

Permission to Live Under Christian Rule?

The Views of a Medieval Muslim Jurist

Steven Gertz presents a discussion of how Muslims should respond to rule by Christian conquerors.

Scan any newspaper today discussing Islamic law in the West, and the term *hijra* ('emigration') is unlikely to surface. Yet for most of Islamic history, Muslim jurists questioned whether Muslims should even be allowed to stay in non-Muslim lands, or whether they were under obligation to leave non-Muslim territory. Some jurists, such as the majority of those in the Mālikī school of law in Spain (which witnessed the reconquest of that country by Christians from the north), felt Muslims should under no circumstances submit to non-Muslim rule. The Mālikī jurist al-Wansharīsī (d. 1508) explicitly condemned those Muslims in Christian Andalusia who accepted *mudejar* (subject) status, even if the Christian government appeared to be just.¹

However, other Sunnī schools of law took different positions. In the Ḥanbalī school, one jurist is of particular interest on this question as to whether Muslims should be obligated to emigrate from non-Muslim lands. Muwaffaq Ibn Qudāma (d. 1223) was born in the town of Jamā'īl, then under the rule of the Crusader lord Baldwin of Ibelin. In 1156, Ibn Qudāma's father, the *shaikh* Aḥmad, fled Palestine with his family after Baldwin threatened to kill the *shaikh* for 'distracting the peasants from their work' by gathering them together for prayers. Muwaffaq was only nine years old when they left Jamā'īl, so for most of his life, he lived outside Palestine, writing primarily from Damascus.²

In his *al-Mughnī (The Wealth)*, Ibn Qudāma devotes a section of his *Kitāb al-Jihād* to the subject of *hijra*.³ He cites a passage commonly referred to by jurists from *Sūra 4 (al-Nisā)*:97 which states that those Muslims who are 'weak and oppressed in the land' must emigrate from such lands to places of

safety. Indeed, 4:100 goes on to say that those who died as refugees (*muhājiran*) from their homes could expect a heavenly reward. However, Ibn Qudāma does not leave his discussion there, but rather sets out two reasons why Muslims may not have to leave lands under non-Muslim rule. He quotes verse 4:98, which affirms that Muslims incapable of travel or escape (and he includes the ill, the women, and the children under this category) may be excused from *hijra*. He then proceeds to give a second reason for not going on *hijra*: 'This is preferable for him that he might be capable of *jihād* and [aiding] the increase of the Muslims'.

Why did Ibn Qudāma choose to focus on *jihād* as an important reason for why Muslims should remain in non-Muslim lands? Ibn Qudāma was writing at a time when the Kurdish *sulṭān* Ṣalaḥ al-Dīn (Saladin) was waging war on the Crusaders. Ibn Qudāma joined him in his campaigns against the Crusaders, and in the evening before the decisive battle at the Horns of Hattin in 1187, he read aloud from the work of another Ḥanbalī jurist Ibn Baṭṭa (d. 997) to encourage the soldiers in their *jihād*. So it should be no surprise that Ibn Qudāma would list *jihād* as a reason for staying in non-Muslim lands. He surely appreciated that Muslims living under Crusader rule could be of assistance by staying in Palestine and not fleeing as his father had done.

However, Ibn Qudāma concludes his discussion of *hijra* with a third reason for not emigrating from non-Muslim lands, i.e. 'if it is possible for him to perform his religious duties'. In this, Ibn Qudāma agreed with most Shāfi'īs and Ḥanafīs, who argued that Muslims freely residing in non-Muslim lands might even be able to spread Islam, in which case they need not emigrate. The

account of Ibn Qudāma's father Aḥmad's emigration from Jamā'īl to Damascus reveals that Muslims in Jamā'īl were able to worship on Fridays and that the *shaikh* could preach to them. Indeed, it was only when Baldwin threatened this freedom that Aḥmad made the decision to leave Palestine.

Given the millions of Muslims living in the West today, what lessons can we draw from this study of Ibn Qudāma? We should first recognise that Muslims emigrating to and growing up in the West today have a significantly different experience of non-Muslim rule than Ibn Qudāma did. Muslims in Palestine were under occupation, whilst Muslims in Europe and North America are largely immigrant communities. Nevertheless Ibn Qudāma's conclusions raise some significant questions as to how Muslims should approach issues of law under non-Muslim rulers. What kind of liberty must a Muslim have before he or she can rule out the obligation to emigrate from non-Muslim lands? More troubling, is *jihād* against one's government still a valid option for Muslims? Questions such as these deserve serious study and engagement, both from Muslim intellectuals and from Christian and secular thinkers as well.

Notes

- 1 Khaled Abou El Fadl, 'Islamic Law and Muslim Minorities: The Juristic Discourse on Muslim Minorities from the Second/Eighth to the Eleventh/Seventeenth Centuries,' *Islamic Law and Society* 1, 2 (1994), 141–187.
- 2 Muḥammad ibn 'Alī ibn Ṭulūn, *Al-Qalā'id al-Jawharīyah fi Tārīkh al-Ṣalṭihīyah*, ed. Muḥammad Aḥmad Duhmān (Damascus: 1949), 26–27. See also Carole Hillenbrand, *The Crusades: Islamic Perspectives* (New York: Routledge, 2000), 359–61.
- 3 Muwaffaq al-Dīn 'Abd Allāh ibn Aḥmad Ibn Qudāmah, *al-Mughnī*, v. 13, eds., 'Abd Allāh ibn 'Abd al-Muḥsin al-Turkī and 'Abd al-Fattāḥ Muḥammad al-Ḥulw (Cairo: Hajr, 1990), 149–52.

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