to in their chronicles from the eighth to the nineteenth centuries. It illustrates the subservience maintained by fiscal exploitation and indebtedness which led to expropriation and a system of slavery. Likewise, Sookhdeo demonstrates how the inferior status of the non-Muslim can validate an abuse, in theory forbidden by law, and make it irreversible, as for example the accusation of blasphemy or the abduction of Christian women. This crime, also perpetrated in Egypt today, has been a permanent feature of dhimmitude.

As a brief conclusion, I would say that there is no public debate yet on the ideology of *jihad* against the infidels, nor about dhimmitude, because these subjects are simply obfuscated or denied outright. Thus, Dr. Abdel-Mo'ti Bayoumi, the Secretary of the Islamic Center of the prestigious al-Azhar university in Cairo, recently wrote (*Al-Musawwar* – a mainstream Egyptian weekly, in Arabic - Aug. 23, 2002) in a rejoinder to an article of mine on *Jihad* (National Review Online, July 1, 2002), that the *dar al-harb* never existed, which implies then that neither *jihad*, nor slavery ever existed in Islam. Thus in one stroke of the pen, a reputable Islamic scholar summarily dismissed thirteen centuries of Islamic writings and laws on this subject.

Since the end of the 1960s some professors in Europe and North America teach that *jihad* wars produced no civilian victims, and that the Muslim armies of conquest were welcomed by their future *dhimmis* with open arms. This, of course, is the Muslim version of history and it is interesting to see that it is being adopted in Europe. This interpretation is in conformity with the *shari'a* which forbids any criticism of Islamic law or government, and attributes all evils to the *mushrikun* (the infidels), hence the necessity of the *jihad*, whose aim is to impose the Islamic law of justice over the land of Evil - the *dar al-harb*, the region of war.

References

1. Ibn Abi Zayd al-Qayrawani, *La Risala (Epitre sur les elements du dogme et de la loi de l'Islam selon le rite malikite.)* Translated from Arabic by Leon Bercher. 5th ed. Algiers, 1960, p. 165.
2. Ibn Khaldun, *The Muqudimmah. An introduction to History.* Translated by Franz Rosenthal. (New York, 1958), vol. 1, p. 473.
3. Abu'l-Hasan al-Mawardi, *al-Ahkam as-Sultaniyyah. The Laws of Islamic Governance,* trans. by Dr. Asadullah Yate, (London), Ta-Ha Publishers Ltd., 1996, p. 60.
4. *Ib.*, 70
5. *Ib.*, 192
6. *Ib.*, 76-77
7. *Ib.*, 200-202
8. Ismail Raji al-Faruqi, *Islam and Other Faiths*, ed. by Ataulloh Siddiqui, (Herndon, VA), 1998, p. 100

9. Abu Yusuf, Ya'koub, *Le Livrre de l'Impot Foncier. (Kitab el-Kharadj)*. Translated from Arabic by E. Fagnan. (Paris, 1921), p. 189.
10. Pedro Moreno ed. *Handbook on Religious Liberty around the World*, Rutherford Institute, 1996, p.277.
11. Moshe Gil, *A History of Palestine, 634 - 1099*, Translated from Hebrew by Ethel Broido. Cambridge University Press, 1997.
12. For consular sources on dhimmitude, see Bat Ye'or, *The Dhimmi. Jews and Christians Under Islam* Fairleigh Dickinson University Press, 1985., *The Decline of Eastern Christianity Under Islam. From Jihad to Dhimmitude* Fairleigh Dickinson University Press, 1996., *Islam and Dhimmitude. Where Civilizations Collide* Fairleigh Dickinson University Press, 2002.
13. Speros Vryonis, Jr. *The Decline of Medieval Hellenism in Asia Minor and the Process of Islamization from the Eleventh through the Fifteenth Century*, Berkeley, University of California Press, 1971.
14. Gil, *A History of Palestine*, and Joseph Hacker: "The Surgun System and Jewish Society in the Ottoman Empire during the 15th – 17th centuries", *Zion* 55/1 (1990), 27-82..
15. For references on deportations, see the documents section in Bat Ye'or, *The Decline of Eastern Christianity Under Islam. From Jihad to Dhimmitude*.
16. Albert Hyamson, ed. *The British Consulate in Jerusalem in Relation to the Jews of Palestine (1838-1914)*. Vol. 1, p. 211.
17. David Littman, "Jews under Muslim Rule, II: Morocco 1903-1912", *Wiener Library Bulletin* 29, n.s. 37/38 (1976): 3-19; and *WLB* 28 n.s. 35/36 (1975): 65-67.
18. al-Mawardi, op. cit., 200.
19. For the evidence provided by Sawirus b. al-Muqaffa, Denys of Tell-Mahre and Pseudo-Denys, Michel the Syrien, Bar Hebraeus, Thomas Ardzruni, Ghevond, Sepeos, see Bat Ye'or, *The Decline of Eastern Christianity Under Islam. From Jihad to Dhimmitude*
20. Col. Charles Churchill, *The Druzes and the Maronites under Turkish Rule from 1840 to 1860* (1862).
21. In Bat Ye'or *Islam and Dhimmitude. Where Civilizations Collide*, pp.341-42.
22. Canon Patrick Sookhdeo *A People Betrayed. The Impact of Islamization on the Christian Community in Pakistan*, Scotland. 2002