

Ruling regarding the Guarantee of Safety

provided by the Muslim to the disbeliever

(non-Muslim)

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**Ruling regarding the Guarantee of Safety
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Question concerning

Alan Henning, the British held hostage by Islamic State in Iraq and Syria

I was asked by some people about the case of a non-Muslim, named Alan Henning, who works with a relief organisation. He entered Syria in the company of some Muslims but they were stopped by an armed group that belongs to the Islamic State nearly ten months ago. The armed men detained the British man; the Muslim men in his company said to them, “We know this man; he helps us in our relief activity; he is under our guarantee of safety; we know him in Britain; he does not harm the Muslims; he has been working in the relief organisation for nearly fifteen years; he helps the distressed everywhere.” They (armed men) replied to them, “We will investigate with him a little and will hand him to you.” But they did not release him! We pleaded with them times and times to release the man, and then we learnt that they intended to kill in vengeance against the British government! Our question is:

Is it lawful (in Islam) to kill this man who travelled with us and entered Syria with us to help the Syrian refugees? And is the safety and protection we granted him valid by Islamic law?

The answer: By Dr. Hani Sebai’

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All Praise is due to Allah, and peace and blessings be upon the Messenger of Allah, and to proceed,

I say, and all success if from Allah, according to what is stated in your question:

I have been informed by some honourable Muslims a few months ago about this incident; I learnt from them that they were trying to find mediators from Syria

for the sake of setting free this non-Muslim man, and I thought then that the matter had ended with his release.

Nevertheless, and following the Saying of Allah “You shall certainly make it clear and known to men and you shall not hide it” (Surah Al-‘Imraan, Verse 187), Allah said in Surah al-Tawbah, Verse 6: “And if anyone of the Mushrikoon (polytheists, idolaters, pagans, disbelievers in the Oneness of Allah) seeks your protection then grant him protection so that he may hear the Word of Allah (the Qur’an) and then escort him to where he can be secure.”

The Muslim jurists used this Verse as evidence of the permissibility to accord safety for all kafirs as groups or as individuals. It is reported in the book of the Merits of Madinah in the Authentic book of Al-Bukhari, on the authority of ‘Ali bin Abi Talib (Allah be pleased with him) that the Messenger of Allah said: “The guarantee of safety given by the Muslims are equal, and whoever violated the safety guaranteed by a Muslim (to a non-Muslim), then upon him is the Curse of Allah of His Angels and of Allah mankind, and no compensation will be taken from him.” Al-Bukhari, Hadith No. 1870, according to the Encyclopaedia numbering.

It is reported in Sahih Al-Bukhari that Umm Hani Bint Abu Taleb, may Allah be pleased with her, gave shelter to a Kafir called Ibn Hubayrah, during the conquest of Makkah and her brother Ali Ibn Abu Taleb wanted to kill him. So she went to the Prophet and said: “O Allah's Messenger! My maternal brother assumes (or claims) that he will murder some man whom I have given shelter, i.e., so-and-so Ibn Hubayra." Allah’s Messenger said, "O Um Hani! We shelter him whom you have sheltered.” Hadith: V.8, 178.

In another wording by Abu Dawud, the Prophet said: “We granted shelter to whom you have sheltered and protection to whom you protected.” Hadith 2756.

I even added that she gave shelter to two men, and not just one idolater. In the Musnad of Imam Ahmed, Umm Hani said: “I gave shelter to two of my in-laws (who were non-Muslims) and my brother Ali intended to kill them. So the Prophet ﷺ said: “We shelter him whom you have sheltered.” Hadith: 27655.

As for the evidence of using the Hadith by Companion Imran Ibn Husayn ﷺ with regard to the story of the prisoner from banu Uqayl Tribe, it is not useful in this context in particular. This Hadith is in fact recorded in Sahih Muslim.

The tribe of Thaqif was the ally of Banu Uqail. Thaqif took two persons from amongst the Companions of Allah's Messenger as prisoners. The Companions of Allah's Messenger took one person at Banu Uqail as prisoner. Allah's Messenger came to him and he was tied with ropes. He said: 'Why have you taken me as prisoner?' The Prophet said: 'I have caught hold of you for the crime of your allies.'" The whole Hadith is in Sahih Muslim, No. 4333.

I say, this man who was detained by the Companions was not given shelter or protection by any Muslim. There are many interpretations in explaining this Hadith, so one should refer to them for more clarification. Anyway, the non-Muslim British did not sneak into Syria, but rather entered with the company and protection of a group of Muslims. Therefore, there is no point in using the above Hadith as evidence.

So it is lawful for every adult and sane Muslim, be it male, female, or a slave to give shelter to a non-Muslim. The Books of history and wars are replete with such examples and it is stated by some jurists that even a Muslim prisoner can conduct an act of protection to a non-Muslim, if the former was not under coercion.

It is stated in the Book of "Al-Mughni" that: "The protection provided by a responsible Muslim, male or female, free or slave, free or imprisoned is valid." As for a teen who reached the age of puberty, there are two narrations. In short, when protection is given to non-Muslims, it is then unlawful to kill them, seize their properties or attack them. This was the opinion of ath-Thawri, ash-Sha'fi', Al-Awza'i, Ishaq, Ibn Al-Qasim and many other scholars. It was also reported from Omar (Ibn Qudamah: Al-Mughni: Vol. 10, P.555.)

From the above, it was obligatory for those who detained the British relief worker to bring him to an Islamic Court in order to check the validity of his safety claim, because he was captured in the company of some Muslims. This period was enough to verify his story. Describing this man as a relief worker is irrelevant and does not affect the ruling. What concerns us is that he is a (Kafir) non-Muslim given a pact of protection by a Muslim. So it is not important whether he is a Doctor, engineer or any other profession. Even if only one Muslim had given him shelter, then his guarantee of safety is valid. If those who captured him have evidence that he is a spy, they should bring him to an Islamic Court and publish the evidence of his culpability if they are confirmed. For him

to remain in their captivity without a genuine Islamic Court is a violation of Shari'ah.

In short, in accordance to the nature of the question and what we know from trusted Muslims with regard to this British prisoner, the shelter of a group of Muslims to him is valid in Islam, and it is unlawful to breach it and disprove it. Therefore, it is unlawful to kill him as retribution against his own government which is fighting against the Muslims. They should release him. We appreciated the release by Jabhat an-Nusrah of the 45 UN soldiers because of a guarantee of safety given by one Muslim from Jabhat an-Nusrah.

In Conclusion: the best discourse is the Word of Allah:

“O you who believe! Stand out firmly for Allah as just witnesses; and let not the enmity and hatred of others make you avoid justice. Be just, that is nearer to piety; and fear Allah. Verily, Allah is Well-Acquainted with what you do”.

Dr. Hani Sebai

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