

Types Of Kufr (disbelief) and kuffaar (disbelievers)

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People of this type of kufr are divided into two categories:

The first: The original disbelievers:

They are those who have never entered into Islam. Among them are; the Jews, the *Nasaaraa* (Christians), the communists, the magians, the Buddhists, polytheists and others. These original disbelievers are in different types:

The first type: *Ath-thimmiyun* or *Ahluth-thimmah*: (1)

"*Ath-thimmah*" linguallly means: covenant, guarantee, protection, immunity and rights. (Stated by *Ibn Al-Atheer* in "*an-nihaayah*" (2479-*Ihyaa' u-turaath*).

Ahluth-thimmah legally means:

The disbelievers, the people of the book and the magians, who stayed in the land of Muslims and were given the covenant that preserve their blood, protect their lives and defend them on the condition that they in return pay the *jizyah*.

Ibn Al-Qayyim (may Allah have mercy upon him) in "*Ahkaamu Ahlith-thimmah* (2874-*Ibn Hazm*) says:

"...yet in the legal terms of many *fuqahaa'* (scholars) ; *Ahluth-thimmah* are those who pay the *jizyah*..."

Allah (Exalted be He) says:

"Fight against those who believe not in Allâh, nor in the Last Day, nor forbid that which has been forbidden by Allâh and His Messenger and those who acknowledge not the religion of truth (i.e. Islâm) among the people of the Scripture (Jews and Christians), until they pay the *Jizyah* with willing submission, and feel themselves subdued." (At-Tawbah 9:29)

Jizyah means: "what is taken from *Ahluth-thimmah*. It was named so because it spares their blood"(2).

To summarize:

The disbeliever cannot be considered a *thimmi* unless he pays the *jizyah* to the Muslims, and this does not exist in our time.

Sheikh Ibn Uthaimen (may Allah have mercy upon him) said:

"*Ahluth-thimmah*: are those who remained in our lands and we gave them the covenant to protect their lives and defend them on the condition that they pay the *jizyah* in return. This state existed at the time when Islam was powerful, but nowadays it does not exist until the time that Allah (Exalted be He) may will its occurrence." (3)

No one is authorized to issue this covenant except the ruler or his deputy as we will clarify when we talk about the people of covenant.

The second type: *Al-Musta'min* (protection seeker): It is the fighting disbeliever who entered the lands of Islam with a safeguard of one of the Muslims.

An-nawawee (may Allah have mercy upon him) said: "The *Musta'min* is the fighter who entered the land of Islam with a safeguard." (4)

Ibn Al-qayyim (may Allah have mercy upon him) said: "The *Musta'min* is the one who enters the land of Islam without an intention to reside therein.(5)

Ibn Taymiyyah (may Allah have mercy upon him) said: "Verily the safeguard is permissible to be conducted for every disbeliever by every Muslim and without any conditions upon the seeker of the safeguard." (6)

And finally, Allah (Exalted be He) says in the Qur'an:

"And if anyone of the idolaters seeks protection of thee, grant him protection so that he may hear the Word of Allah; then convey him to his place of security. That is because they are a people who have no knowledge." (At-Tawbah 9:6)

So, according to what we have stated before, the *Musta'min* is a disbeliever who entered the lands of Islam temporarily and one of the Muslims granted him a safeguard.

Who is entitled to grant a disbeliever a safeguard? And

What does the safeguard covenant imply?

Every adult, rational and willing Muslim (male, female, free, slave, adult, aged, righteous or transgressor) is entitled to grant a disbeliever a safeguard. Once the disbeliever has been granted a safeguard, his blood and money becomes safe and secure.

Ibn qudaamah Al-maqdisee (may Allah have mercy upon him) in "*Al-mughnee*" (10424-Al-fikr) says:

" ...In a nutshell: once the enemy fighters get the safeguard covenant their souls and properties become prohibited. Even interfering with them becomes prohibited too. This covenant is accepted and valid from every adult, rational and willing Muslim (male, female, free, slave, adult or aged). Imams: *Ath-thawree*, *Al-Awzaa'ee*, *Ash-shafi'ee*, *Is-haaq*, *Ibn Al-qaasim* and the majority of the people of knowledge stated the like..."

I say: The evidence of this from the Sunnah is the *hadeeth* of the prophet (peace be upon him) which says:

"The asylum (pledge of protection) granted by any Muslim is one and the same, (even a Muslim of the lowest status is to be secured and respected by all the other Muslims, and whoever betrays a Muslim in this respect (by violating the pledge) will incur the curse of Allah, the angels, and all the people, and Allah will not accept his compulsory or optional good deeds." (7)

Note: "violating the pledge" includes; rejecting the pledge, killing the *thimmi*, plundering his money and properties or any kind of aggression.

Who are the *Musta'minoon* (protection seekers) of today?

- The disbelieving foreign tourists.
- The disbelieving merchants.
- The disbelieving experts.
- The ambassadors and the embassy employees.
- The disbelievers who entered the lands of Muslims upon an asylum granted by the governor or by the companies managed by Muslims or even by individual Muslims who bring the disbelievers to the lands of Islam.

As soon as you acknowledge that the foreign tourists, the ambassadors as well as the embassy employees are among the *Musta'minoon* (protection seekers) who entered the lands of Muslims upon an asylum granted by the governor, the Islamic ministries and the tourism companies, you should also acknowledge that killing those people or exploding them is prohibited.

Meanwhile there still be some groups of vicious people among the Muslims who falsely call themselves "the group of jihad" or other similar names. These people consider killing the *Musta'minoon* as permissible on the grounds that the governor is a disbeliever, so his safeguard is null and void.

To nullify their evidence I say:

First: They must prove that the governor is a disbeliever. However this issue will be handled in detail later God willing.

Second: If we presume that the governor is a disbeliever, as they claim, his disbelief does not permit the killing of those who entered the lands of Muslims while believing that they were granted an asylum by one of the Muslims due to confusion.

span style="font-size:13.0pt;line-height:150%; font-family:'Times New Roman','serif';mso-ascii-theme-font:major-bidi; mso-hansi-theme-font:major-bidi;mso-bidi-theme-font:major-bidi">Imam Ash-shafi'ee (May Allah have mercy upon him) said: "Underage or insane Muslims who grant an asylum, whether they engaged into fighting or not, their asylum must not be accepted. Furthermore if a *thimmi*,⁽⁸⁾ engaged into fighting or not, grants an asylum his asylum must not be accepted too. However if the disbelievers come to us upon an asylum granted by one of those mentioned before, then we must return them back to a place where they be safe without being harmed in their selves or properties as they could not differentiate between who is entitled to grant an asylum and who is not. Then later on we can send our soldiers to fight them." (9)

Imam Ahmad (May Allah have mercy upon him) said: "If he (i.e. the disbeliever) was given a signal other than asylum signal, yet he understood it as an asylum signal, then it should be considered an asylum. And anything the disbeliever thinks it is an asylum then it is so." (10)

Shaikhul-Islam Ibn Taymiyyah said: "...and it is well known that the confusion of an asylum is just as the same as the real one when it relates to preventing bloodshed." (11)

Ibn Qudaamah Al-Maqdisi said: "If the Muslim signals to the disbelieving warriors in a way that they understand it as an asylum and the Muslim states that he means so by his sign, then it is an asylum. Yet if he denies that, then his denial is to be accepted. However if the disbelievers do come out of there shelter depending on the signal, it is prohibited to kill them and they have to be returned safely to their shelter..." (12)

In nutshell: It is impermissible to kill the disbeliever who understood that one of the Muslims (or what he thought to be a Muslim) has granted him an asylum due to confusion of the asylum.

Third: If we acknowledge -for the sake of argument-that killing those *Musta'minoon* is permissible because the governor is a disbeliever (as you claim) and his asylum is null and void, and there is no consideration for neither the "confusion of an asylum" nor for the opinions of the *salaf* and their understanding, if we acknowledge all of that still we say: It is impermissible to kill those disbelievers according to the great *shar'ee* (legal) rules-which are undisputed in the Islamic *sharee'h*- These rules are:

- "Establishing good or interests and driving off the evil or corruption"

- "Driving off evil or corruption has the priority over establishing good or interests".

- "Avoiding the worst of the two evils by committing the least of them".

- "Prohibition of evasive legal devices".

These rules have been proved by the legal evidences and were taken in consideration in applying the legal rulings. Prophet Muhammad (Peace be upon him) acted upon these rules when he turned away from pulling down the *kaabah* and rebuilding it on the bases which Prophet *Ibrahim* (peace be upon him) has established.(13)

Likewise he (peace be upon him) refrained from killing the hypocrites although their remaining among the Muslims caused a great harm and evil.(14)

Likewise also Allah (Exalted be He) warned the Muslims against insulting the deities of the polytheists lest they in return insult Allah (Exalted be He). (15)

These and the many other evidences show how sound are these rules and how beneficial is using them and taking them into consideration when applying the legal rulings. Moreover *Al-Ezz Ibn Abdus-salam* considered that the whole *fiqh* goes back to the consideration of the good or interests and driving off the evil or corruption. (16)

Consequently, if anybody takes these rules fairly and seriously, he must acknowledge that killing the tourists and exploding Embassies and the likes entail on the Islamic nation types of devastative disasters and evils exactly like what has happened lately, as the world's countries have gathered to fight against Muslims and against the call to Allah claiming that they want to put an end to terrorism. Some Islamic states have fallen into the hands of the enemies of Allah and a lot of calamities have occurred: Muslim blood was shed, their women were raped, their children were orphaned, their youths were imprisoned and suffered types of torture, their properties were plundered, the holy Qur'an was profaned by the disbelievers and Prophet Muhammad (peace be upon him) was insulted. All these behaviors and others were committed under the pretext of those actions of killing and exploding, so how poor of *fiqh* are those people of that sect!! And how tiny are their intellectuals when they

disregard such kind of evil behaviors!!

I shall complete talking about this issue when handling the issue of *jihad* God willing.

Third: *Al-Mu'aahidoon* (people who were granted covenants):

They are the disbelieving warriors whom the *Imam* (governor) or his deputy has made an agreement with them to stop fighting for a certain period of time whether with compensation or without.

This kind of covenants cannot be conducted except by the *Imam* or his deputy, just like the covenant of people of *thimmah*.

Ibn Qudaamah Al-Maqdisi in "*al-mughnee*" (10512) said:

"It is permissible only for the *Imam* (governor) or his deputy to conduct truce and *thimmi* covenants, because this matter deals with the majority of the disbelievers and the *Imam* is the one who is authorized to study the interests and evils. If it were to be left to other than the *Imam*, then it may lead to disable the *jihad* entirely or in a certain area. If the truce was conducted by other than the *Imam* or his deputy, then it is null and void. Meanwhile, if some of the disbelievers entered the lands of Islam upon this illegal reconciliation, they should be protected as they entered believing they had a sound asylum. (17) Meanwhile they have to be returned to the field of war and should not be let in the land of Islam because their asylum was unaccepted..."

Thus, it is crystal clear that the three mentioned types of disbelievers are people of covenant and asylum, therefore killing them is impermissible even if they have got a confusion of an asylum (although it is in our point of view is null and void). And if anybody kills one of those three types, then he shall be among those who betray the covenant and shall gain one of the characters of hypocrites.