Toleration on Trial

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Toleration in a Modern Islamic Polity: Contemporary Islamist Views

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Introduction: The Toleration Debate

The debate on tolerance in contemporary Western literature is rich and vigorous, yet in flux. Few would disagree that tolerance and toleration are necessary "values" that should be intrinsic parts of our modern attitudes. Remarkably, there are clear disagreements on the fundamentals of the concept. The protagonists often disagree on essentials such as the nature of toleration, the definition of the concept, its components, and limits. Some have viewed the term to be "elusive," "vague," "unstable," and "impossible" to attain (Heyd, 1996, 3; Williams, 1996, 18; Horton, 1996, 28; Fletcher, 1996, 158); while others consider tolerance and toleration as desired virtues that should be embedded in the general paradigm of liberalism and in individuals' attitudes (Oberdiek, 2001). Despite the many serious attempts to link toleration to the evolution of western intellectual and political traditions of pluralism and democratic practices, the questions as to what motivates toleration, what to tolerate, and how to establish toleration, remain elusive. Even the correlation between toleration and democracy or liberalism is not that clear or evident. Two examples readily come to mind: the intolerant attitude that the majority in the United States held during the mid 1950s of American communists; and most recently, the intolerant position that France has taken against the head dress in public schools. These show that mass intolerance can be sustained in democratic systems, and that contemporary arguments on

political or religious toleration seem to echo the initial debates associated with religious toleration.

This chapter tries to see how Islam and modern Muslim thinkers can contribute to the ongoing debate on toleration. I will not try to prove that Islam is a tolerant or intolerant religion. This exercise has produced differing views ranging from recrimination to apologetic justification. The recrimination has not been free from clear anachronism, where the place of toleration in Islam has been viewed in light of modern values and practices that only existed recently and in some cases precariously. A recurring example is the tendency to criticize the Ottoman millet system for not being rooted on liberalism and on full recognition of individual liberties, concepts that the West has relatively recently discovered, and are still not universally practiced in the West itself. A common yet faulty approach is to conclude or at best give the impression from the diversity of Islamic views and practices on toleration (tolerant and restrictive) that the tradition of toleration in Islam has not been established either at the level of values or as an attitude, since practices have occasionally deviated from the prescribed values, knowing that toleration in itself is an unstable practice and "a precarious achievement" (Walzer, 1997, 13). Another position is to undermine certain important values and practices and overlook the possibility of capitalizing on their moral or philosophical potential to link them to modern values of tolerance. A positive example is Islam's toleration of diversity and its recognition of religious and communal identities, which critics often undermine by stressing that this diversity is tolerated only as a strategy, a "derivative value," and as long as the superiority or security of the majority is not compromised, or the minority groups did not question their subordinate position (Halbertal, 1996, 107–108; Oberdiek, 2001, 155; Dees, 1999, 678). In fact, ample historical evidence attests to the contrary. To mention but one example, Bernard Lewis cites a revealing incident, "Even as late as the last decade of the nineteenth century, in the midst of the Greco–Turkish War, the [Ottoman] authorities by and large left unmolested the Greek subjects of the empire who prayed for a Greek victory" (Lewis, 1982, 33).

The apologists are not in an easy position. They carry a heavy burden of struggling intellectually with a barrage of western neologisms; toleration is certainly one of them. Some may fall into the "compatibility trap," or the attempt to project Islam in light of western values and concepts to prove the relevance of Islam to modern times. This is manifested by the attempts to prove the compatibility of Islam and modernity, democracy, or universal human rights. Many of these concepts reflect a particular western experience that Muslim societies did not share. The modern western perception of toleration originated in the European wars of religion, which Islam has avoided within and in encounters with peoples of different religions. It is therefore important to examine the concept of toleration or other modern concepts in light of their particular historical evolution and in accordance with the parameters of Islam itself, which may have its own approach to the issue. Apologists are also met by doubts of the sincerity of their attempts to "modernize" Islamic concepts. They are challenged by the claim that the emulation of western–inspired concepts or institutions cannot be

successful without the adoption of their underlying values. Unfortunately, the idea that Islamic intellectual contributions act as a possible synthesizing factor for two competing worldviews still seems remote. Both views, the recrimination and apologetic, clearly miss a main point: whether or not Islam possesses a moral theory of toleration.

Islam's Moral Theory of Toleration

In discussing Islam and toleration, I argue that tolerance and toleration should be founded on a moral theory. A moral theory is needed to establish the concept and attitudes of toleration at the societal level and to generate shared values that are not predicated on individual orientations, voluntary choice, political expediency, or economic interests. As shared values, the practices of toleration could stand a better chance of realization. Islam's moral theory of toleration is founded on these main components: the dignity of mankind; diversity and freedom of choice; and justice. These elements are derived from two main sources, the Qur'an [The Holy Book of Muslims] and the *Sunna* [the traditions of the Prophet of Islam], that institutionalize toleration. These principles provide the moral and philosophical grounds for Muslims' perceptions of tolerance and their attitudes of toleration. However, they are not left up to the discretion of the individual or the state to apply, but are derived from divine sources, they become not only a moral duty but also a religious obligation, which clearly distinguishes the Islamic from the western understanding of toleration.

One of the basic components in Islam's moral philosophy is the recognition of the dignity of humankind. This value in Islam is universal and non–exclusive. It pertains to all human beings, regardless of their beliefs, religion, race, or origin. The Qur'an asserts: "Now, indeed, We have conferred dignity on the children of Adam." (17:70). This dignity is manifested by certain capacities foremost among them are reason and free–will. Dignifying humankind necessitates the respect and protection of the well–being and free choice of the human being. According to the Islamic tradition, belief and obligations are based on reason ['aql]; and therefore, are not to be subjected to coercion (*Ikrah*) "There shall be no coercion in matters of faith." (Qur'an, 2:256). Human reason is capable enough to distinguish between right and wrong and to make free choices. "And say: The truth has now come from your Sustainer: let, then, him who wills, believe in it, and let him who wills, reject it." (Qur'an, 18:29).

The second element is the recognition of the diversity and pluralism of human kind. Muslims perceive diversity and pluralism as a divine design and a natural reality meant for a purpose. Diversity and pluralism entail differences of view, doctrine, and belief. The Qur'an underscores this fact on several occasions: "And among His wonders is the creation of the heavens and the earth, and the diversity of your tongues and colors." (Qur'an, 30:22). When it comes to mentioning "wonders or signs" in the Qur'an, the Muslim is required to ponder, reflect, and contemplate their purposes. One purpose behind this diversity is to *recognize* and *know* each other. "O men! Behold, We have created you all out of a male and a female, and have made you into nations and tribes, so that you

might come to *know* one another." (Qur'an: 49: 13). The famous commentator Zamakhshari commented on this verse by saying, "know that all belong to one human family, without any inherent superiority of one over another." (Asad, 1993, 794). The recognition of diversity goes beyond mere forbearance or resignation, it allows for acceptance and appreciation of difference. Bouhdiba maintains that this diversity "cannot therefore be reduced or even minimized. On the contrary, it must be received as a sign of moral, intellectual, and cultural plenty (1996, 123). Pluralism and diversity imply at the same time the freedom of will to choose one's own beliefs. "And if the Sustainer so willed, all those who live on earth would surely have attained to faith, all of them, do you think that you could compel people to believe." (Qur'an, 10:99).

The value of justice is central in Islam's moral theory of toleration. Like human dignity, it is a universal, irreducible value that applies to everyone. Justice implies diversity of sides and differing views and requires impartiality. The Qur'an contains about three hundred verses that directly relate to justice, and a similar amount dealing with injustice, attesting to the pertinence of this concept. The injunctions to adhere to justice takes a variety of forms ranging from establishing justice—*in the best of ways*—to pursuing this value with those from whom one differs. The Qur'an sets a universal rule: "Behold, God enjoins justice, and the doing of good, and generosity towards one's fellow–men; and He forbids all that is shameful and all that runs counter to reason, as well as envy; and He exhorts you [repeatedly] so that you might bear [all that] in mind." (Qur'an, 16:90). According to al–Razi, a prominent commentator, the entire Qur'an is an elucidation of this principle. And with those that may hold different even hostile position, the Qur'an urges Muslims, "O you who have attained to faith, be ever steadfast in your devotion to God, bearing witness to the truth in all equity; and never let hatred of anyone lead you into the sin of deviating from justice. Be just; this is closest to being God–conscious." (Qur'an, 5:8).

It should be mentioned that these are general principles and universal values that underpin an Islamic moral philosophy of tolerance and regulate the perceptions and relations with people that hold different doctrines and perspectives. Clearly, the Qur'anic verses establish a number of values and duties. First, the legitimacy and dignity of the human being is not derived from his or her beliefs but from their status as a human being. Second, diversity and pluralism are commendable and require recognition and knowledge of one another. Third, matters of belief are not subject to coercion but to free choice. Fourth, difference in beliefs should not prevent the application of justice.

Modern discussions of toleration go beyond religious tolerance. Current debates also involve issues such as national, ethnic, ideological, communal, sexual, and gender toleration. Likewise, the issue of tolerance could be addressed through political ideas such as pluralism, liberty, human rights, or citizenship, to mention but some examples. Here, I address the views of modern Islamists on toleration through their discourse on citizenship. Recently, the issue of citizenship and the relationship between Muslims and non–Muslim in a modern Islamic society has been extensively addressed by a number of prominent modern Islamist thinkers. They attempt to contemplate a political system that is tolerant

and inclusive of non–Muslim communities, while recognizing their religious rights and communal identities. As an expansive and multifarious concept, citizenship closely relates to the concept of tolerance. Among many things, it defines the basis of membership in society; the nature of the political community; group relations; equality and freedom; and rights and obligations. Some view the "legal recognition of equal rights and citizenship" as the other side of toleration (Galeotti, 1993, 596).

Contemporary Islamist discourse on citizenship and the toleration of non–Muslims tries to accommodate modernist views, while maintaining the doctrinal basis of an Islamic polity. In their discussion of these issues, they go beyond the classical jurisprudential classification of the membership of the Muslim community into Muslims and *ahl–Dhimma* (protected non–Muslim people) and try to produce ideas that promote equal status of all citizens in the political system, while still maintaining recognition of collective identities and religious differences. They also try to address and reinterpret the issue of political restrictions on non–Muslims in a way that would generate the support of average Muslims to enable non–Muslims to cross the social and political barriers and attain equality and full citizenship in an Islamic state.

Elements of "Citizenship" in the Classical Islamic Perspective

The word citizenship has no equivalent in the classical Arab language. It is a neologism, a borrowed term. However, its root word, (*watan*), appears in Arabic dictionaries to refer to a place of residence, inhabitance, among other unrelated meanings (Khalafallah, 1982, 17–29; al–Duri, 1982, 31–40). As well known, the concept of citizenship was associated with the modern nation–state, while the rise and evolution of Islam as a political community and as an empire preceded the emergence of that nation–state. Islam did not establish a nation-state defined by territorial boundaries, but an all–embracing religion and a community. However, the meanings of citizenship as identity, membership in a political community, rights and obligations, and civic virtues have existed in the Islamic traditions. This statement requires a discussion of the nature of the political community in Islam and the basis on which membership is established.

The Centrality of the Umma, not the State

The *umma* (community–nation) constitutes the essence of the Islamic polity. It refers to a community of individuals who are tied together by a common doctrine and a common goal (the community of believers). Lambton states, "At the heart of Islamic political doctrine . . . lay the *umma*, the Islamic community, tied by bonds of faith alone." (Lambton, 1981, 13). The bond of the faith takes priority over other forms of affiliations. While recognizing these affiliations, it regards them as secondary. Citizenship therefore is not based on organic affiliations, kinship, blood, or ethnic origins, but on the sharing of a common doctrine. It is acquired by being or becoming a Muslim (birth or conversion) or by residence in the Islamic state. The concept of *umma* is transcendent and more inclu-

sive in nature than the concept of nation, people, or citizens. It comprises all the elements of these terms as it could refer to a group of individuals with common bonds, a race, a territory, a language, and a doctrine. (Ismail, 1989, 139; Lewis, 1998, 82). With the exception of doctrine, all other ties are considered dependent factors. It is only the doctrine that provides the moral dimension and collective image of the community in Islam.

Membership of the *umma* automatically confers the full rights of citizenship to the individual. Therefore, unlike the Western concept of citizenship, in Islam, citizenship is not mediated through the nation–state but through the adherence to the faith and the membership of the *umma*. Mawdudi explains, "the rights of citizens in Islam are not confined to persons born within the limits of its state but are granted to every Muslim irrespective of his place of birth. A Muslim *ipso facto* becomes the citizen of an Islamic state as soon as he sets foot on its territory with the intent to live there and thus enjoys equal rights of citizenship along with those who acquire its citizenship by birth. (Mawdudi, 1976, 10). Contrary to the western approach that assumes the "centeredness" of the state with regards to citizenship entitlements (Benhabib, 1999), the role of the state in Islam is very marginal in this respect. In fact, its main function is to uphold the doctrine and enable the *umma* to fulfill its goals. "[T]he primary purpose of government was to defend and protect the faith, not the state" (Lambton, 1981, 13). Membership in the political community or citizenship in the Islamic state does not necessarily imply the assimilation of the individual into the state. Loyalty of the individual Muslim is to the *umma* in the first place, not to the state, per se. Loyalty (obedience and allegiance) to the state is subject to the adherence of that state to the rules and principles of the *shari'a* (Islamic Laws).

Islam is a universalistic religion and does not operate on the assumption of a closed society with non–porous boundaries. In its external relations, the distinctions between the Islamic and other states were based on the ability to exercise legal sovereignty. The early Islamic jurists devised the concept of *"Dar al–Islam"* (the abode of Islam), where Islamic rules are implemented, to distinguish it from other states. This classification was not internally exclusive. "Membership within the universalistic church or in the case of Islam within the universalistic House of Islam offered the precursor to the notion of a universalistic polity embracing people of radically different ethnic, cultural, and social backgrounds. The classification of the House of Islam is clearly a human (as opposed to a divine, ordained) contribution that proved to be mutable, especially with the advance of the modern nation–state" (Piscatori, 1987).

Rights and Obligations

In an Islamic political community, rights and obligations are specified by the *shari'a*, not the state. The *shari'a* grants the Muslim individual certain irrevocable civic, political and social rights. The civic rights include the security of life and property, the protection of honor, the sanctity and security of private life, the security of personal freedom, protection of religious sentiments, the right to avoid sin, and equality of all before the law. The political rights involve

the right to protest against tyranny, freedom of expression, freedom of association, freedom of conscience and conviction, protection from arbitrary imprisonment, and the right to participate in public life. The social rights entail the right to basic necessities of life (Mawdudi, 1976, 25–37). Remarkably, these rights are not very different from Western classifications (Marshal, 1964; Kuhnel& Rokkan, 1972).

The *umma* as individuals and collectivity is entrusted with certain obligations. It is commissioned with the fulfillment of the rules of the *shari'a*. The state is an agent (a dependent factor), a political structure, an authority that represents, but does not necessarily replace, the *umma* in achieving this objective. In fact, the *raison d'être* of the state is based on the consent and will of its citizens. The objective of the state in the classical Islamic definition is "to defend the faith and manage the temporal affairs in accordance with its principles." According to Mawdudi,

> . . . all individuals are equal. No one takes precedence over another or can deprive anyone else of his rights and powers. The agency for running the affairs of the state will be formed with the will of these individuals, and the authority of the state will only be an extension of the powers of the individuals delegated to it" (Mawdudi, 1976, 8).

The Qur'an never addressed or required a state to fulfill certain obligations, but the responsibility first and foremost always fell on the members of the *umma* whose obligations covered the spiritual, social, financial, legal, military, and political spheres.

Civic Virtues

The issues of moral responsibility, passive citizenship, and civic virtues are vigorously debated in the literature on citizenship (Kymlicka and Norman, 1994, 355). Western approaches make certain suggestions, such as emphasizing citizenship obligations, in order to retain a balance to the liberal perspective of citizenship, democratizing and decentralizing the welfare state (a view often held by leftists), and encouraging the involvement of citizens into the civil society (Janoski, 1998). Citizenship in Islam is exercised within a well–defined frame of civic virtues. A primary duty of a Muslim is to assume moral responsibility in a positive way. S/he is required to perform the obligation of "commanding good and forbidding evil." As Lewis commented, "not just to do good and avoid evil. . . [but] to exercise authority to the end" (Lewis, 1998, 27–8).

The Islamic perspective attempts to strike a balance between rights and obligations. There is a strong correlation between the two: for every right there are corresponding obligations. This correlation is intended to preserve the right of the individual towards the others and to define her/his responsibility towards community as a whole. Ismail explains these obligations, "For every right there are three ensuing obligations: to be aware of this right, to be able to practice it, and to be able to defend it" (Ismail, 1999, 472). Mawdudi confirms,

Islam imposes similar obligations on the state as on the individual, viz: to fulfill all contracts and obligations; to have uniform standards for dealings; to remember duties along with the rights and not to forget the rights of others when expecting them to fulfill their obligations; to use power and authority for the establishment of justice and not for the perpetration of injustice; to look upon duty as a sacred obligation and to fulfill it scrupulously (Mawdudi, 1976, 10).

Toleration of Non–Muslim Citizens

Islam has been stigmatized as an intolerant and violent religion that employs *Jihad* and the sword against non–Muslims. There are rules that regulate the concept and practice of *Jihad*, the discussion of which goes beyond the scope of this research. Muslims view their religion to be a continuation of the Abrahamic messages. They view Christians and Jews as people with revealed scriptures (*ahl al–kitab*) that originate from the same divine source. While viewing Islam as the final message and seal of all religions, they are discouraged from believing in the superiority of one message over another. The Qura'n is clear about this point:

Say: "We believe in God, and in that which has been bestowed from on high upon us, and that which has been bestowed upon Abraham and Ishmael and Isaac and Jacob and their descendants, and that which has been vouchsafed to Moses and Jesus, and that which has been vouchsafed to all the [other] prophets by their Sustainer: we make no distinction between any of them. And it is unto Him that we surrender ourselves" (Qur'an, 2:136).

In fact, on this and similar verses, Muslim jurists expanded the concept of *ahl al–kitab* to include other peoples (the Zoroastrians, Manichaeans, Hindus). The recognition of a common God established early on for Muslims toleration of people with different creeds and for their relations with non–Muslims. The Qur'an asserts: Verily, those who have attained to faith [in this divine writ], as well as those who follow the Jewish faith, and the Christians, and the Sabians— who believe in God and the Last Day and do righteous deeds—shall have their reward with their Sustainer; and no fear need they have, neither shall they grieve" (Qur'an, 2:62). And in what relates to the initial relations between Muslims and non–Muslims, the Qur'an directs the Muslims: "As for such [of the unbelievers] as do not fight against you on account of [your] faith, and neither drive you forth from your homelands, God does not forbid you to show them kindness and to behave towards them with full equity: for, verily, God loves those who act equitably" (Qur'an, 60: 8).

The traditions of the Prophet as well have set certain guidelines for the interactions between Muslims and non–Muslims. This relationship has been based on a humanistic perception. As narrated, a funeral passed before the Prophet who immediately stood up in respect. His companions informed him that the deceased was a non–Muslim. The Prophet responded and exclaimed, "but isn't it a human soul?" He was also recorded as saying, "They (People of the Book) are

entitled to the same rights and bear the same obligations as the Muslims." "Whoever harms a *dhimmi* (People of the Book) as if he has harmed me."

The Covenant of Madinah, concluded in the 7th century between the Muslims and the residents of that city, laid down the principles of citizenship and tolerance in Islam. It established a political community that was plural in nature. This community had a religious as well as a political nature. The covenant recognized the diversity of the constituent members of the community, preserved this diversity and granted equality to the members of the various communities, and created a new bond that transcended tribal, blood, and ethnic basis. The document acknowledged the multiethnic and multi–religious composition of the members of the newly established community.

The residents of Madinah were diverse in their ethnic and religious composition. They were members of Arab tribes, as well as non–Arab residents. They also comprised Muslims, Christians, Jews, hypocrites (opponents of the Prophet) and non–believers. They have all become one nation in the modern political meaning of the term, while recognizing the ethnic and religious identity of each community. The constitution recognized the community of Muslims and believers as one nation (a single community (*umma*) distinct from [other] people). So it marginalized, without completely eliminating, tribal bonds; and, replaced the ties of blood, kinship, and tribe with the bond of a common belief. Such a development was unprecedented in the Arabian community, which was based primarily on such organic bonds as blood, kinship, and tribal ties (Safi, 1996, 103). This community, which is now established on religious affiliations at one level, is equal in rights and obligations with other communities that did not share the same religion, but on another level were members of the larger political community. For example, the Jews of Madinah were recognized as "a community (*umma*) along with the believers. To the Jews their religion (*din*) and to the Muslims their religion" (Watt, 1956, 223). The document therefore established an additional basis and another level of membership in the political community: the factor of residence or inhabitance within a common territory with the Muslims. This is clearly a political and non–religious basis, demonstrating the diverse sources of acquiring citizenship in Islam.

Citizenship, along with its entitlements of rights and obligation, was not confined to the Muslim residents of Madinah. It extended to non–Muslim citizens of the Muslim state as well: "Whoever of the Jews follows us has the (same) help and support. . . (as the believers)" (Watt, 1956, 222). The document established an open political society and gave the right to outsiders to join it and receive its protection. It confirmed the freedom of religious practice and the right of the non–Muslim citizens to follow the rulings of their faith, "To the Jews their religion (*din*) and to the Muslims their religion." The document also instituted the principle of cooperation between Muslim and non–Muslim citizens in upholding justice and defending the community, "Between them [all the signatories] there is help. . . against whoever wars against the people of this document. Between them is sincere friendship. . . and honourable dealing, not treachery". Thus it addressed the issue of trust, which is essential for promoting toleration and peaceful coexistence. It prohibited Muslims from committing

injustice against the non–Muslim citizens, "He [non–Muslim] shall not be wronged nor shall his enemies be aided" (Umari, 1995, 108). For centuries, the Covenant of Madinah has set the model for organizing the internal relations between Muslim and non–Muslim citizens.

As Islamic jurisprudence developed, rulings regulating the internal relations between Muslims and non–Muslims citizens and the external interactions between the Muslim and non–Muslim state also evolved. This jurisprudence drew from the original doctrines of Islam, but as a human contribution, it was occasionally influenced by the surrounding conditions, evolving historical, social, and political conditions, as well as by individual interpretations. In some cases a conservative and intolerant attitude towards non–Muslims developed.

The issue of non–Muslim citizens, in classical Islamic jurisprudence, was primarily dealt with from the perspective of the *ahl al–dhimma* (Covenanted People). The term refers to the people of the book (Jews, Christians, Sabians, and later Zoroastrians) and grew to include other communities. In classical jurisprudence this term, *al–Dhimma*, is defined as a sort of permanent agreement between Muslim political authorities and non–Muslim subjects which provides protection for non–Muslims and peaceful internal relations with the non–Muslim subjects. In return the latter accepted Islamic rule and paid the *jizya* (poll tax) as a substitution for being drafted into the army. Jurists were fully aware that, in turn, the Muslim state was obliged not only to tolerate non–Muslims' faith and religious practices and laws but also to provide them with protection of their lives and properties: "Their blood is our blood and their possessions are as our" (AbuSulayman, 1987, 22).

Rights and Obligations of Non–Muslims

The status of *al–Dhimma* granted non–Muslim citizens certain rights and obligations. First, like their Muslim counterparts, they are entitled to the full protection of the Islamic state and community against any external aggression. The jurist Ibn Hazm (d. 1064) states that:

> "Whoever is part of *al–Dhimma* in a Muslim land and was sought after by a belligerent people, it is the duty of the Muslims to fight the aggressors and die for this sake in defense of those who are in the protection of God and the Prophet. Surrendering him [to his enemies] is a violation of the covenant of *dhimma*" (Quoted in Qaradawi, 1984, 10).

Muslim jurists often cite the practical incident of Shaykh al–Islam Ibn Taymiyya, who appealed to the leader of the Tatar, following their conquest of Syria, to release the prisoners. That leader agreed to release the Muslim prisoners and denied freedom to the non–Muslims. Ibn Taymiyya objected to return without the release of all the Jewish and Christian prisoners (Qaradawi, 1984, 10).

The second right of non–Muslim citizens is their protection against internal injustice or aggression. Muslim jurists have stressed the duty of Muslims to observe and protect the rights of non–Muslims. These rights include the protection

of their life, possessions, access to social benefits, freedom of religion, the right of work, and of assuming public office (with the exception of positions that have religious connection). According to the jurists, they are stipulated in the contractual relations between Muslim and non–Muslim communities, who are part of the Muslim land. The majority went as far as prohibiting Muslims from applying any physical pressure or hardship on non–Muslims who fail to pay their financial obligations to the state (Al–Sayyid, 1984, 114–139). Regarding possessions, Muslim jurists have recognized group differences and developed rulings that would protect possessions of non–Muslims that are not customarily regarded as of any compensatory value to Muslims, such as alcohol or pigs, for example. Jurists have also recognized the right of non–Muslim citizens against defamation and humiliation. Qaradawi quotes the statement of the Maliki jurist al–Qarafi, "The covenant of al–*Dhimma* necessitates certain rights to non–Muslims because they are under our protection and the protection of God, His Prophet, and the religion of Islam. Whoever transgresses against them even with an unpleasant word has indeed violated that protection" (Qaradawi, 1984, 16).

Non–Muslim citizens are entitled access to social benefits and financial resources of the state. They have the right to be secure in the case of disability, age, and poverty. These are rights that all citizens enjoy, Muslims and non–Muslims. Non–Muslim citizens also have the right to assume public office, except, according to classical jurists, for those that have a religious dimension, such as the leadership of the Muslim state and Muslim armies, judging between Muslims, and the administration of the state budget. Jurists viewed these positions to be civic as well as religious at the same time. The assumption of such positions will therefore require non–Muslims to practice the principles of a doctrine in which they do not belief. This is a sort of compulsion; and, according to the Qur'an, "There is no compulsion in religion" (Qaradawi, 1984, 23–24). They also involve the trusteeship of people who do not share the same ideological orientation with the rest of the community.

The Islamic perception of rights certainly differs from the western experience. These rights are not conferred by the state, but are guaranteed by the Islamic *shari'a* and the Muslim community, irrespective of the will of those in power. As part of Islamic doctrine, they are irrevocable and immutable. Mawdudi writes, "The rights which have been sanctioned by God are permanent, perpetual and eternal. They are not subject to any alterations or modifications, and there is no scope for any change or abrogation" (Mawdudi, 1976, 15). If the state fails to observe these rights, it becomes an individual and collective obligation of the members of the Muslim community to uphold them. "They are part and parcel of the Islamic faith. Every Muslim or administrators who claim themselves to be Muslims will have to accept, recognize and enforce them" (Mawdudi, 1976, 14). "For Muslims, the treatment of the religious other is not a matter of opinion or choice, of changing interpretations and judgments according to circumstances. It rests on legal texts, that is to say, for Muslims, on holy writ and sacred law" (Lewis, 1998, 118).

Muslim jurists have identified specific obligations of non–Muslims: payment of the *jizya* (defence tax), respect of the law of the state, and respect of the

religious sentiments of Muslims. The payment of the *jizya* has been an issue of lengthy discussions, particularly by Orientalists, who consider it a manifestation of the treatment of non–Muslims as second class citizens. Rosenthal points to this dilemma. "While he (non–Muslim) is adequately safeguarded by what we today call human rights—and it must be freely acknowledged that Islam has treated Jews and Christians very well indeed–his inequality concerns, perhaps paradoxically, his duties. He is not entitled to bear arms in defence of his state and nation; in return for his protection he pays a poll tax, *jizya*." (Rosenthal, 1965, 107–8). Historically, this tax was collected from able–bodied male non–Muslims in return for their exemption from military service and guaranteeing the protection of Muslims. This tax was not collected from old men, women, children, monks, and non–combatants. Muslim citizens did not pay this tax, but simply served in the army, as a religious obligation. The *jizya* was viewed in lieu of obligating non–Muslims to perform the jihad, which is a religious duty for Muslims and not necessarily for members of other religions. However, in many recorded incidents non–Muslims participated along with Muslims in the defense of their territories and the poll tax was revoked. It was also returned when Muslims failed to protect non–Muslims. In addition, the poll tax was levied on Muslim Egyptian peasants, i.e., non–combatants, who were exempted from military service.

The second main obligation is to accept the sovereignty of the Islamic state and its laws. This obligation applies to all citizens of the state, regardless of their religion. It is also expected from all individuals residing in any modern nation–state. However, the adherence to Islamic laws is qualified and should only apply in matters that do not contradict the religious beliefs of non–Muslims. In civic and legal matters they are equal to Muslim citizens, but in religious and social affairs they have the right to run their communal affairs. Bernard Lewis writes, "They are to have full control of such matters as marriage, divorce, inheritance, and education, and, even, more remarkably, have the power to maintain and enforce their decisions, if necessary calling upon the services of the public authorities" (Lewis, 1998, 119). The third obligation is to respect the religious sentiments of Muslims. Again, this is reciprocally expected of Muslims who are required to recognize and respect the religions that possess a scripture.

The historical experience of Islam with regards to non–Muslim citizens varied and in special circumstances deviated from the prescribed doctrine. Some scholars are critical of the Islamic state and its treatment of non–Muslims as a whole. They highlight clear incidents of inequalities that certainly leave negative impressions about the issue of toleration, equality, and rights and obligations. The criticisms often focus on the financial and social discrimination to which non–Muslims were sometimes subjected. (Lambton, 1981; Trinton, 1970). Grunebaum observes:

> The Muslim and the non–Muslim were not equal before the *shari'a* [canon di law]: *zakat* [welfare tax] was incumbent upon the former, *jizya* [poll tax], upon the latter; civil rights and duties differed according to religion. In short, the *dhimmi* . . . was never a citizen but a protected client" (Grunebaum, 1964, 197).

Ironically, this should make a strong argument for the Islamic perspective on toleration, as it recognizes the religious differences and obligations between groups. Hamid Enayat addresses this issue:

> No egalitarian school of political thought provides for absolute equality-unless it is hopelessly utopian, or has no intention of achieving political power. In our times, any democratic system of government inevitably imposes certain implicit or explicit discriminations in favour of all those who pay allegiance to a set of ideals, norms and symbols, forming the subject of a presumed consensus, whether it is the 'American way of life', or 'scientific socialism', or liberal–monarchical democracy. . . . Islam's treatment of the 'People of the Book', or its denial of political rights to atheists, can be similarly justified in terms of the constrictions necessitated by the nature of any political regime. But what ultimately decides whether a regime is or is not genuinely dedicated to the principle of equality despite these limitations should be whether the ostensible factor giving rise to them is permanent and unremovable, such as the membership of a race or caste, or conversely accidental and temporary, such as the membership of a party, or the status of foreign residents of a state. And the decisive fact is that the limitations place by the *shari'a* on the rights of non–Muslims are not permanent and non–removable, because non–Muslims always have the option to convert to Islam, and thereby overcome their political incapacity (Enayat, 1982, 128).

This is a similar process to naturalization which most modern states require of aliens to cross legal, social, or political restrictions. The Ottoman Empire, the last Islamic caliphate, attempted in the nineteenth century to resolve the issue of restrictions by issuing the law of nationality and citizenship, which granted all Ottoman citizens born in the empire equal rights. Before that, it had adopted for over five centuries the millet system, which granted autonomy and recognition to religious groups and gave them the right to administer their religious, social, and legal affairs. According to Kymlicka:

> The millet system. . . offers a viable alternative form of religious tolerance to Rawlsian liberalism. It does not deny the obvious lesson of the Wars of Religion, that is, that religions need to coexist. Indeed, the existence of the millets probably saved the Ottoman Empire from undergoing these wars. . . .The Ottoman millet system is the most developed form of the group rights model of religious tolerance (1996, 85).

Toleration and the Modern Arab Nation–State

With the disintegration of the Ottoman Empire and the advent of the modern nation–state in the Muslim world, the basis of the political community was radically altered and accordingly toleration and citizenship acquired new meanings. The modern nation–state in the Arab world has created serious moral dilemmas for its citizens. The new state, mostly a product of the colonial experience, was secular in orientation and structures. It has radically shifted the moral foundation of society. The doctrinal and religious obligations of toleration that Islam required of Muslims were replaced by secular ideologies, whether nation-

alist, Pan–Arab, or socialist. These new ideologies contended with Islam as al-
ternative sources for identity, loyalty, and civic virtues. However, they were
always viewed by a majority of the population as secular and alien, as a thin
ideological layer covering regimes that were ethnic and authoritarian in essence
and practice. Moral responsibility and civic virtues in the new nation–state had
to be learned anew and citizens had to undergo a new process of re–socialization
and sometimes indoctrination. Allegiance and conformity of all individuals to
the state has to be imposed by either force or patronage. The problems of non–
Muslim and religious communities were presumably resolved since religious
and communal identity no longer represented a main factor for citizenship. Citi-
zenship in the modern Arab state became a legal status, that reduced group
rights to individual claims. A citizen is the bearer of the nationality of the state,
and all citizens are, in principle, equal before the law, irrespective of their relig-
ion, race, class, or ethnic origins (Mughaizil, 1989). Nonetheless, citizenship in
the modern Arab state remains more of a rhetorical status than a well-defined set
of rights and obligations that one could actually practice. The "state" in the Arab
world metamorphosed into an extension of tribal, ethnic, military, or regional
solidarities. It has become the state of a family, dynasty, sect, presidential mon-
arch, or a military faction, but clearly not of the entire nation (Korany, 1989;
Belgaziz 1997; Ansari, 1997). It has so far failed to provide a *modus operandi*
that can integrate the various communities into a single whole, while guarantee-
ing the autonomy of different groups and their equal access to the nation's re-
sources. "[N]either nation nor country was seen as a primary even a significant
element in determining political identity and in directing political loyalty"
(Lewis, 1998, 22). All the constitutions of the Arab states stress the equality of
citizens with regard to rights and obligations. In practice, the obligations of the
citizens have always taken precedence over their rights.

The rights of religious and ethnic communities under the current nation–
state suffered considerably. Collective claims for recognition of ethnic, relig-
ious, linguistic group identity were often viewed as a threat to the state and were
in many cases suppressed. The clash of identities and loyalties became inevita-
ble leading to violent eruptions that threatened the existence of the entire com-
munity. (Lebanon, Somalia, Sudan, Algeria, Iraq, Afghanistan, to mention but a
few examples). In his analysis of the conditions of religious communities under
the Islamic state and the modern nation–state, Lewis observes, "All too often,
religious minorities were in fact worse off than before" (Lewis, 1998, 129).

Contemporary Islamist Discourse on Citizenship and Toleration

The contemporary Islamist discourse on citizenship and toleration rests on
the fundamental sources of Islam, the Qur'an and the traditions of the Prophet,
and the contributions of early Muslim jurists. With regard to the latter, they tend
to be selective, highlighting the historical and particular circumstances under
which these jurists had formulated their rulings. They point out the inapplicabil-
ity of many of these rulings to the changes that have already taken place in con-
temporary Muslim societies and the need to reinterpret them in light of the uni-

versality of such concepts as toleration, freedom of religion, and equality as the
basis of membership in a modern polity. Tariq al–Bishri maintains that:

> . . . as the classical jurisprudence has allowed for a diversity of views regarding
> the relations with non–Muslims. . . Modern jurisprudence should accommodate
> the contemporary history. Non–Muslims in our countries have participated with
> Muslims in the nationalist liberation movements; the blood of Muslims and
> non–Muslims has mixed in their struggle to rid their countries of foreign domi-
> nation. . . This historical reality should have a decisive impact in assessing the
> equal rights and obligations of Muslims and Non–Muslims in our countries"
> (al–Bishri, 1989, 139).

Al– Awwa shares a similar view as he views the historical covenant be-
tween Muslims and non–Muslims as a contract; and, like any contract is subject
to termination. In his view, it has indeed been terminated as a result of the con-
trol of foreign powers over the Islamic state and its Muslim and non–Muslims
residents. The modern Islamic states emerged as a result of a liberation struggle
in which non–Muslims and Muslims have equally contributed. Therefore, non–
Muslims deserve their full rights as citizens and the old formulas are no longer
applicable (Al–Awwa, fi al–Nidham al–Siysi, 1989, 257–258).

There are certain discernable themes in the Islamists' debate on the issue of
non–Muslims. There is a growing tendency to accept citizenship as a new con-
cept defining the individual's membership in a Muslim community. This is re-
flected in the titles of several books and articles addressing the issue, in which
the words "citizens" and "citizenship" appear (Ghannoushi, 1993a, 1998b; al–
Bishri, 1998; Huwaidi, 1990). In most of these titles, however, the concepts of
dhimma, ghayr al–Muslimin (non–Muslims), and *aqalliyat* (minorities) also
appear. This attests to a common theme in the discourse of contemporary Isla-
mists. While many are willing to provide new formulations, as will be ex-
plained, they tend to inject Islamic notions into this modern concept and inten-
sively tackle it on the conventional basis of Muslims and non–Muslims. The
objective of most of them is to preserve the religious identity and rights of non–
Muslims and circumvent the social and particularly political disabilities to which
they have been occasionally exposed.

Another common theme is that the discussion of the status of non–Muslims
is mostly raised in relations to toleration, human rights, and the equality of rights
and obligations. Many of the Islamists' writings on human rights in Islam or on
political participation have dedicated sections on the rights of non–Muslims and
the extent of their political participation in a Muslim society. Mawdudi makes a
clear connection in his book, *Human Rights in Islam.* He maintains that:

> Islam has also laid down certain principles for the non–Muslims who may be
> living within the boundaries of an Islam state. According to the Islamic termi-
> nology such non–Muslims are called *dhimmis* (the covenanted), implying that
> the Islamic state has entered into a covenant with them and guaranteed their
> protection. The life, property and honour of a *dhimmi* (non–Muslim citizen) is
> to be respected and protected exactly like that of a Muslim citizen. There is no
> difference at all between a Muslim and a non–Muslim citizen in respect of the

civil and criminal law. The Islamic state shall not interfere with the personal rights of the non–Muslim. They will have full freedom of conscience and belief and will be at liberty to perform their religious rites and ceremonies in their own way. Not only can they propagate their religion but they are entitled even to criticize Islam within the limits of the law and decency. The rights given in this respect are not limited, but the civil law of the country is to be fully respected and all criticism will have to be made within its framework which would be applicable to all citizens of the state (Mawdudi, 1976, 11).

Like Mawdudi, other contemporary Islamists and jurists equate the term *dhimma* with the modern concept of citizenship, as the former was meant to define the membership of non–Muslims in the political community during a particular historical phase (Zaydan, 27 Ghannoushi, 1993; al–Bishri, 1998; Al–Awwa, 1989, Keshk, 1985). Zaydan even broadened the concept of *dhimma* (that traditionally applies to People with Scriptures) to cover all those who seek it and accept its requirements, including non–believers. Huwaidi insists on replacing the concept of *dhimmis* by citizens (Huwaidi, 1990). He even warns against using the concept of "toleration" to describe a moral duty and religious obligation. In his discussion of the status of non–Muslims in an Islamic state, Qaradawi devotes a chapter to toleration. He seems to capture the nuances within the concept as he distinguishes between different types. A basic level is to grant those who are different the freedom of belief and not to force them to follow the beliefs of the majority, while preventing them from practicing their religious duties. Qaradawi considers this as the lowest level of tolerance. The second level is to tolerate the practices of those who are different as long as they themselves see these practices to be right. A high level of toleration is not to put restrictions to the beliefs and practices of those who are different, despite the fact that others disapprove. According to Qaradawi, Muslims have reached this level as they have allowed what they disapprove of to be practiced by non–Muslims (Qaradawi, 1984, 45–52). Qaradawi has elaborated extensively on the rights and obligations of non–Muslims in an Islamic polity. Though he sees the contractual relationship between Muslims and non–Muslims as eternal, in substance and in spirit, he at the same time allows for this formula to accommodate many dimensions of citizenship and promote recognition of different groups. With regard to the membership of non–Muslims in a Muslim polity, Qaradawi asserts that the concept of *dhimma* grants non–Muslims political citizenship, which the modern states confer on its members, and entitles them the rights and obligations of citizenship. The *dhimmi* on this basis is a member of the "land of Islam," as the jurists maintain, or a bearer of the "Islamic citizenship" as the contemporaries prefer to use this term" (Qaradawi, 1984, 7). Qaradawi acknowledges the possibility of different types of fraternity that Islam recognizes within its polity; there is a fraternity in religion, homeland, and humanity. He stresses that non–Muslims enjoy the same rights as Muslims. They enjoy protection against internal or external aggression; protection of their physical well–being; protection of their property; sharing the social benefits against old age, poverty, and disability; freedom of religion and practices; and the freedom of work and all economic activities (Qaradawi, 1984, 21). Qaradawi asserts the

right of the non–Muslim citizen to political participation in the political process and their representation in parliament (Qaradawi, 2001, 195).

Gahnnoushi maintains that the Islamic society is based on a voluntary association, and on the principles of justice and equality in rights and obligations, participation in public affairs on the basis of qualification and integrity, and the enjoyment and exercise of citizenship on the basis of equality. For him, the society of Madinah represented an ideal model for a contractual society based on the sharing of the rights and obligations of citizenship regardless of the personal beliefs of its citizens (Ghannoushi, 1993, 48–49). According to him, non–Muslims enjoy all the public and private rights as the Muslims except in some limited rights that are based on religious grounds (Ghanoushi, 1993, 77).

Many modern Islamist thinkers go as far as viewing the entire concept of *dhimma* as a jurisprudential and a historical term that has become obsolete and unnecessary in modern time. Islamic societies have already been completely settled and the relations between Muslims and non–Muslims have come to be founded internally, not on the basis of conquering and conquered people, but on the basis of citizenship and externally on treaties that regulate the relations between the Muslim and non–Muslim states (al–Awwa, 1989b, 162–3; Ghannoushi, 1993a, 29 ff.; Keshk, 1985, 80; Huwaidi, 1990). Keshk summarizes the basic perceptions and principles that should regulate the relations between Muslims and non–Muslims in modern Muslim society. First, the issue of *dhimmis* no longer exists. It is a historical case associated with Muslim conquests and to the state that was founded on that basis. This state does not exist today. All Arab countries are inhabited by citizens who are partners in and share the same homeland, history, rights, and duties. Second, there is no room for any discussion of the *jizya*. It was obligated on conquered combatants who rejected Islam. We no longer fight our Christian citizens. Third, the Islamic constitutional basis that guarantees permanent equality is: "They (non–Muslim citizens) are entitled to the same rights and bear the same responsibilities as us" (Keshk, 1984, 80–81). Keshk criticizes further the classification of the residents of the Muslim state into those who believe in the founding principles of this state (the Muslims), and those who do not (non–Muslims). In his view, this classification presumes at the outset the disloyalty of non–Muslims to the Islamic state, and therefore, may not entitle them the full rights of citizenship, that preconditions the belief in the basic doctrinal principles of the political system. He proposes instead that all citizens establish a state that is based on Islamic principles and according to their understanding of Islam, without requiring each citizen to believe in Islam as a religion and as a precondition for exercising their full rights (Keshk, 1984, 65). For Keshk, this would remove any political restrictions on the full participation of non–Muslims in an Islamic polity. On this basis, any citizen, regardless of his religion, has the right to become the head of the Islamic state provided that he pledges to respect and implement the Islamic constitution of that state (Keshk, 1984, 83).

Regarding the financial obligations and political equality of citizens, contemporary Islamists attempt to present new formulations that are clearly distinguishable from those of early jurists. While placing the practice of collecting a

defense tax from non–Muslims within its particular and historical and political context, they all consider it now to be obsolete. They all recognize the variations in Muslim practices regarding the collection of that tax. In some cases, this tax was not collected at all; in others, non–Muslims preferred to be treated as Muslims and pay the *zakat* instead of the defense tax. Today, Muslims and non–Muslims all serve in the armies of their nation–states, and that puts an end to this debate.

In fact, one of the most debatable and sensitive issues among contemporary Islamists is not the recognition of the religious freedom and social rights of non–Muslims, but the question of whether non–Muslims can assume high positions, particularly the presidency and the judiciary, in an Islamic state. Given the nature of the modern state, the highest positions are scrutinized because these positions symbolize the national and the state ideology. The views of contemporary Islamists vary on this issue. The dominant view is that non–Muslims should fully participate in the political process (voting, parties, parliaments) and should have access to senior positions, with the exception of those that directly carry commitment to Muslim religious obligations. These would include the presidency and judicial positions that require its occupants to uphold the *shari'a*. According to the advocates of this view, committing non–Muslims to uphold the Islamic *shari'a* is a form of coercing people to carry out religious duties that are not part of their religions (Mawdudi, Qaradawi, Al–Awwa, Ghannoushi, and Hwuaidi). Other Islamic thinkers have tackled the issue of the political participation of non–Muslims on the basis of the nature of the modern structure of the state and the system of government. Fathi Othman sees that modern experiences and practices urge for a new reading of the political rights of non–Muslims. Othman contends:

> . . . democracy at the present confirms, at least theoretically, the full equality of citizens. This goes beyond [only explaining] the [Islamic] principles of justice and tolerance of the "other." The Islamists should assert unequivocally in principle and practice the political rights of non–Muslims and go beyond the formula of the *dhimmis*" (Othman, 1992, 32).

In Othman's view non–Muslims are entitled to freedom of expression and assembly, the right to organize demonstrations and form political parties, and the right of voting and nomination in an Islamic state (ibid., 30). Similarly, Tariq al–Bishri views the modern structures of government and decision making to have opened the possibilities for the full participation of non–Muslims in the political process. Modern state structures are regulated by laws that had gained the consent of the members of the community. Therefore, it is practically possible for non–Muslims to assume high offices since decisions are often reached in a collective manner and in accordance with these laws (al–Bishri, 1998, 47). Finally, like the situation in any modern polity, few consider the criteria for assuming senior offices to lie in the acceptance of the members of the community of the general principles on which the Islamic state is founded. This does not necessarily require belief in Islam, but only the basic political and legal outlook of the polity, which any modern state would require of its citizens (Keshk,

1985). These views constitute a significant evolution in contemporary Islamic thought. The Islamic state is a doctrinal or "ideological" state in which Islam guides its orientations and policies. Therefore, entertaining the possibility of tolerating citizens who do not believe in Islam, i.e., the ideological basis of the state, to assume senior offices such as the presidency shows that the Islamists' views of toleration are progressing very vigorously. To appreciate this, one should ask whether it is possible to have a Muslim president or a supreme judge in France, a country which hosts almost 20 percent of its population as a Muslim minority.

Conclusion

In this chapter, I argued for the need of a moral theory of toleration. I tried to show the elements of this theory in Islam on the basis of the values contained in the Qur'an and the traditions of the Prophet, that constitute the frame of reference for Muslims. Such elements consist of the recognition of the dignity of humankind irrespective of religion, race, and origin; the inevitability of pluralism and the necessity of mutual recognition; freedom of choice; and the application of justice as a universal value. As derived from Islam's fundamental divine sources, toleration thus becomes a moral duty and a religious obligation that is not left to the discretion of the individual or the state to apply. Such has been the orientation that institutionalized the relationship between the Muslims and *ahl al–dhimma* (covenanted people). The Ottoman millet system represented a natural evolution of this system in which the collective identities and religious rights of different communities were recognized by the Islamic state. Occasionally, Muslim practices of toleration deviated from the prescribed norms, but these were rare moments that influenced particular historical, social, and political conditions. Also, some jurists' views, especially in later centuries, tended to set social and political constraints on non–Muslims, but on the whole the attitudes and practices of the Muslim community at large remained more tolerant.

Though the classical jurists defined membership in the community on the basis of faith–Muslim and non–Muslim–the Islamic political community was inclusive of multiple communities, ethnic groups, and religions. That political community was based on both faith and residence. Non–Muslims were never required to be assimilated into the dominant community. Rights and obligation were practiced within a well–defined system of civic virtues that was obligated on the community by Islamic law (*shari'a*) and not the state.

The collapse of the old Islamic order and the rise of the modern nation–state in the Muslim world have constituted a turning point. It has created new dilemmas for its citizens at the level of identity, loyalty, and rights and obligations. In their discourse on citizenship and toleration, contemporary Islamists attempt to go beyond the traditional Islamic classification of citizens into Muslims and non–Muslims, as well as beyond the logic of the modern nation–state. They feel the Islamic formulation is still valid in preserving the particular identities of various groups in society while integrating them into one political community. They try to produce ideas that would promote equal status of all citizens in soci-

ety. They address the issue of restrictions in a way that would generate the support of average Muslims to enable non–Muslims to cross the social and political barriers to full citizenship in an Islamic state.

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