

Summary of 9.9 "Guiding Principles in Government"

The main focus last week was that instead of going into minor details of how an ideal Islamic State should run we talked about the guiding principles within which the implementation can be made depending on the circumstances of time and place. We discussed in some details justice as a fundamental principle and the various levels of implementation of justice: individual, family, state, universal or world justice. We discussed human equality and that it is not equality for one group but rather equality for all. We talked about its ideological foundation in the Quran and Prophetic sayings. We also discussed the concept of freedom, not just as a broad concept as we talked about the various implementations of freedom. For example we talked about freedom of religion, expression, privacy, freedom of work movement and freedom of the person like in habeas corpus (where a person should not be arrested or charged in an arbitrary manner without a specific charge). We tried to show the roots of either of these and how it would be when a committed Muslim sincerely implements those principles.

9.10 Rights of Non-Muslim Minorities

Host: What is the situation of non-Muslims in an Islamic State?

Jamal Badawi:

There seems to be undue fears that if we have a true and sincere Islamic State that there would be persecution towards non-Muslim minorities. It is true that an Islamic State is not a secular state where God is kept out of the picture. It is ideological state and one can not have an Islamic State unless the majority of people believe in that faith and are committed to teachings of their faith in their moral, individual, social, economic and political life. Being an ideological state is not the same as an exclusivist state which is designed only to serve their own citizens or community of believers at the expense of others. This doesn't mean that non-Muslim minorities are to be annihilated or gotten rid of-that is not what Islam teaches at all. In fact the Quran doesn't only address tolerating non-Muslim minorities under an ideal Islamic State but it talks about having cordial and friendly relationships with them. I recall that in the second series on the topic of Prophethood in a latter program which dealt with the relationship between Muslims and non-Muslims it was indicated clearly and documented that God doesn't want us as Muslims to have bad relationships with non Muslims who are not fighting us and who are not hurting the cause. In the Quran in (60:8) Allah forbids you not, with regard to those who fight you not for (your) Faith nor drive you out of your homes, from dealing kindly and justly with them: for Allah loveth those who are just. It not only just a matter of toleration but it calls on friendly relationships. This is particularly true for the People of the book (Jews and Christians) who share many commonalities with Muslims such as the belief in God, Hereafter and moral teachings. We find that the Quran addresses them especially as the people of the book.

If I may add here since we are talking about the Political System in Islam that the very term used to refer to non-Muslim minorities living under the protection of an Islamic State Thimi is an expression of this principle of tolerance and friendship.

Host: What does the term Thimi mean?

Jamal Badawi: Thimi

comes from the Arabic term thima which means pledge or covenant. ♦ A Thimi, non-Muslim, living under an Islamic State is called this because he is a covenant. ♦ He is a person who has the pledge and covenant of Allah, His Messenger and of the believers that he would be protected and would live in freedom and dignity under an Islamic rule. ♦ This is basically an expression that guaranties their rights and freedom.

Host: ♦ Is there an analogy between Islam's position concerning minorities and Roman Law?

Jamal Badawi:

A good discussion of this was made by Dr. Sharif Al Basyouni in his article ♦ Islam: Concept, Law and the world Habeas Corpus ♦ published in the Rutger Camden Law Journal in the the fall of 1969. ♦ Briefly speaking there are two basic reasons why this analogy is not correct. ♦ First, unlike the Romans Muslims do not consider themselves to be the Lords of the population of the globe a predominant concept among the Romans. ♦ As indicated in the Moral Teachings of Islam a Muslim regards themselves to be the servant of God or the slave of God. ♦ Second, non-Muslims living under and Islamic State are not regarded to be an outside jurisdiction as we find in the Pax Romana on the subjugated people. ♦ Indeed it is emphasized that the Muslim and the non-Muslim under an Islamic State are equal before the law in every respect. ♦ The distinction between a Muslim and Thimi remains one of a political and legislative process and not one of human rights. ♦ In that sense minorities under Islamic rule enjoy more privileges than they do under the contemporary democratic systems.

Host: ♦ How do you justify this?

Jamal Badawi:

First of all whether a person is Muslim or non Muslim he is equal before the Law. ♦ In that sense it is similar with the democratic or secular systems of today. ♦ The mere designation of Thimi shows even more sensitivity and special care given to safe guarding the rights of those minorities. ♦ In other words instead of pretending everyone is the same it is sensitive and give covenant to them, their needs and rights. ♦ The obligation to be just and equitable with minorities is not just a legal responsibility as we find with minorities. ♦ In Islam it is both legal, moral and religious based on the commandments of God and the teachings of the Prophet which give it a much stronger motivating force. ♦ Things can always be done behind the law but since this is a moral and religious part of the orientation of the individual the rights and guaranties that are given to non-Muslims in an Islamic State come from the word of God and the sayings of the Prophet which are not changeable by humans. ♦ This makes a big difference between an Islamic State and democracies. ♦ Democracies can guaranty the rights of minorities but the same assembly have the right to take away those rights. ♦ Constitutions can be amended whereas in Islam rights are given by God and his messenger and as we indicated before in Islamic Law nobody has the right to supersede the word of God.

When a person is a Thimi it means that he has the freedom to follow the laws of his religion. ♦ If there is a religious minority under and Islamic State Islam does not say that they should get married, divorced or follow the laws of inheritance as everyone else. ♦ A Jew or Muslim living in a contemporary democracy whether it is in Canada or Britain can ask for the law of their religion to be applied for the law of inheritance because it is a secular state. ♦ In Islam it respects the religious beliefs of people and allows people to follow their own religious law regarding personal matters. ♦ This is fair

documentation that this is above guarantees and freedoms given in a democratic system. ♦ The only difference remains that an Islamic State can not be ruled by a non-Muslim because it is an ideological state, there is no apology for that. ♦ It would be rather cosmetic to say that anyone could become president because no Buddhist or Muslim will ever be the president of the United States or the prime minister of Canada or the prime minister of Britain. ♦ Being an Ideological state ruled by the Quran it has to have ♦ a person rule who believes in what he is implementing. ♦ This doesn't mean that non Muslim minorities have no rights to other positions including the highest ministerial positions and this was practiced in history. ♦ If we look at it in terms of the total rights and guarantees it is even more than democracy.

Host: ♦ What does the meaning of Thimi, covenant and protection, entail?

Jamal Badawi: ♦ Some jurists put it in terms of two aspects of protection: external and internal. ♦ External protects the non-Muslim minorities against any danger coming from outside the State. ♦ Ibn Hazm said that if in our Islamic State we had some Thimis and an enemy came to attack them particularly, in this case even though they are not attacking us as Muslims we are required to fight them and to protect and defend the non-Muslim person with all of our might or else we will have betrayed our trust and our covenant to protect them according to the Law of Allah and His Messenger. ♦ Ibn Taymiyyah, a famous Muslim jurist, during the Tartar invasion went to their leader to spare the suffering of the people. ♦ The Tartar leader said to Ibn Taymiyyah that he could give protection for the Muslims only. ♦ Ibn Taymiyyah did not like this and said that this would not please them and that the Christians and other families are under our protection and if you want to give protection you must give it to all. ♦ So he defended everyone's rights even though other people would have been ok with having themselves defended, but he refused and insisted that he should cover all of them. ♦ As far as internal protection from any kind of tyranny within the State. ♦ This protects their lives, property, owner, dignity and personal freedom.

Host: ♦ What was the attitude of Prophet Muhammad towards non-Muslim minorities, Thimis?

Jamal Badawi: ♦ One of his sayings as narrated in Al Tabarani ♦ Whoever hurts a Thimi, he is hurting me and whoever is hurting me is hurting Allah. ♦ The Prophet himself puts himself in the same place as a Thimi and whoever hurts a Thimi. ♦ In another saying he said whoever hurts a covenanted non-Muslim I will be his complainant and whoever I am the complainant for I will ask for his rights on The Day of Judgement. ♦ In another saying of the Prophet he says whoever committed any act of injustice to a person who has a treaty with the Muslim, took away part of his rights, charged him with something he could not do (labor or other things) or too from him anything without his consent then I will be his complainant on The Day of Judgement. ♦ These are just an indication of the theme of the many Prophetic Sayings on this subject.

♦ One example of the Prophet's deeds is that he provided a charter to the Christians in Najran, Yaman the Prophet provided a charter which gave them all their religious freedom and they ran their own personal affairs. ♦ In one famous document was the covenant that Prophet Muhammad (PBUH) gave to the monks and priests in Saint Cathrin's which is near Mount Sini in Egypt. ♦ Some of the items on the covenant: ♦ One was that the priests and monks were not to be unfairly taxed, second no bishop is to be driven

out of his bishopric, three no Christian is to be forced to reject his religion or to become Muslim, four no monk is to be expelled from his monastery, five the pilgrims are not to be detained from their pilgrimage, six no Church can be torn down for the sake of building Muslim mosques or Muslim homes, seven Christian women married to Muslim men are to fully practice their faith without pressure or intimidation and eighth should the priests and monks need help to repair their churches it should be provided. ♦ I do not know where in the 20th century we find this kind of spirit of tolerance or respect of others.

Host: ♦ Can we discuss Jiziah? ♦ Have Muslims levied taxes on non-Muslims who did not embrace Islam as a form of punishment, is this true?

Jamal Badawi: ♦ It has nothing to do with punishment at all. ♦ First of all, Jiziah which is a tax levied on non-Muslims living under the protection of an Islamic State. ♦ It has nothing to do with punishment, intimidation or pressure to embrace Islam, which would if it was the case would be contrary to the freedom of religion and practice of one's own faith. ♦ Some people pick one aspect of Islamic Law and leave the other. ♦ Under Islamic Law all residents are entitled of social security and are entitled to the protection of the State. ♦ Muslim citizens are required legally and religiously to pay Zakah, institutionalized charity, which is a percentage of the excess funds which they have beyond their basic needs. ♦ It is a minimum of 2.5% and could vary with different sources of income. ♦ This requirement is enforceable by law. ♦ If people refuse to pay it the Islamic State can actually force people to pay it.

A non-Muslim who gets all the benefits of being a citizen under the protection and social security of an Islamic State is not required to pay Zakah. ♦ Zakah is religiously oriented and the non-Muslim doesn't believe in Islam so out of respect to their beliefs we can not force a non-Muslim to pay what is a Muslim's religious duty but it would also be unfair for them to receive benefits without sharing the cost. ♦ So instead of forcing him to pay Zakah he has to pay Jiziah which is their equivalent. ♦ The other aspect is that under an Islamic system a non-Muslim can not be forced to have the compulsory service in the army. ♦ Again this is being sensitive because he would be fighting under a Muslim army for a cause that he may or may not sympathize with. ♦ Out of respect for that a non-Muslim doesn't have to participate in the army but part of the taxes go to defense purposes.

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his is why some jurists say that if a non-Muslim wants to serve in the army and he is accepted then he is not required to pay Jiziah. ♦ Some jurists even say that if a non-Muslim offers a good service to the Muslim community then the Jiziah could be waved. ♦ Jiziah was a very small amount and varied with the financial status of the individual. ♦ The law of Jiziah, discussed in a book known as Alkharaj which discusses the revenues of the State, which is not supposed to be imposed on women, children, elderly or anyone who can not earn because of temporary or permanent disability. ♦ Some jurists say that if the State feels that there is no need to collect Jiziah from non-Muslims because they are resourceful enough that it is not mandatory. ♦ It is obvious then that Jiziah is neither a punishment nor an endorsement to become a Muslim. ♦ If a non-Muslim becomes a Muslim he will have even more financial obligations because they would pay more as a Muslim than they would be paying Jiziah as a non-Muslim. ♦ Of course this presumes that those who implement the law are sincere and are doing it in justice and fairness to all do not abuse it. ♦ If there is an unjust ruler it would apply to both Muslims and non-Muslims.

Host: ♦ Are there any final comments with respect to Muslim tolerance of non-Muslims.

Jamal Badawi:

In a document from the 12th century, Aximili in which one of the head of the Church said clearly that Muslims do not hate or oppose us and they allow us to practice our faith freely and they respect us in our honor and dignity. ♦ He admitted that they also gave them help and financial support for their churches. ♦ In fact the document is found in more than one museum in Britain in Arabic and the translation is amazing in terms of the kind of guaranties and tolerance that was accorded to non-Muslims. ♦ This was unparalleled in history past or present.