



## Guarantees of Protection for Non-Muslims Rights in The Kingdom of Saudi Arabia According to Islamic Law

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### Abstract

There are much talks and debates on whether Islam guarantees the principle justice and equity in its dealings with non-Muslims, and that the fundamental rights of Non-Muslims are not guaranteed in the Kingdom of Saudi Arabia. This study aims to examine this subject with the objective of highlighting the rights of Non-Muslims under Islamic Law vis-a-vis the legal system of the Kingdom of Saudi Arabia. The study is a qualitative research and it adopted inductive, historical, and comparative methods in its investigations. We show that there is no discrimination against Non-Muslims under Saudi Law. This is in line with principle of Islamic human rights Law, which is the basis of the Saudi Law as derived from the holy Qur'an and the Tradition of the holy Prophet Muhammad May peace be upon him.

### Keywords

Human Rights, Islamic Law, Shariyah Law, Non-muslims rights.

### Introduction

The religion of Islam commits to provide the complete code of life, and hence, offers a legislative jurisprudence to protect the State and its people to regulate their livelihood and routine operations. These legislations extend to provide a comprehensive set of rules and regulations that strengthen the system of manhood, business, and politics.

The Islamic legislations are not limited to the Muslims, instead they expand further to protect the rights of the Non-Muslims and to strengthen their relationship with the Muslims since it is the religion of mankind and not of only Muslims.

The kingdom of Saudi Arabia exhibits itself as an Islamic State and is thus committed to following the rules of preservation, human rights in general and the rights of the non-Muslims in particular which are highly emphasized in Holy Quran and Sunnah the practices of Prophet Mohammed (Sunnah). The constitution of Saudi Arabia has been designed in accordance to the Islamic Shariyah through careful study of Holy Quran and Sunnah, and all of the aforementioned sources are the staunch advocator of lawful protection of rights of all human irrespective of their belief, colour, creed, cast, or any other discrimination. This Shariyah orients the affairs of life and relationships which emanates from the Islamic teachings that are inculcating to the human soul.

The rest of the paper is organized as follows: Section I discusses the definition of rights in different contexts. A brief about Saudi Arabia and its judiciary system is provided in Section II. Non-Muslims and their status under the Islamic law is discussed in III. We discuss the rights of non-Muslim under Shariyah and the Saudi Law in IV. Set of rules that guarantee of the protection of non-Muslim Rights in the Saudi Law is presented in Section V. The paper is concluded in Section VI.

### **I. Definitions of Rights**

Before studying non-Muslims rights, we start by studying different meanings of rights as it appears in the literatures. According to Lisan al-Arab (Arabic Dictionary), the lexical definition of Rights is *“Al-Haq is the singular of Rights in Arabic and it means honest, ownership and property.”* Another definition of rights is the technical definition given by Al-Aini in his book al-Binayah Shariyah al-Hidayah as: *“A phenomenon to which a person is entitled to do, and it is protected by the law.”* It is a logical definition which is inclusive of tangible objects, benefits, and specific rights. The phenomenon of entitlement enforces the requirement to do the right thing which brings it closer to the positive law. Moreover, according to the definite provided by al-Qadhi Husain al-Marwazi al-Shafi’i: *“Right is a specific jurisdiction or phenomenon that is intended by the law.”* This definition highlights the 'essence of right' in a form of legal rights and indicates that the nature of the jurisdiction is based on the effects and benefits that are exclusive to the holder of the right to the exclusion of all the others, which can be moral or material in nature.

The Holy Quran refers to truth and honesty while defining rights as mentioned in the verse which refers to justice and righteousness: *“He said, verily, the rightful/truth and only the truth I am telling you. I shall fill up the Hell with you and whoever follows you amongst them, as a whole.”* Sunnah refers to rights as a sense of duty, law, and justice. It’s evident from the quote narrated below by Abu Umamah AlHarthy: *“Whoever carved out right of a Muslim with his hand, Allah shall commit him to hell-fire”* Finally, the positive law refers to rights as: *“The ability or administrative authority that is empowered by law and ceded to a specific person with regards to the limit and scope of such authority”*

### **II. Saudi Arabia and Justice System of Saudi Arabia**

The Kingdom of Saudi Arabia is an Islamic State that has a monarchism system. The original Land of Hejaz has been named after the over-taker King Abdul Aziz bin Abdul Rahman Al Saud and ruled by his grandchildren. The current king is King Salman bin Abdul Aziz Al Saud who is also the head of the government, and Prime Minister. He observes the power of the governance of all the affairs of the Kingdom and the right to appoint ministers and remove them, as well as members of the Shura Council the consultative assembly of Saudi Arabia.

Being an Islamic state, Saudi Arabia obtains the founding principles of its judiciary from Islamic code, which focuses on maintaining the rights of citizens and the state in the situations of conflict, individually or collectively, and it is responsible for the administration of justice in the kingdom. The Holy Quran and Sunnah formulates the Constitution of the Kingdom.

The Judiciary System of Saudi Arabia has further established a Human Rights Commission which is operational since 2005. It reports directly to the king, and it is completely independent. This commission emphasizes on protection and promotion of human rights according to the

provision of Article 26 of the basic rule which states that “*the State shall protect human rights according to Islamic law.*”

### **III. Non-Muslims and their Status under the Islamic State**

The concept of justice in Islamic Shariyah law is undeniably vocal about the rights of humans irrespective of their backgrounds, beliefs, or colour. Its emphasis on fairness and justice can be measured by logical means of identifying its characteristics. Under the rule of an Islamic state, the residents are categorized as either citizens of the state or non-citizens. The citizens are distinguishingly defined under Shariyah as the people that believe in Islam as a doctrine and those that accepted it as a legal system, as opposed to the doctrines of Christians and Jews that live in some Arab countries. The Jews and Christians that live in the Arab countries are referred to as al-Dhimah 'the protected people' under the Islamic jurisprudence. Thus, they are safeguarded under the Islamic law, which includes their belief, conscience, property and activities. The non-citizens or immigrants who have sought refuge are referred to as asylum seeker 'al-mustaminun.' These people are entitled to security and safety under Islamic law throughout the period in which they reside in the state and remain the under his dominion of the ruler of the Islamic State 'Sultan'.

### **IV. Rights of Non-Muslim under Shariyah and the Saudi Law**

The general right of a human being is the right to life, the right to security, right to protection from abuse, right to equality, right to justice, the right to personal liberty, the right to freedom of opinion, right to have belief, the right to freedom of residence, the right to movement, the right to think, the right to academic research, the right to confidentiality of correspondence, and the right to housing and shelter. Islam believes that these rights can only be achieved by enforcing moral values that respect a person's family, religion and beliefs irrespective of our differences with them in these or other domains. The provision of these basic rights and their protection is the only source of a decent life and safety for all humans, including non-Muslims.

The right to life is one of the general and fundamental rights in Islamic law. It is not allowed to violate the right to life, regardless of whether a person is Muslim or non-Muslim. As regards the non-Muslims, it was narrated that:

*“The agreement of al-Dhimmah entitles to the rights upon us, because they are our neighbours and are under our protection, the protection of Allah, the Almighty, safety and protection of the Messenger of Allah, peace be upon him, and the protection of the religion of Islam. Anybody that transgresses or abuses them, even by abusive, has breached the protection of Allah, His Prophet, peace be upon him and the religion of Islam.”*

Likewise, as regard to the protection of blood and corporeal of the al-Dhimmis, it has been narrated that:

*“The right to protection of the al-Dhimmah includes protection of their blood and their bodies and themselves.”*

Thus, their blood and their minds must be preserved according to the unanimous opinion of the Muslim scholars. Killing them is forbidden 'haraam' by the consensus opinions. The holy Prophet, peace be upon him says:

*“Anybody that kills an ally member shall not smell the paradise, and it smell can be felt from the distance of the journey of forty years toward it a 40 year.”*

This is why the whole jurists of Islam conclude that the killing of al-Dhimmi is a major sin. This treatment is condemned in the hadith. Allah, the Almighty decreed on the Muslims to treat non-Muslims with righteousness and justice, and non-infringement on their rights. In order to safeguard the rights of non-Muslims the Islamic Shariyah law established fence of protection for the rights since its inception. In modern times, the Organization of the Islamic Conference is committed to the rights of non-Muslims. The first media declaration of human rights in Islam was on 19 December 1981, when UNESCO announced it at the United Nations, on the initiative of the international Islamic Council.

Moreover, the moral foundation that governs the relationship of Muslims with the other human beings are based on the principles of agreement, rather than on the basis of colour, race, or tongue. Likewise, it is not based on purely natural fundamentals such as those that govern the association of human being, such as the right to life and dignity etc. rather, it is based on respect. The human beings, whether they are Muslim or non-Muslim, are endowed with respect for the other person, according to the rules of Islamic law since its inception. This is in the word of Allah, the Almighty in Surah al-Israh, Verse: 70 that:

*“We have honored the children of Adam and gave them the power over both the land and the sea and provide them with the means of subsistence, and give them superiority over many of creations.”*

Furthermore, His words in Surah al-Baqarah, Verse 213 are:

*“Humanity used to be one community; then God sent the prophets, bringing good news and giving warnings. And He sent down with them the Scripture, with the truth, to judge between people regarding their differences. But none differed over it except those who were given it-after the proofs had come to them-out of mutual envy between them. Then God guided those who believed to the truth they had disputed, in accordance with His will. God guides whom He wills to a straight path.”*

This is a proof that Islam honours all people and not only to Muslims, hence the mercy of Islam inclusive of all creations. It is not specific to only Muslims.

Tolerance and empathy is another moral obligation that has been subdued on the Muslims through Shariyah. Throughout the history of Islamic States, non-Muslims have lived within the Islamic Governments regardless of the stages of its strength and weaknesses. They were not forced to abandon their beliefs, or compel to embrace Islam. It is known major maxim in Islam that ‘there is no compulsion in religion.’ Therefore, the al-Dhimmis and other non-Muslims lived freely under Muslim rule and in State of Islam, without anyone intimidating their beliefs and religion. Islam does not engage in the persecution of other believers or retrieval of the rights of violators or their forced conversion from their faith, or to be prejudicial to their property, dignity and their blood. The history of Islam in this area is the best history on Earth.

#### **V. Guarantees of the Protection of Non-Muslim Rights in Islam and the Saudi Law**

As Islamic legislature indiscriminately focuses on providing equal rights and benefits to all human beings, The Kingdom of Saudi Arabia being an Islamic State wholly derives its law and constitution from the Islamic Shariyah law. The Islamic law is the applicable law in Saudi Arabia, in most of its systems and embodies Quran and Sunnah as its two pioneer sources.

The Shariyah law consists of major rules, underneath which many minor rules emanate. This is why the Saudi Constitution (Basic Law) states that the Holy Book (the Qur’an) is the Constitution of the State. Thus, many detail rules can be derived from the major to governing specific matters and must be maintained to procure prosperity in five essentials which are:

Religion, Life, Family, Property, and Sanity. These are referred to by scholars as necessities. The Islamic law functions to preserve these five essentials.

On the founding basis, Saudi Arabia guarantees the fulfilment of the rights of non-Muslims in following three basic domains under the Islamic State:

Subsection I: Legal and Credo logical guarantees

Subsection II: Ethical Safeguards

Subsection III: Guarantee of the Muslim Community.

Since the Saudi laws are wholly derived from the Islamic Shariyah law, it is the law applicable in Saudi Arabia, in most of its systems. The Islamic Shariyah law is embodied in two key sources:

- Quran
- Sunnah

Both of these sources are revealed by Allah, the Almighty in the form of religion and way of life, and it brought with it some major rules and minor rules. The researcher discovered that part of the supernatural characteristics of Shariyah law is that it brought major rules, underneath which many minor rules emanate. This is why the Saudi Constitution (Basic Law) states that the Holy Book (the Qur'an) is the Constitution of the State. Thus, many detail rules can be derived from the major to governing specific matters. That is from the major rule that was brought by the Qur'aan or Sunnah. Therefore, if any law in Saudi Arabia contradicts the Qur'an it shall be voided. The Islamic nation and other religions agree that Shariyah developed to maintain the five essentials. These are: religion, life, family, property, and sanity. These are referred to by scholars as necessities.

The protection of the rights of non-Muslims in Saudi Arabia is found in the law that is issued by the Ministry of the Interior of Saudi Arabia, in the year 1423AH. There are several provision articles for the criminality prevention laws in Saudi Arabia, such as the law of the judicial system that was issued by Royal Decree No. M/78 of 19 /9/ 1428, Ombudsman law, the law for the combat and cyber-crimes by Royal Decree No. M/17 on 8/3/1428.

Moreover, the Article 7 of the Universal Declaration of human rights (UDHR) states that:

*“All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”*

This declaration is compatible with the Islamic Declaration of human rights in Article 3, which states:

- All persons are equal before the Law and are entitled to equal opportunities and protection of the Law.
- All persons shall be entitled to equal wage for equal work.
- No person shall be denied the opportunity to work or be discriminated against in any manner or exposed to greater physical risk by reason of religious belief, colour, race, origin, sex or language.

## **VI. Conclusion**

That the Kingdom of Saudi Arabia respect non-Muslims that are residing in its territory and honours their rights as fellow human beings on the basis of the Saudi Constitution which intends its citizens as Saudis regardless of whether they are Muslims or non-Muslims. This shows their non-exclusion and or ostracism. It observes the Islamic Shariyah law which is one of the earliest, clear, and broad ciphers, and its association with the religion is a distinction to it and not a weakness because Islam obliged the respect of the right as a way of the worship of Creator. That

human rights in General and the rights of non-Muslims, in particular, are protected under the book of Allah and the Sunnah of His Messenger, peace be upon him, and under the provisions of the laws and regulations that are applicable the Kingdom of in Saudi Arabia. The rights of Non-Muslims are equal to that of the Muslims, and the Shariya law is in accordance with the International Standards which honours especially the basic rights such as the right to life, the right to correspondence, the right to housing, the right to security and the right to justice, the right to own property. Hence, the rights of the non-Muslims are well-protected in Saudi Arabia, and particularly in Islam.

## References

1. Ali al-Khafif, (al-Malakiyah fi al-Shari'ah al-Islamiyah ma'a al-Muqaranah bi al-Sharai'I al-Wada'iyah), Dar al-Fikir al-'Arabi, Egypt, 1996, p 260.
2. Ali Bin Muhammad al-Jarjani, (al-Ta'arifah), Dar al-Kitab al-Masri, 1991, p 53.
3. Abd al-Wahab Abd al-'Aziz al-Shishan, (Huquq al-Insan wa Huriyahtihi fi al-Nidham al-Islami), Jum'ah al-Malakiyah Publications, Oman, Jordan, p 12.
4. Abd al-Wahid Muhammad al-Far (Huquq al-Insan fi al-Qanun al-Daoli wa al-Shariah al-Islamiyah), Dar al-Nahadah al-'Arabiyah, Qairo, 2004, p 6.
5. Abd al-Wahid Sha'ir, (al-Ma'dkhal al-Baydaghuji li – Dirasah al-Qanun Nadhariyah al-Haq), p 19 – 26.
6. Abdul Rahman Al Jaziri, ( Fiqh Ala al-Madhaib al-'Arba'a), Part V, Cairo, i 1.1424 E - 2003, p. 9.
7. Abdul Rahman Ibn Khaldun, achieve: Hamid Ahmed Taher, (Muqadimah Ibn Khaldun), the first edition 1425 - 2004, Dawn House Heritage - Cairo, p. 65.
8. Abdul Rahman Sadiq al-Sharif, (The Geography of the Kingdom of Saudi Arabia), part 1, Dar al-Marikh, Riyadh 0.2007, p. 121.
9. Abdullah al-Uthaimin, (al-Sheikh Mohammad bin Abdul Wahhab: Hayatuhu wa Fikruhu), Dar al-Ulum, Riyadh, 2nd edition 1412, p. 32.
10. Abdullah Bin Hijazi al-Sharqawi, (Hashiyah al-Sharqawi 'ala al-Tahrir), 417/2.
11. Abu Abdullah Muhammad bin Nasr ibn al-Marwazi pilgrims, (Ikhtilaf al-Fuqah), edited by Dr. Muhammad Tahir Hakeem, Riyadh, the first edition full 1420 -2000 m, p. 233.
12. Abu al-'Ala al-Maodudi, (Nadhariyah al-Islam wa Hadiyih fi al-Siyasah wa al-Qanun al-Daosturi, p 2-3.
13. Abu al-Fida' Ismail Ibn Kathir, (Tafsir al-Qur'an al-'Azim), Dar Ihya' al-Turath al-'Arabi, Bairut, 1996, 148/1.
14. Abu al-Husain Ahmad Bin Faris Bin Zakariya (Mu'jam Maqayis al-Lughah) Unioin of Arab Writers, 1423 AH, 2002 CE, Vol 4, p 360.
15. Abu Ali al-Hasan ibn Muhammad al-Mawardi, (al-Hakam al-Sultaniyah), op. Cit., Part VI, p. 65.
16. Abu Ali al-Hussein bin Abdullah bin Hassan bin Ali Sina, ('Uyun al-Anbiyai fi Tabaqat al-Atiba), Beirut 1965. p. 186 .
17. Abu al-Qasim al-Husain Bin Muhammad, al-Raghib al-Asfahani (P; 502AH): al-Mufradat fi Ghayr al-Qur'an), edited by Safwan Adnan al-Dawudi, Dar al-Qalam, al-Dar al-Shamiyah, Damascus, Bayrut, 1st Ed., 1412 AH, p 246.

18. Abu Bakir Mas'ud Bin Ahmad al-Kasani, ( Badai'u al-Sanai'u fi Tartib al-Shara'I'i), al-Jamaliyah Publication, Egypt, 1328 AH., 134/7.
19. Abu Dawud, (Sunan Abi Dawud), Dar al-Kutub al-Ilmiyah, Bairut, 171/3.
20. Dayas, (Philosophy of law - economic doctrines and realism, natural law), translated by: Henry Riad, Reviewed by: Safwat Abdel-Aziz, Dar al-Jayl, Beirut, 1st Edition 1406, 1986, p. 211.
21. Dayas, (Qanun al-Falsafah), Beirut 1405 --1 985, p. 203.
22. Dr Abdul Hamid Fodah, (Huquq al-Insan Bayna al-Nuzum al-Qanuniyah al-Wadi'iyah wa al-Shariah al-Islamiyah), Dar al-Fikir al-Jami'i, Alaxanderah, 2003, p. 41.
23. Dr Mohamed Saleh al-Adli, (al-Sharaiyah al-Daoliyah fi Dhil al-Nizam al-Alami al-Jadid), Alexandria, p. 32.
24. Dr. Abd al-Karim al-Namlah, Ithaf Zawa'iy al-Basair bi Sharih Raodah al-Nadhir, (210/4). According to Dr. al-Namlah, this definition is closer to the definition of Dr. Abu Ya'ala in his book 'al-Udah' and the definition of Adbu Khatab in al-Tamhid Ithaf Zawa'iy al-Basair bi Sharih Raodah al-Nadhir,(210/4).
25. Dr. Abd al-Salam Ahmad Faygho, (al-Madhkhal li al-Dirasah al-Fiqh al-Islamiy) Babilon Printing Company and Distribution, Rabat, Morrocco, 1420AH, p 124.
26. Dr. Abd Rahman al-Tayar, (Huquq ghayr al-Muslimin fi al-Daolah al-Islamiyah, Ed. 1425, AH., p 27.
27. Dr. Abdel Fattah Mourad, (al-Itifaqiyah al-Daoliyah al-Kubra), the first edition, Alexandria, pp 199-200.
28. Dr. Abdllahi Bin Ibrahim Bin Abdullah al-Tariqi, (al-Isti'anah bi-Ghair al-Muslimin fi al-Fiqh al-Islami), Ed., 1409 AH., al-Riyadh, p 188.
29. Dr. Abdul Aziz al-Ghamdi, (Samahah al-Islam ma'a Ghyr al-Muslimin fi Bilad al-Islam), University of Imam Muhammad bin Saud, the Faculty of Shariah, p. 133.
30. Dr. Abdul Fattah Murad, (al-Itifaqiyat al-Daoliyah al-Kubra), the first edition, Alexandria, p. 9.
31. Dr. Abdul Karim Zaydan, (al-Madhkhal li-al-Shariah al-Islamiyah), Mu'asasah al-Risalah, Sixteenth Edition 1421 --2 001, p. 43.
32. Dr. Abdullah al-Layhan, (Da'wah Ghayr al-Muslimin ila al-Islam), Ed. 14 20 AH, p 200.
33. Dr. Abdullah bin Ibrahim Al-Tariki, (al-Ta'amul ma'a Ghyr al-Muslim - Usul Mu'amalatihum wa Isti'abhum), Riyadh, p. 175.
34. Dr. Ahmad Shalabi, (Muqaranah al-Adyan), ibid., p 40.
35. Dr. Ahmed al-Hasri, (Tarikh al-Fiqh al-Islami - Nashatuhu- Masadiruh Adwaruhu), first edition 1411 --1 991, p. 94.
36. Dr. Ahmed Faraj Hussein and Dr. Ramadan Mr. Alhernbas, (Usul al-Fiqh al-Islami), 2005, p. 53.
37. Dr. al-Amir Faisal bin Mishaal Al Saud, (Muktasar Tarikh al-Daolah al-Saudiyah), unpublished, 2011.
38. Dr. Ali Ali Mansour (al-Shariah al-Islamiyah wa al-Qanun al-Daoli) Cairo 1971, p. 8.
39. Dr. Ali Sadiq Abu Hayf, (al-Qanun al-Daoli al-Am), Alexandria 1965, p. 193..
40. Dr. Amjad Ali Alawi, (al-Wajiz fi al-Qanun al-Daoli al-Am), Dubai, 1989, p. 31..
41. Dr. Awad Hassan Nur, (Huquq al-Insan fi al-Majal al-Jina'i), Sudan - Khartoum, 1999, p. 213 Edition.
42. Dr. Hassan Zein, (al-Awdau al-Qanuniyah li al-Nasara wa al-Yahud fi al-Diyar al-Islamiyah Hata al-Fathu al-Uthmani), the first edition 1988, p. 5.

43. Dr. Ibrahim Abdullah Al Marzouki, (Huququ al-Insan fi al-Islam), op. Cit., P. 13.
44. Dr. Ibrahim Ahmed al-'Adawi, (Tarikh al-'Alam al-Islami), op. Cit., P. 25.
45. Dr. Ihsan al-Hindi, (Mabadiu al-Qanun al-Daoli al-am fi alSilmi wa al-Harb), op. Cit., P. 14.