

**AGREEMENTS CONCLUDED DURING THE REIGN OF
HAZRAT UMAR (R.A.): IMPLICATIONS FOR
CONTEMPORARY
HUMAN RIGHTS LAWS**



Submitted By

AYESHA JADOON

14-FSL/MS-HRL /S10

Supervised By

PROF. DR. MUHAMMAD ZIA-UL-HAQ

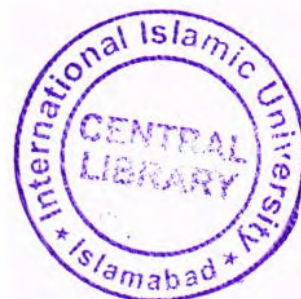
A Dissertation submitted in partial fulfillment of the Requirements for the
degree of MASTER OF LAWS (HUMAN RIGHTS LAW) Degree programme
MS (HUMAN RIGHTS LAW)

Department of Law
Faculty of Shariah and Law

International Islamic University, Islamabad

2014

Faculty of Shariah & Law, IIUI
Despatch No. 912
Dated: 12/9/14



TH13320 R

dy

MS
323
AYA

Human rights

Human rights (philosophy)

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

IN THE NAME OF ALLAH THE MOST
BENEFICENT THE MOST MERCIFUL

FINAL APPROVAL


It is certified that we have read the dissertation submitted by Ayesha Jadoon, Registration No 14-FSL/MS- HRL/S10 on the topic "Agreements concluded during the reign of Hazrat Umar (R.A.) implications for contemporary Human Rights laws" in the faculty of Shariah & Law. We have evaluated the dissertation and found it up to the requirements in its scope and quality prescribed by the International Islamic University for award of degree of MS Human Rights Law.

VIVA VOCE EXAMINATION COMMITTEE

Prof. Dr. Muhammad Zia-ul-Haq

(Supervisor)

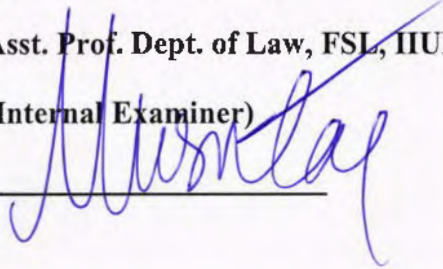
Muhammad Zia-ul-Haq



Muhammad Mushtaq Ahmed

Asst. Prof. Dept. of Law, FSL, IIUI

(Internal Examiner)



Ghufran Ahmed Advocate High Court

Visiting Asst. Prof. Dept. of Law, FSL, IIUI

(External Examiner)



DECLARATION

I, **Ayesha Jadoon**, hereby declare that this dissertation, "**Agreements concluded during the reign of Hazrat Umar (R.A.) implications for contemporary Human Rights laws**", is my own work and has not been previously submitted in any university. I also declare that any secondary information used in this dissertation has been duly acknowledged.

Signature: _____

Ayesha Jadoon

DEDICATION

This work is dedicated

To

**Rasul Allah ﷺ Great Founder of Human
Rights**

TABLE OF CONTENTS

FINAL APPROVAL	ii
DECLARATION	iii
DEDICATION	iv
ABSTRACT	vii
INTRODUCTION.....	1
1. AGREEMENTS CONCLUDED DURING THE REIGN OF HAZRAT UMAR (R.A.)....	7
1.1 Introduction	7
1.2 Rights of non-Muslims in Islam	8
1.3 concept of Treaty in Islam	13
1.3.1 Pre-requisites for treaties in Islam	15
1.3.2 Treaties between Muslims and Non-Muslims	17
1.4 Similar Provisions in Different Agreements	35
1.5 Conclusion	35
2. HUMAN RIGHTS DURING THE REIGN OF HAZRAT UMAR BIN KHATTAB.....	37
2.1 Early life and work of Hazrat Umar (R.A.)	37
2.1.1 Role of Hazrat Umar (R.A) in the compilation of the Holy Quran	42
2.2 Rule of Law during the caliphate of Umar bin Khattab (R.A.)	43
2.3 Directives of Umar bin Khattab (R.A.).....	46
2.4 Letters by Umar bin Khattab (R.A.) to his Governors emphasizing on Human Rights ...	51
2.5 Conclusion.....	53
3. CONTEMPORARY HUMAN RIGHTS INSTRUMENTS.....	55
3.1 Evolution of modern concepts of Human Rights	55
3.1.1 The Western Approach	60
3.1.1.1 First Generation Rights	60
3.1.1.2 Second Generation Rights.....	60
3.1.1.3 Third Generation Rights	60
3.2 Core International Human Rights Instruments	61

3.2.1	International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) 1965	61
3.2.2	International Covenant on Civil and Political Rights (ICCPR) 1966	62
3.2.2.1	International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966	63
3.2.3	Convention on the Elimination of all forms of Discrimination against Woman (CEDAW) 1979	63
3.2.4	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984.....	64
3.2.5	Convention on the Rights of the Child (CRC) 1989.....	64
3.2.6	International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICRMW) 1990	65
3.2.7	Convention on the Rights of Persons with Disabilities and its Optional Protocol (CRPD) 2006 & International Convention for the Protection of all Persons from Enforced Disappearance 2006.....	67
3.3	Commission on Human Rights and UNWGEID1979-1980.....	67
3.4	The Treaty Bodies	68
3.4.1	Consideration of State Parties' Reports.....	69
3.4.2	Consideration of Individual Complaints or Communications.....	70
3.4.3	General Comments.....	70
3.5	A Comparative Analysis of Treaties Signed by Caliph Hazrat Umar (R.A.) and the Contemporary Rulers.....	71
4	CONCLUSIONS AND RECOMMENDATIONS	74
4.1	Recommendations	75
	APPENDIX.....	77
	BIBLIOGRAPHY.....	82

ABSTRACT

The thesis appraises the importance of the international Agreements & Treaties in the context of Agreements & official documents concluded during the period of second caliph Hazrat Umar (R.A). It highlights the status of those agreements that, how they were the landmarks for the further documentation of conventions & agreements (as the contents, mainly concerned areas & issues of both era's documentation is the same).

The thesis also argues that Islam is the protector of human rights it not only protects the rights of its followers but also puts the non-Muslims on the same footings. Like documentation of international agreements during the period of hazrat Umar (R.A) are the best examples of this statement.

The thesis evaluates the contemporary importance of these agreements in the light of human rights instruments. This thesis on the whole is going to restate the history of the human rights and its evolution. Also, this thesis included the documentation of the International Human Rights and their working. Furthermore it highlights the Human Rights during the period of Ameer-al-Momineen hazrat Umar bin Khattab (R.A.) as it was the crux and base for future Human Rights workings. Moreover, it includes the directives, letters and agreements conducted during the period of second caliph Hazrat Umar (R.A.).

AGREEMENTS CONCLUDED DURING THE REIGN OF HAZRAT UMAR (R.A.): IMPLICATIONS FOR CONTEMPORARY HUMAN RIGHTS LAWS

Introduction

All Human beings are entitled to basic Rights no matter to which community they belong. Nationality or age, race, religion and status do not play role in entitlement of Rights. All the documents of Human Rights holds this reality and states that “all members of the Human family have Rights”¹ similarly, these words are used in almost every document related to the Human Rights “all people” “all Human beings” every individual” “everyone”.² Human Rights trace its origin in ancient philosophical and legal theories of “Natural Law” which prevail “Positive Law”. These theories proclaim that all Human beings bears Rights for being a human. Late 18th and 19th centuries witnessed the codification of Human Rights documents.³

Agreements and treaties are very important for the sovereignty of a country. In present scenario, many countries have undergone many treaties but the background/grounds of these treaties are very different from that of Islamic era. Hazrat Umar’s era is deemed in golden. Umar Farooq (R.H), the second of the Rightly Guided Caliphs of Islam, made an implausibly large contribution not only to the geographic spread of Islam, but to the establishment of justice and logical freedom as well. Many people have misconceptions about the view that there is no concept of human rights in Islam but in real is the major savior of the human rights .Next, the legislation for the protection of the human

¹ Douglas Hodgson *Individual Duty With in a Human Rights Discourse* (England, Ashgate Publishing, Ltd.,2003), 87
for detail see :United Nation’s Universal Declaration of Human Rights (UDHR)1948

² Brian Orend, *Human Rights: concepts and context*, (Canada, Broadview press, 2002), 3

³ David Weissbrodt, , *Human Rights, an historical perspective*, ed.Peter Davis, (London, Rout ledge, 1988), 1

rights by Hazrat Umar was a landmark for modern legislation. Then, he was one of the very first people who worked for the protection of human rights. He worked for the safeguard of every aspect of human life like social, political, religious and economical. Moreover, unlike the signatories of the treaties these days who just follow the treaties until it is charming and an advantage for them, Hazrat Umar strictly followed them once he opted for them regardless of its results whether they may not be good for him. Finally, the conqueror of the about 4050 cities was always in contact with what was happening from one to the other corner of his state and was strictly against the violation of human rights. His reach extended as far as Persia, Egypt, and Anatolia, and he defeated gigantic empires such as the Sassanid's and the Byzantines. The conquests of Hazrat Umar Farooq's vast empire were based purely on the justice and peace. The evidence of his wisdom and achievements is prominent in the agreements and treaties conducted by him for the subjugated areas. Thus, he began what would be known as the Islamic judicial system and improved the economic, social, and political system throughout his domain. Social security provided by Islam includes non-Muslims as well. Many instances of Muslims providing social security to the non-Muslim citizens are recorded in history. For instance, according to the treaty made after the conquest of Jerusalem by Hazrat Umar, non-Muslims were given social and religious freedom and security of life and property. To conclude, one can say that Hazrat Umar was a true protector and savior of human rights.

Nowadays, in treaties related to human rights we find the same contents like security of life and wealth and religious freedom as in case of treaties during the time of Hazrat Umar. For instance, UN Charter (1945), UDHR (1948), ICCPR (1968) and all other treaties regarding human rights. These all contain the same contents as were in the treaties by Hazrat Umar. As a matter of fact, both these modern and old treaties include the points like security of lives, wealth and not only the social but

also religious and political freedom. It shows that the emphasis on human rights that we have seen 1400 years back during Hazrat Umar's time is adopted by modern law makers.

Nowadays, every society and individual speaks for his Rights. Presently, we have two frames of Laws: one the Islamic and other the Western. When it comes to the Human Rights contents are though same but Islam opposes discrimination whether of any type like caste, creed, sex, race, religion etc. But in West, we find Human Rights Laws but therein is discrimination also. So this research will tell that western documentation of Human Rights has its base in the glorious regime of second caliph hazrat Umar bin Khattab (RA). In his period both Muslims and non-Muslims were on equal footings and enjoyed same Rights. And all the basic Human Rights were not therein theoretically present were practically there but today the matter is always opposite. In a nutshell..... Islam is the greatest protector of Human Rights for not only those who come in its fold but also those who do not accept it. Though in the books of history, we find a lot about the life, work, services and accomplishments of caliph Hazrat Umar (RA). Moreover, we can get out a lot of narrations about the Treaties that had been there during his caliphate. But still keeping up with this whole as a clichéd fact, we do not find a work or a piece of work that is research oriented that all the modern day Human Rights conventions or covenants whether social or a way socio-political or even if in bilateral view have all of their origin and basic cream and glimpse from what was done by second caliph Hazrat Umar (RA) 1400 years aback.

Now, this research all be revolving around this reality and it here, had been fully tried to prove that far back done Treaties have an immense role and importance in the current structure. Not only will it try to prove that charters of human Rights are not a brain child of modern-day workings but they fountain from the regime that past 1400 years ago where this was all present practically and also saved in the written form. But also, the research is going to prove that Islam is the only religion that

was and forever will be the safeguard of one's basic human Rights without any discrimination or distinction whatever so are its roots.

Thesis Statement

The period of hazrat Umar (R.H) is extremely important in Islamic history due to vast expansion of Islamic state & annexure of many areas with the Islamic state. Some of the areas were conquered by the army during this period & other were annexed as a result of peaceful agreements. These agreements, treaties & official documents were later on used by the Muslim jurists as a source for Shariah rulings on international affairs. The research would explore the importance of International Agreements of that period & evaluate the contemporary importance of these Agreements in the light of Human Rights instruments

Hypothesis

First, many people have misconception on the view that there is no concept of Human Rights in Islam but in real, it is the major savior of the Human Rights .Next, the legislation for the protection of the Human Rights by Hazrat Umar was a landmark for modern legislation. Then ,he was one of the very first people who worked for the protection of Human Rights .He worked for the safeguard of every aspect of human life like social, political, religious and economical .Moreover ,unlike the signatories of the Treaties these days who just follow the Treaties until they are charming and an advantage for them while Hazrat Umar strictly followed them once he opted for them regardless of its results whether they may not be good for him .Finally ,the conqueror of the about 4050 cities was always in contact with what was happening from one to the other corner of his state and was strictly against the violation of Human Rights.

Objectives of Research

This research will highlight the importance of the agreements which took place during second caliph Hazrat Umar bin Khattab's regime and in what context were they done. Similarly, how those olden agreements of Umar's period are a base and corner stone for the modern day's agreements? And how he was rightly the advocate of the human rights? And what were his efforts and work for the human rights?

Literature Review

Hazrat Umar remains one of the most studied characters in the history. Many writers have published their books and articles on his life, achievements and contributions and how he proved him "The Great". A lot of writers wrote on his achievements and reforms but none of them comprehensively discussed the point about him being a human rights advocate. For example, Dr.Hamidullah in his book "Al-Wasaiq-ul-Siyasiah" talked about all the agreements of Umar's regime .But this books does not talk about the fact that legislation during Hazrat Umar's period is the base of modern Human Rights documentation .Similarly, Shibfi Nomani in his book 'Al-Farooq' which is considered the most authentic regarding the bibliography of Hazrat Umar wrote every single important point from his early life to his death but this glorious attempt is silent about the fact that he was a pioneer of human rights documentation .Moreover ,in the book "Shaheed ul Mehraab Umar bin al Khattab" written by Umar Tilmisani and translated to Urdu by Hafiz Muhammad Idrees .In this book, the writer has explained in detail life and the achievements of Hazrat Umar and he also wrote on his intelligence that how well he solved different problems and its effects on his subjects .He wrote that Hazrat Umar made himself a perfect example to be followed by the coming rulers and

was blessed with outstanding abilities in all walks of life. But again nothing on the fact that his legislation is base for modern Human Rights documentation.

Likewise, many books of history in detail explain the life of second caliph Hazrat Umar bin Khattab (RA). For instance, Fatoohul-Buldan by Blazari, which is a great piece of work, discussed in detail the agreements of Ameer-al-Momineen Hazrat Umar (RA). In the same way, Tareekh-e-Tabri of Jarir at-Tabri also narrates about caliph Umar bin Khattab in detail and many more examples just narrate not analyze the work and sacrifices of Hazrat Umar (RA). And we do not find out a work or a piece of work that is research oriented that all modern day Human Rights conventions or covenants whether social or a way socio-political or even if in bilateral view have all their origin and basic cream and glimpse from what was done by second caliph Hazrat Umar (RA) 1400 years aback. Not only will this research try to prove that charters of Human Rights are not a brain child of modern-day workings but they fountain from the regime that past 1400 years ago where this all was present theoretically as well as practically. But this research will not only tell about his achievements but also how he was a great advocate of Human Rights. Also this research will highlight that work done by Hazrat Umar bin Khattab is a cornerstone and base for the modern-day Human Rights documentation.

CHAPTER 1

AGREEMENTS CONCLUDED DURING THE REIGN OF HAZRAT UMAR (R.A.)

1.1 Introduction

Remarkable work of hazrat Umar the leader of the faithful, may Allah be pleased with him, included different treaties and agreements with non-Muslims which became the base for the future documentation of the treaties and agreements. His treaty with the people of Jerusalem is known as "Covenant of Umar".⁴ Agreements and Treaties are very important for the sovereignty of a country as we see that in present scenario many countries have undergone many treaties, but the background and grounds of these Treaties are quite different from that of Islamic era. Hazrat Umar's (RA) era is deemed in golden words because of his Treaties and rules which were later on used by the Muslim Jurists as a source for Shariah Rulings on international affairs for instance, we find in his Rulings that the Religious places would have full protection for every religion, their belongings, their Honor and their lives shall be protected. The same contents we can find in the Treaties of modern era as well. It shows that emphasis on Human Rights that we have seen 1400 years back at the time of Hazrat Umar (R.A.) is adopted now days by the modern law makers. A lot of territories were conquered in Hazrat Umar's (R.A.) era some of them through the traditional war method, but some of them were taken through the peaceful Treaties with the inhabitants of those areas. History has preserved many

⁴ Abu Jafar Muhammad bin Jarir Tabri, *Tareekh e Tabri Tareekh ul Ummam wal Maluk*, (History of Nations and Kings), vol 2 (Lebanon: Dar-ul-Kutab-il-Ilmia, 1407/1995). 449-450.

Agreements and Treaties concluded during the period of Hazrat Umar (R.A.) with non-Muslims which were landmark in the history of justice and peaceful commitment with the people of other religions.

I.2 Rights of Non- Muslims in Islam

Islam is a religion that portrays respect of humanity. The religion that gives us good way to behave with others not keeps in it somewhat of a rule or regulation that negates that respect of humanity. The importance given to minorities in an Islamic society can just be judge from this saying of holy prophet (P.B.U.H) “Behold! Anyone who will brutalize a Dhimmi (non Muslims) or take away his right or torture him more that his bearing or take away anything without his consent, I shall be his prosecutor on the Day of Judgment against the Muslim”.⁵

This is not only a merely a warning but laws that were enforced in the state during his lifetime and were also followed afterwards and now even it are a part of the constitution of an Islamic state and once it was narrated a Muslim killed an Ahl-e-Kitab and case was brought to holy prophet (P.B.U.H) for decision, he said I am the most responsible to fulfill their rights so he ordered about the murdered to be executed.”

Holy prophet always warned Muslims regarding minorities therefore once talking about them he said “Anyone who will kill a Dhimmi shall not smell the fragrance of paradise through it is speed a distance travel of 40 years”.⁶In the reflection of holy prophet teachings even after passage of 1400 years from his life up till now, Non-Muslim enjoys security in an Islamic society.

⁵ Imam Abu Abdullah Qurtabi, *Tafseer ul Qurtabi Al-Jamai-li-Ahkaanil Quran*, vol.8 (Riyadh: Dar aalimil Kutab,2003), 115.

for detail see Imam Abu Daud Salman bin Ashes, *As-Sunnan*, vol.3 (Beirut: Darul-Fikar, 1994), 170.

⁶ Imam Abu Abdullah Muhammad bin Ismail Bukhary, *As-Sahih*, (Beirut: Darul-Qalam, 1981), 1154.

He said! "It's binding on me to protect the religion of non-Muslim".⁷ "The Diat of Jew a Christian, a Jewish Priest is equal to that of a free Muslim."⁸ On the basis of this saying, all the faqih laid upon this rule that if a Muslim kills a Dhimmi, the Diat (Money on Blood) is going to be the same as of killing a Muslim unintentionally.

Once the son of Hazrat Amar Bin-al-Aass, the governor of Egypt punished a non Muslim unjustly and when the matter was taken to the court of caliph Hazrat Umar, he openly made the son of Egypt governor punished by the non Muslim Egyptian and also said "from when you have started to think people as your slaves though they were born free". During the caliphate of Hazrat Umar a person from a tribe of Bakar bin wail, killed a Dhimmi and on this "He ordered that the assassin should be handed over to the family of the victim. If they want, they can kill or else forgive. So, he was given to the family of the victim and was hence after killed". Forth Caliph Hazrat Ali said "To help a non Muslim against torture same as its binding to save a Muslim from it and to backbite against him is also Haram".⁹

In an Islamic state, non Muslims do keep a right of private life and personal privacy as the Muslims have. That is why, Islamic law has outline they will have the same rights as the Muslims keep and they have same duties that Muslims have binding on them. According to Hazrat Ali, Jizya (Tax) is taken from them to protect their life and wealth similarly as ours is protected. Islam negates any sort of religious propagation that affects anyone's religious freedom and the Quran states "let there be no compulsion in religion, indeed righteousness is clearly differentiate from the wrong path".¹⁰

⁷ Abdur Rehman Bin Abdur Rahim, *Tohfa Al Akhwazi*, vol.4 (Beirut: Darul Kutab Al Ilmia, 1283-1353AH), 557.

⁸ Abu Bakr Bin Hamam Bin Nafeh, *Musannaf Abdur Razzuq*, vol.10 (Beirut: Al Maktaba Al Islami, 1403AH), 95-99. same subject is narrated in *Musannaf Abi Shaibah* for detail see

Abu Bakr Abdullah Bin Ibrahim, *Musnaf Abi Shaibah*, vol.5 (Riyadh: Maktaba Ar Rushd, 1409AH), 407.

⁹ Muhamamad Bin Amin Bin Umar, *Rad ul Muhtar aladur-il-Mukhtar*, vol.3 (Quetta: Maktaba Majdia, 1399AH)

¹⁰ Al Quraan, Surah Baqrah(2:256)

The logic that Shariah keeps is that non Muslims should have full freedom to stick to their religion or sect. Islamic government would have nothing to do with their ideology or worship. The letter holy prophet (P.B.U.H) wrote to Ahl-e-Najran also included the sentence "Najran and its people enjoy protection from Allah and his prophet (P.B.U.H). Their lives, their land, wealth, personnel's, their places of worships and their churches will be protected. Any priest from his religion honor, a preacher from his responsibility, any office holder from his office will not be removed and everything under their custody will be protected".¹¹ During different periods of Islamic governments, chapels and synagogues were present. They were never harmed but were instead protected by the government and non Muslims were also facilitated for their worships. This means that minorities living in their ancient worship places can perform all they want; Islamic government has no right to interfere in that. But in the same context, non Muslims are to respect the religious emotions of Muslims. Ibn-e-Abbas said "In the cities developed by Muslims, Dhimmies have no rights to make new worship places, or play Naqoos, drink vine and to keep pigs. Now the left one city of non Arabs and those made captured by Allah through Muslims and if they accept the governance (state authority) of Muslims then they will have the same rights as per the treaties and it will be binding on Arabs to follow them."¹² As in case, The Islamic Bait-ul-Maal (treasury) takes responsibility of financial assistance of Muslim who is not a breadwinner due to physical disabilities (paralyzed) or old age or being much poor, in the same way if so and so happens to a non Muslim then its binding on bait-ul-Maal to assist him as well.

¹¹ Abu Abdullah Bin Saad, *At Tabakat Al Qubrah*, vol.3 (Beirut: Darul Al Beirut Al Tabaya Al Nashr, 1978/1398AH), 339.

¹² Abu Bakr Abdullah Bin Muhammad Bin Ibrahim, *Musannaf Abi Shaibah*, vol.7 (Riyadh: Maktaba Ar Rashd, 1409AH), 436.

same subject is narrated in *Sunan al Qubrah* for detail see

Abu Bakr Ahmed Bin Husain Bin Ali, *Al Sunnan Al Qubrah*, (Makah: Maktaba Dar Al Baz, 1994, 1414AH)

Practically there are lots of examples in the Islamic history where non Muslims with physical distortion got allowances from bait-ul-Maal. Once on seeing a Jew, who was blind Hazrat Umar, fixed a monthly stipend for him. In the eyes of an Islamic government, both Muslims and non Muslims are equal rather they have equity as citizens when it comes to the right of helping the community and social welfare. An Islamic state is responsible for the protection of non Muslim if any Islamic state is in a treaty with another nation then to their protections binding on them. The sanctity of the lives of non Muslims is clear from this Hadith of holy prophet "The Diat of a Jew, Christian and every Dhimmi is equal to that of a Muslim".¹³ This was followed during the regime of right guided caliph and the Diat of Dhimmi was paid equal to that of Muslim. During victories, the treaties with non Muslims nations includes an important section that the protection and fundamental needs of non Muslim subject will be responsibility of the governor therefore, a leaf of what peace was given to the people of Hira is as under:-"Any non Muslim who gets old and cannot do labor work or a natural calamity harms him or earlier he was rich, later an accident makes him poor, so no tax will be taken by government treasury".¹⁴ In Islamic history, one can find many examples of this rule for instance. Hazrat Umar saw an old Jew in very awful position. He said "By God! It's not justice that in benefits from his youth and leaves him to being disrespected in Old age, therefore he ordered that this old man should be paid from Bait-ul-Maal through his life in regard with his needs. In addition, he wrote to governors of all the states that they should pay all poor and deseeding subjects regularly from the Bait-ul-Maal".¹⁵ It's a famous incident of history that Waleed Bin Abdul Mulk Amwi in Damascus captures the chapel from Christian and added it to the mosque. According to Blazari " when Umar Bin Abdul Aziz got on the throne and Christians appealed against what Waleed did , he ordered his workers to demolish the part of mosque made on

¹³ Abu Bakr Bin Hamam Bin Nafeh, *Musannaf Abd ur Razzaq*,(Beirut: Al Maktabul Islami,1403AH) ,97,98.

¹⁴ Abu yousaf, *Kitab al Kharaj*,155

¹⁵ Yaqoob Bin Ibrahim, *Kitab Ul Kharaj* (Beirut: Dar Al Marfah)

the land of chapel and give it back to the Christians".¹⁶ When Waleed Bin Yazeed in fear of roman attack exiled the Dhimmies of Qibris, the Islamic faqih and general Muslims were all dissatisfied from him and thought it as a major sin. When again he brought them back to Qibris, this move was welcomed by the general mass in taken as the justice. Ismail Bin Iaash said "this act was declared by all general Muslims and faqih and when Yazeed bin Waleed came he brought them back and was appreciated by Muslims on this act and declared it as one based on law and justice"¹⁷ According to Blazari, once a group from the mount of Lebanon mutinied. To act on this, Saleh Bin Ali Bin Abdullah sent in Army that killed men with weapons and exiled a group of them and allowed some to live there. Imam Auzai was alive at that time. He warned Salah on this brutality and wrote a long letter massacre of those not involved in the mutiny and those exiled, which with a leaf of it is "I cannot understand why general public can be punished on the crime of some specific people. And on what basis can they be removed from their houses and properties. For you the best advice is to remember the saying of holy prophet (P.B.U.H) "anyone who will torture Dhimmi and will pressurize him more than his sustenance I shall prosecute for him".¹⁸

It is responsibility of an Islamic state to keep the treaty made with minorities and fulfill its conditions. If minorities have had a treaty with an Islamic state then they are also responsible to respect all conditions of the agreement and state is also responsible to keep it under all circumstances. Our history is witness of keeping treaties with non Muslims and fulfillment of its conditions also.

¹⁶ Ahmed Bin Yahya Al Blazari, *Fathul Al Buldan* (Beirut: Darul Al Kutub Ul Ilmia), 150.

¹⁷ *ibid*,180

¹⁸ *ibid*,186

1.3 Concept of Treaty in Islam:

Islam, a religion of peace and justice always emphasized on the strong bond of relations among the individuals as well as nations. Our beloved prophet, Hazrat Muhammad (PBUH) always presented himself as a role model for others. He always fulfilled all the conditions and stipulations set in the Treaties conducted between him and other tribes and always advised his companions to be loyal to others. Through the verdicts and the contracts that holy prophet (PBUH) signed during his life time were all about peace and never he tried to indulge in any of fights rather for himself to show his strength. In Islam, what we call as Jihad (the one by force) is the last of option. Allah Almighty says in Quran to the believers not to forcibly turn anyone into their fold nor has this been the path of prophet (PBUH) who was against the “jihad with sword” to preach Islamic message.

It is pretty clear from the injunctions of Allah Almighty that every Human being who comes to this world is free in his will either to opt for right or wrong and none of our deeds has a bit to do with others and that is the way around which all men will be either rewarded or punished but for their own deeds. In Olden Hebrew tribes have also been found performing different rituals for spiritual atonement but again Quran denies that and it tells that everybody is to earn good or bad for himself and so will be the case in result keeping intact with his deeds and if any one throws his sin on others then he is surely an evil doer.

One who will study Quran with a rightful thought will come across the fact that Islam always forbade spreading a message by force and its founder, Holy prophet's life is an ideal example to seek this truth. He never fought to claim that he was powerful nor for land or authority but always for betterment of all mankind and was strictly against punishing those rejecting his ideas.

Now to say about those who were real enemies of the ideology of Islam. Holy prophet (PBUH) chose the best way of preaching them and he was in authority to fight against those who wanted to destroy his city, the life, the honor and respect of his followers. The term "freedom" has been treated always in the same way through the whole world. Not only Islam but the other secular and liberal groups favored the freedom to every individual of the society and emphasized that it was duty of the leadership to provide such facilities. In Islam, to make a treaty is of a great importance because it is something that prevents the violence as in case of "Hudaibiyah" because Islam keeps the life of others as a sacred trust and that not to be attacked unless there arise severe circumstances. Neither in the Quran, there was any message to fight either Pagans, Jews or to engage in fight with them due to their disbelieves. Chapter 9 of the Holy Quran deals with duty to the state. Abdullah Yusuf Ali expresses that we should perform our duties to a state and to people, public and private, with sincerity and to take action against those who not fulfill it and all should be taken as a sacred duty to Allah. The general idea of Islam is to avoid the violence and the Treaties therefore are used to create peace. Holy Quran in chapter 9 enjoins that a mutual trust needs to be created between Muslims and pagans before a Treaty is to be continued and Quran told believers about testing time of 4 months and if pagans were true in their words then Treaty should be continued. Muslims are ordered to keep all their Treaties and also to fight against those who oppose their religion as per instructions of Quran like it is stated do not attack first. But Jihad not only means to fight but to struggle that may be to oppose evil either by preaching or if by opposing in the thought. What in a nutshell we get from Hudaibiyah is firstly that Muslims enter Treaty to avoid violence, secondly, that may be demand of period and thirdly, to remain away from violence unless we are not attacked even the Treaty time expires. Thus, Muslims are ordained to live their lives in peace and harmony and be good to others.

All in all, this gives us the reason that Islam is the simplest and easiest of ways to live our lives. This way forbade injustice and discrimination: what so ever the type is: and for us all it's the best way to create and maintain peace in which betterment of all humanity lies.¹⁹

1.3.1 Pre-Requisites for Treaties in Islam

In Islamic perspective Treaties, Covenants and agreements have certain rules and regulations. Primary rule is that these should comply with the Shariah rules. According to Imam Mahmud Shaltut²⁰. When Muslims want to conduct Treaties with others for the fulfillment of their objectives, Islam stipulates three conditions for the validity of the treaty:

Firstly: Muslims should ensure the implementation of the Islamic Law and general ruling of Shariah on the matter. This was supported by the saying of the Prophet (P.B.U.H):

“Each condition not included in the Book of Allah is invalid”.²¹ It means Holy Quran discard such stipulation which is against its injunctions.

This condition shows that Islam rejects the validity of any treaty or covenant which may harm the Islamic personality and incite the enemies to hit the Islamic sacred places or crushing their power or split their unity and love.

Secondly: The treaty should be based on mutual agreement from both sides. So, Islam considers any treaty based on coercion or pressure is invalid. This stipulation is led by the nature of contract. It means Treaties should be pressure free with approval from both sides.

¹⁹ Anisa Abd el Fattah, An understanding of the concept of Treaty in Al-Islam, available at : <http://www.mediamonitors.net/anisaabdefattah55.html> (last assessed: 11.10.2011)

The writer is the Founder and President of the National Association of Muslim American Women and host a weekly internet radio program at [IBN.Net](http://www.IBN.Net), named "A Civilizational Dialogue. /

²⁰ Mahmud Shaltut (1893-1963) is an Egyptian religious scholar and Islamic theologian, born in Buhayra, a province in Lower Egypt. He was appointed as deputy dean of the Faculty of Shariah and he was great reformer.

²¹ Al-Bukhary: *Book of Conditions, Chapter of Writings and Impermissible Conditions that Run Counter to the Book of Allah* (2584)

All the Treaties and agreements conducted by the Muslims aimed at the establishment of peaceful atmosphere in the society where all inhabitants may enjoy all their Rights without any discrimination and where all people fulfill their duties within legal sphere.

Thirdly: The treaty should be based on clear objectives and should describe both Rights and Duties for the both sides. These Treaties need to be rightly to the point about what aim they need to get so that not a bit of foul play can be done with them. The importance, rightness and validity of honoring the covenants are proved by both Holy Quran and Hadith. Quran at many places enjoins upon believers that they rightly need to fulfill the covenants they make. This includes the Quranic verse: "يا ايها الذين امنوا اوفوا بالعقود" "O ye who believe! Fulfill all obligations"²², similarly "ويعهد الله اوفوا" "and fulfill the covenant of Allah"²³ and the Quranic verse: "and fulfill every engagement, for every engagement will be enquired into on the Day of Judgment"²⁴

Importance of filling the covenant is so much that Holy prophet (PBUH) called the breaker of promise a hypocrite and he is to face opposition from Holy prophet which surely means that all his deeds and efforts are to go down the drain. Abdullah Ibn Amr, narrated may Allah be pleased with both of them, that the Prophet said: "Whoever has the four characteristics will be a pure hypocrite: "If he speaks, he tells a lie; if he makes a promise, he breaks it, if he conduct a covenant he proves unfaithful; and if he quarrels, he behaves in a very imprudent evil insulting manner (unjust). And whoever has one of these characteristics has one characteristic of a hypocrite, unless he gives it up."²⁵

Furthermore many jurists think that the real of jihad is against the breaker of covenant and Allah himself in Quran states that promises must be kept under every condition .keeping promise is a

²² Al-Quran, chapter 5, Sura Al-maida, verse,1

²³ Al-Quran, chapter 6, Sura Al-Annam, verse,152

²⁴ Al-Quran, chapter 15, Sura Al-Isra, verse,34

²⁵ Al-Bukhary: Book of Jizya and Reconciliation, Chapter of the Sin of Whoever breaches promises (3007)

religious obligation and to break it is a sin. All in all, it will not be wrong to suggest and Say that it is Islam that gave world the way how to make a treaty, with whom to make it or break it and what injunctions are to be followed by its signatories.

1.3.2 Treaties between Muslims and Non-Muslims

Treaties are actually pacts and covenants which are signed by the concerned parties. It may be bilateral which is signed by two parties and may be multilateral which means that more than two parties that are taking part in it.²⁶ Treaties and agreements are conducted both in peace as well as in war. Treaties conducted during war are known as reconciliation because both parties find the resolution of the dispute which results in the settlement of the dispute. In Islamic history lot of Treaties and agreements were conducted between the Muslims and non-Muslims and these treaties lead to the termination of war. As Allah (swt) says in the Holy Quran:

"وان جنحوا للسلم فاجنح لها وتوكل على الله انه هو السميع العليم"

But if the enemy inclines towards peace, do thou (also) incline towards peace, and trust in Allah.²⁷

Treaties conducted by Muslims with others were totally based on the "Peace". These Treaties resulted in the peaceful society where both of the sides live in a state of settlement and compromise.

As long as relations are based on peace, any treaties are either aimed at ending an accidental war and returning to the state of lasting peace or meant to recognize peace and establish its pillars in order to rule out any possible assault; otherwise it is caused by a breach of such treaties."²⁸

Since long Muslim countries have conducted Treaties with non-Muslims and signed different agreements which comprised of different set of Laws, stipulations, and regulations

²⁶ Sir Robert Jennings, *Oppenheim's International Law*, vol.1 (Singapore: Pearson Education Ltd. 1996), 31.

²⁷ Al-Quran, Chapter 09, Sura, Al-Anfal, Verse,61

²⁸ Muhammad Abu-Zahra, *Al-'Itiqat al-Dawliyah fill-Islam*, (International Relations in Islam), (Madina Nasar: Darul Fikar Al-Arabi, 1995), 79.

which both sides were obliged to respect. These Treaties, covenants and agreements resulted in the further advancement of Islamic Law. Muslims have conducted Treaties and agreements with non-Muslims both in peace and war. Main focus was mutual agreement and welfare of both sides for the lasting good relationship in the future. Treaties and Agreements comprised of different conditions and stipulations but all were according to the injunctions of Islam. Both parties were obliged to fulfill their responsibilities in order to enjoy their Rights. Historical records show that Muslims not only conquered the lands but hearts of the inhabitants by their good attitude and conduct.

International Treaties are the centre, from which originate the international relations that had been workable in major Empires in the olden times. In Graeco-Roman world, these Laws were considered equally applicable to all the subjects of a state. There were some rules under which these Treaties were made. They were, as a matter of fact consisting of a sovereign body and oaths were taken also they named their Gods acting - witnesses. These made the groups acting upon them bound to be loyal, in cases provide military aids, to return back prisoners and by means and time by time to confirm their observance of the Treaty and at times were specified on certain issues. One major part of treaty was to remain stick to them.

There were many pacts made, for instance of Hebrew and the others of Arabia. Above and Latin American Treaties show that these Treaties were broad based of common will and mutual understanding and defining rules that were binding on both parties.²⁹ We find many Treaties in 1st millennium BCE amongst the Arabs living in south that were recorded on papers called Sahifas but this way was much different to that of the Roman world. We don't find much of their Treaties with

²⁹ Milka Levy-Rubin, *Non-Muslims in the Early Islamic Empire from surrender to co-existence*, (U.S: Cambridge University Press, 2011), 11.

outer world but still all of this is singular as an evidence to prove that these Arabs were as well aware of Treaties as in case of non-Arabs.³⁰

Treaty with the Inhabitants of Mah Bahrazaan

Treaty was concluded with the inhabitants of Mah Bahrazaan by Hazrat Noman (RA). It consisted of following Articles: Safety of lives, wealth and land. They will not be forced to change their religion. No hurdles will be imposed in their religious rituals. They will enjoy protection on the payment of tax to the relevant official which is mandatory for every adult according to his capacity. They will enjoy protection if they guide passengers and repair roads and serve Muslims soldiers when they pass by them and provide shelter to them for day and night. They will enjoy protection if they fulfill conditions of this agreement and remain well-wishers of Muslims. If they commit deceit they will no longer get protection.

Following are the Rights that we can extract from the above Treaty

- Right of safety of life
- Right of property
- Right of liberty of religion³¹

³⁰ Ibid,18

³¹ Tabri, *Tarikh ul Ummam wal Maluk*, 151

Description of this Treaty can also be seen in other book

Majmuaatul Wasaiqus-Siyasia lil ahd-il-Nabvi wal-Khilafatil-Rashida by Muhammad Hammed Ullah (Beirut: Darun-Nafa'is, 1987), 441.

Treaty with the People of Mah Dinnar by Hazrat Huzifa Bin Yamman (RA)

This Treaty was conducted by Hazrat Huzifa bin Yamman (RA) with the inhabitants of Dinnar³². It comprised of almost same clauses as Treaty of Hazrat Noman (RA) with the people of Bahrazaan. It included

Safety of lives, possessions and territory, No enforced acceptance of Islam, Freedom of offering Rituals ,Assurance of enjoyment of Rights till the payment of tax and fulfillment of other conditions of agreement between them and Muslims. Agreement will be terminated in the case of treachery.

What we can conclude from this agreement is

- Right of protection of life
- Right of protection of possessions

Treaty with the Inhabitants of Isfahan by Hazrat Abdullah (Ra)

This Treaty was concluded by Hazrat Abdullah (RA) with Fazusfaan and inhabitants of Isfahan and its surroundings. It consisted of following Articles:

You will enjoy safety and protection till the payment of tax which is obligatory according to your capacity on the annual basis to the appointed officer. You are bound to guide Muslims to the right path and serving food for day & night and well wishes for Muslims. Assurance of safety in

³² Dinar was Iranian emperor of low rank. He advised his subjects to meet Muslims in simple garments and wore himself silky garments along with ornaments he admitted all demands of Muslims and agreement was conducted between him and Muslims. People were left with no choice but to obey him so this place was named after him as "Mah Dinnar"

case of fulfillment of conditions of the Agreement. In case of deception safety and protection will terminate.

Derivative Rights from the above Treaty are

- Right of protection of life & Possession³³

Treaty with the Residents of Rae

This Treaty was concluded between Hazrat Nuaeem bin Al Muqaran (RA) and residents of Rae. It comprised of following clauses:

Assurance of safety and protection for the residents of Rae and their alliance. Safety depends on the payment of the tax from every adult on annual basis. Validity of Agreement depends on their loyalty for Muslims, and guidance to the right path and non deception and they will not steal anything and on serving Muslims meal for day and night. It depends on the respect of Muslims; if someone insults Muslim or commits his murder will get revenge.

Following are the Rights that we can get as crux from the above agreement

- Right of protection of life
- Right of possession³⁴

³³ibid, 157

³⁴ibid, 166

Treaty with the People of Qumis

This Treaty was conducted with the people of Qumis and their alliance by Hazrat Suaid bin Muqaran (RA). It comprised of following conditions:

Safety of lives, religion and possessions.

First condition is stipulated with the payment of Tax by every adult according to his capacity. Assurance of safety and protection is in case of loyalty for Muslims, non deception and guidance of way. They are bound to serve Muslims for day and night standard meal. In case of deceit agreement will become invalid.

These Rights can be derived from the above Treaty

- Right of protection of life
- Right of freedom of religion
- Right of wealth³⁵

Treaty with the Residents of Jarjan

This Treaty was concluded by Hazrat Suaid bin Muqaran (RA) with Ruzban and Sool bin Ruzban and residents of Dehistan and all inhabitants of Jarjan. It consisted of following articles:

You have safety and we are bound to provide it on the payment of tax annually by every adult according to his capacity. If we will seek service from any one of you, he will get its reward in the form of substitute of tax. They have safety and protection of lives and possessions and

³⁵ *ibid*, 167

religion and Rituals. Agreement will remain valid and unchanged till the payment of tax and well-wishes for Muslims, guidance of passengers and serving of Muslims, no stealing and non-deception. If anyone stays with them he will enjoy same privileges as they are enjoying and if anyone leaves he will be safe till he reaches his destiny. Who insults Muslim or commits his murder will get revenge.

Derivate Rights from the above Treaty

- Right of safety of life
- Right of possession
- Right of freedom of religion ³⁶

Treaty with the Inhabitants of Tabristan and Jeeljelan

This Treaty was concluded between inhabitants of Tabristan, Jeeljelan and Hazrat Suaid bin Muqaran (RA). It consisted of following clauses:

You have safety from Allah (SWT) if you and your alliance will avoid insurgence against us. You are bound not to give asylum to our rebels. You are bound to pay five thousand dirham to the appointed official. If you fulfill these conditions then we will not reed against you and we will not attack you and we are bound not to enter your territory but with your permission. With your permission our way in your territory is peaceful and same condition applies for you. You are bound

³⁶ibid, 168

to not give refuge to our insurgents and don't help our enemies and don't deceit. If you commit any one of the prohibited clauses then agreement will terminate and become invalid.³⁷

Treaty with the People of Azerbaijan

This Agreement was conducted by Hazrat Utba bin Farqad appointed by hazrat Umar with the residents of Azerbaijan including residents of all places hills and land and surroundings. And all people having different religions. It has following articles:

Safety of lives, possessions, religions and Rituals on the payment of tax according to their capacities. No payment of tax is mandatory for child and woman and disable person who does not possess anything. Those who reside with them will have same conditions. They are bound to serve Muslim Soldiers meal for day and night and guidance of way. If someone will suffer from starvation he will be exempted from payment of tax of that particular year. Those who will stay will enjoy same privileges as they are enjoying and those who will leave will have safety till they reach their destiny.

Derivate Rights from the above agreement

- Right of life
- Right of wealth
- Right of religion³⁸

³⁷*ibid*, 169

³⁸*ibid*, 170

Treaty with the Inhabitants of Dabeel (In Armenia)

This Agreement was concluded between Hazrat Habib bin Maslama and Christians of Dabeel and Jews and all present and absent people. It comprised of following clauses:

Safety of lives, possessions, churches and tombs. Safety of your territory boundary. You have protection and safety and we are bound to fulfill all conditions of the Agreement till you fulfill all conditions and pay tax.

- Right of safety of life
- Right of possession
- Right of safety of places of worship³⁹

Treaty with the Residents of Muqaan

This Treaty was conducted by Bukair bin Abdullah with the people of Muqaan of Qabaj Mountain. It consisted of following points:

Assurance of safety of possessions, lives, religions and Rituals on the payment of one Dinnar or its equaling amount by every adult, They are bound to be loyal to Muslims and guidance of way and serving them for a day and night. They will enjoy safety and protection till the fulfillment of conditions and we are bound to keep it and Allah (SWT) is great helper. If deception is proved from their side agreement will become invalid and safety will terminate but if they handover insurgents to us they will enjoy safety otherwise they will be amongst them.

Following are the Rights which can be concluded from the above agreement

³⁹ Imam Abi-Abbas Ahmad bin Yahya bin Jabir al-Blazari, *Fathul Buldan*, (Lebanon: Muasisatul Muaf, 1957), 282.

Ibn-e-Jarir Tabri has narrated this Treaty in his book also for detail see Ibn-e-Jarir Tabri, *Tarikh-e-Tabri Tareekh ul Ummam wal Maluk*, 172

- Right of safety of life
- Right of safety of wealth
- Right of liberty of religion⁴⁰

Treaty with the Inhabitants of Armenia and Shar Baraz

This Treaty was conducted between Hazrat Suraqa bin Amr appointed by ameerul momineen Hazrat Umar and Shar Baraz and inhabitants of Armenia and Armin. It consisted of Provision of safety and protection of lives and possessions and religions.

They will not be harmed. They will participate in every battle and will assist according to the situation and demand of the ameer. Participants will not pay the tax. Their presence in the battlefield will be substitute for tax. While others who will remain in their homes and will not participate in the battle will have to pay tax like inhabitants of Azerbaijan. They are obliged to guide the Muslims to the path and have to serve them for a day.

Concluded Rights from the above Treaty

- Right of safety of life
- Right of protection of possession
- Right of liberty of religion⁴¹

⁴⁰ Tabri, *Tarikh-e-Tabri Tareekh ul Ummam wal Maluk*, 173

⁴¹ Ibid,172

Treaty with the People of Damascus by Hazrat Khalid Bin Walid (RA)

This Agreement was conducted between Hazrat Khalid bin Walid (RA) and residents of Damascus. It consisted of following conditions:

Assurance of safety of their lives, wealth and churches. Boundary walls of their territory will not be demolished. No one will dwell in their residencies. They have this agreement from Allah (SWT) and prophet (PBUH) and caliphs and faithful. No interference and harm to them till the payment of tax.

These Rights can be derived from the above Treaty

- Right of protection of life
- Right of safety of wealth
- Right of protection of places of worship
- Right of protection of privacy⁴²

Treaty with the Inhabitants of Damascus by Hazrat Abu Ubaida (RA)

This Treaty was conducted between Hazrat Abu Ubaida (RA) and residents of Damascus. It consisted of following points:

⁴² Al-Blazari, *Fathul Buldan*, 128

Protection of their Churches and religious places. They will not construct new Church or house of worship. They will get safety if they guide the passengers and construct bridges on the canals. They are bound to serve meal to those Muslims who will pass by them for three days. They are bound to avoid insult Muslims and their murder. They are bound not to show cross in the gatherings of Muslims.

Derivative Rights from the above Treaty

- Right of safety of life
- Right of protection of places of worship⁴³

Treaty with the Residents of Fahal

When residents of Fahal observed that Muslims have got victory over Jordan they requested for peace pact on the condition that they will not be killed and will be given pardon and they will pay tax. Nationals of Rome will return to Rome and leave Jordan while those who want to stay will stay on the payment of tax. So Muslims made agreement with them and wrote it for them. In this way peace agreement was concluded.

Nationals of Rome went to Rome that year and those who wanted to stay there stayed.

These Rights can be concluded from above agreement.

- Right of security of life
- Right to leave one's own territory⁴⁴

⁴³ Historians have different opinions about this agreement some of them favored conquer of Damascus and its peace agreement by Hazrat Abu Ubaida bin jarrah and some argued for hazrat Khalid bin waleed for detail see *Fathul Buldan*, Blazari , 129

Treaty with the People of Himas

This Treaty was concluded between Muslims and resident of Himas on their request when their siege became severe. So Muslims made committed pact with them and Agreement was written for them which granted them.

Safety of their lives, possessions and churches. They are bound to serve meal to Muslims for day and night. They will not construct house of worship. They will pay one lac Dinnar and seventy thousand Dinnar for entire land of Himas as a tax. Muslims agreed on these conditions.

These Rights can be established from above Treaty

- Right of safety of life
- Right of protection of wealth
- Right of safety of worship places⁴⁵

Treaty with the Inhabitants of Balabakka

This Agreement was concluded between Hazrat Abu Ubaida (RA) and residents of Balabakka when he passed by it after concluding matter of Damascus. Residents of Balabakka requested for safety and peace agreement so he made peace agreement with them. It comprised of following provisions:

This Agreement is for the residents of Balabakka and their alliance for their possessions, lives, and residencies inside the city and outside along with its boundaries. If someone embrace Islam will

⁴⁴ Muhammad bin Abdullah Azudi Basari, *Fatuhus-Sham*, (Calcutta:1853),123.

⁴⁵ibid, 128

enjoy the same privileges as we Muslims enjoy and he has same duties as we have to fulfill. Their merchants can take journey to those areas which are included in peace Agreement. Those who will stay will have to pay tax and Kharaj.

Derivative Rights from above pact

- Right of safety of life
- Right of protection of wealth
- Right of privacy⁴⁶

Treaty with the People of Palestine

This Treaty was conducted by Hazrat Umar (R.A.) with the people of Palestine at Jabia. It consisted of following articles:

Safety and protection of lives, possessions, churches and house of worships and for all religions.⁴⁷ No one will reside in their churches. Churches will not be demolished and no harm will be done neither to them nor to their lives and possessions.⁴⁸ No forced action in the issue of religion and no one will suffer. Jews will not dwell with them in Palestine. They are bound to pay tax as residents of Madain pay. They are bound to expel rebels. Those who will leave will enjoy safety of life and possession until they reach their destiny. And who will stay will be in peace and he is bound to pay tax like other residents of Palestine. If any resident of Palestine wishes to move with Rome along

⁴⁶ Al-Blazari, *Fatoohul Buldan*, 136

⁴⁷ Dr. Ahmad Shibli, *Mousoatul-Tareekh il-Islami wal Hizaratul-Islami*, Vol. 1 (Egypt: Maktabatul-Nahzatilmisria, 1958), 602.

This pact carries great importance in the history and it is known as (Umar's Pact)

⁴⁸ Muttahir bin Tahir Maqdassi, *Kitabul-bad-I-watareekh*, (Maktaba As-Asaqafatul denia), 187.

his possession and leave his house of worship he will enjoy safety of life and sacred places until he reaches his destiny. Those who will stay here before the murder of a person , so who wants to stay here can stay and he is bound to pay tax and who wants to leave with Rome can do it and who wants to return to his family can come back and he will not be charged anything till harvesting. This peace Agreement is granted by Allah (SWT) and prophet (PBUH) and Caliphs and faithful till they pay tax.

These Rights can be concluded fro above pact

- Right of safety of life
- Right of protection of wealth
- Right of safety of worship places
- Right of privacy

Treaty with the Residents of Ludd

This Agreement was concluded between Hazrat Umar (R.A.) and inhabitants of Ludd. It

Comprised of following points:

Safety and protection of lives, possessions, churches and house of worships including all people sick and others and for all religions. Churches will not be dwelled by anyone. And will not be demolished and no harm Will be done to them or any one. Residents of Ludd and their alliances are bound to pay tax like the inhabitants of Madain.

Derivative Rights from the above agreement

- Right of safety of life
- Right of protection of wealth

- Right of safety of worship places

Treaty with the Inhabitants of Riqqa

This Treaty was conducted between Hazrat Aiyaz bin Ganam and residents of Riqqa.

It consisted of following points:

Safety of lives and possessions. Churches will not be damaged or dwelled. Fulfillment of conditions of Treaty depends on the payment of tax and avoiding the rebellion. They will not construct new church or house of worship. They will not show cross or bell .Allah (SWT) is witness on this Treaty and He alone is enough.

These Rights can be derived from the above Treaty

- Right of safety of life
- Right of protection of wealth

Treaty with the People of Asqaf Ruha

This Agreement was concluded between Hazrat Aiyaz bin Ganam and people of Asqaf Ruha.

It contained: You and your alliance will enjoy safety of lives and possessions if you open the doors of city on the condition that you will pay tax at the cost of one Dinnar per head. You are bound to guide to the path. You are bound to construct the bridges and roads .Well wishes for Muslims. Allah (SWT) is witness on it and His witness is enough.

Derivative Rights from the above pact

- Right of safety of life

- Right of protection of wealth⁴⁹

Treaty with the Inhabitants of Ruha

This Treaty was conducted between Hazrat Aiyaz bin Ganam along with other Muslims and people of Ruha. It contained following points:

Safety of lives and possessions, and children and women. Protection of cities and place of worship on the payment of tax. They are bound to repair bridges for us. They are bound to guide people to the right way. Allah (SWT) is witness on it and His angels and Muslims.

Following Rights can be concluded from the above Treaty

- Right of safety of life
- Right of protection of wealth

Treaty with the Inhabitants of Egypt

This Agreement was concluded between Hazrat Amr bin A's and people of Egypt. It consisted of following points:

Assurance of safety and protection of lives, religion, churches, and house of worships. No interference in their any matter. No stranger will dwell with them. Inhabitants of Egypt are bound to pay tax after committing the Treaty. Their alliance of Rome and _ enjoy same privileges as they will enjoy and they have same duties to fulfill. Those who refuse to accept these conditions and

⁴⁹ibid, 182

want to leave will enjoy safety till he reaches his destiny or cross our territory. This peace contract is granted by Allah (SWT) and prophet (PBUH) and caliph Ameer-ul-Momineen and all Muslims⁵⁰

These Rights can be concluded from above Treaty

- Right of protection of life
- Freedom of religion
- Safety of places of worship
- Right of privacy⁵¹

Treaty with the Residents of Deer Tayaya or Taaya

This Treaty was conducted between Hazrat Abu Ubaida and residents of Deer Tayaya or Taaya. It comprised of following articles: Safety of lives, possessions and churches. Churches will not be demolished or dwelled. Fulfillment of these conditions depends on your loyalty for us or granting asylum to the rebels. If you commit rebellion or grant refuge to the rebels then this pact will terminate and become invalid. You are bound to serve guests for three days. Treaty will terminate in case of treachery

Derivative Rights from above agreement

- Right of safety of life

⁵⁰ According to Abu Ubaida (RA) Egypt was conquered twice, first time peace Agreement was concluded and in second time war Rome, so six conditions were stipulated for them: they will not be expelled from their residencies, no harm to their women and children, nothing will be received from their lands, they will be responsible to fulfill their duties according to their capacity, their children will not be taken for warfare, they will be defended against their enemies. For detail see *Majmuaatul Wasaiqus-Siyasia lil ahd-il-Nabvi wal-Khilafatil-Rashida*, by Dr. Hamidullah ,503

⁵¹ Tabri, *Tarikh-e-Tabri Tareekh ul Ummam wal Maluk*, 120

- Right of protection of wealth
- Right of safety of worship places

Treaty with the Residents of Samigaan and Darabaz

This Treaty was conducted between Utba bin Farqad Salami and inhabitants of Samigaan and Darabaz. It comprised of following articles Payment of tax, they will not commit murder or imprisonment of Muslims. They will not close way for Muslims.⁵²

1.4 Similar Provisions of all Treaties and Agreements

All Treaties conducted during the golden period of-Hazrat Umar (R.A.) have some identical Articles which were emphasized to fulfill with non-Muslims to decrease problems and burden for them and to incline them towards Islam. These articles include: Safety of lives, family and possessions. Protection of churches and temples, no demolish or dwelling in the places of Worship, Protection of their territories along with its boundaries. Freedom of religion and no forced submission to Islam. Assurance of safety of lives for those who would like to leave the territory till they reach their destiny. Freedom of self determination, in a way that inhabitants of conquered area have choice either to stay there or leave the territory. Enjoyment of same privileges and assignment of same duties to the alliance. No assignment of responsibilities more than their capacity. Reciprocal treatment, in a way that if they commit deceit then Muslims will terminate their peace agreement with them. No asylum to the rebellions of Muslims. No hidden facilitation to the

⁵² al-Blazari, *Fathul Buldan*, 341

enemies of Muslims. Well-wishes for the Muslims, guidance to the right path, serving the guests and repairing of roads and bridges. Safety and protection depends on the payment of tax.

1.5 Conclusion:

Hazrat Umar (R.A.) holds this office to be the one who fundamentalized the Human Rights. The rules given in his time period are considered as the corner stone for modern day Human Rights. Many of the treaties done during his time period show so. A treaty was done by Hazrat Noman (RA) included the safety of lives, wealth and land and also there will be no force in the case of religion. Another was done by Hazrat Huzifa bin Yamman (RA) with inhabitants of Dinnar and it included those of same treaties. Also the treaties with the residents of Isfahan, those of Rae. Moreover with people of Qumis by Suaid bin Muqaan, with people of Jarjan, also with those of Tabristan and Jeeljelan. Not only the treaties done with people of Azerbaijan but also with those of Muqaan were in the same run. Treaties of Hazrat Khalid bin Walid and Hazrat Abu Ubaida bin Jarrah with people of Damascus during Hazrat Umar's tenure all showed that the rights of human were kept intact and the points of those Treaties all were in line with the way shown by Islam.

CHAPTER 2

HUMAN RIGHTS DURING THE RULE OF HAZRAT UMAR BIN KHATAB (R.A.)

2.1 Early Life & Work of Hazrat Umar Bin Khattab (R.A.)

Hazrat Umar "The Great" a golden star of Islamic History became second caliph "Ameerul-Momineen"⁵³ after the departure of Hazrat Abu Bakar (R.A). He belonged to "Addi" tribe, one of the famous tribes in the times of ignorance. This tribe was well known for the arbitration in case of any conflict between different tribes. So Hazrat Umar (R.A.) inherited the same quality of being a very wise arbitrator. His title was Farooq.⁵⁴ He was bestowed with great will power and decision making that is why he had influential role in the Treaties and agreements with non-Muslims throughout his time period. Vast expansion in Islamic territory during his reign is another example

⁵³ Tabri, *Tareekh-ul-Ummam wal Maluk*, 569.

Hazrat Umar (R.A) introduced this title for the Caliphs. Before him Hazrat Abu Baker's (R.A) title was "Khalifatu-Rasullilah (i.e. successor of the Holy Prophet (PBUH), after Hazrat Abu Bakar (R.A) Umar was called "Khalifatu-Khalifater-Rasullilah, i.e. successor to the successor of Prophet (PBUH), so the repetition of word "khalifa" was inappropriate so Umar (R.A) suggested official title for upcoming caliphs "Ameer-ul-Momineen". It is also narrated that Lubaid & Addi when came to Madina from Iraq they called him Ameerul-Momineen. It is also narrated that Hazrat Mugira (RA) called him with this title for detail see

Abdur-Rehman bin Abi Bakar Asyuti, *Tarikh-e-khulafah*, (Egypt :Matbaatus-suada,1952),124.

⁵⁴ Asyuti , *Tarikh-e-khulafah*,100.

It is narrated that Hazrat Abdullah bin Abbas (RA) asked him about his Islam and his title he reported the whole account of his Islam and said I asked prophet (PBUH) that if we are on the right path than why we worship Allah in hidden way we will worship Him openly so we came to the Kabba in two rows I was leading one group while Hazrat Hamza (RA) was leading another Quraish were very anxious to see us. Prophet gave me the title of "Farooq" from that day "the one who distinguish between right and wrong".

of his outstanding traits and qualities. He was God-fearing and kind to his subjects. His every letter to his governor comprised of important clauses of God-fearing and special attention to all the subjects without discrimination on the basis of religion.

His golden period increased the glory of Islam and conversion of large number of non-Muslims to Islam was just because of good conduct and justified approach of Muslims towards them. Treaties and agreements conducted during the reign of Hazrat Umar (R.A.) under his supervision and guidance with non-Muslims are considered as a corner stone in the contemporary documentation of the Human Rights because later comprised of almost same clauses as former had including Right to Life, Freedom, Religion, safety of Life, Wealth, churches, etc and respect of all stipulations and conditions stated in the pact between the parties.

Hazrat Umar (R.A.) was famous for his bravery, intellectual level and deep Understanding of matters. He was amongst the few literate people in the Arabs⁵⁵. He was a silk trader, as it was custom amongst the Arabs to opt trade as a profession. He got sufficient knowledge of genealogy, wrestling⁵⁶, riding and art of speech. While during his journey to different countries for trade, good qualities of wisdom, judgment and confidence were developed in his personality.⁵⁷

His embracement of Islam is very famous incident of Islamic history⁵⁸. He embraced Islam in 6 AH. In the beginning he was worst enemy of Islam and Muslims but Allah Almighty had written a great pride for him and for Islam through him. Prophet (PBUH) used to pray for the conversion of

⁵⁵ According to "Allama Blazari" when prophet (PBUH) declared his prophet hood only 17 people in Arab were educated and Hazrat Umar (R.A.) was one of them. For detail see: Blazari, *Fatuhul-Buldaan*, 471.

⁵⁶ He used to show his performance in "ukkaz" it was place situated near mountain "Arafat" where festival was held every year and different people show their talents in it

⁵⁷ Allama Shibli Nomani, *Al-Farooq*, (Lahore: Maktaba Rahmania, 1898), 53.

⁵⁸ Ibn-ul-Aseer, *Al-Kamil fi-Tareekh*, vol.1 (Muqayul-warraq), 268.

one of the two persons, Hazrat Umar (R.A.) and Abu Jahal bin Hisham to the Islam but divine guidance and eternal success was Hazrat Umar's (R.A.) fate⁵⁹. Words of prophet's prayer is narrated by Imam Tirmizi in his book "Jamae-Tirmazi" "O Allah strengthen the Islam by conversion of one of the two persons, Ibn Hisham or Umar bin Khattab"

History took glorious and remarkable turn after his conversion to Islam⁶⁰. Before his conversion, Muslims were unable to offer prayer openly but as he entered in Islam Muslims started to offer prayer openly in "Kabba". Tabrani has narrated "When Umar (R.A.) converted to Islam, fought with non-believers and offered his prayers in Kabba and we also followed him"⁶¹

Second caliph Hazrat Umar bin Khattab (R.A.) was amongst the first 20 people who migrated to Medina. Precautionary measures were adopted by the Muslims to avoid unbelievers during migration but Hazrat Umar (R.A.) was brave enough he took his sword and challenged the unbelievers to encounter him if they have courage. ⁶²He stayed at the house of Hazrat Rifa'ah bin Abdur-Munzir (R.A)⁶³. His bond of brotherhood was made with "Uttban bin Malik" leader of tribe Banu-Salim.⁶⁴ Circumstances in Medina were suitable for the establishment of new government for the Muslims and enhancement of strong bond of friendship and affection with non-Muslims.

⁵⁹ Shah Moinuddin Nadvi, *The Ideal Caliphs of Islam*, trans. Shah Muhammad Akram, (Lahore: Idara-e-Islamiyat, 1996), 137.

⁶⁰ When he converted to Islam, total number of Muslims was almost 40 or 50. It is controversial issue amongst the historians (for detail see Basher Sajid, Ashra Mubashira)

⁶¹ Suleman Bin Ahmad Tabrani, *Almujam al kabeer*, (Mosel: Maktabatul-Ulum Wal Hikam, 1983), 336.

⁶² Asyuti, *Tareekh ul Khulafah*, 105.

⁶³ Shibli Nomani, *Al-Farooq*, (Lahore: Maktaba Rahmania, 1898), 57.

⁶⁴ According to Ibn-Saad bond of brotherhood was made between Hazrat Umar (RA) and Abu-Bakar (RA) or between Hazrat Umar (RA) and Uvaim bin Saaid (RA) or between him and Maahz bin Afraa (RA)

Number of Muslims had increased in Medina and they were living in different areas so it was necessary to call them all for the prayers but Muslims have not adopted any specific method for the gathering. Different companions gave different suggestions like burning of fire, ringing of bell etc but two companions Abdullah-Ibn-Zaid-bin-Abd-e- rabehi (R.A) and Hazrat Umar (R.A.) both saw in the dream method of "A'zaan" so Prophet (PBUH) liked this method and Hazrat Bilal (R.A.) was assigned the duty as Muazzin. Hazrat Umar (R.A.) was bestowed with good qualities and capability of deep understanding by Allah Almighty.

Prophet (PBUH) said: "I have two consultants on heaven Jibreel and Mekail while two on the earth Abu-Bakar (RA) and Umar (RA).⁶⁵ His many suggestions were espoused with the Quranic Verses like matter of prisoners of Badar, prohibition of Wine, veil (pardah) for the mothers of Faithful and offering prayer at "Maqaam-e-Ibrahim"⁶⁶. After his migration to Medina he participated in all battles fought with non-Muslims.⁶⁷ In second Hijra, "Battle of Badar" was fought between the Muslims and non-believers of Makah. Hazrat Umar (R.A.) participated in the battle of Badar & assassinated his uncle "A'ss bin Hisham" who was very noble leader of Quraish tribe. In third Hijra, "Battle of Uhad" was fought. When rumor of prophet's martyrdom was spread by the enemies, Muslims were disappointed and Hazrat Umar (R.A.) threw his sword and started to weep but did not run from the battlefield. When he came to know that prophet was alive he rushed towards him and defended him with others.⁶⁸ In fifth Hijra "Battle of Trench" was fought between the Muslims and disbelievers. Different companions were appointed on different places for the

⁶⁵ Basher Sajid, *Ashra Mubashira*, (Lahore: Al-Badar publications, 1990), 226.

⁶⁶ Khalid Mehmood, *Das Fuqaha 'a-e-Sahaba*, (Lahore: Baitul-ulum), 41.

⁶⁷ Abu'l Hassan, *Katbeen-e-Wahi*, (Karachi: Zam Zam publications, 2003), 123.

⁶⁸ Sajid, *Ashra Mubashira*, 228.

defense. There is “Masjid Umar” presently where Hazrat Umar (R.A.) was appointed.⁶⁹ He also participated in the “Treaty of Hudaibiyah” which was conducted in sixth year of Hijra. In 7th of Hijra “battle of Khyber”⁷⁰ was fought, Hazrat Umar (R.A.) participated in it⁷¹. In 8th year of Hijra, great event of “Fatah Makah” took place. Disbelievers violated the “Treaty of Hudaibiyah” so Prophet was accompanied by 10,000 companions. Without battle Makah was conquered by the help of Allah Almighty. Hazrat Umar (R.A.) was assigned the duty of taking oath from women.⁷² In the same year, “Battle of Hunain” took place and like the battle of Uhad the enemies fled from the battlefield in the beginning and Muslims started to collect the booty and therein enemy attacked them so Muslim army was dispersed but Hazrat Abu-Bakar (RA), Hazrat Umar (R.A.), Hazrat Ali (RA) with other companions did not leave their positions with prophet (PBUH) so the dispersed army gathered again and victory became their fate. In 9th year of Hijra, expedition of Tabbuk took place and Hazrat Umar (R.A.) gave half of his wealth for it and accompanied prophet (PBUH) but the battle could not occur. In 10th year of Hijra, he accompanied prophet (PBUH) in “Hajatul-widah”. After migration to Medina, he never missed any event or battle but participated in it⁷³

Hazrat Umar (R.A.) had developed strong bond of love and affection with Holy Prophet (PBUH). Due to his outstanding qualities and deep understanding in all matters, prophet (PBUH) always gave him importance in consultancy. Once he said Umar (R.A.) is leader of

⁶⁹ Bukhary, *kitabul-salah, bab-mwaaqetu-salah*

⁷⁰ Khyber is a place on the way from Medina to Syria. Tribes of Jews Banu-Qainqa and Bnu-Nazir rehabilitated there and indulged in waging war against Muslims so prophet (PBUH) had no choice but to invade them.

⁷¹ Land of Khyber was divided between the companions. Hazrat Umar (RA) got land “Samag” which he devoted for the will of Allah and it was first endowment in Islamic history (for details see Bukhary, *kitabul-tafseer, Sura Fatah.*)

⁷² Muhammad Sahfi Usmani, *Maa'rif-ul-Quran*, vol.8 (Karachi: Maktaba Maa'rif-ul-Quran, 2008), 417.

⁷³ Sajid, *Ashra Mubashira*, 235

people of jannah.⁷⁴ Once he said “If Abu-Bakar (RA) and Umar (R.A.) agree on the matter I will never do against them as they are like ear and eye for me in the religious matters”⁷⁵

Once he fixed allowances for his subjects he favored Hazrat Usama bin Zaid (RA) over his son Hazrat Abdullah bin Umar (RA). Abdullah felt this act and put compliant against it but Hazrat Umar (R.A.) did not admit it and said that Hazrat Usama (RA) was favorite for prophet (PBUH) than him.⁷⁶ At the time of death of prophet (PBUH), he was so shocked that he almost lost his senses and said whoever will say that prophet had died I will kill him.⁷⁷ His statement was due to profound grief that was unbearable for every companion.

After the death of Holy Prophet, Hazrat Abu-Bakar was first caliph of Muslims. Hazrat Umar (R.A.) was advisor and his consultant in all administrative and political affairs. Hazrat Abu-Bakar (RA) used to consult him in every issue and prefer his suggestions.

2.1.1 Role of Hazrat Umar (R.A.) in the Compilation of Holy Quran

He played a vital role in the compilation of Holy Quran. In the battle of Yammama, more than 70 Hufaz of Holy Quran died. So Hazrat Umar (RA) suggested that Holy Quran should be compiled for the sake of its preservation but Hazrat Abu-Bakar (RA) hesitated at first but was persuaded by Umar (R.A.).⁷⁸ So Holy Quran was compiled in the period of Hazrat Abu-Bakar (RA) and Hazrat Umar (R.A.) took great interest in it. He used to visit the group of compilers and appreciate them at this great task.⁷⁹ A group of compilers led by Hazrat Zaid bin Sabit (RA) were

⁷⁴ Dr. Tahir ul Qadari, *Al Qaul-us- Swab Fi Munaqib Umar*, (Lahore: Minhajul Quran Printers, 2005), 35.

⁷⁵ Sajid, *Ashra Mubashira*, 226

⁷⁶ Muhammad Bin Al Hakim Neesaburi, *Al-Mustadrik Alla Sahehain*, vol .3 (Lebanon: Darul-Kutab Al Ilmia, 2002), 645.

⁷⁷ Muhammad Husain Haikal, *Umar Farooq-e-Azam*, trans. Habib Ashar, (Jehlum :Book corner show room), 112.

⁷⁸ Bukhary. *Kitab abwab-u-fazail-Quran*, bab- jam-e-Quran

⁷⁹ Umar Tilmisani, *Umar bin Al-Kahtab*, trans. Hafiz Muhammad Idrees, (Lahore: Al-Badar publications, 2008), 147.

assigned the duty to collect the Holy Quran from all those people who had their own copies and a great deal of care was taken in the completion of this task. Therein, it was Hazrat Umar who wrote his name in the golden era that contains the compilation of Quran by initiating this act.

2.2 Rule of Law during the Caliphate of Umar Bin Khattab (R.A.)

At his death bed, Hazrat Abu-Bakar (RA) nominated Hazrat Umar (R.A.) second caliph⁸⁰ and got his suggestion approved by the companions.⁸¹ Although Hazrat Umar (R.A.) was a harsh person but as he became caliph his attitude got totally changed and he diverted his harshness for the law-breakers and for those disbelievers who harmed Islam.⁸² He was so kind to his subjects that he never felt tired or bored in fulfillment of their necessities.⁸³ He was very intelligent person in running state affairs. He especially focused on the strong relationship with non-Muslims and put them on equal footings with the Muslims in the enjoyment of Rights. He always consulted the wise people in all affairs to avoid a wrong decision. He has old aged people and young ones in his Majlis and he use to say that no one hesitate to give his opinion for being younger because knowledge and wisdom is bestowed from Allah (SWT) not depends on the age⁸⁴

Today when anyone joins the forces as a soldier, when an illegitimate is treated like a legitimate son or at least gets his rights on the minimum level, when an infant soul is brought to the

⁸⁰ Sajid, *Ashra Mubashra*, 237

⁸¹ Nomani, *Al-Farooq*, 84

It is narrated that some of the companions disagreed on his nomination for his harshness but Hazrat Abu-Bakar (RA) persuaded them by arguing that his harshness is until mine gentleness as soon as he will become caliph and will fulfill his responsibilities no longer will remain harsh. So, all companions took part in oath.

⁸² Tilmisani, *Umar bin Al-Khataab*, 277

⁸³ *ibid*, 254

⁸⁴ Abu Bakar Abdur Razzaq Sannhani, *Musannaf Abdul- Razzaq*, vol.11 (Lebanon: Al Maktabul-Islami, 1403), 440.

orphanage, when census is conducted and many other things in regard of Human Rights take place all of these remind us of the glorious regime of Hazrat Umar (R.A.). Hazrat Umar (R.A.) was a great reformer and Human Rights advocate. His reforms and achievement are recorded in golden words in the Islamic history. Not only Muslim historians have admitted his attainments but also non-Muslims have acknowledged his contributions to the Human Rights⁸⁵

All affairs of state and disputes were discussed and settled in his Majlis-e-shoora which was Parliament and it consisted of very competent companions from Muhajireen and Ansaar.⁸⁶ Other than this parliament, lower house of parliament was established and it comprised of leaders of important tribes and Muhajireen and Ansaar.⁸⁷ Beside these two, there was another Majlis that consisted of Muhajireen.⁸⁸ Whenever important issue had to be discussed in the parliament announcement was made in a Masjid for the gathering⁸⁹

Democracy stands on certain basis, like Right of security for every individual and freedom of speech and ruler's power should be limited and everyone should enjoy Right of expression regarding his performance. So Hazrat Umar (R.A.) governed on the same basis where everyone

⁸⁵ In 1937 government of Congress was established in India. Mahatma Gandhi advised his ministers to live with simplicity and said "I cannot give you example of Ram Chander and Kirshun because they were not historic personalities I have no option but to give you example of Abu-Bakar and Umar as an example of simplicity. They were leaders of vast government but lived like poor persons.

⁸⁶ His parliament was consisted on pious and caliber personalities like Hazrat Usman, Ali, Ibn-Auf, ubai-Bin-kaab and Zaid bin Sabit (RA). For detail see, *Kanzul-A'maal* vol.3,134

⁸⁷ General session of parliament was used to hold for the discussion of important and serious matters while general and common matters were settled by Majlis-e-shoora.

⁸⁸ Ahmad Bin Yahya Blazari, *Fatoohul- Buldan*, (Lebanon: Muasisatul Maaf, 1987) 276.

In this inner cabinet, daily issues were discussed and this Majlis-e-Shoora was conducted in Masjid-e-Nabvi. Important issue of imposing tax on Majoos was discussed in it.

⁸⁹ Muhammad bin Jarir Tabri, *Tareekh e Tabri Tareekh ul Ummam wal Maluk*, Trans: syed Muhammad Ibrahim, Habibur Rehman, vol. 3(Lahore: Nafees Academy, 2004) 2574.

enjoyed all the Rights without discrimination and fear. It is the matter of common sense that such a vast kingdom could not be run without any proper organized system. Hazrat Umar (R.A.) divided all the conquered states into eight provinces according to the most historians⁹⁰For running the administrative system of these provinces he appointed different officers.⁹¹ Accountability of officers was observed in his time period. Check and balance was observed in every department and on every worker to avoid injustice that is why he permitted every individual to talk openly about their governors during the Hajj season⁹²It is reported that once a person complaint that governor has punished him with lashes unjustly, after investigation he was found innocent so Hazrat Umar (R.A.) ordered him to do the same with the governor openly. Hazrat Amr bin Aass (RA) favored the governor but Hazrat Umar (R.A.) didn't accept it then Hazrat Amr bin Aass (RA) requested the victim to forgive concerned governor, he agreed for two gold coins for every lash.⁹³

Method of tax and usher (ten percent of the production) was developed and was well organized in his reign although it was initiated in the period of Holy Prophet (PBUH) and Hazrat Abu Bakar (RA).Hazrat Umar (R.A.) compiled a register which comprised of the names of those people who had to receive stipends from the Baitul Maal (treasury) on constant basis. He consulted his Shoora

⁹⁰These provinces included, Holy city of Makah and Medina, Syria and Jazira, Basra, kufa, Palestine and Egypt. According to some historians beside these provinces there were three other important provinces, Khurasan,Aazarbaijan and Iran, while some argued that these were total 7 provinces instead of 8 for detail see, *Al-Farooq*, Shibli Nomani, Division of kingdom,194

⁹¹They included, Governor of that province (Waali), Head Clerk (Katib), Military Sectary (Katib-e-Divan), Revenue Collector (Sahib-e-Kharaj, police officer (sahib-e-ahdaas), Treasury in charge (sahib-e-Baitul-Maal) and Judge (Qazi)

⁹²Tabri, *Tarikh-e-Tabri Tareekh ul Ummam wal Maluk*, 268

⁹³Abu Yousaf Yaqoob Bin Ibrahim, *Kitabul Kharaj j li Abe Yousaf*, (Al-Maktabatul Azhria Ilturas) 66.

for this issue and they suggested that it should be started with the names of his own relatives but he preferred to begin with the relatives of Prophet (PBUH).⁹⁴

All the reforms made by Hazrat Umar (R.A.) are known as "Oulayat", most of them are mentioned in the book of Abu-Hilal Al-Askari "Kitabul-Awail" and in Tarikh-e-Tabri by Muhammad bin Jarir Tabri.

Hazrat Umar (R.A.) put non-Muslims on equal footings with Muslims in enjoyment of Rights and safety of life and honor. He ordered to treat them leniently in getting tax. Once he was on his way back from Syria he observed that some people were punished in hot sunny day and olive oil was poured on their heads he asked about them it was told that they have not paid tax yet⁹⁵. Hazrat Umar (R.A.) said that which excuse has limited them, it was told that they said we do not have anything to give in tax. Hazrat Umar (R.A.) said leave them and do not punish them in a way that they cannot bear⁹⁶

2.3 Directives of Umar Bin Khattab (R.A.)

After taking charge he addressed people and it was so affective that it ended all the misconceptions from the minds of people who were afraid of his harshness. He addressed people and said I am an ordinary person like you, I have accepted this responsibility just obeying the order of prophet's caliph. I am fully aware of this reality that people are afraid of my harshness and scared about my friendship because they say that Umar was harsh even when Prophet (PBUH) was alive and remained same in the time of Hazrat Abu-Bakar (RA), now what would be the

⁹⁴ Shah Wali Ullah, *Fiqhu-Umar*, trans: Abu Yahya Imam, (Lahore: Ilm o Irfan Publishers, 2005) 379.

⁹⁵ Maulana Sadiq Husain Siddiqui, *Hazrat Umar (RA) k halaat-e-zindagi*, (Islamic book service) 93.

⁹⁶ Abu Yousaf, *Kitabul Kharaj j li Abe Yousaf*, 150

circumstances when he will get full charge of caliphate. And this statement is absolutely correct. I got opportunity to avail the prophet's praise. I was his humble servant while he was alive. I was like naked sword for him, whenever he needed to use it, he did, and otherwise it was not used. I remained on the same condition until his departure from this world and he was happy with me. I am grateful to Allah on this blessing. After him Hazrat Abu-Bakar was assigned the duty of caliphate. He was symbol of kindness, compassion and sympathy. I was his obedient companion and helper and like naked sword for him. Whenever he wanted to use it, he did otherwise, it remained not used. I was with him until his death and he was happy with me. Now I became responsible for you it is actually my assessment by you people and yours by me. You should know that my harshness has changed into softness but I will remain harsh for those who will be cruel or unkind with the Muslims while those who will live with peace I will be kind to them. If anyone will violate others Rights, I will never leave him until I will take Right of the victim from him. O people, you have certain Rights on me.

It is my duty not to take anything from what Allah gave you; similarly it is enjoined on me to strengthen your boarders. It is enjoined on me not to indulge you in danger and not to prevent you from returning to homes. And when you will participate in the war, I will take care of your family like a father. O people, be aware of Allah's Rights and help me in running affairs and facilitate me in fulfillment of commands and advise me in those affairs in which I am your leader. I am seeking Allah's forgiveness for me and you. Arabs are like unbridle camel that follows his master and now it depends on him to which direction he leads him by God I will not leave them until I will show them right path⁹⁷

⁹⁷ Haikal, *Umar Farooq-e-Azam*, 139

Second Sermon

After praising Allah (SWT) and reciting Darood he said "o people greed leads to the poverty, you are collecting that wealth which is useless for you; you are expecting inaccessible things, you are living in deceived world. In the time of Prophet (PBUH), all matters were clear if someone commits evil deeds in hidden it was showed to him by revelation and those deeds which were done openly were also known but now he is no long amongst us, so we will consider what all people do openly regardless of their hidden intentions so take care of good behavior and attitude. Spend your money for the sake of Allah's will because it will be constructive for you. Be careful of your improvement. I wish that I stand for the betterment of my subjects, regardless of my age and time which I will spend in this world. Every Muslim should get his Right from the wealth even he is in his house and he would not come to me to get his Right.⁹⁸

Third Sermon

Allah (SWT) has enjoined on you His praising for the fact that he has bestowed on you superiority in this world as well as in the hereafter without your wish and demand. He has created you for His obedience and made every object of this universe under your control and He has bestowed on you such gifts which are specified to you people only and no one can thanks Allah except with His help after submitting oneself to Him and following Prophet (PBUH). Praise Allah (SWT) for the victories because no one can praise Allah/as He deserves to be praised for every blessing so we pray that Allah (SWT) gives us the glory to seek His submission so we can rush to get His willingness.⁹⁹

⁹⁸ Tabri, *Tareekh e Tabri Tareekh ul Ummam wal Maluk*, vol.3, 239

⁹⁹ Ibid,241

Sermon on the Duties and Obligations of the Governors

He addressed people regarding duties and obligations he said O people no one deserves to be obeyed in those matters which are against Allah's will. Wealth is legitimate when it is gained with three conditions: it should be taken through right way, it must be spend in a right way and illegitimate ways of earning should be avoided. I am caretaker of your possessions like a caretaker of orphan's belongings and if I am rich I will not use anything from your wealth and if am needy than I will use according to the customs. If someone treats other brutally I will never forgive until right of the victim is given to him. O people you have some Rights on me, take your Rights from me. You have right that I must spend the taxes and public wealth in a right way and increase your salaries and stipends.

Remember, I did not appoint you as a cruel and superior governor for the people but as a guide to the right way. Give Rights to the Muslims and do not humiliate them by beating and do praise them to avoid them from dumping in evil. Do not close your doors for them because it will result in the unfair treatment of superiors for inferiors. Do not prefer yourself on others.

O people, I make you witness on these governors that I have appointed them just to teach the people Islamic teachings and distribute war earnings and solve the clashes and if they face any problem in their workings direct it to me¹⁰⁰

¹⁰⁰ Abu Yousaf , *Kitabul Kharaj li Abe Yousaf*, 141

Sermon after the Surrender of Jerusalem:

When Hazrat Umar (R.A.) was returning to Madina and offered his prayer at Jabia after the surrender of Jerusalem he delivered a sermon."O people, I advise you to read the Holy Quran. Try to understand its teachings and think over it. Then practice its teachings. It is not just theory but a complete code of conduct of life. It not only emphasizes on the Hereafter but provides complete guidance for this world also. For your betterment lead your lives according to the Islamic teachings because all other ways except Islam lead to devastation. Fear Almighty Allah and whatever you need always ask Him. All human beings are equal. Do not praise those in power. Do not look for favors from others. By doing so, you degrade yourself. Remember that you will get only that is intended for you, and no one can give you that is against Allah's will. So, why to ask the things from the people over whom they have no power? Then why seek things from others over which they have no control? Simply pray Almighty Allah for He alone is the Supreme ruler. Speak the truth and do not hesitate to say it. Let your intentions be pure, because Allah is well aware of your intentions. Your deeds are dependent on your intentions. Just fear Allah nothing else. And why fear others when everything is in Allah's control and you will certainly get what He has decided for you in every condition.

Allah has temporarily appointed me your ruler. I am an ordinary person like you and ruler does not enjoy special privileges I have responsibilities to fulfill and I cannot achieve this task without your help. Government is a holy trust, and I will never be disloyal to this trust. To accomplish this task I will be strict for the enforcement of law and discipline. I have to run administrative system for the enhancement of public interest. To run these affairs the book of Almighty Allah is the best guide. Allah (SWT) has favored us with Islam and sent His prophet and chose us for a mission. Let us

accomplish that task and it is the endorsement of Islam because it is only the safe shield for our safety.

2.4 Letters by Umar bin Khattab (R.A.) to his Governors emphasizing on Human Rights on Human Rights

Hazrat Umar (R.A.) was strict enough in appointment of governors. When he appointed any governor his appointment letter was read in public regarding his duties and given privileges. Once he addressed his appointed governors and said " I did not appoint you as a ruler on your subjects but to serve them you must hold an exemplary conduct so that people could follow you willingly"¹⁰¹ His governors were not allowed to wear silk clothes, to ride Turkish horse, to eat refined flour, to close the doors to avoid listening to the complaints of the people and to appoint guards on the doors.¹⁰² He considered safety of citizens regardless of their religion as a duty of the governors. At his death time he advised to take care of non-Muslim Dhimmies and to fight for their safety and to avoid assigning them the punishment which they cannot bear¹⁰³

Letter Written to Hazrat Amr Bin Aass (RA)

People of Alexandria fought bravely but most of their men and women were captured and kept slaves so their governor conveyed message to Hazrat Amr Bin Ass (RA) that I paid tax to the Roman and Byzantine emperors although I disliked them but I will pay tax to you willingly but with the stipulation of releasing slaves. Hazrat Amr bin Ass (RA) said I will consult caliph about it and I will convey your suggestion also. In reply Hazrat Umar (R.A.) wrote to him accept his

¹⁰¹ Khwaja Jamil Ahmad, *Hundred Great Muslims*, (U.S.A: Library of Islam, 1987) 30.

¹⁰² Sanhni, *Musannaf Abur Razzaq*, vol .11, 333

¹⁰³ Muhammad Rawaas Qalla G, *Fiqhu-Hazrat Umar*, (Idara Maa'rif-e-Islami, 1990) 121.

suggestion on the condition that slaves will be given freedom to choose Islam or Christianity, those who will embrace Islam will enter the community of Muslims and they will enjoy the same Rights and Duties as other Muslims enjoy. While others will be bound to pay tax at the same rate as other members of their community are paying.¹⁰⁴

Letter Written to Hazrat Saad Bin Abi Waqas (RA)

I advice you and your army to fear Allah in every condition because it is a strong weapon against the enemy. Those people with whom you make peace agreement or they give you the tax and come under your safety, stay far away from their cities and do not let anyone to enter their residential areas except the person who is most loyal for you. Do not let your army or any soldier to take away their anything because you have taken responsibility of securing their lives, wealth and honor. This is a sort of exam for you as it is for the Ahl-e-Dhimma and for those who concluded agreement until they fulfill their responsibility; you are bound to take care of them. Those with whom you have committed peace pact do not wish to get victory against your enemies by deceiving them.¹⁰⁵

Letter Written to Hazrat Noman Bin Muqaran (RA)

I praise Almighty Allah who alone is worthy to be worshipped. I heard that army of enemies in large number gathered at Nahawand. As soon as you receive my letter go ahead with Muslims in accordance to the command and help of Allah (SWT) but do not guide your army on complicated

¹⁰⁴ Khurshheed Ahmad Farooq, *Hazrat Umar kai Sarkari khatoot*, (Lahore: Nashran Quran Ltd.) 330.

¹⁰⁵ Ibid, 145

ways as this could be harmful for them. And be careful of violation of their Rights. Do not lead your army to the marshes because every Muslim is precious for me than 1000 Dinars¹⁰⁶

2.5 Conclusion:

Hazrat Umar (R.A.) was a shining star of Islamic History. His achievements and enlighten decisions will remain a source of guidance for the forthcoming generations. He was Human Rights advocate in a true sense and a great reformer who laid base for the welfare of his subjects in his whole reign. Non-Muslims enjoyed same Rights like Muslims without any discrimination which is unmatched quality and attainment of Hazrat Umar (R.A.). He gave the world an organized administrative system. Concept of accountability for the administrative and officials, check & balance of their assists', establishment of department of police, complete judiciary system, stipends for the disable people, infant children, orphans and widows were helped by his order. It was written on his stamp "O Umar, Death is enough for advice".

Government of Alexander remained enforced for five years after his death but the system which Umar (R.A.) initiated can be found nowadays in 245 countries in different shapes. He implemented Islamic law (Shariah Injunctions) in his Islamic state and made reforms in the field of agriculture and economy. He was strict in giving decisions in different cases and never showed leniency for the officials and governors. It was proclaimed in his time that if any one becomes victim of injustice from any governor then governor will get reciprocal treatment for it. He was kind enough for his subjects and advised his officers to take care of them for they will be asked about their Rights. He ordered to treat Dhimmies kindly and to avoid harshness in getting tax from them. He forbade his soldiers from dishonesty, corruption, murder of children in war and encountering those weakened

¹⁰⁶ Tabri, *Tareekh e Tabri Tareekh ul Ummam wal Maluk*, 126

who were not taking part in war against them. He established a welfare state where every individual was enjoying his Rights and was obliged to fulfill his duties. Whenever a soldier wears uniform or teachers get their salary and census is conducted in an area or illegitimate child is taken into care center or Imam and Muazzin get his pay or Masjid is lightened at night or Judgments are made in different matters by judges or system of canals are reformed, the name of Hazrat Umar (RA) is remembered in each and every instance of all these. A system of government was established in the period of Hazrat Abu-Bakar (RA) but it was very short time to implement all the strategies. So in the caliphate of Hazrat Umar (R.A.), an organized government was established and different departments were made with assigning of different duties. Many states were annexed to the Muslim state as a result of conquest in his period. So Muslim territory expanded, although it appears that administrative system was difficult for such a vast kingdom but Hazrat Umar (R.A.) not only managed all the affairs but also marked his achievements as a keystone for the forthcoming governments.

CHAPTER 3

CONTEMPORARY HUMAN RIGHTS INSTRUMENTS

3.1 Evolution of Modern Concepts of Human Rights

The term “Human Rights” refer to the inherent, inalienable and indivisible Rights which every Human being holds by virtue of being Human. One can say “the right one has simply because one is human being”¹⁰⁷. These Rights are indivisible in the sense that every member of the society will enjoy these Rights without any distinction and nothing will be excluded for any one¹⁰⁸. These Rights include self-determination, fundamental freedom, respect, and dignity, social, cultural, political and economic Rights.¹⁰⁹

Human Rights are actually core of the global ethics that is discussed by the representatives of the different religions and cultures. In almost every religion, every culture and every tradition we can find description of Human Rights although way of expression is different.¹¹⁰ History of documentation of Human rights can be traced back to the “Code of Hammurabi”, which was

¹⁰⁷ Jack Donnelly, *Universal Human Rights in Theory and Practice*, (Newyork: Cornell University Press, 1989) 1.

¹⁰⁸ Eva Brems, *Human Rights. Universality and Diversity*, (Netherland: Martinus Nijhoff Publishers, 2001), 14.

¹⁰⁹ Asbjorn Elide, *Dynamics of Human Rights and the Role of Education*” in *frontiers of Human Rights Education*, ed. Elide and Marek Thee (Newyork: Columbia Union Press, 1983), 105.

¹¹⁰ Robert Traer, *Faith in Human Rights: Support in Religious Traditions for a Global Struggle*, (America: Georgetown University Press, 1991), 10.

issued by King Hammurabi (1750-1810 BEC). This code contained compilation of early judgments, consisting of contracts & punishments for accused.¹¹¹

Holy Quran is comprehensive *Human Rights* document. It is the last revealed book of Almighty Allah on prophet Muhammad (P.B.U.H); it emphasizes on respect of *Human Rights* and dignity of whole mankind without discrimination.

First written constitution was 'Constitution of Medina', it is the land mark in the history of Human Rights which claimed equal rights for all human beings without discrimination on the basis of sex, race, religion or nationality.

Magna Carta (1215) was great charter of freedom. Petition of Rights (1628) extended certain Rights to the common people which were limited to the nobles. Peace of West Phalia (1648) spoke for practical Influence on the European countries. 18th and early 19th century witnessed important documentation of Human Rights which included Treaty of Ghent (1814), and Human independence struggle.

Origin of Human Rights can be traced back in ancient religions, almost every religion talked about the Rights to an extent. In Hinduism, old codified scriptures emphasized on the ethical principle of "non-injury to others"¹¹². In Hinduism, ancient text of Vedas and Upanishads stress that divine truth is universal and that is "life is sacred"¹¹³

¹¹¹ Michal Hass, *International Human Rights, a comprehensive introduction*, (London, Routledge, 2008), 37. This code consisted of 283 provisions; some were harsh like death penalty for those witnesses who were found guilty of false testimony and for the constructor whose house falls on a resident.

¹¹² *ibid*, 10

¹¹³ Paul Gordon Lauren, *The Evolution of International Human Rights*, (USA: university of Pennsylvania press, 2011), 6.

In Buddhism; main focus was on the respect for all and to help needy and suffering people. Human Rights advocate in Buddhism was Siddhartha Gautama(C 404-434 BCE) and his message was free speech and religious freedom and help of needy people¹¹⁴.

Islam, the brightest and most flexible religion in the world is based on equality among all the races and the sexes, tolerance, religious freedom and freedom of expression. Quran clearly expressed religious tolerance and the fact that all are born equal. It also expresses non-religious matters like equality among different races. Prophet Muhammad (571-632) (P.B.U.H) was the greatest Human Rights advocate in Islam whose whole life was a practical symbol of his saying and advices for the Human Rights. He not only described the Rights but practiced it also in a way that he put the Muslims and non-Muslims on the same footings in all aspects of life especially in decision making.

As far as philosophical origin of Human Rights is concerned Secular philosophies tend to see an opposition between humans and government in a way that humans have Rights and government must respect these Rights.¹¹⁵

Thomas Hobbes (1588-1679) main contribution was the Social Contract of security, according to his theory to live and then live well is in the human instinct. That's what is in the nutshell of Thomas Hobbes' famous work 'Leviathan' in 1651. What he believed and stated that human would do anything to attain the power which is one of the impressing ways to live well. And for this, they would do anything whether good or bad. Moreover, he then favored king over the democratic system for the reason that king was type of a typical monster with an effective ruling unlike the clichéd democracy always being reshuffled by the power wanting groups and was somewhat unable

¹¹⁴ Lisa Zamosky, *Siddhartha Gautama: The Buddha*, (Teacher Created Materials, 2007), 4.

¹¹⁵ Michal, *International Human Rights*, 17

to stop people from this evil.¹¹⁶ John Locke (1632-1704) presented the principle of Right to life, liberty, health and property, his theory was against the Hobbes "Social Contract",¹¹⁷ Thomas Jefferson (1743-1826) was influenced by John Locks theory. His main contribution in Human Rights sphere was life, liberty and pursuit of happiness It stated that all men were equal and deserved all basic human rights and also some harsh said about the British. 118 Jeremy Bentham (1748-1842) advocated Civil and Political Rights of Individuals indeed he was utilitarian and he argued that Utility is the only source of advantage, pleasure and good Jeremy Bentham was one of the founders of utilitarianism who believed that there are two extremes either pain or pleasure and we are all governed by its cause and effects¹¹⁹ and this pain and pleasure define us the morality. Stuart Mill was a brilliant scholar, who from the diffusion of all these philosophies came up to the principle regarding utilitarianism¹²⁰

Peace and strong bond of relationship between nations is cornerstone for the promotion of Rights and implementation of ethical and legal norms in the state. History indicates that different nations conducted peace agreements for the sake of peace in the society. Actual objective of these agreements was to avoid violation of Human Rights and to ensure respect of basic Rights. In Islamic era we find peace agreements between Muslims and non-Muslims. In the same way

¹¹⁶ Aaron Rosenberg, *Thomas Hobbes: An English philosopher in the Age of Reason*, (Newyork: Rosen publishing group,2006), 10.

¹¹⁷ R.Sharma, *Human Rights and Bail*, (India: Kul Bushan Nangia, 2002), 19.
The condition in which people give up some individual liberty in exchange for some common security is the social contract. Hobbes define contract as a mutual transferring of rights. For detail see social contract theory by Hobbes Locke and Roseau available at :
http://www.academia.edu/3138759/Social_Contract_Theory_by_Hobbes_Locke_and_Rousseau(last accessed 03.09.2012)

¹¹⁸ David Armitage, *The Declaration of Independence A Global History*, (Harvard University Press, 2008), 26.

¹¹⁹ Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation*, (Canada:Batoche Books Kitchener, 2000), 14

¹²⁰ John Stuart Mill, "*Last Stage of Education and First of Self-Education*, "Autobiography, 1873 (New York: P.F. Collier & Sons, 1909), 14.

contemporary Human Rights instruments also emphasize on the promotion and respect of Human Rights. These Treaties are either bilateral or multilateral.

Important of these Treaties is the "UN charter" which has been signed by 150 countries. Article 56 of the UN charter makes it necessary for all signatories to respect and promote human rights¹²¹. Another importance pertaining to human rights is the Universal Declaration of Human Rights; it was adopted on the 10th of December, 1948 and every Year the day is celebrated as Human Rights Day: it comprises of basic Human Rights and a number of UN bodies are responsible for implementing its contents.¹²² Economic and Social Council in 1947 created a body of UN High Commission on Human Rights. It makes recommendations on conventions, declarations and other issues like the status of women etc.¹²³ another important body pertaining to the protection of human Rights is "UN High Commissioner for Human Rights". The High Commissioner is obliged to investigate violations of human rights to help governments to arrange mechanisms to protect human rights and also to submit periodic reviews to the High Commission on Human Rights.¹²⁴

A number of international conventions such as the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, safeguard human rights

¹²¹ N. Singh, *Enforcement of Human Rights* (Calcutta: Eastern Law House Pvt. Ltd., 1986), 15-18.

¹²² *Human Rights in the Changing World*, ed. E. S. Venkataramiah J. (India: International Law Association, 1988), 12-16.

¹²³ D. J. Ravindran, *Human Rights Praxis: A Resource Book for Study, Action and Reflection*, (India: Earthworm Books, 1998), 251-253.

¹²⁴ *The United Nations and Human Rights 18th Report of the Commission to Study the Organization of Peace* (New York: Oceana Publications Inc, 1968), 8.

Conventions like the European Convention on Human Rights, the American Convention on Human Rights and the African Charter on Human's and People's Rights exist at the regional level.¹²⁵

In Vienna Declaration of Human Rights held in June 1993, it was declared that all Human Rights are universal, indivisible and interdependent and interrelated and governments are obliged to respect & promote human Rights ¹²⁶While in the Treaty of European Union for Human Rights Certain Rights are exclusively reserved for citizens of the European Union. ¹²⁷

3.1.1 The Western Approach

What always have been said by western group that all good for world is to be attributed to them? They claim that origin of basic Human Rights is "Magna Carta of Britain" which was actually documented six hundred years after the advent of Islam. They divided Human Rights into three generations.

3.1.1.1 First Generation Rights

It was based on personal liberty and protecting individual Rights. It includes Civil Rights, Legal Rights and Political Rights.

3.1.1.2 Second Generation Rights

These were related to the basic necessities of life. This includes Social Rights, Economic Rights and Cultural Rights.

3.1.1.3 Third Generation Rights

¹²⁵ Singh, *Enforcement of Human Rights*, 77-79.

¹²⁶ *World Conference on Human Rights*, ed.D.Bashkara Rao (India: Discovery Publishing House, 2003), 25.

¹²⁷ Jan Berting, *Europe: a Heritage, a challenge, a promise* (Netherlands: Eburon Academic Publishers, 2006), 190.

These Rights were those related to have a better environment and surroundings to live in. Right to peace and clean environment where its parts.¹²⁸

3.2 Core International Human Rights Instruments

Core international human rights treaties exist for the endorsement and protection of human rights. Every treaty has established a working group of experts (the treaty bodies) to supervise execution of the treaty provisions by its States parties. Some of these treaties are supplemented by optional protocols dealing with particular areas. In fact Optional Protocol is a mechanism that creates additional rights and duties to a treaty. The core international Treaties which deal precisely with the Human Rights are:

3.2.1 International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) 1965

This convention was adopted and opened for signature and ratification by United Nations General Assembly resolution 2106 (XX) on 21st December, 1965 and the convention entered into force on the 4th of January, 1969. This convention comprises of 25 articles some of them are:

- Right of equality before law
- Right to security and protection of individuals by the State
- Right of residence and freedom of movement
- Right to leave any country, including one's own, and to return to one's country
- Right to freedom of thought, conscience and religion;

¹²⁸ Gopal Bhargava, *Meaning & Sources of Human Rights*, (India: Gyan Books, 2003), 3.

- Right to freedom of opinion and expression;
- Right to public health, medical care, social security and social services;¹²⁹

3.2.2 International Covenant on Civil and Political Rights (ICCPR) 1966¹³⁰

This Covenant is in fact a Treaty based on the subject of the Universal Declaration of Human Rights; it was created in 1966 and entered into force on the 23rd of March, 1976. It has two Optional Protocols. The first optional protocol is related to individual complaints mechanism. According to this protocol, individuals in member States can submit complaints, which are known as communications. These communications will be examined by the Human Rights Committee while second optional protocol deals with the abolition of death penalty. This covenant has 53 articles some of them are:

- All individuals have right of self determination
- Every individual has right of life
- Nobody will be punished, tortured or subjected to brutal, ruthless or humiliating treatment.
- Everyone has the right to freedom and safety
- Everyone has the right to freedom of Movement and right to choose his residence.
- . Everyone has the right to leave any country, including his own.
- All individuals are equal before law, conscience and religion

¹²⁹ Ian, Gill, *Basic Documents on Human Rights*, 153

¹³⁰ Jean-Marc. Coicaud, *The globalization of human rights*, (UN: United Nations University Press, 2003).143.

- Everyone has the right to freedom of expression¹³¹

3.2.2.1 International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966

It is a multilateral treaty adopted and opened for signature by General Assembly on the 16th of December, 1966, and enforced on the 3rd of January, 1976. This convention enjoins on state parties granting of economic social and cultural rights to the individuals. This covenant has 31 articles and some of them are:

- All individuals have right of self determination
- Everyone has the right to social security
- All individuals have right to an adequate standard of living
- All individuals have right to education¹³²

3.2.3 Convention on the elimination of all forms of discrimination against woman (CEDAW) 1979

This convention was adopted by the General Assembly in 1979 and came into force on the 3rd of September 1981. It is actually an international bill on rights of women. This convention has Optional Protocol which was adopted by General Assembly in 1999. This Protocol contains a procedure through which individuals or groups can submit their communications regarding national violations of the provisions of this convention directly to CEDAW's committee of experts. This

¹³¹ Gill, *Basic Documents on Human Rights*, 182

¹³² *Ibid*, 172

convention has 30 articles and it enjoins on the state parties; the guarantee of fulfillment of all rights social, cultural educational and economic rights without any discrimination.¹³³

3.2.4 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984

This Convention was adopted by General Assembly on the 10th of December 1984 and it was enforced on the 26th of June, 1987. It has Optional Protocol which was adopted by the General Assembly on the 18th of December 2002 and was brought to working on the 22nd the June, 2006.

This convention was adopted to prevent torture throughout the world and it enjoins on the state parties to take measures to prevent torture within their jurisdiction as well as forbids the state parties to return people to their home lands if they will be subjected to torture there. While optional protocol contains mechanism of regular visit of national and international bodies to places where people are subjected to torture or degrading treatment to prevent it.

Convention against torture and other cruel, inhuman or degrading treatment or punishment has 33 articles. This convention enjoins on the state parties to take effective legislative, administrative measures to prevent acts of torture under their jurisdiction. Similarly states are obliged to educate and inform their law enforcement personnel, civil or military, medical personnel, public officials and all other people who will take part in any process of investigation

3.2.5 Convention on the Rights of the Child (CRC) 1989

This Convention is often referred to as "CRC". It actually commences social political, civil, economic, and cultural rights of children. General Assembly adopted the Convention on the 20th of

¹³³ibid,212

November, 1989 it entered into force on the 2nd of September, 1990. This Convention has two Optional Protocols, adopted by the General Assembly in May 2000. These are

- Optional Protocol pertaining to the involvement of children in armed conflict
- Optional Protocol pertaining to the sale of children, child prostitution and child pornography.

This convention has 54 articles. Some of them are:

- States Parties are obliged to respect and ensure all rights to each child
- every child has the right of expression in issues which belongs to him
- Every child has the right to life
- No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family and home
- States Parties should ensure the right of the disabled child to special care and he should lead decent life
- Every child is entitled to enjoy social security¹³⁴

3.2.6 International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICRMW) 1990

This convention was adopted by General Assembly resolution 45/158 on 18th December 1990 and entered in to force on the 1st of July, 2003. This Convention is in fact an international treaty on the subject of the protection of migrant workers' rights. It underlines the bond between

¹³⁴ibid, 241

migration and human rights. This convention lays ethical standard, and serves as a guide and incentive for the endorsement of immigrant rights in each country.

It has 93 articles and some of them are

- Migrant workers and members of their families shall be free to leave any State, including their State of origin
- The right to life of migrant workers and members of their families shall be protected by law.
- No migrant worker or member of his or her family shall be subjected to torture or to cruel, inhuman or
- Migrant workers and members of their families shall have the right to freedom of thought, conscience and religion.
- Migrant workers and members of their families shall have the right to freedom of expression
- No migrant worker or member of his or her family shall be subjected to arbitrary or unlawful intervention with his or her privacy, family, home or other communications
- Migrant workers and members of their families shall have the right to liberty and security of person
- Migrant workers and members of their families shall have the right to equality with nationals of the State before the courts and tribunals

- Respect to social security, they will enjoy in the State of employment the same treatment granted to nationals as they execute the requirements of the law of concerned state and the conditions of the applicable bilateral and multilateral treaties¹³⁵

Two new core international treaties have been included in the list of human rights instruments these are

3.2.7 Convention on the rights of persons with disabilities and its optional protocol (CRPD) 2006 & International convention for the protection of all persons from enforced disappearance 2006

Convention on the Rights of disappeared persons was adopted in 2006 after different stages. Different steps that led to the adoption of this Convention in 2006 include related published documents pertaining to the issues from 1981 onwards, Declaration of 1992, the Manfred Nowak report¹³⁶ of 2001 and resolution 33/173 of General Assembly 1978

In December 1978 the General Assembly referred to this issue. This resolution states that it is profoundly concerned by reports from various parts of the world relating to enforced or involuntary disappearances and asks the Commission on Human Rights to consider the issue of enforced disappearances with a view to making appropriate recommendations.

3.3 Commission on Human Rights and UNWGEID 1979-1980

In 1979 the Commission on Human Rights gave the mandate to the Sub commission of devising recommendations for Prevention of Discrimination of rights of Minorities and their

¹³⁵ibid, 272

¹³⁶ This Report was submitted by Mr. Manfred Nowak, independent expert charged with examining the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearances, pursuant to paragraph 11 of Commission resolution 2001/46, 7 January 2002, E/CN.4/2002/71, available at: <http://www.unhcr.org/refworld/docid/3d6ce3c50.html>

Protection. This Sub commission presented a proposal of establishing a Working Group of experts to inspect issues pertaining to enforced or involuntary disappearances. This Working Group on Enforced or Involuntary Disappearances (UNWGEID) was established in February 1980 and works till date.

International convention for the protection of all persons from enforced disappearance has 45 articles and it deals with the phenomena of involuntary disappearance. It also talks about arrest, detention and deprivation of liberty and it enjoins on the state parties arrangement of special mechanism for the said crimes and to ensure safety of persons from such crimes which are absolutely against the humanity.

While Convention on the rights of persons with disabilities and its Optional Protocol was adopted on the 13th of December, 2006 and was opened for signature on the 30th of March, 2007. It entered into force on the 3rd of May, 2008. This convention enjoins on the state parties to ensure that all persons with disabilities must enjoy all human rights and fundamental freedoms. While its Optional Protocol deals with the communications received from the individuals or groups of individuals who claim to be victims of an infringement by that State Party and enjoins on UN Committee on the Rights of Persons with Disabilities to consider these communications.

3.4 The Treaty Bodies

Treaty bodies are basically established to monitor and supervise the implementation of treaty obligations. These bodies are composed of competent members who are elected by the states parties and in the case of (CESCR) these members are elected through the UN Economic and Social Council (ECOSOC). They are basically obliged to perform their task in an independent

capacity. Meetings are held every so often throughout the year. Important tasks assigned to these treaty bodies include:

- Consideration of reports received from the State parties
- Consideration of communications received from the individuals
- They also issue general remarks on the treaties and arrange discussions on related subject matter.
- The treaty bodies organize their performance through the annual meeting of chairpersons of human rights treaty bodies and through the inter-committee meeting. The treaty bodies are constantly seeking ways to increase their efficiency through reformation and improvement of working methods ¹³⁷

3.4.1 Consideration of State Parties' Reports

When a country ratifies one of these treaties, it obliges that state to implement the rights documented in that treaty. But signature is only the first step, because acknowledgment of rights on paper is insufficient to guarantee the enjoyment of said Rights in practice. So the country has an additional responsibility to submit regular reports to the committee to show how the rights are being implemented. This mechanism of monitoring the Human Rights is common to most of the UN human rights treaties. States are obliged to submit an initial report usually one year after joining and after two years in the case of the CRC and then on and on according to the provisions of the treaty generally after every four or five years. Other than the government reports, the treaty bodies may get information regarding Human Rights situation in a country from other sources like non-governmental organizations (NGO), UN agencies, other intergovernmental organizations,

¹³⁷ The core international Human rights instruments (Treaties) and Treaty bodies available at :<http://www.wwda.org.au/hel.hrcore1.htm> (last assessed: 31.03.2013)

academic institutions and the press. Finally, after examining all the available information together with government representatives the Committee publishes its recommendations referred to as "concluding observations".

3.4.2 Consideration of Individual Complaints or Communications

Some of the treaty bodies may carry out additional monitoring functions through three other mechanisms:

- the inquiry process,
- examination of inter-state complaints
- Examination of individual complaints¹³⁸.

Complaints may also be brought by third parties on behalf of individuals

3.4.3 General Comments

The Committees also publish their interpretation of the content of human rights provisions, known as general comments on concerned issues or methods of work. The Committees also give recommendations to implement provisions of the treaty¹³⁹.

3.5 A Comparative Analysis of Treaties Signed by Caliph Hazrat Umar (R.A) and the Contemporary Rulers

If we work out on the basis of human rights, what we come across is that it's none other system than Islam that has clearly and indicatively defined out what rights human have. Now if one

¹³⁸ Four of the Committees (HRC, CERD, CAT and CEDAW) can, under certain conditions, receive petitions from individuals who claim that their rights under the treaties have been violated: The Convention on Migrant Workers also contains provision for allowing individual communications to be considered by the CMW

¹³⁹ In the case of CEDAW and CERD, general comments are referred to as "general recommendations".

talks about the International Charter of Human Rights what in all we get is that these are trickling down from the same lines defined by Islam. The second of the rightly guided caliphs, Hazrat Umar; he was a keen advocate of human rights. On the basis of what defined by the founder of Islam, Holy Prophet(PBUH), during his regime he made treaties made by Hazrat Umar were all conducted as so that were for the betterment, prosperity and safety of humanity. There have been many covenants and contracts under the contemporary human rights agreements. There are many under such contracts. As the International Covenant on Civil and Political Rights(1966), International Covenant on Economic, Social and Cultural Rights(1966), Convention on the elimination of all forms of discrimination against women(1979) and hence many more. They have a lot in similarity with what treaties and agreements Hazrat Umar made

- Rights to protection of life, family and possessions
- Right to worship freely and openly
- Right to protection from forced conversion to any religion
- Right to move freely
- Right to security in movement
- Equality before law

The International Human Rights Treaties have a lot common with what was done during the reign of first caliph Hazrat Umar bin Khattab (RA) like done by people of Asqaf Ruha, Egypt, Deer Taaya, Samigaan, Darabaz etc. These all documents stated the safety of lives, possessions and places of worship that when Muslims became rulers, for them it was bounding to protect the life of their subjects and help out with their possessions. The protection of their worship places was another of a point that we see commonly in these Treaties. For instance, when during the caliphate of first caliph Hazrat Umar bin Khattab (RA), one of his governors demolished a chapel and in its

place built a mosque caliph Umar (RA) on knowing this ordered them to demolish the mosque and instead built a church again. Moreover, all people were equal in eyes of Islam whether they were the Muslims or non-Muslim subjects. Now in comparison, we move on to the conventions of Human Rights we will come to reveal that all of the conventions and covenants have a base from Islam. As an example the International Convention on the elimination of all forms of Racial Discrimination (ICERD) 1965 where it is stated all about equality before law, Right of security and Right of religion. If we just trace a bit back in the history, the time of Holy prophet (PBUH), we see his last sermon stating the life, thee honor and wealth of a Muslim is more sacred to me than Holy Kaba. For instance, ICCPR 1966, ICESCR 1966, CEDAW 1979, and many more state the things all same to those that have the crux from the Islamic enlightened human rights.

These have things that protect the life, privacy, honor and other things of all including the same. So in a nutshell.....we can say that the International Human Rights track their basis from Islam.

4 Conclusion and Recommendations

What can we conclude from all the basic human rights instruments is that they all converge to oneness but the difference between Islamic Shariah and contemporary human rights instruments is that the Islamic Shariah is all the way [!]binding to be followed. Throughout the Islamic era, whether to start from Holy Prophet, his guided caliphs or later in the history we get examples in history that non-Muslims were treated on equity by the Muslims. A famous orient list Watt has admitted this reality in his book "Islamic political thought". and anywhere the violation was done with them, the concerned authorities acted upon the issues with respect to situations in accordance with the Islamic Shariah.

In it is no doubt that both Islam and western world lays a great importance on human right. But wherein comes the difference is that Islam lies on the relation between Allah Almighty and His

creation i.e. mean while west totally relies on secularism. The supremacy of Allah is clear from the rulings of Islam. Shariah has defined the rights of the subjects and these are subject to no changes whatsoever be the case unless some interpretation in the line with it. On the other hand, in western world people crave for their rights and fight for them and finally when they get them, they are rather too shabby or somewhat like not complete to protect them. All in all, what can one say that the western laws are just more of a law on paper rather in practical?

In a nutshell, Islam is the religion that reflects the safety ,prosperity and betterment of humanity .The basic teachings of Islam are serving of righteousness, respect of communal rights and propagation of high ethical values .Of the modern day world, human rights have been declared as the instrument to judge human culture and from the same can we judge the social, cultural and national standard of a nation .On the contrary, Islam is the only culture for which human rights is not a new thing. The word 'right' is too much common, known and widespread that even from a common man with low mental capability to an intellectual is aware of its meaning and importance.

Human Rights are not only related to protection but to provide such a society where its inhabitants live at their best. Islam is the only religion in the world which protects and respects Human Rights in a true sense. Islam puts Men and Women on equal footings and enjoins upon believers that they are obliged to fulfill their Duties in order to enjoy their Rights. So Islam gives very balanced system of Rights and Duties. All the contemporary agreements and Treaties have almost same clauses as Islamic treaties have. So it is justified to say that it is the Islam that paved path for the world for the formulation of Treaties and Agreements and set rules and conditions for the signatories.

Now in regards with the modern day human rights charters as for instance, the United Nations charter for human rights. It first of all starts with the safety and security of one's life and honor as well as his wealth. This is the same that was stated in the pacts and treaties during Hazrat Umar's caliphate. As a matter of fact, the treaties done by many of army generals included the same points. Moreover, as there is freedom to religion, travel, speech and business in the modern day charters, the same was there back in the caliphate system. One of the generals of Hazrat Umar (RA) demolished a chapel during his raid. Then he constructed a mosque there. Hazrat Umar (RA) on knowing this then ordered to demolish the mosque that Islam never follows the forcibility preaching of it unlike the others. Also, Islam follows the message of protecting one's life and wealth. To the date, never we come to know that during the caliphate there was a sort of misleading from this rule. Always during the battles neither the property was damaged no those who were unable to fight like children, women and old were ever harmed.

The current day human rights charters just give a thought of all what the rights are but Islam showed this up practically to us as in the case of golden, brilliant, shining, glorious and one to be always followed life of the Holy Prophet (PBUH) and the ideal era of his caliph. This all in its nutshell..... states to us that if guidance is to come that is from Islam. It may be in the case of human rights fundamental where the base and the practicality of its origin still lie with the tenure and caliphate of Hazrat Umar (RA).

4.1 Recommendations

We believe that humans have been bestowed by almighty Allah to live on a much higher intellectual plane as they live on. And the qualities to implement in their lives are much more than they do. Islam in its true spirit and workings can kindle the spark of their real intellect. One of its way is to follow those who had made Islam to move on in this world with its glory by their valuable lives and second caliph hazrat Umar (RA) is one of those personalities who are one to be followed. Following are a few ways in which we can bring his life, work, and services practically in our society.

- Second caliph Hazrat Umar (RA) as an idol, as a hero and one who to be followed must be a part of text book taught in the day where his work and services as a ruler and a law-maker is taught as a permanent course title so that we can instill in the young ones, the real essence of Islam.
- His administrative reforms should be practically followed in its true form to get peace and justice of his golden era.
- Articles, research papers and books need to be published reflecting the services of Hazrat Umar (RA) as a great Human Rights advocate so that our young generation can get benefit from them and then plan their future work accordingly.

- Conferences, seminars and lectures should be organized to prove that what all is going in the field of Human Rights; Islam has had it a long back when it was revealed.
- In all the Islamic research centers in Pakistan, Hazrat Umar's(RA) achievements and history must be included in a way that it can be researched from angles.
- Current provincial government though are making a day of Hazrat Umar martyrdom as a holiday but what we really need to do is to pass on and convey his message, contribution in the field of Human Rights to the whole world using the day's most effective sources like electronic and print media.

APPENDIX

(Arabic text of Agreements concluded with inhabitants of different cities)

معاهدة النعمان مع اهل ماه بهراذان:

اعطاهم الامان على انفسهم و اموالهم و ارضيهم. لا يغيرون عن ملة, و لا يحال بينهم و بين شرانعمهم. و لهم المنعة ما ادوا الجزية في كل سنة الى من وليهم: على كل حال في ماله و نفسه على قدر طاقتهم, و ما ارشدوا ابن السبيل, و اصلحوا الطرق, و قروا جنود المسلمين ممن مر بهم, فأوى اليهم يوما و ليلة, و وفوا و نصحوا, فان غشوا و بدلوا فذمتنا منهم بريئة

معاهدة حذيفة بن اليمان مع اهل ماه دينار

اعطاهم الامان على انفسهم و اموالهم و ارضيهم. لا يغيرون عن ملة, و لا يحال بينهم و بين شرانعمهم. و لهم المنعة ما ادوا الجزية في كل سنة الى من وليهم من المسلمين: على كل حال في ماله و نفسه على قدر طاقتهم, و ما ارشدوا ابن السبيل, و اصلحوا الطرق, و قروا جنود المسلمين ممن مر بهم, فأوى اليهم يوما و ليلة, و نصحوا, فان غشوا و بدلوا فذمتنا منهم بريئة

كتاب من عبد الله للفانوسفان و اهل اصفهان و حواليتها:

انكم آمنون ما اديتم الجزية بقدر طاقتكم في كل سنة, تؤدونها الى الذي يلي بلادكم عن كل حال, و دلالة المسلم, و اصلاح طريقه, و قراه يوما و ليلة, و للمسلمين نصحكم و اداء ما عليكم, و لكم الامان ما فعلتم, فاذا غيرتم شيئا او غيره مغير منكم و لم تسلموه فلا امان لكم

معاهدة مع اهل الري:

هذا ما اعطى نعيم بن المقرن

الامان على اهل الري و من كان معهم من غيرهم على الجزاء و طاقة كل حاله في كل سنة, و على ان ينصحوا و يدلوا و لا يغلوا و لا يسلبوا, و على ان يقرأوا المسلمين يوما و ليلة, و على ان يفخموا المسلمين فمن سب مسلما او استخف به نهك عقوبة و من ضربه قتل

معاهدة مع اهل قومس:

هذا ما اعطى سويد بن مقرن اهل قومس و من حشوا , من الامان على انفسهم و مللهم و اموالهم على ان يعطوا الجزية عن يد عن كل حاله بقدر طاقته , و على ان ينصحوا و لا يغشوا , و على ان يدلوا, و عليهم نزل من نزل بهم من المسلمين يوما و ليلة من اوسط طعامهم و ان يدلوا و استخفوا بعدهم فالذمة منهم برنية

معاهدة مع اهل جرجان:

هذا كتاب من سويد بن مقرن لرزيان و صول بن رزيان , و اهل دهستان و سائر اهل جرجان: ان لكم الذمة و علينا المنعة , على ان عليكم من الجزاء في كل سنة على قدر طاقتكم على كل حاله. و من استعنا به منكم فله جزاؤه في معونته عوضا من جزائه. و لهم الامان على انفسهم و اموالهم و مللهم و شرانعهم. و لا يغير شئ من ذلك هو اليهم, ما ادوا , و ارشدوا ابن السبيل, و نصحوا و قرأوا المسلمين و لم يبد منهم سل و لا غل. و من اقام فيهم فله مثل ما لهم و من خرج فهو آمن حتى يبلغ مأمنه. و على ان من سب مسلما بلغ جهده. و من ضربه حل دمه.

معاهدة مع اهل طبرستان و جيلجيان:

هذا كتاب من سويد بن مقرن:

انك آمن بامان الله عز و جل على ان تكف لصوصك و اهل حواشي ارضك , و لا تؤوى لنا بغية, و تتقى من ولى فرج ارضك بخمسمائة الف درهم من دراهم ارضك. فاذا فعلت ذلك فليس لاحد منا ان يغير عليك, و لا يتطرق ارضك و لا يدخل عليك الا باذنك. سبيلنا عليكم بالاذن آمنه , و كذلك سبيلكم. و لا تؤون لنا بغية و لا تسلون لنا الى عدو و لا تغلون. فان فعلتم فلا عهد بيننا و بينكم

معاهدة مع اهل آذربيجان:

هذا ما اعطى عتبه بن فرقد عامل عمر بن الخطاب امير المؤمنين اهل آذربيجان سهلها و جبلها و حواشيتها و سفارها و اهل مللها كلهم , الامان على انفسهم و اموالهم و مللهم و شرانعهم , على ان يؤدوا الجزية على قدر طاقتهم. ليس على صبي و لا امرأة و لا زمن ليس في يديه شئ من الدنيا. لهم ذلك و لمن سكن منهم , و عليهم قرى المسلم من جنود المسلمين يوما و ليلة , و دلالتهم. و من حشر منهم في سنة وضع عنه جزاء تلك السنة. و من اقام فله مثل ما لمن اقام من ذلك. و من خرج فله الامان حتى يلجا الى حرزه

معاهدة مع اهل دبيل (فى آرمينيا)

من حبيب بن مسلمة لنصارى اهل دبيل , و مجوسها , و يهودها , و شاهدهم و غائبهم: انى امنتكم على انفسكم و اموالكم , و كنانسكم و بيعكم , و سور مدينتكم , فانتم آمنون , و علينا الوفاء لكم بالعهد ما وفيتم , و اديتم الجزية و الخراج

معاهدة مع اهل موقان :

هذا ما اعطى بكير بن عبدالله اهل موقان من جبال القبيج : الامان على اموالهم و انفسهم و ملتهم و شرانعتهم , على الجزاء دينار عن كل حالم او قيمته , و النصح , و دلالة المسلم , و نزله يومه و ليلته. فلهم الامان ما اقرؤا و نصحوا , و علينا الوفاء , والله المستعان. فان تركوا ذلك و استبان منهم غش , فلا امان لهم الا ان يسلموا الغششة برمتهم , و الا فهم متمالنون

معاهدة مع شهر براز و اهل آرمينيا:

هذا ما اعطى سراقه بن عمرو عامل امير المؤمنين عمر بن الخطاب شهر براز , و سكان ارمينية , و الارمن من الامان : اعطاهم امانا لانفسهم و اموالهم و ملتهم , الا يضاروا , و لا ينتقصوا و على اهل ارمينية و الابواب الطراء منهم و التناء و من حولهم فدخل معهم ان ينفروا لكل غارة و ينفذوا لكل امر ناب او لم ينب رآه الوالى صلاحا على ان يوضع الجزاء عنمن اجاب الى ذلك الا الحشر و الحشر عوض من جزائهم و من استغنى عنه منهم و قعد فعلية مثل ما على اهل آذربيجان من الجزاء و الدلالة و النزل يوما كاملا فان حشروا وضع ذلك عنهم و ان تركوا اخذوا به

معاهدة خالد مع اهل دمشق:

هذا كتاب من خالد بن الوليد لاهل دمشق : انى قد امنتهم على دمانهم و اموالهم و كنانسهم (و سور مدينتهم لا يهدم. و لا يسكن شين من دورهم. لهم بذلك عهد الله و ذمة رسوله صلى الله عليه و سلم و الخلفاء و المؤمنين . لا يعرض لهم الا بخير اذا اعطوا الجزية)

معاهدة دمشق لابي عبيدة :

ان ابا عبيدة بن الجراح صالحهم بالشام و اشترط عليهم حين دخلها: على ان تترك كنانسهم و بيعهم , على ان لا يحدثوا بناء بيعة و لا كنيسة. على ان عليهم ارشاد الضال و بناء القناطر على الانهار من اموالهم , و ان يضيفوا من مر بهم من المسلمين ثلاثة ايام , و على ان لا يشتموا مسلما و لا يضربوه , و لا يرفعوا فى نادى اهل الاسلام صليباً

معاهدة مع اهل الفحل:

فلما رأى اهل الفحل ان الارض ارض الاردن قد غلب عليها المسلمون , سالوا الصلح على ان لا يقتلوهم , و ان يعفى لهم عن انفسهم , و ان يؤدوا الجزية , و من كان منهم من الروم ان يلحق بالروم و يخلى بلاد الاردن. و على ان يقيم منهم من احب المقام فيؤدى الجزية . فصالحهم المسلمون , و كتبوا لهم كتابا , و صالحوهم . و خرج منهم من كان روميا قبل الروم تلك السنة , و ثبت منهم من كان يثبت قبل ذلك البلد

كتاب صلح اهل حمص:

اشتد عليهم الحصار و خشوا السبا فارسلوا الى المسلمين فطلبوا اليهم الصلح فصالحهم المسلمون و كتبوا لهم كتابا بالامان على انفسهم و اموالهم و كنائسهم , و على ان يضيفوا المسلمين يوما و ليلة , و على ان لا يعمرؤا بيعهم و صالحوا على ارض حمص كلها على ان عليهم مائة الف دينار و سبعين الف دينار. فقبل ذلك منهم المسلمون

معاهدة مع اهل بعثك:

لما فرغ ابو عبيدة من امر مدينة دمشق سار الى حمص فمر ببعثك فطلب اهلها الامان و الصلح فصالحهم: هذا كتاب امان لفلان بن فلان و اهل بعثك رومها و فرسها و عربها على اموالهم و انفسهم و دورهم داخل المدينة و خارجها و على ارحانهم. و من اسلم منهم فله ما لنا و عليه ما علينا . و لتجارهم ان يسافروا الى حيث ارادوا من البلاد التي صالحنا عليها . و على من اقام منهم الجزية و الخراج

معاهدة مع اهل بيت المقدس:

صالح عمر اهل ايلياء (يعنى بيت المقدس) – بالجابية , و كتب لهم فيها الصلح هذا ما اعطى عبدالله عمر امير المؤمنين اهل ايلياء من الامان : اعطاهم امانا لانفسهم و اموالهم , و لكنائسهم و صليانهم , و سقيمها و برينها و سائر ملتها. انه لا تسكن كنائسهم ولا تهدم و لا ينتقص منها و لا حيزها , و لا من صليبهم ولا من شئ من اموالهم , و لا يكرهون على دينهم ولا يضار احد منهم , و لا يسكن بايلياء معهم احد من اليهود . و على اهل ايلياء ان يعطوا الجزية كما يعطى اهل المدائن . و عليهم ان يخرجوا منها الروم واللصوت. فمن خرج منهم فانه آمن على نفسه و ماله حتى يبلغ مأمئهم . و من اقام منهم فهو آمن . و عليه مثل ما على اهل ايلياء من الجزية . و من احب من اهل ايلياء ان يسير بنفسه و ماله مع الروم , و يخلى بيعهم و صليبهم , فانهم آمنون على انفسهم و على بيعهم , و صليبهم , حتى يبلغوا مأمئهم . و من كان بها من اهل الارض قبل مقتل فلان , فمن شاء منهم قعد , و عليه مثل ما على اهل ايلياء من الجزية , و من شاء سار مع الروم , و من شاء رجع الى اهله . فانه لا يؤخذ منهم شئ حتى يحصد حصادهم . و على ما فى هذا الكتاب عهد الله و ذمة رسوله , و ذمة الخلفاء و ذمة المؤمنين , اذا اعطوا اللذى عليهم من الجزية.

معاهدة مع اهل لد:

هذا ما اعطى عبدالله عمر امير المؤمنين اهل لد و من دخل معهم من اهل فلسطين اجمعين. اعطاهم امانا لانفسهم و اموالهم و لكنائسهم و صليبهم و سقيمهم و برينهم و سائر ملتهم . انه لا تسكن كنائسهم و لا

تهدم و لا ينتقص منها و لا يضار احد منهم. و على اهل لد و امن دخل معهم من اهل فلسطين , ان يعطوا الجزية كما يعطى اهل المدائن الشام

معاهدة مع اهل الرقة:

هذا ما اعطى عياض بن غنم اهل الرقة يوم دخلها : امانا لانفسهم و اموالهم . و كنا نسهم لا تخرب و لا تسكن , اذا اعطوا الجزية التى عليهم و لم يحدثوا مغيلة . و على ان لا يحدثوا كنيسة و لا بيعة , و لا يظهروا ناقوسا و لا باعوثا و لا صليباً. شهد الله و كفى بالله شهيداً.

معاهدة مع اسقف الرها:

هذا كتاب من عياض بن غنم لاسقف الرها:

انكم ان فتحتم لى باب المدينة على ان تؤدوا الى عن كل رجل دينارا و مدى قمح , فانتم آمنون على انفسكم و اموالكم و من تبعكم. و عليكم ارشاد الضال , و اصلاح الجسور و الطرق , و نصيحة المسلمين. شهد الله و كفى بالله شهيداً.

معاهدة مع اهل الرها:

هذا كتاب من عياض بن غنم و من معه من المسلمين لاهل الرها: انى امنتهم على دمانهم و اموالهم , و ذراريتهم و نسانهم , و مدينتهم , و طواحينهم , اذا ادوا الحق الذى عليهم . و لنا عليهم ان يصلحوا جسورنا , و يهدوا ضالنا. شهد الله و ملائكته و المسلمون

معاهدة مع اهل مصر :

هذا ما اعطى عمرو بن العاص اهل مصر من الامان , على انفسهم و ملتهم و كنا نسهم و صلبهم و برهم و بحرهم . لا يدخل عليهم شئ من ذلك , و لا ينتقص , و لا يساكنهم النوب. و على اهل مصر ان يعطوا الجزية اذا اجتمعوا على هذا الصلح . و من دخل فى صلحهم من الروم و النوب فله مثل ما لهم. و عليه مثل ما عليهم . و من ابى و اختار الذهاب فهو آمن , حتى يبلغ مأمنه , او يخرج من سلطاننا . على ما فى هذا الكتاب عهد الله و ذمته , و ذمة رسوله , و ذمة الخليفة امير المؤمنين , و ذم المؤمنين

معاهدة مع اهل دير طيايا (او: طايا)

هذا كتاب من ابى عبيدة لاهل دير طيايا : انى امنتكم على دمانكم , و اموالكم , و كنا نسكم , ان تسكن او تخرب , ما لم تحدثوا , او تأووا محدثاً مغيلة. فاذا اتم احدتكم او اويتم محدثاً مغيلة , فقد برنت منكم الذمة . و ان عليكم اقراء الضيف ثلاثة ايام . و ان ذمتنا برينة من معرفة الجيش.

معاهدة مع اهل صامغان و دراباذ

صالح اهل الصامغان و دراباذ عتبة على الجزية و الخراج على أن لا يقتلوا و لا يسبوا و لا يمنعوا طريقاً يسلكونه

BIBLIOGRAPHY

- Abdul-Malik-bin Hisham, . *al-Syrah al-Nabawiyah (The Prophet's Biography)*. Batanta: Darus-sahaba lit-turaas, 1995) .
- Abu Jafar Muhammad bin Jarir Tabri. *Tareekh e Tabri Tareekh ul Ummam wal Maluk, (History of Nations and Kings)*.. Vols. vol 2, . (Lebanon,: Dar-ul-Kutab-il-Ilmia,.
- Abu-Zahra, Muhammad. *Al-'Ilaqat al-Dawliyah fill-Islam (International Relations in Islam)*. Madina Nasar, Darul Fikar Al-Arabi, 1995.
- Ahmad, Khwaja Jamil. *Hundred Great Muslims*. U.S.A: Library of Islam, 1987.
- Alavi, Dr. Khalid. *Muhammad: the prophet of Islam* . Islamabad: Dawah Academy , 2002.
- al-Baihaqiy, Abu-Bakar Ahmad bin Hussein. *Dala'el al-Nubuawah, Chapter of Najran Delegation*, . Vol. vol 5. (Lebanon: Dar-ul-Kutab-ul-Ilmia,, 1985/1405).
- al-Blazari, Imam Abi-Abbas Ahmad bin Yahya bin Jabir. *Fathul Buldan*. Lebanon: Muasisatul Muaa'f, 1957/1407.
- Ali, Abu Bakr Ahmed Bin Husain Bin. *Al Sunnan Al Qubrah*. Makkah: Maktaba Dar Al Baz, 1994,1414AH.
- al-Jazari, Ibn-ul-Aseer. *Al-Kamil fitareekh*. Lebanon: Darul-Kutab Al-Ilmia, 1987.
- Allama Shibli Nomani, Syed Salman Nadvi. *Seeratun Nabi*. Vols. vol,1. Lahore: Shama Book agency, 1339AH.
- Ashes, Imam Abu Daud Salman bin. *As-Sunnan*. Vol. vol.3. Beruit: darul-Fikar, 1994.
- Basari, Muhammad bin Abdullah Azudi. *Fatuhus-Sham*. Calcutta, 1853.
- . *Fatuhus-Sham*. Calcutta, 1853.
- Bentham, Jeremy. *An Introduction to the Principles of Morals and Legislation*. Canada: Batoche Books Kitchener, 2000.
- Berting, Jan. *Europe: a Heritage, a challenge, a promise*. Netherlands: Eburon Academic Publishers, 2006.
- Bhargava, Gopal. *Meaning & Sources of Human Rights*, . India: Gyan Books, 2003.
- Blazari, Ahmad Bin Yahya. *Fatoohul- Buldan*. Lebanon : Muasisatul Maaf, 1987.
- Blazari, Ahmed Bin Yahya Al. *Fathul Al Buldan* . Lebanon: Darul Al Kutab Ul Ilmia.

- Brems, Eva. *Human Rights. Universality and Diversity*. (Netherland: Martinus Nijhoff Publishers, 2001.
- Bukhary, Imam Abu Abdullah Muhammad bin Ismail. *As-Sahih*. Lebanon,: Darul-Qalam, 1981.
- Coicaud, Jean-Marc. *The globalization of human rights*. UN: United Nations University Press, 2003.
- Donnelly, Jack. *Universal Human Rights in Theory and Practice*. Newyork,: Cornell University Press,, 1989.
- Dr.Tahir-ul-qadri. *Islam mai Insani Haquq*. Lahore: Minhaj publications, 2000.
- Elide, Asbjorn. *Dynamics of Human Rights and the Role of Education" in frontiers of Human Rights Education*. Edited by Elide and Marek Thee. Newyork: Columbia Union Press, 1983.
- Fattah, Anisa Abd el. *An understanding of the concept of Treaty in Al-Islam*.
<http://www.mediamonitors.net/anisaabdelfattah55.html> (accessed 10 11, 2011).
- G, Muhammad Rawaas Qalla. *Fiqhu-Hazrat Uma*. Idara Maa'rif-e-Islam, 1990.
- Haikal, Muhammad Husain. *Umar Farooq-e-Azam*. Translated by Habib Ashar. Jehlum: Book corner show room.
- Hamidullah, Dr. Muhammad. *Muhammad Rasulluah*. Translated by Khalid Pervaiz. Lahore: Beacon Books, 2005.
- Hass, Michal. *International Human Rights, a comprehensive introduction*. London: Routledge,, 2008.
- Hassan, Abu'l. *Katbeen-e-Wahi*. Karachi: Zam Zam publications, 2003..
- Hodgson, Douglas. *Individual Duty With in a Human Rights Discourse* . England: Ashgate Publishing, Ltd, 2003.
- Hunt, Lynn. *Inventing Human Rights: History*. London: Norton Paperback , 2008.
- Ian Brown lie, Goodwin Gill. *Basic Documents on Human Rights*. (Oxford university press, 1971.
- Ibrahim, Abu Bakr Abdullah Bin Muhammad Bin. *Musannaf Abi Shaibah*. Riyad: Maktaba Ar Rushd, 1409AH.
- Ibrahim, Abu Yousaf Yaqoob Bin. *Kitabul Kharaj j li Abe Yousaf*. Beruit: (Al-Maktabatul Azhria Ilituras.
- Ibrahim, Yaqoob Bin. *Kitab Ul Kharaj*. Beirut: Dar Al Marfah.

- J, E. S. Venkataramiah, ed. *Human Rights in the Changing World*. New Delhi: International Law Association, 1988.
- Jennings, Sir Robert. *Oppenheim's International Law*. Vol. vol.1. Singapore: Pearson Education Ltd., 1996.
- John Locke – biography*. : <http://www.egs.edu/library/john-locke/biography> (accessed 09 02, 2012).
- Khursheed Ahmad Farooq. *Hazrat Umar kai Sarkari khatoot*. Lahore: Nashran Quran Ltd.
- Lauren, Paul Gordon. *The Evolution of International Human Rights*. USA: university of Pennsylvania press, 2011.
- Maqdassi, Muttahir bin Tahir. *Kitabul-bad-I-watareekh*. Maktaba As-Asaqafatul denia.
- Mehmood, Khalid. *Das Fuqaha 'a-e-Sahaba*. Lahore: Baitul-ulum.
- Milka Levy-Rubin. *Non-Muslims in the Early Islamic Empire from surrender to co-existence*. U.S: Cambridge University Press , 2011.
- Mill, John Stuart. *"Last Stage of Education and First of Self-Education, "Autobiography, 1873* . New York: P.F. Collier & Sons, 1909.
- Muhammad Hammed Ullah. *Majmuaatul Wasaiqus-Siyasia lil uhd-il-Nabvi wal-Khilafatil-Rashida*. Beirut: Darun-Nafa'is , 1987 .
- Nadvi, Shah Moinuddin. *The Ideal Caliphs of Islam*. Translated by Shah Muhammad Akram. Lahore: Idara-e-Islamiat , 1996.
- Nafeh, Abu Bakr Bin Hamam Bin. *Musannaf Abdur Razzaq*. Vol. vol:10. Lebanon: Al Maktaba Al Islami, 1403AH.
- . *Musannaf Abd ur Razzaq* . Lebanon: : Al Maktabul Islami, 1403AH.
- Neesaburi, Muhammad Bin Al Hakim. *Al-Mustadrik Alla Sahehain, chapter Abdullah bin Umar*. Vol. vol 3. Lebanon,: Darul-Kutab Al Ilmia, 2002.
- Nomani, Allama Shibli. *Al-Farooq*. Lahore: Maktaba Rahmania, 1898.
- Orend, Brian. *Human Rights: concepts and context*. Canada: Broadview press, 2002.
- Qadari, Dr. Tahir ul. *Al Qaul-us- Swab Fi Manaqib Umar*. Lahore: Minhajul Quran Printers, 2005.
- Qurtabi, Imam Abu Abdullah. *Tafseer ul Qurtabi Al-Jamai-li-Ahkaamil Quran*. Vol. vol.8. riyad: dar aalimil kutab, 2003.

The United Nations and Human Rights 18th Report of the Commission to Study the Organization of Peace. New York: Oceana Publications Inc, 1968.

The Universal Declaration of Human Rights . <http://www.un.org/en/documents/udhr/> (accessed 10 05, 2012).

Tilmisani, Umar. *Umar bin Al-Kahtab*. Translated by Hafiz Muhammad Idrees. Lahore: Al-Badarpublishations, 2008.

Traer, Robert. *Faith in Human Rights: Support in Religious Traditions for a Global Struggle*. America: Georgetown University Press, 1991.

Ullah, Shah Wali. *Fiqhu-Umar*. Translated by Abu Yahya Imam. Lahore: Ilm o Irfan Publishers, 2005.

Umar, Muhammad Bin Amin Bin. *Rad ul Muhtaar aladur-il-Mukhtar*. Vol. vol.3. Quetta: Maktaba Majdia, 1399AH.

Usmani, Muhammad Sahfi. *Maa'rif-ul-Quran*. Karachi: Maktaba Maa'rif-ul-Quran, 2008.

Weissbrodl, David. *Human Rights, an historical perspective*. Edited by ed.Peter Davis. London,: Rout ledge.

Zamosky, Lisa. *Siddhartha Gautama: The Buddha*. Teacher Created Materials, 2007.