

A Shari'ah And Research Review Of Wali Swat's¹ Decrees On Arms

Saifullah¹, Dr. Saeed ur Rahman², Dr. Lutfullah Saqib³

¹PHD Scholar Islamic Studies Department Abdul Wali Khan University Mardan

²Assistant Professor (Islamic Studies) Abdul Wali Khan University Mardan, KP, Pakistan

³Associate Professor (Law & Shariah) University of Swat, KP, Pakistan

Abstract

The protection of human life, honor and property is of great importance in Sharia. That is why Sharia has prescribed various types of punishments (Convictions) for those who disturb his or her protection. And according to the nature of the crime, Qisas or limitation has been ordered. And the crimes which are not of such a serious nature, then Sharia has empowered the Qazi (Judge) to impose punishment. So that the society is full of peace and the life, honor and wealth of every human being is completely protected. Since human in society, the protection of life is of utmost importance, therefore the greatest punishment in the Shari'ah has been prescribed for the person who harms human life, from which the value and sanctity of human life can be accurately estimated. In the light of the same rules and regulations, Wali Swat also issued about eight such decrees about weapons for the sake of peace and order in the State of Swat, which have been preserved and due to which the residents there (Inhabitants) were well protected. The current paper investigates the decrees of Wali Swat about weapons for the sake of peace in the Swat State.

Keywords: Precautions Weapons in Islam, The Protection of humanity, Wali Swat Decrees Regarding the Use of Weapons

Introduction

Islam is a comprehensive and complete code of life. It does not limit its followers to a few beliefs and acts of worship; rather it contains all the principles of living. Allah Almighty has set the Islamic system in order to mold it in the mold of these principles and Allah Almighty has associated the welfare of man with these Islamic orders. Allah Almighty has issued instructions regarding all areas of human life: whether it is related to beliefs or worship, marriage and divorce or Jihad (holy war), be it individual life or collective life, Islam is a comprehensive religion. Allah Almighty has revealed it perfectly, and has given a clear command to man to live his life according to it. Allah says: Today I have

fulfilled your religion for you, and I have fulfilled My kindness to you, and liked for you Islam as religion. ²

In another place (Allah) makes mention:

And We have revealed to you the Book which is an explanation of everything and a guidance and a mercy and good news for the Muslims. ³

In the same way, there are many other verses which clearly indicate that the religion of Islam has been given to Rasool (SAW) by Allah Almighty. He (SAW) has been given the perfect religion which is a beacon for the human race that will last until the Day of Doomsday. And it is true source of guidance for the youth, who will find his life molded in its mold, and he who turns away

from these instructions and follows the desires of his own soul, may he fail forever.

Islam is about peace, a Muslim is said to be a person who becomes a source of comfort and peace for another Muslim and does not cause any pain or harassment to any person, especially a Muslim. It is the honorable saying of the Holy Prophet (SAW): A Muslim is one from whose tongue and hands other Muslims are protected.⁴ This is the reason why Islam not only teaches its followers peace and harmony, patience and tolerance, but it also commands respect for the beliefs and ideas of others. Islam has given clear orders for the generalization of peace in the society and has laid great emphasis on the protection of life and property and honor.

Qisas (retaliation in kind) limits and punishments are prescribed in Sharia for the sake of peace. Similarly, murder, usurpation, robbery, theft, and waste etc. have been prohibited by Sharia for the same reason so that an atmosphere of peace can be established in the society and man can live his life in peace. And in this, Sharia has not made any difference between Muslims and non- Muslims, rather, peace as a human being has been declared as his basic right.⁵

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It is for the sake of this peace that the Shari'ah has prescribed the punishments for the crimes and, considering the severity and severity of the crime, it has prescribed Qisas and limits for it, as well as the crimes in which the Sharia has not prescribed Qisas, there, Sharia has given authority to the caliph of the time of Tazeer.

“Tazeer (penal or punishment) is a disciplinary term and a warning to prevent sin in those crimes in which the Sharia has not issued any limit or expiation order.”⁶

Accordingly, the cases are divided into two categories. One type is Criminal Law⁷ while the other type is Civil Law⁸. The main purpose of criminal cases is the protection of human life and honor, for which the term of preservation of self and preservation of life is used in Sharia, while in civil cases, the protection of property is intended and for this the term of preservation of property is used in Sharia. Then the jurists have established different chapters for them, keeping in mind the various aspects of retribution, limits and punishments, for example, jurisprudence of crimes, jurisprudence of transactions and jurisprudence of guarantee etc. And in them he described various orders for different situations in detail.

In summary, the protection of human life, honor and property is of great importance in Sharia. That is why Sharia has prescribed various types of punishments (Convictions) for those who

disturb his or her protection. And according to the nature of the crime, Qisas or limitation has been ordered. And the crimes which are not of such a serious nature, then Sharia has empowered the Qazi (Judge) to impose punishment. So that the society is full of peace and the life, honor and wealth of every human being is completely protected. Since human in society, the protection of life is of utmost importance, therefore the greatest punishment in the Shari'ah has been prescribed for the person who harms human life, from which the value and sanctity of human life can be accurately estimated. For example, Allah Ta'ala has said in the Holy Quran that the killing of an individual without any reason is equivalent to the killing of the entire humanity. "For this reason, We made it obligatory upon the Children of Israel, that whoever kills a life without recompense or without mischief in the land, it is as if he has killed all the people, and whoever saves a life, as if he saved the life of the entire humanity."⁹

In this holy verse, the sanctity of human life has been absolutely mentioned, in which there is no customization of men, women, small, big, rich and poor, even Muslims and non-Muslims. Rather, it has been decreed with application that the death of any human being is the same as the death of all human beings and similarly saving the life of any human being is equivalent to saving all humanity. This makes it clear that the Qur'an has not only strictly prohibited the killing of any human being for no reason, but has condemned it as the killing of the entire humanity. And then it is not enough to condemn it, but in the law of retribution, the punishment for this murder is capital punishment, as Allah Almighty says:

"O you who believe! Qisas has been imposed on you among the slain.¹⁰ And this order is the prescription elixir to protect human life.

Similarly, the Messenger of Allah (peace and blessings of Allah be upon him) has declared the sanctity of a Muslim's life more respectable than the sanctity Ka'abah. As Abdullah bin Umar (RA) narrated the saying of the Prophet (PBUH): "It was narrated from Hazrat Abdullah bin Umar that he saw the Holy Prophet (peace and blessings of Allah be upon him) circumambulating the Ka'abah and heard him say: (O Ka'abah!) How beautiful you are and how sweet is your fragrance. How great is your dignity and how great is your sanctity, by the one in whose hand is the life of Muhammad! The sanctity of a believer's life and property is greater in the eyes of Allah than your sanctity, and we should have a good opinion of a believer."¹¹

In the light of the same rules and regulations, Wali Swat also issued about eight such decrees about weapons for the sake of peace and order in the State of Swat, which have been preserved and due to which the residents there (Inhabitants) were well protected. The current paper investigates the decrees of Wali Swat about weapons for the sake of peace in the Swat State.

Literature Review Regarding Precaution in the use of weapons in Islam

In summary, peace is the basic unit of society without which life is not only difficult but impossible. That is why the Sharia has emphasized the establishment of peace, and has issued such orders that the society will be completely peaceful, due to this precaution that a person should not be guilty of this type of crime. Islam has forbidden it to carry weapons against one's Muslim brother, rather, as a precaution, it is prohibited to carry weapons in many situations and places, and it is forbidden to keep open any pointed object where the weapon can hit a person. Islam has forbidden the raising of arms against any person and the mere pointing of arms at him. As the Holy Prophet (peace and blessings of Allah be upon him) said:

“He who takes up arms against us is not of us, and he who has intercourse (betray) with us is not of us¹².” It is forbidden to take up arms against a Muslim. And if someone who takes up arms against a Muslim without any reason, he (SAW) has promised to be disgusted. Likewise, in another Hadith, he (SAW) said that a person who if a person raises a weapon at another person and threatens or intimidates him with a weapon, he has been declared cursed. As the tradition says “None of you should point a weapon at his brother, for none of you knows that Satan may put a code on his hand and he will fall (as a result of wrongful killing) into the pit of Hell.”¹³

Similarly, in another Hadith, more caution has been emphasized and the Holy Prophet (peace be upon him) has forbidden not only the raising of weapons on another person but also the display of weapons in normal situations. As it is narrated on the authority of Hazrat Jabir (may Allah be pleased with him), that: “The Messenger of Allah, may Allah bless him and grant him peace, forbade the taking of a bare sword.”¹⁴

All the above traditions prove that to raise a weapon against a person or to display it in a public place or to point it at another person in a threatening manner, even in humor is strictly forbidden in Sharia; because in all these cases any unpleasant incident can happen. Due to which there is a clear prohibition of this in these traditions. Likewise, in these cases, there is a clear possibility that if the other party also comes out with weapons in the same way, a riot may arise and may cause killings. In addition to this, one of the reasons for the illegitimacy of displaying weapons is that it is intimidating to others and an expression of pride and arrogance, due to which sedition and unrest will appear in the society, and any sedition and Islam's strategy to avoid the atmosphere of insecurity is based on extreme caution. Therefore, all these traditions emphasize that a person should not use a weapon

or any other thing that could cause harm to someone, from a careless manner.

Similarly, it is not allowed by Sharia to take it in public places unnecessarily. Like Abu Dawood Sharif it is narrated that: “A man came to the Prophet's Mosque carrying an arrow. The Messenger of Allah (may God bless him and grant him peace) said to him: “Keep their ends closed.”¹⁵

The importance of protection of human life can be estimated from these traditions that he (SAW) has not only prohibited killing or harming a person, but also prohibited taking up arms against a person. Similarly, there is another blessed tradition in which it is forbidden to scare and threaten a person by further warning about the protection of human life. As he (SAW) says:” It is not permissible for a Muslim to threaten another Muslim.”¹⁶

All these kinds of texts prove that one should not walk in the mosque with any type of weapon, such as arrows, knives, swords, pistols, spears, guns. One should not take any items to the mosque or public places where there is a crowd.

Now the question is whether it is permissible for a common person to have a weapon under normal circumstances. If it is permissible, what are the conditions for it? All states and countries have their own laws regarding this.

But in all the countries where peace is established, it is a crime by law to carry an open weapon, while it is permitted to carry a weapon with certain persons or under certain circumstances, because in carrying out this law there is no conflict with the Shari'ah, because the permission to possess arms in the Shari'ah is absolute; so restricting the possession of arms with specific places or specific times is not against the permission of the Shari'ah. This imprisonment has been imposed in view of the

national interest and national peace so that thieves, dacoits and ill-gotten gains are not the cause of peace within the country. So it should be kept with the permission of the official law, there is no Shari'ah scope to oppose it. Therefore, it is the responsibility of a Muslim state to lay down rules that allow a person to possess arms under severe compulsion, but not those who display arms without dire necessity or who violate these rules. Disciplinary action should be taken against the person, so that the human life and property and his honor and reputation are fully protected.

In view of the same instructions of the Sharia, the rules and regulations of weapons which were set during the Swat state, in this chapter, the effect of these rules has to be analyzed and researched.

All the action (Disciplinary Action) so that the human life and wealth and his honor and reputation are complete

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Finding and Discussion

Weapons refer to all the instruments through which killing is done, as the jurists say: "Weapons are the use of these instruments in war and fighting."¹⁷

It has been discussed in detail above that the Sharia prohibits the display of weapons and its unnecessary use for the sake of peace. And especially in places where people usually gather, such as mosques, markets, etc., there the Sharia has forbidden to keep a sharp object open for the sake of safety.

In the light of the same rules and regulations, Wali Swat also issued about eight

such decrees about weapons for the sake of peace and order in the State of Swat, which have been preserved and due to which the residents there (Inhabitants) were well protected. These are the decrees of Wali Swat.

Order No: 404 Bringing Arms in Tehsil:

A person who goes to a Tehsil¹⁸ in connection with his case will not take any kind of weapon with him. Also, if any kind of weapon is found inside the Tehsil during the decision, then the Tehsildar or Hakim will be responsible for it.¹⁹ 19-06-1948

Shari'ah Review

The above decree has been issued about arms, because the Tehsil is called its own place, where the decisions of the people are made. In this way, since there is a crowd of people there, if the partisans or any of them take arms, there is a lot of danger to the common people, so Wali Swat stopped people of taking weapons to Tehsil. Thus, this order is in accordance with the principle of Sharia, which is a different interpretation of them, such as the narration of Hazrat Jabir (may Allah be pleased with him): "He said, "" I heard from he (SAW) that he (SAW) used to say that it is not lawful for a person to carry weapons in Makkah.²⁰ In this Hadith, although Makkah is mentioned only, but it is meant in every place where people gather. Therefore, it is forbidden to carry weapons in places where people are crowded, and if there is a danger to a person.

Similarly, in another Hadith narrated from Hazrat Jabir (RA): "It does not happen to a Muslim that a person passed in the mosque with an arrow whose tip he had pulled out, so that person was ordered to keep the tip under control so that it may not hurt anyone.²¹ Muslims have been taught to be very careful that whoever is carrying anything, should keep the tip of it clean and clear. Keep it under control so that no one gets hurt due

to carelessness. It contains a knife pouch and a sharp object which is sharp and poses a threat to another person. Wali Swat was concerned about the instructions of so many traditions, for the sake of the protection of the people of his state Swat. The ruling of Wali Swat is in accordance with the ruling of the Sharia which was based on perfect caution.

Order No: 405 Prohibition on carrying weapons in Mingora²² Bazaar:

The following guidelines will be followed for carrying weapons in Bazar Mingora:

1. It is forbidden to sell a pistol in the market after taking it out of the Qash.
- 2 It is forbidden to walk in the bazaar with a knife.
3. Going to the market with gun is forbidden.
4. It is forbidden to go to the market with a loaded gun.²³

24-07-1959

Sharia Review

In this order, a ban has been imposed on carrying weapon in the city of Mingora along with certain conditions. The summary of all these conditions is that it is prohibited to carry a weapon in such a way as to endanger another person. Earlier, it was mentioned in the Sharia review of the ruling that as a precautionary measure, he (SAW) had banned the carrying of weapons in some places. While on some specific occasions, he (SAW) did not prohibit the carrying of arms, but imposed special conditions on it. As Jabir (RA) narrated that:

“A man came to the Prophet's Mosque carrying an arrow. The Messenger of Allah (May God bless him and grant him peace) said to him: "Keep the tips of them closed." He replied, "Okay."²⁴

In this tradition, he (SAW) was not forbidding us to carry weapons in the mosque, from which it is clear that imposing such conditions on weapons as to keep the other person safe is a requirement of Sharia. That is why this order of Wali Swat which he had issued about the city of Mingora and the conditions imposed on the bringing of weapons also has the clear purpose of not causing any harm to any other person. This tradition is apparently about the mosques, that it is prohibited to bring weapons openly in the mosques, because of which another person is hurt. But in reality, this knowledge does not only include mosques, but all the places where these people gather. As mentioned in other traditions, both mosques and bazaars are prohibited and open carrying of weapons is prohibited in both. As narrated by Hazrat Abu Musa Ash'ari (may Allah be pleased with him):

If anyone passed through the bazaar or in the mosque has an arrow, hold the tip of it. Do not injure the Muslim with your hand.”²⁵

In the same like another narration Hazrat Abu Musa Ash'ari (may Allah be pleased with him): narrated: "If one of you passes through the bazaar in the open mosque, and if he has an arrow, he should hold the tip of it in his hand so that no Muslim may be hurt by it. Or he said to hold its tip in his fist.”²⁶

From all these traditions, it is clear that Islam has issued this order for the protection of human life; that it is forbidden to shoot arrows or any other sharp object in mosques and markets. Since during the time Nabi Karim (SAW), only sword and spear were used as weapons. That is why only they are mentioned in this Hadith. But it includes all things and tools of this age and whose use without care may endanger the life of another person, so it should be avoided. Therefore, one should not carry guns, pistols, etc., and especially

should not go to places where people gather to avoid accidents. For this reason, Wali Swat had issued the same decree as a precaution that if anyone wants to walk in the market of Mingora with their weapons, they should follow above conditions.

Order No: 406 Arms in Government Hospitals

It is forbidden to go to the hospital with weapons and if someone fights in the hospital, he will be fined twice as much. If someone committed murder in the hospital, he will be extremely get punished.²⁷ 2 1962-09-24

Sharia Review

There are two types of decrees in this order. The first commandment is that the weapon is prohibited in the hospital. Now this order is obviously in accordance with Sharia and it is not known before, but it can be assumed that he (SAW) at some specific places (such as Islam forbids going to Makkah and the tradition and its details have been mentioned in 404 Sharia Review.

The second order is that if someone violates this order and takes a weapon to the hospital, he will be fined. This knowledge is related to the penalty incurred. This is called ta'azeer bilmal (financial punishment) in Sharia. Jurists have different opinions about taazeer bilmal which have been mentioned by Ibn Abideen I such words: "According to Imam AbuYousuf (RA) ; taazereer bilmal is valid for the king.²⁸ According to Sahibain and another Ayemmah, it is invalid. According to Mufta, it is valid, as said by Imam ibn Juzi (RA) quoted Allamah ibn Qayyim saying: "Such sorts of problems (like taazeer bilmal) are valid in the Maslak of Imam Ahmad bin Hanbal (RA) and some other in the Maslak of Imam Malik (RA). And a person who said that to punish financially is nullified, that person has been misunderstood, the claim of nullification of

taazeer Bilmal is not that much easy. It is because after the demise of Nabi (SAW) Khulafayi Rashideen's (RA) decision about taazeer bilmal, negates the claim of those people. And those people who agreed with the nullification of taazeer bilmal, they do not have an argument from the Holy Quran and Hadith and even from consensus to prove their claim besides this they say that it is not allowed in their Maslak (Cult)."

The summary of all discussion is that taazeer Bilmal is permissible. Wali swat had issued two orders about taking arms to hospital. The first order was that it is forbidden to enter the hospital with weapons, while the second order was that a person went to hospital with weapon, would be fined. So these two orders are not in conflict with Sharia because there is no clause included which is against the principles of Islam. Therefore the order passed by Wali Swat on the carrying of weapons in the hospital is also in accordance with Sharia.²⁹

Walking with Weapon in Saidu Sharif³⁰ Order No: 407

An order was received that if a person comes to Saidu Sharif and has enmity, so he can take only one pistol with him; cannot carry other weapons. If a person does not have enmity, then he cannot carry any type of weapon with him.

(Note) This ruling is only for the area of Saidu Sharif. It will not be applied to Mingora and other areas³¹. 16-05-1966

Shari'ah Review

The Hadith that has been passed in Order 404, that he (SAW) prohibited carrying weapons inside Makkah without valid excuse, as narrated by Hazrat Jabir (may Allah be pleased with him), who said: "He heard he (SAW) to say that it is not lawful for a person raise arms in Makkah.³²

From this Hadith, this issue is clear that if the ruler bans forbids the ‘the use of taking arms for specific places without any excuse then he has this authority. As the he (SAW) had banned taking arm to Makkah. But Imam Muslim, (may God have mercy on him), in his Sahih, under the chapter under which this Hadith is mentioned, he has put the condition of *bila uzr* (without excuse), in which he has pointed out that the ban that he (SAW) had for carrying weapons to Makkah, it was for carrying the weapons without excuse. From which it is clear that if someone has an excuse, he can take it with him. This ruling of Wali Swat which he issued regarding Saidu Sharif and its premises that if a person is hostile, he can carry a pistol with him, this knowledge is also in accordance with the Shari'ah which supports the above mentioned Hadith.

Order No: 410 Ruling Regarding Archery Knives

Since there is a general ban on archery knives³³ in the state and most of the people of Khadu Khaiyl region³⁴ have these things due to which the unrest is increasing day by day. This is a unanimous appeal that the governments take them into their custody and if after today someone is found to be larger than four or five inches knives, that person will pay a fine of one hundred rupees without any excuse. The government will also accept it and we will also implement it for the future.³⁵ Jirga³⁶ Khado Khail Tuta Lai³⁷ 01-08-1950Sharia

Sharia Review

There are two types of orders given in this ruling: The first order is that: “all archery knives should be taken over by the Government in custody.” While the second order is that: “after today, if someone is found to be larger than four or five inches knives, that person will pay a fine of one hundred rupees.” Regarding the first order, Sharia says that confiscates the wealth of a

criminal and those things by government, they are permissible and their arguments are proved from the time of he (SAW) and Khulafai Rashideen (RA). And there are so many examples which is a justification for this problem. For example:

. Umar ibn al- Khattab (may God be pleased with him), issued this order that he took half of the wealth from his workers (called *amileen* in Arabic, they are the people who collect Zakat) and divided it equally between them and the common Muslims.³⁸ It refers to the incident that when Hazrat Umar (RA) saw that the wealth of his workers was increasing enormously, he took half of their wealth and gave it to them and ordinary Muslims.

Similarly, another incident is related about him (RA) that he once saw a beggar, he was begging even though he had more food than he should have. So Hazrat, Umar (R.A.) took all the begged things that he had and fed it to the camels of charity.³⁹

In these incidents, there is an indication that if the ruler wants to for some expediency, he can confiscate the property of the criminal. And can spend it wherever he wants. Whether there is in the form of cash as in the first incident he took wealth from his workers and some of it was distributed among the common Muslims, or in any other form as in the second incident Hazrat Umar (RA) did, he took food from the beggar and fed the camels. It became clear that the ruler at that time had the authority to take property from a criminal and take possession of it. He can confiscate it and spend it as he wishes. And the reason for archery knives and big knives is that they can usually be inflicted on another person. And before that, Hazrat Jabir's (RA) decree in 404 has been narrated that:

“A man passed in the mosque with an arrow, the tip of which he had pulled out, so it was ordered that the person who control the point of the sword

so that it does not touch any Muslim.⁴⁰ So the way in which the release of caution was issued, that he (SAW) issued this command so that everyone should keep his sword and arrow with him carefully. As mention in another tradition that: Hazrat Jabir (may Allah be pleased with him), said: “He heard he (SAW) to say that it is not lawful for a person raise arms in Makkah.”⁴¹ He (SAW) issued the two orders as a precaution. The archery knives were also prohibited in the State of Swat because of this precaution. This order of Wali Swat regarding the confiscation of the archery knives is in accordance with the Shari’ah.

The second order in this order, in which the violation of this crime is to be fined, and it is taazeer bimal (financial punishment). It has been mention earlier in order 406 in detail that the ruler of the time has the authority of financial punishment. So, this order is in accordance with Shari’ah.

Not on order: 411 Having a Kinife with Lengthy Size

“It was issued by the advisor that every kind of knife, which is six inches, if someone was found with it, he will pay the fine five hundred rupees. The government will confiscate the knife.”⁴²

By Register Tehsil Dagar⁴³ 28-08-1961

Sharia Review

Two types of orders have been given in this order.

The first order is that “the government will take in its custody the knife larger than six inches.” The second order is that “If someone was found with a larger knife, he will pay the fine five hundred rupees. Both these orders have been mentioned in previous order 410 along with detail. As just as it was said about them that these two orders are in accordance with the principles

of Sharia,⁴⁴ so are these. Therefore, this decree is also according to Sharia.

Conclusion

The summary of all this discussion is that the religion of Islam is a comprehensive religion which has been revealed by Allah Almighty perfect and complete. It is not only limited to beliefs, and worships, there are also orders and instructions related to ethics, divorce, buying and selling, and human life. If the implementation of all these orders is ensured, then there will be a way of success for all humanity in this world and the hereafter life as well.

Some of the orders in these orders are related to awamir (to do) which means to fulfill the orders. There are some others orders which are called nawahi (not to do), which means there are certain things which should not be done. Apart from these, some orders have been revealed by Allah, the clear purpose of which is to keep peace in the society. Because peace in society is the basic unit for living human life, without which not only humans but also animals cannot live in such a society. In view of this peace and harmony in the society, such orders have been revealed by Allah that no one should try to disturb the peace of the society and whoever commits a crime, he will be punished according to the gravity and severity of his crime in Sharia law. Among these crimes, some crimes are of such severity that the punishment has been prescribed by the Sharia itself and no ruler or judge has been given the credit to mitigate it or reduce the punishment. But since some crimes are slightly more serious than this, the authority to punish them has been given to the Qazi in Sharia. It is among the crimes in which no limit has been set by the Shari’ah. This type of punishment is referred to as financial punishment. In these types of crimes, the judge is given the power to increase or decrease the punishment depending on the nature of the crime or the importance of the person and the place. The

purpose of all these punishments is that crimes should be eradicated from the society and every human being can live a dignified and peaceful life in the society.

Wali Sahib had issued such decrees in his state, which he had issued at the time of crimes committed by criminals. Some of these orders were those he issued on arms. He had banned it from being carried in certain important places in order to reduce conflicts as much as possible in his state. For example, the city of Mingora, which is the main city of the Swat State, as well as Saidu Sharif, which was the capital of the Swat State. In

addition to this, and in public places where people used to have gathering, they had issued a ban on carrying weapons, such as Tehsil and hospital, etc. While in some specific cases, the order was also given to confiscate weapons.

Only the Swat State implemented the decrees of the Swat due to which the Swat State remained peaceful. And the residents lived happily in a calm and peaceful environment, and the atmosphere of peace and order prevailed until its merger in Pakistan.

Note and References

¹ Mian Gul Abdul Haq bin Mian Gul Abdul Wadud bin Mian Gul Abdul Khaliq bin Hazrat Akhund Sahib, born: 1908, studied at Islamia College Peshawar, passed the FA examination in 1926 and returned to Swat, and was only 15 years old when became the crown prince, became the ruler of Swat on December 12, 1949, in 1951 he was made an honorary brigadier in the Pakistani army, while in 1955 he was awarded the rank of major general .In 15 August 1969 when Swat State was merged in Pakistan he abdicated after this, died on 14 September 1987, and was buried in Saidu Sharif.

Khalil-ur-Rahman, Fatawa Wadudiya ki Takhreej wa Tahqeeq (M.Phil Thesis: Allama Iqbal Open University, Islamabad, 2018), p.: 23]

² The Qur'ân, V:03 (The Original text of Holy Qur'ân flows as:

“الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ وَأَتْمَمْتُ عَلَيْكُمْ نِعْمَتِي وَرَضِيْتُ لَكُمُ الْإِسْلَامَ دِينًا.”

³ The Qur'ân, XVI:89 (The Original text of Holy Qur'ân flows as:

“وَنَزَّلْنَا عَلَيْكَ الْكِتَابَ تِبْيَانًا لِّكُلِّ شَيْءٍ وَهُدًى وَرَحْمَةً وَبُشْرَىٰ لِلْمُسْلِمِينَ”

⁴ The Original text of Hadees flows as: “ الْمُسْلِمُ مَنْ ” Muhammad bin Ismail, Sahih Bukhari, Babul Eman, (Biroot: Dare Tawq Al Najat, Volume: 1, Page, 11, Hadith No: 10

⁵ The Original text flows as:

أَلْحَدُّ: اسْمٌ لِعُقُوبَةٍ مَقْدَرَةٍ تَجِبُ حَقًّا لِلَّهِ تَعَالَىٰ وَلِهَذَا لَا يُسَمَّىٰ بِهِ “ النَّعْزِيرُ، لِأَنَّهُ غَيْرُ مُقَدَّرٍ وَلَا يُسَمَّىٰ بِهِ الْقِصَاصُ؛ لِأَنَّهُ حَقُّ الْعِبَادِ”

Qisas refers to the prescribed punishment that has been prescribed for the right of the servant, therefore it cannot be called tazeer because its punishment is not specified in the Sharia, nor can it be called qisas because qisas is due to the right of a person. So the summary is that the limit refers to a punishment that is prescribed in the Shariat for the right of Allah Ta'ala. Qisas refers to a punishment that is prescribed in the law for the right of a servant, and tazeer refers to a punishment that is obligatory for committing a sin against Allah or a human being for which no punishment or expiation is prescribed in the law....see for further details Imam Sarakhsi, Almasboot (Bairoot: Dar Ul Marifat) Vol: 9, P:36.

⁶ The Original text flows as:

وَالنَّعْزِيرُ تَأْدِيبٌ إِصْطِلَاحٌ وَرَجْرُ عَلَىٰ ذُنُوبٍ لَمْ تُشْرَحْ فِيهَا “...see for further details Ibrahim bin Muhammad bin Farhoon, Tabserat ul Hokkam, (Qatar: Wezarat Ul Awqaf, 2016) 1st Edition. Vol: 3, P: 242.

⁷ The Law Dictionary, Featuring Black's Law Dictionary Free Online Legal Dictionary, P: 449, 2nd Edition,

(<http://thelawdictionary.org/estoppel/> (accessed 29th Jan, 2023).

⁸ Ibid, P: 311.

⁹ The Qur'ân, V:32 (The Original text of Holy Qur'ân flows as:

”مِنْ أَجْلِ ذَلِكَ كَتَبْنَا عَلَى بَنِي إِسْرَائِيلَ أَنَّهُ مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا وَمَنْ أَحْيَاهَا فَكَأَنَّمَا أَحْيَا النَّاسَ جَمِيعًا.“

¹⁰ The Qur'ân, II:178 (The Original text of Holy Qur'ân flows as:

”يَا أَيُّهَا الَّذِينَ آمَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ.“

¹¹ The Original text of Hadees flows as:

”عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ قَالَ: رَأَيْتُ رَسُولَ اللَّهِ ﷺ يَطُوفُ بِالْكَعْبَةِ، وَيَقُولُ: مَا أَطْيَبَكَ وَأَطْيَبَ رِيحَكَ، مَا أَعْظَمَكَ وَأَعْظَمَ حُرْمَتَكَ، وَالَّذِي نَفْسٌ مُحَمَّدٌ بِيَدِهِ، لِحُرْمَةِ الْمُؤْمِنِ أَعْظَمُ عِنْدَ اللَّهِ حُرْمَةً مِنْكَ مَالِهِ وَدَمِهِ، وَأَنْ تَنْظُرَ بِهِ إِلَّا خَيْرًا.“

Imam Muhammad bin Maja, Sunan Ibne Maja, (Bairoot: dar Ihya Kotob Ul Arabia) Vol: 02, P: 1297.

¹² The Original text of Hadees flows as:

”عَنْ أَبِي هُرَيْرَةَ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ مَنْ حَمَلَ عَلَيْنَا السِّلَاحَ فَلَيْسَ مِنَّا، وَمَنْ عَشَّنَا فَلَيْسَ مِنَّا.“

Imam Muslim bin Hajjaj, Sahi Muslim, (Bairoot: dar Ihya Turath El Arabia) Vol: 01, P: 99.

¹³ The Original text of Hadees flows as:

”قَالَ رَسُولُ اللَّهِ ﷺ لَا يُشِيرُ أَحَدُكُمْ إِلَى أَخِيهِ بِالسِّلَاحِ، فَإِنَّهُ لَا يَدْرِي أَحَدُكُمْ لَعَلَّ الشَّيْطَانَ يَنْزِعُ فِي يَدِهِ، فَيَقَعُ فِي حُفْرَةٍ مِنَ النَّارِ.“

Ibid, Vol: 04, P: 2020.

¹⁴ The Original text of Hadees flows as:

” عَنْ جَابِرِ رَضِيَ اللَّهُ عَنْهُ قَالَ نَهَى رَسُولُ اللَّهِ ﷺ أَنْ يُتَعَاطَى السَّيْفُ مَسْلُورًا.“

Muhammad bin Eisa, Sunan Al Thittirmithi, Vol: 04, P: 464.

¹⁵ The Original text of Hadees flows as:

” عَنْ عَمْرٍو، سَمِعَ جَابِرًا، يَقُولُ: مَرَّ رَجُلٌ فِي الْمَسْجِدِ بِسَهْمٍ، فَقَالَ لَهُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَمْسِكْ بِنِصَالِهَا.“

Muslim bin Hajjaj, Sahih Muslim, Vol: 04, P: 2018.

¹⁶ The Original text of Hadees flows as:

” عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى، قَالَ: حَدَّثَنَا أَصْحَابُ مُحَمَّدٍ ﷺ أَنَّهُمْ كَانُوا يَسِيرُونَ مَعَ النَّبِيِّ ﷺ فَنَامَ رَجُلٌ مِنْهُمْ فَانْطَلَقَ بَعْضُهُمْ إِلَى حَبَلٍ مَعَهُ فَأَخَذَهُ فَفَرَعُ فَقَالَ رَسُولُ اللَّهِ ﷺ لَا يَجِلُّ لِمُسْلِمٍ أَنْ يُرَوِّعَ مُسْلِمًا.“

Abd al-Rahman bin Abi Laila (RA) says that the Companions of the Messenger of Allah, may God bless him and grant him peace, have narrated to us that these people were traveling with the Prophet(, may God bless him and grant him peace), when one of his men fell asleep, so some of his companions, when he went to the rope lying nearby and took it, the man was afraid, so the Prophet (peace and blessings of Allah be upon him) said, “It is not permissible for a Muslim to frighten another Muslim”.

Abo Dawood Solaiman bin Ashaath, Sonan Ibne Dawood, Vol: 04, P: 301.

¹⁷The Original text flows as:

” أَلَسَلَّاحُ إِسْمٌ جَامِعٌ لِأَلَاتِ الْحَرْبِ وَالْقِتَالِ إِي مَا يُعَدُّ لِلْحَرْبِ.“

Muhammad Ameem Albarkati, Qawaed Ul Fiqh,(Karachi: Alsadaf Publisher) P: 124. Tehsil refers to the court where judges and ¹⁸ Qazis sit and deliver judgments. Tehsildar's court Feroz Ud Din, Ferooz Ul Loghaat, (Lahor: Ferooz Sons) P: 348.

¹⁹ Ghulam Habib Khan, Riwaaj Nama Swat, (Mingora: Shoaib Sons, 2021) P: 211.

²⁰ Muslim bin Hajjaj Qushairi, Sahih Muslim, Vol: 02, P: 989.

²¹ Muhammad bin Ismail Bukhari, Sahih Bukhari, Vol: 09, P: 49.

²² Mingora is the largest central city of Swat district and the headquarters of Swat district, it had great importance during the Swat state period. It covers only 25 square KM on the banks of Swat River, but has a population of around one million. Fazal Rabbi Rahi, Swat Sayyaho ki Jannat, (Mingora: Shoaib Sons, 2019) P: 47.

²³ Ghulam Habib Khan, Riwaaj Nama Swat, P: 211.

²⁴ Muslim bin Hajjaj Qushairi, Sahih Muslim, Vol: 04, P: 2018.

²⁵ Muhammad bin Ismail Bukhari, Sahih Bukhari, Vol: 01, P: 98.

²⁶ Muslim bin Hajjaj Qushairi, Sahih Muslim, Vol: 04, P: 2019.

²⁷ Ghulam Habib Khan, Riwaaj Nama Swat, P: 211.

²⁸ Muhammad bi Abideen, Radd Ul Muhtaar (Bairoot: Dar Ul Filr,1992) Vol:04,P:61

²⁹ Ibrahim bin Muhammad bin Farhoon, Tabserat Ul Hokkam, Vol: 03, P: 353.

³⁰ Saidu Sharif is located just two KM away from Mingora, it is an ancient and historical city, which has a population of about 50 thousand people. The reason for the fame of Saidu Sharif is mausoleum of Maulana Abdul Gafoor knows as Saidu Baba, which is located next to the mosque here. When Mian Gul Abdul Wadud assumed power, he gave Saidu Sharif the status of the capital of the state. Fazal Rabbi Rahi, Swat Sayyaho ki Jannat, P: 55.

³¹ Ghulam Habib Khan, Riwaaj Nama Swat, P: 211.

³² Muslim bin Hajjaj Qushairi, Sahih Muslim, Vol: 02, P: 989.

³³ In the state there was os strict ban on all types of weapons by the Governor of Swat (wali Swat), about which various orders of the Governor of have been written in various places in the “ Riwaaj Nama Swat”. As for the knife, which is being mentioned in the paper only after the order. This custom is recorded in Swat in Riwaaj Nama Swat, P: 411. Ghulam Habib Khan, Riwaaj Nama Swat, P: 213.

³⁴ Khadukhel is a tehsil of Buner district, whose headquarters is Totalai city. According to the 2017 census, the total population here was about 1 lakh 20 thousand. At the time of the state of Swat, it was a gateway to this state. Consists of 5 Union Councils and 27 Village Councils. (Khadukhel: [Gandhara civilization](#)

[neglected/www.dawn.com/](#) (accessed 13th Jan, 2023).

³⁵ Ghulam Habib Khan, Riwaaj Nama Swat, P: 213.

³⁶ The literal meaning of Jirga is a group, a sect, an assembly and a gathering of elders to solve a poroblems, is called Jirga. Muhammad Ilam Faiz Zad, “Jirga Tarikh ky Ayine me”(Lahore: Idara Istehkam, Pakistan) P:16

³⁷ Totalai is the headquarters of Khadukhel Tehsil of Buner district, it is located near Swabi district, there is a police station and tehsil headquarters hospital in this city, various government schools for male and female students are also located here. Totalai is of Buner district. It is considered as one of the important cities. [www.totalai.wikimapia.org](#) ((accessed 22nd Dec, 2022).

³⁸ Ibrahim bin Muhammad bin Farhoon, Tabserat Ul Hokkam, Vol: 03, P: 352.

³⁹ Ibid, P: 353

⁴⁰ Muhammad bin Ismail Bukhari, Sahih Bukhari, Vol: 09, P: 49.

⁴¹ Muslim bin Hajjaj Qushairi, Sahih Muslim, Vol: 02, P: 989.

⁴² Ghulam Habib Khan, Riwaaj Nama Swat, P: 213.

⁴³ Dargai is the headquarters of Buner district, located at a distance of 64 KM from the main town of Swat, Mingora. All the office and residences of the district administration are located.

Fazal Rabbi Rahi, Bunir ki Haseen Wadi Column: Daily Dunia, 20 Nov 2017.

⁴⁴ This Article, P: 16.