

“Prevention of Human Blood in Islam”

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Abstract

The study discusses an issue its impacts renew in the modern age in front of existence of attitudes from some Islam claimers, or from the gate of Muslims’ protection in their claim. The study pin-pointed that texts of the Holy Quran and Sunnah assert that man is blood-prevented in origin being merely a human being. This verdict is commonly generalized for every human, either he was an individual or a part of a public community. And either he was in a land ruled by Muslims or by non-Muslims. But if there was a state of war this will be between two states at war, or two parties having a legal personality, at that moment it is ruled by what is called in Sharia verdicts of permanent or temporary reconciliation, truce, or convention. These all do not allow or declare killing being never had a convention, a reconciliation or truce, in addition to those cases with private law.

Keywords: Prevention of Blood, Life Right, Human Rights, Blood Sanctity, Keeping Innocents.

Introduction

Praise be to Allah Lord of the world, and Peace be upon the master of messengers, Prophet Mohammed, Kinsman, clan and companions all, and then issues of human rights and sanctity of human blood, keeping money

and property, assertion the right in life and obligation of protecting the innocents and civilians took a large space in jurisprudent, legal and political research, they truly deserve this research and that concern; for any aggression on any human without a right, or legal and correct legislation it is an aggression against humanity as a whole, the Holy Quran has asserted this meaning in the Al-Mighty's saying: *"on that account we ordained for the children of Israel that if any one slew a person- unless it be for murder or for spreading Mischief in the land- it would be as if he slew the whole people, and if any one saved a life it would be as if he saved the life of the whole people (Maida Sura 35) and his saying* "Take not life, which God Hath made sacred, except by way of justice and law.

Thus both, he commend you that. Ye may learn wisdom (Ana'mSura 151). But it is a pity to find discordant sounds, that neglected and degraded the human blood and human rights and exceeded the proper bounds in shedding blood with untrue claims in the name of Islam, or in the name of Jihad for the sake of Allah, as seen in those who call themselves "The state of Islam in Iraq and Sham", claiming that they lean on some texts, such as

The Al-Mighty's saying: *(and wage war on all the idolaters as they are waging war on all of you)*. "(Al-Taubah Repentance 36)" and Almighty's saying: *(And slay them where ever you find them)* (Al-Baqarah "The cow" 1991) and the prophet's hadith (I was ordained to fight the people).

And may be leaned on some jurisprudent sayings indicated that prevention of blood will be in convention, truce, reconciliation or paying the tribute; the thing that called for discussing this issue a pure scientific discussion recollects the texts with accuracy and understands the sayings of jurisprudents, and discusses those issues with accuracy, correct and scientific methodology.

Problem of study:

From this point the problem of study is: answering a dangerous question raised by contemporary occurrences: they are existence of who degrades the human blood with the claim that he is disbeliever or Non-Muslim, or he is antagonist of Islam and Muslims, then increased the depth of problematic to ascribe that to Islam and claim leaning that to evidences from the Holy Qur'an and Sunnah.

Questions of study:

1. Did any of Scholars allow killing a human being, because he is a Non-Muslim or for he is merely a disbeliever?
2. Is there an evidence from the Holy Qur'an or the Sunnah exists and leans the claim of those who allow absolutely the blood of the Non-Muslim.
3. What is the cause of blood prevention in Islam? Is it for being merely a human being, or for another reason?

Objectives of study:

1. To attain the truth in understanding the fact of Qur'anic text in the subject of the human blood prevention.
2. To attain the truth of the Hadith texts connected with this subject.
3. To attain the truth from views of jurisprudents.
4. Pin-pointing the preponderant view with its evidences in this dangerous human issue.

Previous studies: Books of interpretation, books of Hadith commentary, and sources of Jurisprudence about verdicts of this issue separating in topics of tribute, permanent reconciliation, temporary reconciliation or truce and verdicts of non-Muslims under Moslem rule, and so at providing the verses and Hadiths connected with this subject. Both researchers had been effected

from them at their places, but he did not attain a contemporary refereed scientific study, that makes this study unique in studying analysis.

Methodology of study:

Both researchers followed the methodology of induction for the verses and the Hadith texts connected with the subject, and views of jurists, then depended the method of analysis, combination and deduction of the correct scientific results.

Structure of study:

To be aware of this subject, the study comes in six demands and a conclusion:

First demand: Muslim blood prevention.

Second demand: The prevention of the warrior and non-Muslim by following Islam.

Third demand: Prevention of blood by convention, and temporary truce.

Fourth demand: Prevention of blood by permanent reconciliation.

Fifth demand: Discussions to whom confined the prevention of blood with Islam or paying the tribute.

Sixth demand: Preponderant view in blood prevention.

Then the conclusion and in it the results and recommendations.

They first demand: Muslim blood prevention:

Scholars of Islam agreed that the Muslim is commencedly blood prevented; except to commit or to be a cause of stealing the prevention, evidences of that are abundant:

Common speech of the Al-mighty: *(But if they repent and establish worship and pay the poor-due, then are they your brother in religion. We detail our revelations for a people who have knowledge)* (Al-Taubah, 11). And his

saying: And *never is it for a believer to kill a believer except by mistake. And whoever kills a believer by mistake- then the freeing of a believing slave and a compensation payment presented to the deceased's family [is required] unless they give [up their right as] clarity. But if the deceased was from a people at war with you and he was a believer- then [only] the freeing of a believing slave; and if he was from a people with whom you have a treaty- then a compensation payment presented to his family and the freeing of a believing slave. And whoever does not find [one or cannot afford to buy one]- then [instead], a fast for two months consecutively, [seeking] acceptance of repentance from Allah. And Allah is ever Knowing and Wise. (93) But whoever kills a believer internationally- his recompense is Hell, wherein he will abide eternally, and Allah has become angry with him and has cursed him and has prepared for him a great punishment. (Al-Nisa "women" 92-93).*

The hadith evidences are abundant, such as:

1. Abdallah Bin maso'ud's narration: "it is illegal to allow the blood of any Muslim, certifies that there is no God by Allah and I am the messenger of the Al-mighty God except in one of the three: soul by soul an adulterer deflowered a woman, and the apostate from the religion and departing the group"⁽¹⁾.

Ibn Hajar said: (Albaidawi said: in the hadith is an evidence to oneself claimed that nobody believed in Islam is killed for anything except for that

⁽¹⁾ Published by Al-Bukari, Mohd Bin Ismael (D. 256. H.) Al-Jami Almusnad Al-SahihAlmukhtasar of the prophets affairs, Sunnah and days....taugAlnajah, 1422 h. blood many book in the Almighty's saying (soul by soul) Al-Maidah 145 (no 6878), and Muslim, AbulhasanAlgashinAlnisaboori (D. 261H), Al-MusnadAlsahih Al-mukhtasar.

numerated like abandoning the prayer, and he did not oppose that, Al-Tiyabi followed him)⁽²⁾.

2. Narrated by Abdullah Bin Masoud, he said: the messenger of god said: “the first judged between people in the day of Resurrection is in bloods”⁽³⁾.

And narrated by Ibn Omar. May God consent them both, he said: the messenger of God said: “The believer is still has an ample time from his religion, unless he catches an illegal blood”⁽⁴⁾.

3. And narrated by Al-Bara’ Bin A’zeb that the Messenger of God peace be upon him – Said: “the removal of the world is easier on God than killing a believer without right”⁽⁵⁾.

4. And narrated by Ibn Omar indicative “removal of the world is easier on Allah than killing a Muslim man”⁽⁶⁾.

5. Narrated by Ibn A’bbas that the prophet (peace be upon him) said “The most hated people to Allah are three: A disbeliever in the sanctuary, seeking in Islam the method of paganism, and demanding the blood of oneself without right to shed his blood”⁽⁷⁾.

6. Narrated by Ibn Abbas from the prophet he said: “The slayed man comes with the slayer in the day of resurrection his forelock and head in his hand (the slayed man) and his jugular veins flow blood, he says: my God this man killed me, till he reaches the throne”. He said they mentioned repentance (Al-Taubah) to Ibn A’bbas, he recited this verse: (*Whoso slayeth a believer*

⁽²⁾ Ibn Hajar, Ahmad Bin Ali (D. 852) Fath Al-Bari Interpretation of Sahih Al-Bukhari, see prof. Dr. Wahbeh Al-Zuheili (D. 1436) Islamic Jurisprudence its evidences, 2017.

⁽³⁾ Published by Al-Bukhari, Al-SahihAljami’ Al-Rigag Book, Chapter of Punishment in Domes Day No .(6533) and Book of Blood money no. (6854) and Muslim Al-Samad Al-Sahih.

⁽⁴⁾ Published by Al-Bukhari, Al-Jami’ Al-Sahih, Book of Blood money No. (6862).

⁽⁵⁾ A good Hadith for the other, published by Ibn Majah, Mohammad Bin Yazeed (D. 273H.) al-Sunan, edited by Shueib al-Arnout and at. Al., Dar Al-Risalah Al a’lmeyah, Beirut, 2009, Chapter of Blood money of chapter of coarsening the unjust killing of a Muslim, No. (2019).

⁽⁶⁾ Correct Hadith, Published by Al-Termithi, Mohd Bin Lisa (D. 279-H). Aljamp Al-Kabeer.

⁽⁷⁾ Published by Al-Bukhari, Correct Al-Jami, book of blood money.

of set purpose) (Al-Nisa “women” 93). He said: this verse was not abrogated and was not replaced, and whenever he repents⁽⁸⁾.

7. Narrated by Abu Horairah, he said: the Messenger of God: “He who lends a hand for killing a believer, even if was with a part of a word, he would meet God written in between his eyes: despondent from God’s Mercy⁽⁹⁾.”

If this thing was (prevention of Muslim Blood) an object of unanimity, the texts had followed with it in succession, we do not want to wade in search of it, but where research occurs is the subject of when the prevention of the Muslim blood is stolen, and this needs independent researches probably will come.

But research in even if he was not a Muslim; is his blood prevented for himself or not? And when his blood money are prevented?

Scholars opinions are multitude in that, they are pin-pointed in the following:

Second demand: prevention of the warrior and the non-Muslim by believing in Islam.

Some of them views it an obligatory condition in right of whose tribute is not accepted and had no convention on of security.

This is from the problematic issues that need discussions. We illustrate that in the following:

Scholars’ stand:

We find it frank in scholars’ book, their saying: whenever the enemy accepts belief in Islam and announced that, it is obligatory to give up fighting and terminate war, for killing the disbeliever is no aimed even if guidance was

⁽⁸⁾ Published by Al-Termithi, Al-Sunan, Chapters of Qur’an interpretation.

⁽⁹⁾ Published by Ibn Majah, Al-Sunna, Chapters of Blood Money.

possible by performing the evidence without fighting (Jihad) it would be better than Jihad⁽¹⁰⁾.

He said in Al-Hawi “If the warrior believed in Islam he would have prevented his blood, secured all his money, and become an Islam to all his small children males and females: Islam prevents them from captivity and enslavement⁽¹¹⁾.

They were guided by Hadith: “If you faced your enemy from polytheists... Call them to three traits- if they did not answer you accept them and give up then.... then call them to Islam if they answered you accept them and give up⁽¹²⁾. It was worded to call for Islam.

They sought information by what Abu Horairah narrated, he said: when the messenger of God (peace be upon him) died and Abu Baker was elected Caliph after him, and some Arabs disbelieved, Omar Said to Abu Baker: how do you fight people? And the messenger of God had said: “I was ordered to fight people till they say: there is no God would prevent his money and soul from me, except Allah the Al-Mighty, he who says it he by his right and consideration on Allah⁽¹³⁾.

They said this Hadith indicates that articulation with both certifications prevents the enemy from killing they also sought information by the Hadith:

⁽¹⁰⁾ See: Alkhateebb Al-Sharbeeni, Mohd Bin Ahmad (D. 977 H.) enricher on in need to recognize meanings of curriculum wordings, Dar Al-Kotob Al-I’lmehyeh, (9/6/1994).

⁽¹¹⁾ Al-RawbaniAbulMahasen Abdel Wahid Bin Ismael (D.502.H) belief sea (in branches of Al-Shafi’ belief) verified by TareqFathi Al-Sayyed Scientific Books house (Dar Al-Kotob Al-I’meyeh) 2009, 13/277.

⁽¹²⁾ Published by Moslem Al-Musnad Al-Sahih, Book of Jihad and Biographies, Chapter of Imam and Emirs of Expedition No. (173/3) commented by Al-Nawawi, Yahya Bin Sharaf (D.676.H) Curriculum Commentary of Sahih Moslem Bin Al-Hajjaj, Dar Ihya Al-Turath Al-Arabi, Beirut, 1392H. (12/37+on).

⁽¹³⁾ Al-Bukhari Al-Jami Al-Sahih book of prevention by the holy book (Qura’n) and the Sunnah, chapter of following the Sunan of the Prophet No.(7284) and Moslem, Al-Musnad Al-Sahih No. (20/32).

The messenger of God if sent an army or a bridge said to them: if you did see a mosque or heard the caller to prayer, do not kill any one⁽¹⁴⁾.

Narrated by Ibn Omar “God consented them both he said: Prophet sent Khaled Bin Al-Waleed to BaniJathimah they did not properly say: we believed in Islam they said we apostatized we apostatized Khaled started killing and capturing and Pushed to each man of us his captive and ordered each man to kill his captive, I said: I swear in God not to kill my captive and no one of my companions did that, we mentioned that to the prophet he said: I absolve to you God from what Khaled Bin Al-Waleed had done, twice⁽¹⁵⁾.

And so the jurisprudents determined that the enemy’s belief in Islam prevents blood and money and enemy’s country by Islam becomes Islam country, applies on them rule of Islam, and its laws and legislation are applied⁽¹⁶⁾.

But what is the condition of this Islam? And who has the right to enter it? here diversified that opinion at scholars:

Three opinions:

First opinion: To announce by both certifications and commitment to prayer and zakat.

Their evidences:

⁽¹⁴⁾ Published Ibn Hanbal, Ahmad Bin Mohamad (D. 241H) Musnad Al-Imam Ahmad Bin Hanbal, edlied by Shuaib Al-Arna’aout et, al. Al-Risalah Society (2001, 24/488) No. (15714) and Al-Sajsatani, Suleiman Bin Al-Ashath (D. 275H), Sunan Abdi Daoud, edited by Shuaib Al-Arna’out. Et, al, Dar Al-Risalah Al-Al’ameyah (2009) book of Jihad chapter of calling of disbelievers number (2635).

⁽¹⁵⁾ Published by Al-Bukhari, Al-Jami, Al-Sahih book of verdicts chapter if the ruler judges with injustice or difference with scholars, it is rebuttal no. (7189) and Al-Nasa’i Al-Sunan Al-Sghra, Book of Judges with good manners chapter of rebuttal Against the ruler if injsutly Judged No. (5405).

⁽¹⁶⁾ See: Al-Sharbini, ughni Al-Muhtag to recognize meanings of wordings of the curriculum, (6/9) and Al-Shawkani Al-Yamani Mohammad Bin Ali Bin Mohammad (D.1250, H) Al-Darari Al-MadiyahSharh Al-Durar Al-Bahiyah, Scientific Books house, 1407H, (2/456) and Sayed Sabeq (D. 1420H) fiqh Al-Sunnah Dar Al-Kitab Al-Arabi Beirut ed 3, 1397 H (2/684)+ Al-Zuhail Al-Fiqh Al-IslamiWaldellatuhy (7/649).

1. They sought information from the Al-Mighty's saying: [*When the Sacred Months have passed, kill the polytheists wherever you find them. And capture them, and besiege them, and lie in wait for them at every ambush. But if they repent, and perform the prayers, and pay the alms, then let them go their way. God is Most Forgiving, Most Merciful Al-Taubah, 5 (repentance)*].
2. They sought information by the Hadith published by Al-Bukhari and Moslem, from Ibn Omar, that the messenger of god (peace be upon him) said: I was commanded to fight people to certify that there is no God but Allah, and that Mohammad is the messenger of Allah, and establish prayer and perform Zakat, if they did that they prevented their blood and money from me, except for the right of Islam and their consideration is on Allah⁽¹⁷⁾.
3. They also sought information from what had been in discussions between Abi baker and Omar (may god consented them both) in fighting apostates and Zakat preventers, for the following wording came:

Narrated by Abi Horairah he said: when the messenger of God (peace be upon him) and came Abu baker (may God consented him), and some Arabs disbelieved, Omar said: how do you fight people? And the messenger of God had said: I was commanded to fight people till they say: there is no god except Allah, he who said it he would have prevented his soul and money from me except for his right and his consideration is on Allah.

Abu Baker said: I swear in Allah to fight who differentiated between prayer and Zakat; the Zakat is the right of money, I swear by Allah if they prevented me a young she-goat they donated to the messenger of God, I

⁽¹⁷⁾ Al-Bukhari Al-Jami Al-Sahih book of Zakat.

would have fought them for preventing it, Omar said: I swear by Allah this nothing, but the God had delighted Abi Baker, so I knew that it is the right⁽¹⁸⁾.

Al-Tabari said: in it [mentioned Hadiths] indication to that who believed in Islam and certified with monotheism and prophethood and did not do obedience's, their verdict is to be fought till they subdue to that⁽¹⁹⁾.

Ibn Hajar said: his saying till they certify was made the purpose of fighting the existence of what mentioned in accordance with who certified established and donated, his blood was prevented even if he denied the rest of verdicts, the answer is that certification of the message includes Credence of what he provided through the wording of the Hadith is his saying, except for the right of Islam covers all that if said: he was not satisfied with it and worded on prayer, Zakat and the answer for their Greatness and concern with them both, because they are both the mother of the physical and financial adorations his saying and establish the prayer that means they go on doing it in accordance with its conditions⁽²⁰⁾.

Appearance of speech is that it does not accept from a warrior and disbeliever, except by these three.

Ibn Hajar asserted demands with both certifications, prayer and Zakat by his saying: and Abu Baker did not deduce in fighting the preventers of Zakat by mere measure, but taken too from his saying (peace be upon him) in the Hadith narrated except with the right of Islam, Abu Baker said and Zakat is the right of Islam⁽²¹⁾.

(18) Al-Bukhari Al-Jami Al-Sahih book of chapter of the obligation of the Zakat No. (1399, 1400, 7284). And Moslem, Al-Musnad Al-Sahih book of belief, chapter of command to fight the people till they say: there is no God except Allah and Mohammad is the messenger of God No. (20/32).

(19) Ibn Hajar Fath Al-Bari, (6/112).

(20) Ibid, (1/76).

(21) Ibid.

And Ibn Hajar said: the secret in that; that prayer and zakat if obliged on the entrusted, they do not drop originally different to fasting it May drop by ransom and pilgrimage, the other may stand instead of him⁽²²⁾.

And said: and hadith Ibn Omar too I was commanded to fight the people till they certify that there is no god except Allah and establish prayer and donate zakat and else of hadiths he said and wisdom of that; the five pillars are dogmatic and it is certification and physical it is prayer and financial it is zakat was confined to call for Islam to branch the last two pillars on it. Fasting is purely physical and pilgrimage is physical and financial too, the word Islam is the origin and it is burdensome on disbelievers and prayers are burdensome for repetition and zakat burdensome for the nature of human for love of money, so if oneself subdued to these three else was easier to him attributed to him and God is more aware⁽²³⁾.

Second opinion: Is that Islam except from the disbeliever and the warrior to confirm with both certification and prayer and they sought information:

Narrated by Anas Bin Malek he said; the messenger of God: I was commanded to fight people till they certify that there is no God except Allah if they said it and prayed our prayer, and directed to our Kiblah, slayed our sacrifice, blood and money had been illegal to us except by their right and consideration on Allah⁽²⁴⁾.

Then Al-Bukhari said: Ibn Abu Mariam said: Ibn Yahya Ayyoub told us, Hamid conversed us, Anas conversed us about the Prophet. Ali Bin Abdullah said to us, Khalid Ibn Al-Harith said: Oh! Abu Hamza, what does

⁽²²⁾ Ibid (3/361).

⁽²³⁾ Ibid.

⁽²⁴⁾ Published by Al-Bukhari Al-Jami Al-Sahih book of prayer, chapter the merit of directing to Kiblah No. (392).

illegalize the blood and money of the adorer? He said: “He who certified that there is no God except Allah, directed to our kiblah, prayed our prayers, and ate our sacrifice, he is a Muslim, he has what the Muslim has, and is obliged what the Moslem is obliged”⁽²⁵⁾.

Appearance of these texts is satisfied with both certifications and the prayer, it obliged to constitute another opinion, or agree between him and what preceded.

Ibn Hajar said: The Hadith of Abu Horairah said: “I was commanded to fight people till they say there is no God except Allah, but Hadith of Ibn Omar it is more important to pray and give zakat and Hadiths were provided by that, some is additional to another for Abi Horairah’s Hadith confining to saying there is no God except Allah and that Muhammad is the Messenger of God and in the Hadith of Ibn Omar, Hadith what I have mentioned and Anas’s Hadith, the past in chapters of Kiblah if prayed and directed to kiblah and ate our sacrifice Al-Tabari and else said: but the first said it in case of fighting people of the idols who do not believe in monotheism, but or the second said it the case of fighting the people of the Holy Book who recognize monotheism and deny his prophethood in general or in particular. But the third, in it the indication to who believed in Islam and certified in monotheism and prophethood and didn’t perform obediences, their verdict is to be fought till they subdue to that”⁽²⁶⁾.

Talk was provided in that [to be satisfied with both certifications], but I did not find any of the commentators who confined on it.

Third opinion: that prevents who certified with both certifications.

⁽²⁵⁾ Ibid No. (392).

⁽²⁶⁾ Ibn Hajar, Fath Al-Bari (6/112).

For the generalization of the Al-Mighty's saying: *God forgives not (The sin of) going another Gods with Him; but He forgives whom He pleased other sins than this: one who joins other gods with Allah, Hath strayed far, far away (from the right)* [Women: 116].

And sought with Abi Horairah Hadith's, He said: When the Messenger of God died, Abu Baker was chosen as successor after him, and some Arabs disbelieved. Omar said to Abu Baker: How do you fight the people? The Messenger of God said: "I have commanded that I fight people until they say: There is no God except Allah. Whoever said that: There is no Allah he would have prevented his money and soul from me, except by his right and consideration on Allah⁽²⁷⁾.

And of what agrees with what satisfies any responsible evidence on Islam in what Ibn Hajar said in his commentary of the Hadith (I was commanded to fight people) and in it prevented killing who said there is no God except Allah, even if did not add on it, and it is so, but Ibn Hajar inquires.

But does he become Muslim purely by saying that. The preponderant but it is obliged to give up killing him till he is tested...if certified the message and was committed to verdicts of Islam he was determined as Muslim.. to that was the indication by his saying: except by the right of Islam⁽²⁸⁾.

And said in Islamic jurisprudence this hadith indicates (I was commanded to fight people) but utterance with both certifications prevent the enemy from killing and by that War terminates, the Hadith is pointing the Almighty's saying: *(And when the sacred months have passed, then kill the polytheists wherever you find them and capture them and besiege them and sit in wait*

⁽²⁷⁾ Published by Al-Bukhari Al-Jami Al-Sahih Book of resort with the Quran and Sunnah chapter of following of the prophet No. (7284), and Muslim Al-Musnad Al-Sahih book of belief, chapter of the command of fighting people till they say there no God except Allah Muhammad is the messenger of God no: (20/32).

⁽²⁸⁾ Ibn HajarFath Al-Bari (12/279).

for them at every place of ambush. But if they should repent, establish prayer, and give zakat, let them [go] on their way. Indeed, Allah is Forgiving and Merciful[[Al-Taubah:5]]⁽²⁹⁾.

Then asserted after he had provided the messenger of God (peace upon him) if sent an Army or a brigade he said: to him if you saw a mosque, or heard caller to prayer do not kill anyone⁽³⁰⁾.

Mere existence of the mosque in the town is satisfactory to seek information about Islam of the people of that country, even if didnot hear of them the call to prayer, it indicates to acceptance of Islam prevents waging war, and so terminates fighting.

And the Hadith narrated by Ibn Omar (may God consented them both) said: the Prophet (peace upon him) sent Khaled Bin Al-Waleed to BaniJatheemah, they did not properly say we became Moslems, they said: Saba'na (apostatized), then Khaled started killing and capturing, and pushed to every man of us his captive, and commanded every man of us to kill his captive, I said: I swear by God not to kill my captive, and no one of my companions skilled his captive we mentioned that to the prophet, he said: twice (Oh! God I absolve to you from that Khaled Bin Al-Waleed had done)⁽³¹⁾.

This is an evidence that the metonymy with intention is like that frank articulation of Islam by which fighting after then is illegal by evidence of the prophet denial of Khaled's deed, and in it also that spreading Islam was in a peaceful way, even with Arabs' for the story is narrated in other way.

⁽²⁹⁾ Al-Zuheili, Islamic Jurisprudence (7/643/644).

⁽³⁰⁾ Published by Ibn Hanbal Al-Musnad. (24/488), No. 15714) and Abu DAoud Al-Sunan Book of Jihad chapter in calling polytheists No. (2635) and Al-Tirmithi Al-Sunan Chapter of Biographies Chapter No. (1549) said this is a queer good Hadith.

⁽³¹⁾ Published by Al-Bukhari Al-Jami Al-Sahih book of verdicts, chapter if the ruler in justly judged, or different from people of science it is refutation No. (7189) Al-Nasai Al-Sunan Al-Sughra Book of Judges good manners, chapter of refuting the ruler if judged unfair, No. (5405).

The messenger of God when conquered Mecca sent Khaled Bin Al-Waleed as a propagandist and did not send him as a fighter, and with him tribes from Arabs; Sulaim and Madlaj and else...⁽³²⁾.

These are frank evidences that acceptance of Islam prevents continuation of war⁽³³⁾.

From here jurisprudents said: what prevents blood is belief in Islam, and talked in the how of accepting Islam. And his utterance of Islam satisfies the indication to obligation of giving fighting⁽³⁴⁾.

The delivered legal opinion at Al-Hanafiyah it is satisfactory by utterance of both certifications⁽³⁵⁾.

Objections and concordances:

But people of science attempted to assemble among the three opinions, and from what they mentioned:

Al-Khattabi said: his saying I was commanded to fight people till they say there is no God except Allah, he who said there is no God except Allah, he would have prevented his money and soul except by his right and consideration on Allah, it is well known that it is meant by this is idolaters rather than the people of the Holy Book, because they say there is no God except Allah then they are fought and the sword is not lift up from them he said and the meaning and his consideration is on Allah, that is in what they

⁽³²⁾ Al-Tabari Mohammad Ibn Jareer (D.310H) his history, Dar Al-Turath Beirut 2nd. 1387H. (3/66).

⁽³³⁾ Al-Zuhaili Islamic Jurisprudence (7/644).

⁽³⁴⁾ See Al-Nawawi commentary on Moslem (1/144) and nail Al-Awtar (7/198) Al-Muhalla (7/316) and Islamic Jurisprudence and it is evidences (7/642/645).

⁽³⁵⁾ Ibn Najeem Al-Masri (D. 970H) Al-Bahv Al Raeq Commentary of Kanz Al-Dagaeg, Dar al-Kitab Al-Islami (5/81) Ibn Abdeenal-Hanafi (D. 1252H) Rad Al-Muhtar Ala Al-Dur Al-Mukhtar Dar Al-Fiker, Beirut, 1992 (4/128).

conceal and make it secret without Superficially violated of obligatory verdicts⁽³⁶⁾.

It is clear from his speech that idolaters' Islam is not accepted by them except by both certifications or else he will be killed.

Al-Nawawi said: I'Yad the Judge mentioned the meaning of this and added on it and illustrated it, so he said: competence of money and soul prevention by who said: there is no God except Allah is expressing the answer to belief and meant by that Arab polytheists and idolaters and does not monotheist and they were first called for Islam and fought for it, but else who are determined by monotheism, it is not satisfactory in preventing him by saying there is no God except Allah, for he was saying it in his disbelieving and it is from belief that was provided in the other Hadith and I am the Messenger of God establish prayer and donate Zakat⁽³⁷⁾.

If they meant particularly acceptance of both certifications with idolaters and polytheists from Arabs, and not accepted from them merely Islam with both certifications, but does not mean that they give up from the rest of things.

Ibn Hajar said: "the answer is that the certification of the message includes confirmation of what he had brought though the wording of hadith.. it is his saying except with the right of Islam enters in it all that if said why it did not satisfy with it"⁽³⁸⁾.

Summary and Discussions:

Through what preceded we find a trend at some of people science that who was from Arabs polytheists and idolaters they are not accepted from them

⁽³⁶⁾ Al-Nawawi commentary on Moslem (1/206) Al-Khatabi (D. 388,H) Scholars of Hadith (Commentary of Sahih Al-Bukhari) edited by University of UmelQura (1988), (157-159).

⁽³⁷⁾ Al-Nawawi Commentary on Muslim (1/206-207).

⁽³⁸⁾ Ibn HajarFath Al-Bari (1/76)

except Islam, then opinions diversified is it satisfactory to announce both certifications or that there should be prayer and zakat?

Some texts indicated prayer only together with both certifications so what if he was from people of the Holy Book, and war does not terminate except for this? And blood is not prevented except by both certifications, prayer and zakat?

It was proved by Qura'n to terminate fighting and prevention of blood by reconciliation & peace, or tribute. The commentators were attentive to problematic in some previous Hadiths like Ibn Omar's, the prophet said: "I was commended to fight people till they confirm the certifications, establish prayer and donate zakat if they did, they would have prevented their bloods and money from me except by the right of Islam, and their consideration is on Allah⁽³⁹⁾ .

Abu Baker said: by Allah I will fight who differentiated between the prayer and zakat for zakat is the right of money by Allah if they prevent giving me a young sheep goat was donated to the messenger of God I would have fought them for preventing me if it Omar said: by Allah it is not but Allah had relieved Abi Baker chest so I knew that he was the right⁽⁴⁰⁾.

Ibn Hajar attempted answering these problematic he answered:

If said the requisite of Hadith fighting everyone rejected monotheism and how lift fighting prayers of tribute and the confederate the answer from different phases one of them is the suit of abrogation that is the Excuse of taking the tribute and agreement delayed from these hadith by evidence that

⁽³⁹⁾ Al-Bukhari Al-Jami Al-Sahih Book of belief chapter (but if they repent establish blood worship pray the poor due then leave their way free) [Al-Taubah-5] No. (25) and Muslim Al-Musnad Al-Sahih book of belief chapter of command of fighting people till confirm both certification No. (22/36).

⁽⁴⁰⁾ Al-Bukhari Al-Jami Asahi book of zakat chapter of obligation of zakat No. (1399, 1400,7284) and Muslim Al-Musnad Al-Sahih book of belief chapter of command for fighting people till they say: there is no God except Allah Muhammad is the messenger of God no. (20/32).

it is late from the Al-Mighty saying: kill the polytheists secondly to be from the public that particularly concerned some people because the desired from the matter is obtaining the required if some delayed for an evidence that did not defame the general circulation the third of them is to be from General meant particular so want by people in the Al-Mighty's saying: I fight people that is polytheists not from people the holy book and guides to it Al-Nasai's narration by utterance of I was commanded to fight the polytheists if this said and had been done in people of tribute it had not been done in Confederate nor in those who prevented tribute was answered that the prevented and leaving the fighting is giving it up and not delivering it at the road as provided in the truce and fighting who rejected buying tribute by evidence of the verse (fourthly) the required in what mentioned of certification and else is expressing elevating the word of God and subduing of violaters it happens in some by killing and in some by tribute and some by convention fifthly it is meant by fighting is what is replaced by tribute or else sixthly to say the purpose from paying the tribute is forcing the subject to become Muslim or to be committed to what leads them to Islam this is better and comes in it what is available in the third and it is the last of answers and God is the most informative⁽⁴¹⁾.

Through Ibn Hajar's discussion of texts it is clear that they determined existence of other causes of blood to prevention is a reconciliation and taking the tribute or truce but some of them worlded that polytheists and idolaters are exceptional from that so he said in the third and some of it is to be from General meaning the particular so it is meant by people in his saying I fight people that is polytheists from other people not the people of the holy

⁽⁴¹⁾ Ibn HajarFath Al-Bari (1/77).

Book it is indicated by Al-Nisi's narration utterance of I was commanded to fight polytheists⁽⁴²⁾.

Third demand:

Blood prevention by convention and temporary truce:

Jurisprudents agreed that war can end truce even if they differed in the details of this truce conditions and duration and requisites of stopping war and preventing killing or fight⁽⁴³⁾.

And the setting does not accommodate discussing these details but from what they decided that truce can be determined, then cessation of fighting with any Warrior party, what did whatever was it is dogma.

But they divided into two parts:

Temporary: It is the truce and this can be with a people of Holy Book or idolaters and polytheists.

Permanent: It is what is called contract of protection they are those from whom tribute can be taken⁽⁴⁴⁾.

The jurisprudents cleared that the Muslim Imam if concluded a reconciliation with his enemy it should include three things:

1. Give up fighting leave exposing to souls and money they are obliged upon them to Muslims what they should have on Muslims they should give up from our non-Muslims under our protection and we give up from who entered the contract of their truce.
2. They should leave their treachery except they confide with a deed Violates the truce.

⁽⁴²⁾ Ibid.

⁽⁴³⁾ See: Ibn Rushed (D. 595H) Bidayyat Al-Mijtahid, Nihaya Al-Mugtasid Dar Al-Hadith Cairo No. ed 2004 (2/150) Ibn Humam (D. 861) Fath Al-Qadeer Dar Al-Fiker No. ed (5/458) Al-Sharbini Mugny Al-Muhtag (6/86) Al-Zuhaili Islamic Jurisprudents and Guides (7/655-660).

⁽⁴⁴⁾ Al-Zuhaili Islamic Jurisprudents and Evidences, (7/675, 682).

3. Courtesy should be in sayings and actions they should give up from that unpleasant saying and action and we have to give up from the unpleasant saying⁽⁴⁵⁾. So they agreed that temporary truce is from what prevents blood and they may be a people of a Holy Book or else.

Fourth demand: Prevention of blood permanent reconciliation:

Jurisprudence agreed to prevent blood by the permanent reconciliation. It is the truce they discussed its legitimacy and it is a mark of obedience and social ⁴⁶⁽⁾ justice and in return for protection⁽⁴⁷⁾.

The jurists agreed that tribute is not stricken on women of people of the Holy Book the effeminate or lads and not on Slaves nor mad men not on owners of hermitages and monks⁽⁴⁸⁾.

And guides to it the Hadith and if you did meet your enemy from the polytheists, call them to three traits- or natures- if they did not response to any of them accept from them and give them up to call them to Islam if they responded accept of them and give up of them⁽⁴⁹⁾.

And hadith: our Prophet commanded us, the messenger of our God (peace be upon him) to fight you till you worship the God alone or to pay the tribute⁽⁵⁰⁾.

⁽⁴⁵⁾ Ibid (7/680-681).

⁽⁴⁶⁾ Jurists' saying: tribute is an appearance of obedience, that means consent to enter nationality. Paying tribute..it is few sum of money is an expression to belong to the state and agree with its verdicts and laws in general in return, the state insures him with ear and protection and fulfill rights.

⁽⁴⁷⁾ See: Madkour, prologue to Islamic Jurists Dar Al-Kitab Al-Hadith 2nd 1996 p..... Ibn Rushd Bidayat Al-Mujtahid Nihayat Al-Mustajid (2/150) Ibn al-Hamam Fath Al-Qadeer (5/458) Al-Sharbini Mughni Al-Muhtaj, 96/68) Al-Zuhaili Islamic Jurists it's evidences, (7/655-660).

⁽⁴⁸⁾ Al-Mouselly Al-Hanafi, Abdullah Bin Mahmoud (D. 683H), Al-Ikhtiyar Lita'leel Al-Mukhtar, Edited by Shuaib Al-Ara'out.

⁽⁴⁹⁾ Ibn al-Humam, Fath Al-Qadeer (6/48+on) Al-Sharbini, Mughni Al-Muhtaj (6/64). Published by Muslim Al-Musnad Al-Sahih book of Jihad + biographies chapter of emigrating Imam of Emirs on Missions, and his Testament of invasion manners and else, No.: (3/1732).

⁽⁵⁰⁾ Published by Al-Bukhari Al-Jami Al-Sahih book of tribute chapter of tribute and making peace with people of war No. (3159).

Both hadiths indicate that the entrusted with tribute are fighters rather than others of women, children and the weak people.

But the dispute happened to those with whom it is allowed to conclude the contract of protection? And from here we also had three opinions who are prevented by tribute.

Prevention of blood by tribute:

First opinion: It is not accepted but from people of the Holy Book (Jews and Christians) even if they were Arabs or non-Arabs and so is taken from Magi. To it viewed Al-Shafuyyah, Hanabilah, Al-Thahriah, Al-Abadiyah, and Al-Imamiyah⁽⁵¹⁾, they said tribute is not accepted except from people of the Holy Book (Jews and Christians even if they were Arabs or non-Arabs) and so is taken from pagans and is not accepted from idolaters, and entered into them the apostates in Al-Mousel Island and Nablus if the Jews and Christians did not consider them disbelievers⁽⁵²⁾.

Owners of this opinion evidenced by the verse; (fight Against such of those who have been given the scripture as believe not in Allah nor the Last Day and forbid not that which Allah hath forbidden by His Messenger and follow not the religion of truth, until they pay the tribute readily being brought low [Al-Taubah-29].

But taking the tribute from the pagans, because it is a book suspicion for them, till Abdel Rahman Bin A'ouf certified that the messenger of God (peace upon him) took it from Hajara pagans⁽⁵³⁾.

⁽⁵¹⁾ Al-Shafi' I (D.204 H) Al-Um (Mother), Dar Al-Ma'rifah Beirut, No ed, 1990 (4/185) Ibn Al-Qayem (D. 751, H) verdicts of people of protection, edited by Yousef Al-Bakri+ Shaker Al-A'roori, Ramadi for Publicatin Al-Dammam, 1997, (1/79+on), Al-Rmeili (D. 1004, H) Nihayat Al-Muhtaj to Sharh Al-Minhaj, Dar Al-Fiker, Beirut, ed. 1984, (8/87), Al-Zuhaili, Islamic Jurisprudence, (7/698).

⁽⁵²⁾ Al-Gazali, Abu Hameed Mohammad Bin Mohamad (D.505H) terse in Imam Al-Shafi'I Jurisprudence, edited by Ali Mua'wwad, and A'del Abdel Mawjood, Dar Al-Arqam, Beirut, 1997 (2/198).

⁽⁵³⁾ Al-Bukhari Al-Jami Al-Sahih Book of tribute chapter of tribute and making peace with people of war, No. (3157).

And Al-Hadith narrated by Imam Al-Shafi (follow with them the sunnah of the people of the Holy Book)⁽⁵⁴⁾.

Second opinion: tribute is accepted from every disbeliever except the idolaters from Arabs.

To it Al-Hanafiah and Al-Zidiyah tended in view and in a narration by Ahmad and Malek⁽⁵⁵⁾.

Tribute is taken from every disbeliever except worshipers of Idols (idolaters) from Arabs, but the apostates tribute is not accepted from them by agreement of scholars because their verdict is killing, in accordance with the Hadith (he who changed his religion already kill him)⁽⁵⁶⁾.

They were guided to allowance of taking tribute from Persians' polytheists rather than idolaters from Arabs, by Buraida's Hadith: (if you met your enemy from the polytheists call them for three traits)⁽⁵⁷⁾.

And excluded idolaters from Arab for two reasons:

- that what they believe in worshiping idols merges unnumerous corruption.

Being the miracle was revaluated in their language so the allegation was laid upon them⁽⁵⁸⁾.

And the prophet did not take tribute from Quraish, but tribute was legislated after the conquest of Mecca.

⁽⁵⁴⁾ Al-Asbahi, Imam Malek Bin Anas Imam Dar Al-Hijrah (Migration House Imam) (D.179H) Mowatta Imam Malik edited by M.F. Abed Al-Bagi Dar Ihya' Al-Turath Al-Arabi Beirut 1985, (P.278) No.: (42).

⁽⁵⁵⁾ See: Al-Asbahi, Imam Malek Bin Anas Imam Dar Al-Hijrah (D.179H) code Dar Al-Kutob Al-I'meyah, 1415H (1/529) Al-Sarakhi, (D483,H) Al-Mabsout Dar Al-Ma'refah Beirut no ed 1993, (7/10) Al-Kasant+ Al-Hanafi, Ala' Al-deen, Abu Baker Bin Mas'oud, (D.587H) Badai' Al-Sanai, Fi Tarteeb Al-Sharai' Dar Al-Kutob Al—I'MEYAH 2ND ED 1966 (7/136) Ibn Rushd Bidayat Al-Mujtahid (2/151) Ibn Qudama Al-Magdisi, (D620H) Al-Mughni Cairo Library no ed 1968 (9/333) Al-Zuhaili Islamic Jurisprudence, (7/698).

⁽⁵⁶⁾ Published by Al-Bukhari Al-Jami Al-Sahih book of asking apostates and stubborn to repent and fight them chapter of verdict of apostate (male, female) and asking them to repent no: (6922).

⁽⁵⁷⁾ Published by Moslem Al-Musnad Al-Sahih Book of Juhad + Biographies+ else, no: (3/1731). See commentary by Al-nawawi, Al-Minhaj, (12/379on).

⁽⁵⁸⁾ Ibn Al-Humam Fath Al-Qadeer (6/49).

Third opinion: It is accepted from disbeliever or polytheist Arabs and Persians:

To this view and inclined Al-Awzai Al-Thawri and the Sham Jurisprudents, and the famous in Al Malekiyah's belief⁽⁵⁹⁾, they said: tribute is taken from every disbeliever an Arab or Persian, or from worshipers of idols. They also said But Ibn Rushd's saying that tribute is not taken from Quraish's disbelievers unanimously it is a way of him took it from Al-Qasem from Malek, and they were also guided with Buraida's Hadith, for the utterance is general: (if you met your enemy from the polytheists call them to three traits)⁽⁶⁰⁾.

Summary: they agreed that blood of whom was not Muslim in Origin is prevented, or by concluding a special reconciliation for of its causes together with many details of in its conditions, or by the contract of protection⁽⁶¹⁾, but disputed does it cover people of the Holy Book and pagans only, to this view tended Al-Shafiyah and Al-Hanabilah⁽⁶²⁾ or cover polytheists and disbelievers as a whole except polytheist of Arab it is Al-Hanafiya's opinion, or covers every polytheists and disbeliever, and it is the opinion of Al-Awzai' and Al-Thauri and the famous of Al-Malekiyah's opinion.

Thereupon he who did not enter in a correct contract of protection together with their previous dispute in it, a correct reconciliation contract, or did not be believe in Islam he will not be Blood and Money prevented and according to the opinion of Al-Hanabelah and Al-Shafi'yah he who did not become Muslim, or Confederate or a free non-Muslim under Muslim rule from the

⁽⁵⁹⁾ Some jurisprudents added that Arab idolaters, their non-believing is nasty and great and exaggerated in harming the Prophet (peace upon him) describing him liar, and excluded him from his country. Their punishment was great, they are not accepted except by Islam or else dealing with the sword.

⁽⁶⁰⁾ Published by Muslim Al-Musnad Al-Sahih Book of Jihad + Biographies chapter of emigrating Imam of Emirs on Missions, and his Treatment of Invasion manners and else, no. (3/1731).

⁽⁶¹⁾ Al-Zuhaili, Islamic Jurisprudents and it is evidences (7/711)

⁽⁶²⁾ Ibid (7/698).

people of the Holy Book or pagans, he will not be blood prevented, and due to Al-Hanafiyah opinion he who was a polytheists from Arabs is not blood prevented forever, and at all of them he who apostatizes is not blood prevented, but should be killed, so what is the fact of blood prevention in Islam in accordance with views whom we had seen?

Fifth demand: Discussions to whom confined blood prevention to Islam or paying tribute:

We have seen that the prop of who said: blood is not prevented to idolaters except by Islam, and others else are not prevented except by convention or attribute, no more than that is not prevented; their dependence is on:

1. *(But if they repent, establish prayer, and give zakat, then they are your brothers in religion; and we detail the verses for a people who know) [Al-Taubah-11].*
2. Inb Omar's Hadith, that the messenger of God (peace be upon him) said (I was commanded to fight people till they certify that there is no God except Allah, and Muhammad is the messenger of God, and establish prayer, and donate zakat, if they did that, they prevented their bloods and money from me except by the right of Islam, and their consideration is on Allah⁽⁶³⁾).

Here it has to conduct some discussion about that:

First: discussion about the reverend verse came in the contex of Warrior people announced hostility, practiced aggression, killed and Committee crime. God cleared that we have to confront that, till their danger terminates, and that whatever was their danger great, and whatever they did and committed of crime; if they believed in Islam, repented and established prayer.. so we are not allowed at then to fight them; he who reads the verses

⁽⁶³⁾ Al-Bukhari Al-jami' Al-Sahih, and Muslim, Al-Musnad Al-Sahih.

in their contexts a comprehensive reading, he who will obtain this result, from that the Almighty's saying: [(7) *How can there be for the polytheists a treaty in the sight of Allah and with His Messenger, except for those with whom you made a treaty at Al-Masjid Al-Haram? So as long as they are upright toward you, be upright toward them. Indeed, Allah loves the righteous [who fear Him].* (8) *How [can there be a treaty] while, if they gain dominance over you, they do not observe concerning you any pact of kinship or covenant of protection? They satisfy you with their mouths, but their hearts refuse [compliance], and most of them are defiantly disobedient [Al-Taubah-7-8].*

(10) They do not observe toward a believer any pact of kinship or covenant of protection. And it is they who are the transgressors. [Al-Taubah-10].

(12) And if they break their oaths after their treaty and defame your religion, then fight the leaders of disbelief, for indeed, there are no oaths [sacred] to them; [fight them that] they might cease.

(13) Would you not fight a people who broke their oaths and determined to expel the Messenger, and they had begun [the attack upon] you the first time? Do you fear them? But Allah has more right that you should fear Him, if you are [truly] believers. (Al-Taubah- 12-13].

After the preceded determination, we viewed Sheikh Mohammad Al-Ghazali indicate to this meaning and clears that the revelation of Baraa' (innocence) Sura (Al-Taubah) (before the messenger's death of about on year (peace be upon him) and after a horrible Jihad (affliction) with idolatrous Islam gave them the right of life and they did not give it except death, and lived with them an era on the principle of *(For you is your religion, and for me is my religion)* [Al-Kafiroon-6].

It did not see from them except betrayal and assassination! And the last of what they did to return night to the Arab Island was that A liar called (Mussailamah) did a movement of annoying apostasy the memorizers of the Holy Qura'n did not put it off except by their bloods, so they devoted to dxtinguish it till they were sooner to annihilate...and the forepart of Baraa' Surah (Al-Taubah) gives a complete image for the brave treacherous idolatry)⁽⁶⁴⁾.

Secondly: discussion of Hadith: (I was commanded to fight people till they say: there is no God except Allah..).

The hadith resulted in many problematics, of it what Ibn Hajar answered in what previously quoted, for its appearance that tribute or convention are not accepted from the Warrior, this differs with texts, and they had been answered by Ibn Hajar with some answers of what preceded, but remained another problematic in the hadith, it is that its appearance may indicate to compulsion in religion, God says: (there is no compulsion in religion) [Al-Baqarah- 256)].

Scholars' answers were multitude in this respect, this is its summary:

- A. Some scholars tended that the hadith was said in a private atmosphere, it is in the context of fighting the unjust idolatry that wanted to restore idolatry to the Arab Island, and did not offer to humanity except killing, disloyalty and Assassination, no one is allowed to trip outstrip by the hadith this case⁽⁶⁵⁾.
- B. Second saying: “under the pretense that abrogation that excuses to take tribute and treaty late from these Hadiths by evidence that it is

⁽⁶⁴⁾ Al-Gazali, Mohammad (D.1416H) the Prophetic Sunnah among people of jurisprudence...and people of the hadith, Dar Al-Shorooq 12th. ed, 2005, P134.

⁽⁶⁵⁾ Al-Gazali, Sunnah between people of jurisprudence and people the hadith, (P.134).

late from the Al-Mighty's saying "kill the polytheists"⁽⁶⁶⁾ we say the plea of abrogation has no evidence.

- C. Third saying: the people are meant the polytheists of the Arabs in particular, they were not following a religion, in origin they are not recognized; either they be Moslems or killed and certified with aspects of Baraa' Sura verses (then, when the sacred months have passed slay the idolaters where-ever refined them) "[Al-Taubah:5],...(and waging war on all the idolaters as they are waging war on all of you. And know that Allah is with those who keep their duty) (unto him) [Al-Taubah: 36], and the provision of the narration "I was commanded to fight polytheists"... , and they said: because the tribute is not taken from these polytheists⁽⁶⁷⁾.

But that can be objected that the Prophet's approach in dealing with the polytheists that it is not known of him that he killed a polytheist because he is a polytheist.

- D. The fourth view: The hadith is particularly concerned with fighting warrior polytheists against Islam, till they be Moslems, or their danger terminates, for the generality of the God's saying (*but if they repent and establish worship and pay the poor- due, then leave their way free*) [Al-Taubah: 5] we say: but can terminates by pledge and reconciliation.

- E. Fifth saying: to be meant by fighting is, or what is replaced by tribute or else⁽⁶⁸⁾.

- F. Sixth saying: its sixth is to be said the purpose of striking tribute is to force them to follow Islam, and the reason of the reason is a reason as

⁽⁶⁶⁾ Ibn Hajar, Fath Al-Bari (177).

⁽⁶⁷⁾ See: Ibid.

⁽⁶⁸⁾ Ibn Hajar, Fath Al-Bari (1/77).

- if he said till they be Moslems, or be committed to what drives them to Islam⁽⁶⁹⁾. We said: This contradicts the meaning of freedom and non-compulsion.
- G. Seventh saying: it is meant by the result of fighting in General is to strife in the path of Allah, till we achieve security and freedom for people in the choice, and remove all preventives. So the meaning of hadith “I was commanded to fight people, till they can choose Islam, in that Ibn Hajar says: “the wish of what had been mentioned of the certification and else is expressing to raise the word of God and the subdue of the violators, so it happens in some by killing in some by tribute and in some by convention⁽⁷⁰⁾.”
- H. Eighth saying: that the wish is “to fight people...” that is who fought me; because the action in it is the meaning of making action, Ibn Hajar said: “Ibn dageeg Al-Ieed had exaggerated in the commentary of the prop of denying who evidenced by this hadith on that [killing shunner of prayer and so on] and said: it is unnecessary in allowing fighting to allow killing because fighting is an activation necessitates happening of fighting from both sides and not killing as well, and Al-Bayhaqi narrated from Al-Shafi’it that he said: fighting is not a path of killing for fighting a man may be legal and his killing is illegal⁽⁷¹⁾” we said: this view is answered by that fighting may terminate by reconciliation, convention, or tribute, and not merely by both certifications.
- I. Ninth saying: the talk speaks about fight termination not commencing fighting that is if a legal fighting broke out for a legal reason, like in

⁽⁶⁹⁾ Ibid.

⁽⁷⁰⁾ Ibid.

⁽⁷¹⁾ Ibid (1/76).

justice and usurpation, then during fighting said- even if under the blade of the sword:- (there is no God except Allah), so obligated giving up and termination.

Fighting terminates by reasons of them what was mentioned in the Hadith, from them the tribute and convention. From what asserts this is Osama Bin Zaid's story and it is correct narrated by Osama Bin Zaid he said: The Messenger of God [Peace be upon him] sent us in a brigade, we came to Al-Hurugat from Juhainah in the morning, and I met a man, he said: there is no God except Allah, I stabbed him...a doubt fell in myself, because of that, so I mentioned that to the prophet, he said: "did ye he say there is no God except Allah and you killed him" he said: I said he said it fearing the arm the prophet said: did you cut for his heart, till you know he said it or not?

He still repeat it on me till I wished that I had followed Islam that time, he said: Sa'd said: for me by Allah I don't kill a Moslem till he is killed by Al-Butain means Osama, he said: a man said: did not Allah say (*and fight them until persecution is no more, and religion is all for Allah*) [Al-Anfal] (spoils of war) (verse 39)? Said said: we have fought till not to be a sedition, you and companions want to fight till it will be a sedition⁽⁷²⁾.

And God's saying: (*so if they hold a loof from you and wage not war against you and offer you peace, Allah allowed you no way against them*) Al-Nisa (Woman) (verse 90) probably this opinion is preferable to be accepted.

In our opinion, we cannot do without giving the last saying, and to clear termination of fight, even if under the blade of the sword fearing, but the narrators perhaps they cut it off from its context.

⁽⁷²⁾ Agreed upon, the utterance is by Muslim, published by Al-Bukhari Al Jami' Al-Sahih, Book of Blood money, chapter of Allah saying: (and whose seventh the life's of one) [Al-Ma'idah-32], No. (6872), (4269). Moslem Al-Sahih book of believe, illegality of killing the disbeliever after saying: there is no God except Allah, No. (96).

The wording meant leaving the fight with people who followed Islam, and did not mean to fight who did not follow Islam. This is preponderant by the discussion between Abi Baker & Omar about fighting the apostates. This hadith evidenced in this respect, that they verbalized with both certifications so how to fight them.

Sixth demand: Preponderant view in blood prevention:

Due to what preceded of discussions we are unable except to say: originally man is prevented in Islam he is blood prevented, because he is merely a human merely, it is not allowed to steal that from him except by a true absolute wording, or in a correct law of today's expression in the frame of the considered correct legitimacy; if he fought he has his verdicts from the side of accepting reconciliation or Islam optionally, and if he killed another purposely he has his verdicts, but if he was not a warrior and did not want to lead Islam, even if he was idolater or else, and it's is not allowed to say he is not blood-prevented: and what guides to that a set of evidences:

Frist: being a human and no getting excepted by the private legal absolute wording, for God's saying: *(and that ye slay not the life which Allah hath made sacred, save in the course of justice)* [Al-Ana'm: cattle, verse 151].

(And do not kill the soul which Allah has forbidden, except by right. And whoever is killed unjustly- We have given his heir authority, but let him no exceed limits in [the matter of] taking life. Indeed, he has been supported) (Al-Asra' – verse 33) his saying: (and slay not the life) this indicated that this is origin prevention of the soul, then said: (save with right) so evidenced that it does not get out of this absolutely right wording, and the right is the true reliable from its truthful source.

(but begins not hostilities) (Al-Baqarah-190) *(Because of that, we decreed upon the Children of Israel that whoever kills a soul unless for a soul or for*

corruption [done] in the land- it is as if he had slain mankind entirely. And whoever saves one- it is as if he had saved mankind entirely. And our messengers had certainly come to them with clear proofs. Then indeed many of them, [even] after that, throughout the land, were transgressors) [table: 32].

(And we ordained for them therein a life for a life, an eye for an eye, a nose for a nose, an ear for an ear, a tooth for a tooth, and for wounds is legal retribution. But whoever gives [up his right as] charity, it is an expiation for him. And whoever does not judge by what Allah has revealed- then it is those who are the wrongdoers). [table: 45].

(Except for those who take refuge with a people between yourselves and whom is a treaty or those who come to you, their hearts strained at [the prospect of] fighting you or fighting their own people. And if Allah had willed, He could have given them power over you, and they would have fought you. So if they remove themselves from you and do not fight you and offer you peace, then Allah has not made for you a cause [for fighting] against them). [Women: 90].

(And had your Lord willed, those on earth would have believed – all of them entirely. Then [O Muhammad], would you compel the people in order that they become believers?) [Yunus:99].

(And say, “the truth is from your Lord, so whoever wills- let him believe; and whoever wills- let him disbelieve”. Indeed, We have prepared for the wrongdoers a fire whose walls will surround them. And if they call for relief, they will be relieved with water like murky oil, which scalds [their] faces. Wretched is the drink, and evil is the resting place). [Cave: 29].

(There shall be no compulsion in [acceptance of] the religion. The right course has become clear from the wrong. So whoever disbelieves in Taghut

and believes in Allah has grasped the most trustworthy handhold with no break in it. and Allah is Hearing and Knowing). [Baqarah: 256].

(21) So remind you are only a reminder (22)- You are not over them a controller). [Ghashia: 21-22].

Second: There is prominent view at Al-Malkiya's jurisprudents and others that tribute is accepted from every disbeliever, even if he was idolater, there upon this asserts that it is illegal to kill him and should accept reconciliation with him this if he was a warrior, and who with whom was peaceful.

Third: those who confined acceptance of tribute to people of the holy book; they did not come with a frank evidence in that.

The Hanafia exceptional the Arab polytheists and depended evidences were correspondent to reality of polytheists in time of the Prophet (peace be upon him) and stopped after him. The issue is pliable to change, depending on rules of Al-Hanafiyah and the fundamentals, from part not the time.

Fourth: we are not aware that the Prophet (peace be upon him) killed one of the polytheists non others except in the Warfield but for a special reason.

Fifth: that the discussion of others, if it didn't say in the Holy wedges and the hadid's was Camila did to fight evil and it said that it is not at it is absolutely Plains region in the human being is blood prevention. And this prevention is not stolen except by an absolute legal event evidence if you decided by you can congestion and Solari session even if we are to attend and some of this whose by convention was told in it is not allowed to legalize any human beings blood except by but except by live full versions with what division is stolen that was needs to give it and this he says his recessions and this verdict covers every human being either he was an individual or part of a group or a member of a community, or belonging to a certain state, whatever was his attribution, and whatever was attribution of

that state and either he had a convention or had not a contract reconciliation below him and Muslims are had not but in case of existence of a warrior state, in this case merely verdicts, of the contract convention a reconciliation and truce, between both fighting states are sensation and legal Shari's terroristic a bellied only that is the death of truth convention and reconciliation they are just to clear the who of war and effects termination⁽⁷³⁾, for this it is discussed in books jurisprudence, not to point the verdict of human as he is a human being and this asserts that man from part he is a human being remains the origin in him that his blood is prevented. There upon it is not proved that one of the scholars excused killing a human being non-Muslim, or just he is a disbeliever.

Also it was not proved as a frank evidence from the holy Qura'an or the Sunnah to prop the claim of Sayers of legalizing the blood of non-Moslem absolutely.

It is certified to that real applicant of Islam through history. No one of the Caliphs did kill oneself, because he is unbeliever, polytheists, or non-Muslim, either in states of the East and the Middle ruled by the Hanafi teaching, or in states of Maghreb, ruled by Al-Malki teaching, or in somewhere else.

⁽⁷³⁾ a chapter is the subject of War remains and termination and these will verdicts are related with them: Prof. Dr. Wahbeh Mustafa Al-Zuhaili in his book effect of war in the Islamic jurisprudence a comparative study, Dar Al Fiker, Damascus, 3rd, 1998, the book lies in 885 pages, see: chapter 1: effects resulted from war-breaking out, (p.20+no) where he talked about the security are as an effect of war, and (p. 345) talked about treaties as an effect of war, and (p. 403) about effects of war in captives, and (p.638+on) about effect resulted from War termination; permanent reconciliation or temporary. All that asserts that these verdicts (tribute truce, or the contract); (they are private verdicts of war between two states, they are not applied on in individuals, or communities, or any party in peace or abandonment).

Conclusion:

After this study we want to register the most important results and recommendations deduced.

Firstly: Results:

1. Jurisprudence agreed that any warrior whatever his attribution was; if announced Islam, even it was under the blade of the sword it should stop from fighting him, but they disputed is it satisfactory by both certification, or it has to be joint with prayer and zakat at its presence.
2. It preponderated at both researchers to be satisfied with both certifications, we do not have to penetrate into the interior, meanwhile the research can establish prayer and donate zakat at these conditions is impractical. This is what Al-Hanafiah viewed by the preponderant at them.
3. It was cleared to both researchers the agreement of jurisprudence on that War terminates by truce, or convention, and each is covered by the truce, or convention is blood prevented and it is not excused to be aggressed at any respect.
4. Also it was cleared to both researchers agreement of jurisprudence on blood prevention by permanent reconciliation and is expressed in books of jurisprudence by tribute, so it is not excused to cover that prediction of whom entered by this convention or reconciliation.
5. Jurisprudents disputed on those whom the contract of permanent reconciliation on three opinions:
 - To be from people of the Holy Book – or pagans.

- To be from the people of the Holy Book or pagans or to be polytheist, or idolater, but from polytheists not from the Arab Island.
 - Absolutely any of the people of the Holy Book or polytheists.
6. It was preponderant at both researchers that the contract of permanent reconciliation is allowed with every opposer, even if he was idolater, or polytheist from any class, no one is exceptional, for there is no Frank evidence, or correct.
 7. Jurisprudents talked about blood prevention by Islam or permanent reconciliation, temporary, or convention; both researchers preponderated that this does not mean legalizing blood shedding to whom without reconciliation, convention or truce.
 8. It was asserted to both researchers through evidences, and discussing evidences who disputed that the human being is blood prevented for being a human being merely.
 9. What jurisprudents talk about convention reconciliation and truce; is just in verdicts of war, and how it terminates.

Second: Recommendations

1. Both researchers recommend studiers in Islamic jurisprudence not to rash in issuing verdicts, especially in the right of opposer in opinion or belief.
2. Both researchers attract attention to necessity of inducing texts in any matter, with good understanding before issuing any verdict.
3. Both researchers assert necessity of studying the noble prophetic Hadiths a comprehensive critical study, together with a good understanding of them, before dealing with them or invent verdicts from them or reevaluate them on reality.

4. Both researchers recommend with necessity of concern about studies related to human rights, his dignity, his intellectual and dogmatic freedom and else of matters branches.
5. Both researchers recommend with necessity not to issue verdicts on Islam through the behavior of some who misunderstands or misbehaves in the name of religion.

This is what this study deduced, if we both did well that is benevolence of Allah the Al-Mighty, generosity, benefaction and grace of Him, and if it was the other, it is ours, we pray Allah to forgive us asking scholars to correct us and grant us pieces of advice asking the Al-Mighty God to forgive us, given consent devoting this study to the God's face, and Praise be to Allah, Lord of the World.

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