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An Examination of Minority Rights in Islamic Jurisprudence

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Abstract

Islamic jurisprudence, or fiqh, has historically grappled with the existence and protection of non-Muslim minorities under Muslim rule. From the earliest Islamic states to multicultural communities today, the issue of how Islam treats religious minorities has been both pragmatically salient and politically divisive. This article explores the norms of Islamic law that regulate minority rights—specifically ahl al-dhimma (protected non-Muslims), freedom of religion, legal jurisdiction, and social obligations. Drawing on classical jurists, modern scholars, and real-world examples, the article demonstrates that Islamic jurisprudence—when deployed in its moral context—has a framework that preserves dignity, coexistence, and pluralism. Though there have been moments of abuse or selective application, the foundational texts of Islam hold important clues to how diverse societies can honor religious identity and shared citizenship.

Keywords: Islamic Jurisprudence, Minority Rights, Dhimmi, Shari'a, Pluralism, Coexistence, Legal Autonomy, Religious Freedom, Islamic Law, Citizenship in Islam

Introduction

Throughout history, societies have grappled with the dilemma of how to deal with individuals who think differently, pray differently, or simply live beyond the mainstream culture. Islam, as both a religion and law system, developed its own solution to this dilemma from its earliest days. In Islamic law (fiqh), dealing with religious minorities has never been simply a question of law—at least, not in the same sense—it's been a balancing of moral values, social duty, and political equilibrium.

When the Prophet Muhammad ﷺ founded the first Muslim society in Medina, he was not ruling over a population that was homogeneous in belief. Muslims shared the city with Jews, Christians, and polytheists, and their presence had to be taken into account. Out of such a backdrop developed a series of legal precedents and moral guidelines—later codified by medieval scholars—that dealt with how non-Muslims were to be defended, taxed, assimilated, or left to their own devices and religions.

This essay explores these early assumptions and the manner in which they were interpreted and institutionalized throughout history. It also considers the manner in which these ideals were institutionalized in the past, and the way that they influence debate regarding citizenship, religious freedom, and minority rights in contemporary Muslim societies.

At a time in the world today when religious intolerance and cultural conflict are apt to rise, it is especially important to return and read what Islamic law actually has to say concerning minority rights. Are non-Muslims second-class citizens? Is one equal under Islamic law? Can Shari'a be pluralistic?

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This study is not giving a single, conclusive answer. Rather, it offers a critical but balanced account of the Islamic law tradition on this issue—its strengths, its abuses, and its potential for building inclusive societies. Through both classic texts and contemporary scholarship, we will explore whether Islamic jurisprudence leaves room not just for tolerance, but for mutual respect and coexistence.

Grounds of Minority Rights in Islamic Sources

In order to see how Islamic law treats minority rights, we must start with the foundational sources of Islamic law: the Qur'an and the Sunnah (the sayings and deeds of the Prophet Muhammad ﷺ). These are the sources that provide the framework by which Muslims are to treat people—particularly those who are different in believing.

- **The Qur'anic View**

The Qur'an refers frequently to the People of the Book—essentially Jews and Christians—as belonging to a wider divine tradition. In a number of verses, the Qur'an refers to their Scripture and awards them a place of honor among religious communities. For instance, in Surah Al-Baqarah (2:62), the Qur'an says: In fact, the believers and the Jews and the Christians and the Sabeans—anyone who believes in Allah and the Last Day and does righteousness—will be rewarded by their Lord.

These passages demonstrate a basic tenant: that righteousness and genuine faith are important, irrespective of faith background. The Qur'an also consistently invites Muslims to be fair and compassionate in their dealings with people, including non-Muslims. One of the most famous passages from Surah Al-Mumtahanah (60:8) states:

"Allah does not make it prohibited for you to be kind and fair to those who did not fight against you on the basis of faith nor expelled you from your homelands. Indeed, Allah is affectionate with those who are fair."

- **The Prophetic Model**

The Prophet Muhammad ﷺ himself established significant precedents in handling minorities, especially at Medina. Perhaps the most important document of the time is the Constitution of Medina, which is generally regarded as one of the earliest written blueprints for pluralist government. The treaty acknowledged the Medina Jewish tribes as a separate religious group with their own rights, judicial autonomy, and obligations to the entire city-state.

Jews, under this charter, were called members of the "umma"—the overall community—and permitted to practice their own religion. The constitution also put strong emphasis on collective responsibilities in security, defense, and issues of justice.

- **The Concept of Dhimma**

One of the institutions of early Islamic law was the concept of dhimma, which was a treaty of protection granted to non-Muslim subjects (ahl al-dhimma) who ruled themselves under Muslim authority. In return for the payment of a tax, jizya, they were granted protection, religious toleration, rights in property, and the right to resort to legal remedies.

While in contemporary usage the word "dhimmi" has been abused, the word was known to the jurists in ancient times as a means of ensuring such security and freedom for the minorities. Jurists Imam Abu Hanifa and Imam Malik have written at length concerning the rights of the dhimmis—not merely as tolerated but as persons to whom respect and legal protection were due.

Historical Practice and Application

While Islamic literature provides the theoretical foundations of minority rights, one must also consider to what extent these ideas were practiced. Looking at the different times and places throughout Islamic history permits us to see the possibilities and the limitations of these legal ideals. It also reveals how much depended upon local leaders, cultural context, and shifting political realities.

- **Early Caliphates**

Under the Rashidun and Umayyad, the dhimma system was formalized and used widely. Non-Muslims, Jews, Christians, and Zoroastrians were permitted to keep their religious institutions, govern their communities, and settle their internal affairs according to their religious law. Churches, synagogues, and Zoroastrian temples existed in most cities alongside mosques, a degree of religious diversity not common in those times.

The Abbasid Caliphate (750-1258 CE) pushed this even further, particularly in intellectual and cultural spheres. The Abbasid capital of Baghdad was a center of learning where Muslim, Christian, Jew, and even pagan scholars collaborated in translation and preservation of classical authors. This period reflects a period of time in which coexistence was not only tolerated—it was revered.

- **The Ottoman Empire**

The Ottoman Empire (1299-1924) provides a second fascinating case. Rather than applying a single law to all, the Ottomans permitted minority groups to function on the basis of what came to be called the "millet system." Each recognized religious community—Orthodox Christians, Armenians, and Jews—had its own right to administer its schools, its courts, and its charitable

foundations.

Though they paid a tax equivalent to the traditional jizya, the communities had a great degree of autonomy. They were accorded the status of empire citizens, though non-Muslim. Though not perfect, the system indicates a continued attempt to integrate legal pluralism in the administration without erasing religious identity.

- **Spain and India**

There was flowering of intercultural intercourse in Islamic Spain, Al-Andalus, especially under the Umayyads in Cordoba. Jews and Christians shared public life, made contributions to science and philosophy, and filled administrative positions. This is frequently referred to as a high point of coexistence and mutual enrichment.

Mughal India's policies differed from emperor to emperor. Emperor Akbar, for instance, was famous for his tolerant and accommodating policies, even to the point of hosting interfaith conferences and lowering taxes on non-Muslims. His grandson Aurangzeb reinstated some of the restrictions, which would indicate that historical practice would tend to oscillate with political issues.

Legal Principles of Classical Fiqh

Islamic jurisprudence—or fiqh—is founded on a rich tradition of interpretation and reasoning. In matters of minority rights, the classical jurists did not merely depend on individual verses and disconnected Hadith. They formulated systematic legal opinions regarding the treatment of the non-Muslims, founded on the Qur'an, the Sunnah, and more general ethical principles. These verdicts were not always uniform, but they all had some things in common: justice, protection, and dignity.

- **The Status of Ahl al-Dhimma**

One of the key legal notions of minorities is the ahl al-dhimma, or "protected people," status. There are authors such as Imam Abu Hanifa, Imam Shafi'i, and Imam Malik who wrote about this group. The shared notion was that the non-Muslims who were living in peace under Muslim authority would be given security and religious liberty in return for the payment of the jizya, a tax which served as the symbol for their protected status.

Interestingly, jizya was not intended to be humiliating or punitive, although at times it has been described as such. The ancient philosophers viewed it as a civic duty, just as was zakat that Muslims were expected to pay. Indeed, in most epochs of the past, prosperous non-Muslims paid jizya, but the poor ones were exempted, just as poor Muslims were exempted from zakat.

The status of dhimmi encompassed more than economic obligations. There were also legal guarantees—such as the right to the courts, protection of life, and right to property. Their sanctuaries were to be respected, and their religious leaders could govern autonomously.

- **Terms and Conditions**

All that aside, the classical jurists did place some restrictions on non-Muslims. For example, some public displays of non-Islamic religion might be governed in Muslim-dominated regions. Non-Muslims were not typically permitted to serve in the army or high-level political positions because those were religious trusts. Dress codes, travel permits, or constructing new religious buildings were sometimes regulated—though again, enforcement was wildly inconsistent by location and era.

It's helpful to put these restrictions into context in history. They were for the most part a reflection of medieval society convention, rather than a rejection of religious diversity. Minority groups, for example, under Christian rule, were frequently subject to worse conditions. Islamic law in this time was comparatively tolerant by comparison.

- **Rights in Marriage, Trade, and Social Life**

Classical fiqh also addressed everyday interaction between Muslims and non-Muslims. Marriage between Muslim men and women of the "People of the Book," for example, was permitted. Trade was permitted, and business partnerships and social visits. These laws were a reflection of a practical reality: Muslims and non-Muslims often lived next door to each other, and Islamic law encouraged harmony, not segregation.

Some researchers even permitted non-Muslims to apply their own laws in matters concerning themselves, like marriage and inheritance, an acknowledgment of their right to maintain their religious identity.

Modern Interpretations and Controversies

In the modern age, the debate of minority rights in Islam has shifted from theory and medieval governance to more pragmatic issues of constitutional law, citizenship, and international human rights norms. With Muslim-majority states changing politically and culturally, scholars and societies are re-examining the way Islamic law can—and should—deal with the circumstances of plural societies.

- **Reclaiming Ethical Foundations**

Most contemporary scholars argue that Islamic law must return to its moral roots, but not just its legal frameworks. Scholars like Fazlur Rahman, Tariq

Ramadan, and Mohammad Hashim Kamali emphasize upholding the *maqāṣid al-sharīʿa*—the higher objectives of Islamic law. These are the protection of life, intellect, religion, property, and dignity. If these norms are adhered to in earnest, they suggest that the protection of minorities is not only acceptable, but obligatory in an Islamic society.

For example, if the rationale of the *jizya* was to guarantee safety and equitable treatment, then in contemporary states where all citizens contribute to taxation and are subject to a common constitution, the essence of the contract is already satisfied. Equal citizenship rights under this approach are not a negation of *Shari'a*—they are a mature expression of its essence.

- **Muslim-Minority Contexts**

In a stunning reversal, the issue of minority rights has also come to be seen in the opposite direction: how do Muslims live as minorities in non-Muslim nations? In Europe and North America, Muslim thinkers have insisted on peaceful coexistence, legal integration, and civic engagement. This has compelled the majority of Muslims to reinterpret classic rulings in a manner that makes room for interfaith discourse, democratic engagement, and tolerance of others.

This also creates an opportunity for expanding Islamic practice—a practice that promotes religious freedom not only for Muslims, but for all. Scholars in both of these contexts contend that advocating for other individuals' rights is a kind of *da'wah* (calling others to Islam) in itself, because it is a witness to the religion's justice and mercy.

- **Debates and Resistance**

Naturally, not everybody is of the same opinion. Some conservative scholars consider such reforms unnecessary or even harmful. They claim that

Islamic law already guarantees protection of minorities through the system of dhimma and that reconsidering it with reference to Western values could erode Islamic identity.

There is political opposition as well. Governments in some Muslim-majority countries invoke Islamic principles selectively at times—sometimes invoking them to impose restrictions on the rights of non-Muslims, even when those actions are contrary to Islamic ethics. In those instances, religion is invoked more as a political tool than as a true source of justice.

Case Studies of Contemporary Muslim Societies

In order to know how minority rights function in the real world today, we have to look at how different Muslim-majority countries have dealt with it. These analyses present a wide spectrum—some exhibiting the Islamic ethos of openness, while others depict the turmoil of political instability, sectarianism, or conservative interpretations.

• Tunisia – Legal Equality in a Post-Revolution Context

Following the 2011 revolution, Tunisia experienced a democratic transition that included extensive legal reforms. Its new constitution, ratified in 2014, guaranteed freedom of conscience and belief for all citizens irrespective of religious affiliation. Islam was still the state religion, but the law explicitly guaranteed equal citizenship for religious minorities.

This was a departure from previous models. Instead of depending on dhimma-style protections, Tunisia adopted a model based on citizenship that rested on universal principles—perhaps approximating the same Qur'anic principles of justice and dignity within a modern legal framework.

- **Iran – Protected but Restricted**

Iran, an Islamic Republic theocracy, formally acknowledges a few religious minorities, such as Christians, Jews, and Zoroastrians. They are represented in parliament and constitutionally protected. In practice, however, their rights are sometimes restricted—especially in working in the army, state schools, or holding certain public positions.

Unrecognized minorities, including Bahá'ís, tend to be more discriminated against, even though Islamic principles uphold justice to all peaceful non-Muslims. This disparity illustrates the power of state ideology to shape the extent of minority rights, even if original Islamic principles are more expansive.

- **Malaysia – Pluralism with Limits**

Malaysia is a multi-religious state where Muslims, Buddhists, Christians, and Hindus coexist. It is constitutionally committed to religious freedom but has Islam as the state religion and Muslims with distinct Shari'a courts.

Non-Muslims are generally free to practice their religion and carry out their religious affairs, but family law issues can be complicated—especially intermarriage between religions or disputes over children's religious status. The balance between Islamic identity and legal pluralism persists.

- **Jordan and Morocco – Quiet Protection**

Both Morocco and Jordan have embraced policies of social cohesion and interfaith tolerance, usually under political and religious leaders who happen to be monarchs. King Mohammed VI instituted reforms in Morocco to secularize religious education, including materials that encourage coexistence and tolerance of minorities.

In Jordan, minority Christians engages in politics, run their own schools, and freely observes public holidays. There are difficulties, but these nations have demonstrated that state-backed religious leadership can assist in creating inclusive settings when informed by moral interpretations of Islam.

Ethical and Theological Reflections

When we speak of minority rights, Islamic law, it's easy to limit ourselves to law, policy, or precedent. But ultimately, this is a conversation about something deeper: how Islam imagines human beings, dignity, and diversity. Above and beyond the legal code, the Qur'an and prophetic tradition present a powerful moral imagination—one grounded in justice, mercy, and the affirmation of difference as a characteristic of divine creation.

- **Dignity for All Human Beings**

The Qur'an is always a witness to the inherent dignity of all human beings irrespective of religion. In Surah Al-Isra (17:70), it says:

"Surely we have honored the offspring of Adam."

This is not a Muslim/non-Muslim distinction. It is a universal ethic—a one that prioritizes human dignity over sectarian difference. From this, Islamic scholars have always maintained that justice is not belief-dependent, and that moral treatment of others must be extended to all.

- **Diversity as a Divine Will**

Instead of religious difference being defined as something negative, the Qur'an defines it as natural and even intentional. In Surah Al-Ma'idah (5:48), God states:

"Would that God had made you one people, but He willed otherwise, to try you through what He gave you."

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This verse encourages Muslims to see pluralism as anything but defeat but as consistent with God's design. It lays the foundation for tolerance based on theological humility—the fact that final judgment belongs to God and not to human authorities.

Mercy over Punishment

The Prophet Muhammad ﷺ is referred to in the Qur'an as a "mercy to the worlds" (rahmatan lil-'alameen). This was not limited to Muslims—it was for anyone who was in his care or under his authority. His behavior towards non-Muslims was frequently characterized by respect, patience, and protection, even in times of tension or conflict.

This legacy forbids any contemporary use of Islam to be utilized as an excuse for brutality or exclusion. If the Prophet's mission was one of compassion, then any genuine application of Islamic teachings must continue that same tone—particularly in the presence of vulnerable or marginalized persons.

Conclusion and Policy Implications

Islamic law's rights of minorities are not a product of the recent past, nor are they borrowed from other political systems. They are based on the earliest Qur'anic jurisprudence, as realized in the practice of the Prophet Muhammad's ﷺ, and evolved over the centuries by generations of jurists. Islamic law fundamentally imagines a society in which justice is not confined by religion, nor dignity by identity.

History has shown that Islamic values have been differently interpreted to be used in the direction of minority rights—anything from progressive models of coexistence to more politicized or exclusionary versions. This disparity is not

caused by Islamic law itself failing, but much too often by human choice, political agendas, or the course of history. When guided by ethics, Islamic jurisprudence has created avenues of true inclusion. When taken outside of its ethical framework, the same law has been utilized to exclude or marginalize.

In the pluralistic world of today, when Muslims are minorities and majorities, the challenge is to move beyond the old binaries. Rather than making the debate an "Islam versus human rights" one, we need to consider how Islamic values can be a positive complement to and enrichment of human rights discourse—particularly in the field of minority protection.

- **Policy Implications for Muslim Societies Today**

- 1. Equality through Ethics, Not Law**

Islamic nations can reaffirm Islamic values by balancing legal traditions with the moral spirit of justice and compassion. Citizenship would need to be defined in terms of mutual obligations and rights, not religious identity.

- 2. Reform Rooted in Tradition**

Scholars and legislators are able to invoke the tradition of *ijtihad* or independent judgment in order to reinterpret existing decisions according to contemporary circumstances. Religious legitimacy is maintained in the process.

- 3. Education and Awareness**

Public education must emphasize Islam's tolerant and pluralistic tradition, free from the agendas of extremism or exclusion. Encouraging interfaith respect in schools and mosques can enhance social cohesion.

4. Engaging Religious Leaders

Imams, jurists, and scholars too have a critical role to play in molding public opinion. By engaging in open, public debate, they can reconcile the past teachings with the demands of the present.

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