

THE USE, MISUSE, AND ABUSE OF *JIHAD*

An Islamic, historic, and textual analysis of contentions and misconceptions regarding the concepts of *jihad* and terrorism, Islamic law of war and peace, as well as the spread of Islam.



DA'WAH
INSTITUTE

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ENDORSEMENTS FOR THE USE, MISUSE AND ABUSE OF *JIHAD*

“The Use, Misuse and Abuse of Jihad” provides a holistic overview on the meaning, history and contemporary misconceptions and understanding of the concept of Jihad. It does so in a concise manner while maintaining a good level of depth. The content, presentation and style of the text uncover an educated, critical and unapologetic voice. It shows how important it is to maintain both an educated account of the history of Islamic law as both a tradition and a system and an informed position of the contemporary issues related. Also, by giving example in the concept of Ijtihad, it successfully elucidates that Islamic law is a legal system where both stability as found in the scripture(s) and serviceability to changing circumstances are both maintained and celebrated. This answers to another misconception held by Muslims and non-Muslims alike that claims a stagnant and exclusive nature of Islamic law. The text is especially brilliant in claiming back Ibn Taimiyyah and Ibn Qayyim to abode of Islamic law as studied and lived by Muslims. This uncovers the unfoundedness of both the Islamophobic and the so-called

extremist rhetoric that tend to find legitimacy in the scholarship of these two writers.

Dr. Ahmed Al-Dawoody

*Legal adviser for Islamic law and jurisprudence at the ICRC;
Visiting professor at the Geneva Academy of International
Humanitarian Law and Human Rights in Geneva, Switzerland;
and Author of The Islamic Law of War: Justifications and
Regulations.*

"*The Use, Misuse, and Abuse of Jihad*" by the Da'wah Institute is a powerful game-changer and inevitable paradigm-shifter in effectively addressing the topic of Jihad, Violent Extremism, "Islamic" fundamentalism, and "Islamic" terrorism. This book boldly confronts the most uncomfortable questions, allegations, and misrepresentations often used in attacking Islam in the media, academia, and popular discourses. It boldly addresses and clarifies highly contentious issues, such as the controversial "verse of the sword" and the Prophet's treatment of the Jews of Madinah. In aligning the concept, vision, and principles of Jihad with the Qur'anic ideal, authentically verified Prophetic praxis, and documented application by the rightly guided and earliest Muslim community, the book spares not even later Muslims that strayed conceptually or manifestly from the Prophetic ideal and precedent. This is one of the most important contributions of this thoroughly researched and richly referenced book to the

discourse and contentions on Jihad. It is articulate, clear, and concisely written in a style as easily accessible to the academic researcher as it is to the casual and interested reader. For generations to come, this seminal important book will remain a most invaluable resource for thinkers, influencers, and practitioners in the media, academia, curriculum development, legal institutions, national, regional, and global security, Islamic jurisprudence, tuition, and propagation, and inter-faith relations.

Imam Bashir Mundi,

*Dept. of Religion, University of Georgia,
and Imam, West Cobb Islamic Center, Atlanta, USA*

The use, misuse and abuse of Jihad is a timely and very important contribution. Jihad, indeed a Quranic and Prophetic concept, suffered from two extremes: deniers of this important Islamic obligation with its various dimensions that are integral to Islam as a way of life, and abusers who follow some mis-narrations and misinterpretations in order to achieve their misguided and un-Islamic objectives. This book delved into the details of this complex topic and produced an authentic and much needed Fiqh of Jihad for our times.

Prof. Jasser Auda

*Executive Chairman of the Maqasid Institute;
and Chairman of the Canadian Fiqh Council*

This book titled “The Use, Misuse and Abuse of Jihad” is a didactic guide that meticulously examines contentions and misconceptions regarding the conception of Jihad, Islamic law of war and the real factors behind the spread of Islam. The book presents sufficient information based on Islamic textual analysis and historical evidences to undo the crooked knots in understanding Jihad. The misconception of Jihad stems deeply into the contemporary Islamic tradition and is expensive in that it has been used by pseudo-scholars and peddlers of terrorism in tricking gullible people into embracing terrorism in the guise of Islam; Islamophobes and anti-Islamist to debase Islam by unfair criticism and other liberals and anti-religionists who wish to paint religion in dark light. This misconception is so widespread such that one is caught in-between considering it a deliberate attempt to dent Islam or consequence of ignorance. Whichever is the case, this book is a responsive effort that can satisfy all inquisitiveness.

The book presents an array of information, relevant not only to non-Muslims and anti-religionists, but also for Muslims as well who desire to understand Jihad, the art of War and the nitty-gritties of both. The real evil of misconstruing the concept of Jihad is manifested in the superimposition of its misconstrued meaning over Qur’an verses and Ahadith that promotes Jihad, while Jihad on a general note refers to any sort of overt and covert effort carried out for the sake of Allah. It includes disciplining the soul, philanthropy, pilgrimage, providing for

one's family and writing thought-provoking books such as this very one, amongst others.

Another factor which promoted the deliberate and indeliberate misunderstanding of Jihad is the absurd call to interpret Islam directly without considering the understanding of its scholars. This afforded non-scholars and anti-Islamist to make personal deductions from the Qur'an and Hadith, while ignoring historical evidences and interpretations. Drawing from the analysis of a rich pool of Islamic Scholarship, this book also addresses popular misunderstandings by providing more reliable interpretations. This book takes readers on an intellectual and hagiographic journey, leaving no aspersion unattended. I hereby consider this work a must-read primer for anyone who sets his hand on it.

Imam Professor Ibrahim Maqary,
Imam National Mosque Abuja, Nigeria

It is with great relief that I endorse this work, '*The Use, Misuse and Abuse of Jihad*' by the Dawah Institute (DIN), under the scholarly guidance of Sheikh Nuruddeen Lemu. That it emanates from West Africa with its history of *Jihad* inscribed in our consciousness, and that it emanates now, with the ever-present threat that the notion of *Jihad* - in the hands of extremists - poses, again teaches us that praxis - text and context - is the best solver of persistent conundrums.

Among ordinary citizens, both the intra-Muslim and inter-community manifestations of '*Jihad*' engender fear of Islam and Muslims; while for the mischief-makers (the islamophobia industry) this provides the moral screen behind which to foment conflict, exacerbate tension and perpetuate discrimination. This work steps into the breach with a scholarly depth that has mined the texts of Islam (the Quran and Prophetic Traditions) that examines the application of these texts (the battles, expeditions, but also the daily examples from life under the leadership of the Prophet (s) and the rightly-guided companions (r) to extract their meaning) and then, by implication, contrasts them with subsequent interpretations and applications. The result is the most comprehensive compilation and evaluation of scholarship and thought of Jihad as a defining concept in Islam. It is a work that confronts internal distorters and external exploiters of the concept of 'Jihad', by filling the very vacuum that leads to both injustices.

It is a brave work. It asserts the intents of Islam as the defining distinctions. It weighs up the word Jihad as meaning 'struggle and exertion' (from personal spiritual efforts, to caring for parents, to feeding the poor, to confronting tyranny). Against this are more precise meanings for violence and fighting (*qital*). There is, therefore, not an ipso facto correlation between 'Jihad' and 'Holy War! War is either justified or not, in Islam - never holy or unholy - and furthermore, there is no permanent war to either defeat people of other faiths or to convert them. Even if

there exists a confusion between *Jihad* as struggle and *qital* as fighting, this work copiously examines the rules and laws that govern even a Justified War.

Ambassador Ebrahim Rasool

*Emr. South African Ambassador to the United States; and Editor,
Living Where We Don't Make the Rules: A Guide for Muslim
Minorities.*

A good understanding of the concept of *jihad* is quite difficult to come by among the preponderance of both Muslims and Non-Muslims in our current day and age, but with this book "*the use, misuse, and abuse of jihad*" by the *Da'wah* Institute, curious minds that are open to learning the correct position of Islam about the subject of jihad will undoubtedly find a reliable resource. The book has excellently covered the most important issues on the subject using solid references in the Islamic tradition and in a simple and accessible language. May Allah reward the effort.

Nasir Bello,

*Muslim Intellectual and Technical Assistant, Better Education
Service Delivery for All (BESDA) Gombe State, Nigeria.*

In the light of terrorism, fundamentalism and extremism bedevilling Nigeria and the world, this book goes a long way to dispel and explain how Jihad in its "original form" is to be applied

while shedding light on the different aspects of it. It is truly a breath of fresh air to read about the laws and principles that guide the application of Jihad without making it complicated to new readers that are learning about it for the first time or readers that have some prior knowledge about it. *The Use, Misuse and Abuse of Jihad* is very honest in clarifying misconceptions about Jihad while beautifully reinforcing the peaceful nature of Islam.

Barr. Mariam Marwa- Abdu

Barrister and Solicitor of the Federal Republic of Nigeria.

Adherence to historical and textual contexts, and reference to other texts related to the justification and conduct of jihad, with regards to the lived tradition of the Prophet Muhammad (SAW) and his rightly guided companions are key for a correct understanding of the Quran and Hadith (Sunnah). This is the method adopted by this book to clarify the misconceptions about the concept and conduct of jihad in Islamic Jurisprudence and other narratives surrounding the spread of Islam. I found it to be essential as a tool for deradicalization and also for preventing violent extremism. Therefore, I recommend the book for religious, political and civic leaders across borders, especially Imams and du'ats.

Saleh Shuaibu Algidimi

Zonal Director, Tarbiyyah,

National Council of Muslim Youth Organizations (NACOMYO) -

Northern Nigeria

A combination of ignorance, Islamophobia and the misguided actions of those who misuse and abuse Jihad has led to its demonization and vilification of Muslims in the world today. This book could not have come at a better time. The *Da'wah* Institute (DIN) has done an excellent work of it, and what is most intellectually fascinating about it is that its arguments and submissions are firmly rooted in and based on original and primary sources and maxims of the Shari'ah (*ta'aseel*) thereby demonstrating sound Islamic scholarship as well as an untainted and impeccable understanding of the concept of Jihad. At the risk of being extremely impressed one can assert that there is hardly a book in English that has explained the concept, principles, perspectives, aspects and misconceptions of Jihad than this. It would soundly educate ignorant Muslims about Jihad, guide those who misappropriate it and challenge those who make mischief of it if it is read with a plain mind. Scholars as well cannot spare it.

Professor Salisu Shehu,

Deputy Secretary-General, Nigeria Supreme Council for Islamic

Affairs;

and Vice Chancellor, Al-Istiqama University, Sumaila, Kano State.

Albeit the simple language and presentation style, the *Da'wah* Institute has eloquently given us deep and comprehensive understanding on the concept of *jihad*, while at the same time systematically deconstructed the abuse of this word from

Muslims and non-Muslims alike. Its wide and strong references of traditional books and scholars provided us with an in-depth introspection of upholding Islam as the religion of peace, as well as contextualizing the Prophet's (pbuh) *ghazawat* as proofs of his dynamic firm leadership and wisdom in spreading the Word of Allah".

Assoc. Prof. Dr. Mohd Asri Zainul Abidin,
Mufti of Perlis, Malaysia.

I have read and re-read the draft of the book, "*The Use, Misuse and Abuse of Jihad*" by the *Da'wah* Institute, Islamic Education Trust. In my humble and sincere assessment, the book has rightly presented, analyzed and reached conclusions on peace, war, diplomacy, governance, interfaith relationship, *da'wah*, etc. in accordance with the authentic sources of Islamic teachings.

Barr. Ibrahim Attahir
Judge, Gombe State Judiciary

This piece comes not as a surprise due to the track record of the *Da'wah* Institute (DIN) in authoring second to none literature on contemporary Islamic discourses. This one on *Jihad* is no less

a masterpiece. The book has succinctly, though, comprehensively dealt with the nuances of the subject matter of *Jihad* and warfare from a *Maqasidic* standpoint. In my view, it provides answers and proper responses to the many questions surrounding the use, misuse and abuse of *Jihad*. It adequately dispels so much of the misconceptions on the subject with convincingly authoritative evidence. I, therefore, endorse and highly recommend this compendium as a novel *magnum opus* to those Muslims and non-Muslims with inquiring minds to understand *Jihad* in its proper Islamic perspective.

Aliyu Alhaji Rabiū,
Department of Religious Studies, Gombe State University.

This is an excellent delineation of the oft misused and abused term, *Jihad*. It has been systematically, diligently and painstakingly put together with concrete evidence from the ultimate sources of the Qur'an and Hadith. It has also leveraged the authentic historical sources to provide the context for a proper understanding of the events that shaped the meaning of Jihad. It should put to rest a lot of the misinterpretations and controversies around the term and provide seekers of truth the correct and scrupulous understanding of the term Jihad. Having separated the chaff from the grain, and having exposed the sordid nature of the propaganda against Islam, this book should pave

the way to a better understanding of Islam and a more peaceful world to live in.

-Dr. Usman Bugaje

*Muslim Scholar and Convener, Arewa Research and Development
Projects (ARDP)*

I have always held that there are numerous information to unravel in the rich Islamic History, particularly, the life of the Prophet Muhammad (SAW). This book has actually validated my long-held view. There is, in its illuminating pages, abundance of highly resourceful information on how to appropriately situate the context of battles and expeditions in Islamic History. Of the many beneficial thoughts captured, I will like to mention two as the most fascinating ones to me, as Muslims and non-Muslims alike have always held wrong views about them. The first is the treatment of the classification of *Dar al Islam* and *Dar al Harb/Dar al Kufr* as a binding (divine) law (*sharī'atun mulzimah*) rather than an ordinary juristic effort (*sinā'atun fiqhiyyah*). The second is the brilliant analysis shown in this work that the military form of Jihad in Islamic History was not primarily to achieve religious expansionism or elimination of peaceful people of other faiths (i.e. difference in religion). I, therefore, recommend this book, on the one hand, to all peace-loving global citizens of whatever religious affiliations, and on the other hand,

to all Departments of Islamic Law, where the course "Islamic International Law (*as-Siyar*)" is being taught.

Idris Ibrahim Alao, Esq.

Lecturer, College of Law, Fountain University, Osogbo.

“*The Use, Misuse and Abuse of Jihad*,” by the *Da’wah* Institute (DIN), Islamic Education Trust (Nigeria) is by far the best book about Jihad that I have come across. The book thoroughly explores and explains the meanings, usage and common understanding of this gravely misunderstood and intentionally distorted word. Both Muslims and people of all faiths have today, and across the ages, used and abused the beautiful concept of Jihad. Muhammad Nuruddeen Lemu along with his team at the *Da’wah* Institute have authored a book that silences most critics who claim that Islam glorifies violence. Replete with detailed references from the Qur’an, from the most authentic hadith (sayings) and *seerah* (biography) of the Prophet Muhammad, and from Muslim and secular scholars, this book definitively clarifies the most commonly misunderstood aspects of Jihad. On behalf of the Discover Islam Society of Bahrain I recommend this book to

anyone who wants to sincerely strive, or do jihad, in understanding this amazing Islamic concept.

Muhammad Quadir,

*Founder and Executive Director, Discover Islam (USA);
and Board Advisor and Executive Consultant, Discover Islam
Society, Kingdom of Bahrain*

This book gives a comprehensive exposition of Jihad which is mostly misconceived to be the worst peculiar feature of Islam. On the contrary, *Jihad* in its literal sense, is part and parcel of every religion, ideology or movement. Therefore, any effort to blame Islam for it, would undoubtedly make all other religions, ideologies and movements liable to the same blame, which no right-thinking individual can venture into doing. However, even though *Jihad* is an inherent symbol of all ideologies and movements, *Jihad* in its Islamic technical sense is unique as it is perfectly established on fair play, justice and compassion to lives coupled with maximum possible protection of properties and environments.

Personally, I gained tremendously from the vast contents of this book. Hence, I recommend it for everybody in a bid to relieve all from the general misconceptions on Jihad. On this note, I humbly congratulate DIN for a well-researched work of producing this book for the reading population of Muslims and

non-Muslims alike. May Allah support and uplift IET, and shower His endless bliss, forgiveness and mercy upon the noble souls of Sheikh Ahmad and Hajiyah Aishah Lemu, the first founders of Islamic Education Trust (IET) under which the Da'wah Institute (DIN) thrives and develops.

Dr. Abdulmalik Liman

Lecturer, Ibrahim Badamasi Babangida University, Lapai, Niger State.

This book “*The Use, Misuse and Abuse of Jihad*” by the *Da'wah Institute* will be a guide and a compendium for those who are really interested in understanding the concept of Jihad in Islam. The religion of Islam as we all know is built solidly on knowledge and understanding. Every Muslim is expected to read widely and ask questions where s/he doesn't understand (Qur'an 76:1-5). The book has given the general over view of Jihad to disabuse the mind of those who have distorted understanding of the concept, based on the rule of *Maqasid* (the higher goals). To buttress the pure understanding by classical scholars, the book gave an expository analysis of *Jihad* from the Qur'an and practical examples from the history of Islam and early Muslims. The laws governing the conduct of Jihad right from its triggers to its dos and don'ts are well articulated.

Coming at a time when the Muslim world is in a state of confusion occasioned by the activities of terrorists claiming to champion the course of Islam and the Muslims, this book will provide a glimmer of hope for the Ummah especially the ignorant and the misguided. For indeed, every segment of Islam is entrenched on knowledge hence every distortion and misinterpretation can easily be spotted. My utmost appreciation to the *Da'wah* Institute, for this important treatise for the enlightenment of both Muslims and non-Muslims, students of Islamic Studies, comparative and inter-religious studies, and researchers. I recommend the book to the general public.

Dr Khalid Abubakar Aliyu,

*Associate Professor, Islamic Studies, Kaduna State University;
and Secretary-General, Jamat Nasr Al-Islam (JNI) National HQ.*

The Book “*The Use, Misuse and Abuse of Jihad*” would serve as one of the fundamental sources on the topic of *jihad* written in modern days. The incessant militant attacks by self-acclaimed jihadists which has been mistaken to be Islamically sanctioned by many Muslims and non-Muslims is highly disturbing and setting a bad image to Islam. The concept of jihad in Islam is not an issue to be put into practice by every Muslim. It is as a matter of fact one of the most delicate intellectual and jurisprudential issues which need to be analyzed by scholars of high eminence and

ability in deducing religious verdicts. Scholars at the early stage of Islam had grounded methodologies to defining the concept and meaning of each verse especially whenever a contradicting message occurs. These types of contradictions occur in some verses that relate to *jihad*. An important Issue which needs to be fully understood is that some verses in Quran could not be fully comprehended until the historical realities and reasons of its revelations were ascribed to it. Some had misrepresented and misunderstood this concept but scholars would always recommend harnessing all verses and treating them as one single topic, thus, addressing it holistically. The Book “*The Use, Misuse and Abuse of Jihad*”, has come out with balanced scholarly arguments and evidently discharged results in all its seven chapters such as the cases of Military engagements, conduct of Warfare, spread of Islam under the shades of sword etc. Finally, this book is going to educate the general public about what Jihad means in Islam, and will assist in defining the actual stand and understanding of sound Muslims about its concept, whereas it will expose the erroneous methods of militants and insurgents who operates with the fascia of Islam.

Dr. Taufiq Abubakar Hussaini

*Centre for Qur’anic Studies, Dept. of Islamic Studies and
Shari’ah, Bayero University, Kano.*

The narrative that is prominently projected by the mainstream media, and arguably successfully too, is the idea that Jihad means dealing violently with non-Muslims as well as forcing people into Islam and any other thing in between. As a result, many Muslims find themselves on the defensive almost all the time trying hard to be understood. To effectively work against this strong and persistent tide of misinformation blowing from the mainstream media targeting the religion of Islam and its adherents, we need vast knowledge of Islam and a targeted approach by Muslims preachers, parents and policy makers. Vast knowledge means ability to bring scattered pieces of information dealing with the subject of Jihad from the extensive Islamic literature into positive perspectives that provide simple and clear answers. Such a material on the subject is extremely rare, especially in the language that can counter the pervasive, and, most times, intentional misinformation. “Textual analysis” and establishing “historical evidence” are both highly technical fields not within the reach of many, but which the Da’wah Institute has effortlessly provided in the *‘The Use, Misuse and Abuse of Jihad’*. The book has provided very precise and concise aid within its few pages. It has explained the concepts and varying applications in personal life, civil and warfare.

I readily recommend this extremely important work to every Muslim able to read, especially our Imams, preachers, parents and classroom teachers. Non-Muslims interested in the subject will find this book an uncommon source of positive

understanding of Islam. This is a book that all of us need, either for personal knowledge or helping others learn.

Kadi Aminu Sa'ad,
Judge, Shariah Court, Abuja

The book is, indeed, a masterpiece on the subject. It will, no doubt, immensely benefit the Ummah. May Allah reward IET, its founders, scholars and staff abundantly, aameen.

Prof. Yahya Ibraheem Yero,
Federal University Kashere, Gombe State, Nigeria

This book presents a critical analysis of jihad and it is very timely considering its coming at a time when a lot of non-Muslims and ignorant Muslims have misunderstood the word jihad. The book also refuted the claim of non-Muslims that *jihad* means killing every non-Muslim, which is theoretically and historically unfounded. I pray to Almighty Allah to make it useful for the readers and to bless its authors for writing such a valuable book. May He accept our humble efforts in the service of His Cause.

Arc. AlHassan Lawal Muhammad
Former Amir, MSSN Bauchi State Area Unit.

Having read through this manuscript and found it so beneficial, I therefore endorse the publication of this book for the use and benefit of humanity. May Allah count it among the desirables.

Oladosu-Uthman Habibat, PhD

Senior Lecturer, Department of Arabic and Islamic Studies,

University of Ibadan, Nigeria

And KAICIID International Fellow, 2019.

I have read the manuscript aimed at ‘an examination of contentions and misconceptions regarding the concept of *Jihad*, Islamic law of war and the spread of Islam based on Islamic textual analysis and historical evidence’. I find the work original and coherent in its conception and presentation, adequate and accurate in its scope, *uṣūlī* in its methodology and analysis, exhaustive and critical in its interrogation of the sources- classical and contemporary. It is my measured professional opinion, therefore, that the material is sufficient in addressing the gross misconceptions that Muslims and non-Muslims have about the concept of *Jihad* in Islam, while correcting some of the extreme positions that Muslims hold on to with a view to engendering the desired peace and stability our societies and communities require.

Dr. Oyekolade Sodiq, OYESANYA

Department of Religious Studies,

Tai Solarin University of Education, Nigeria.

I had the rare privilege of going through the manuscript of the book ‘The Use, Misuse and Abuse of Jihad’ and I found it an objective, interesting, comprehensive and lucid piece. No doubt, the term ‘jihad’ remains a grossly misunderstood and abused concept by many Muslims and Non-Muslims resulting in frail intra and inter-faiths relationships across the globe. Obviously, putting the term ‘Jihad’ into a proper perspective derived from the Qur’an and Sunnah as well as correct juristic rulings complemented with comprehensive expositions of associated issues by the Da’wah Institute is definitely a worthy effort which would remain an enduringly beneficial service to the entire human race. Therefore, every genuine and objective reader and seeker of the truth would find this book a highly valuable text.

Owoyele, Jimoh Wale PhD

Tai Solarin University of Education, Nigeria.

“With all of the social and moral ills in our society, the insurgency and extremism which is as a result of misconception about Jihad; what this world needs is more scholars who have a bright vision of the future, a willing spirit, and the determination to contribute to their religion, families, and the society. The ‘Use, misuse and Abuse of Jihad’ teaches our scholars and youth how to do just that!”

Dr. Mujahid A. S. Ameenuddeen

*Director, DMT Institute for Personal, Moral and Spiritual
Development*

This is wonderful, exhilarating, educative, pungent, thought provoking and indeed a great eye opener to the true meaning of Jihad and its implications for life and thought particularly in the contemporary times when geographical, social, political and economic boundaries are disappearing and given way to multiculturalism and metropolitanism. This is a must read for all well-meaning global citizens who care about harmonious peaceful co-existence of human race. It has indeed ad rem to our knowledge of the subject matter. I therefore recommend this wonderful book to all reading general public: university dons and their students, government functionaries, policy makers and implementors, technocrats and diplomats, journalists and legal practitioners and libraries across the globe.

Abdul Lateef Kayode Adeyemo (PhD, FIPMA)

*Professor and Head, Department of Religions, Faculty of Arts,
University of Benin, Nigeria;
and Vice President, Nigerian Association for the Study of Religions
(NASR).*

I have read through the book on Jihad you sent to me. It is an interesting and well researched book. I commend the effort of Da'wah Institute of Nigeria for embarking on such a book which is meant to educate both non-Muslims and Muslims who are not

well informed about the meaning of Jihad. I pray Allah to reward you in abundance.

Dr. Abdul-Fatah K. Makinde,
Dept. of Religious Studies, Obafemi Awolowo University, Ile-Ife, Osun State.

I have meticulously pored over the entire manuscript and found its content highly captivating, informative and educative. It was well written in a simple cleared language, which is mainly the indelible contribution of Da'wah Institute toward clearing all the misconceptions about jihad, Islamic law of war and spread of Islam based on Islamic textual analysis and historical evidence. Therefore, I congratulate the authors and contributors of this project on their valiant effort for coming up with this exquisite volume. May Allah reward the writers abundantly.

Professor Auwal Ibrahim Magashi (Amb.P.)
*Department of Crop Science,
Kano University of Science and Technology, Wudil*

The book gives detail explanation of Jihad from the perspectives of the Qur'an and Hadith as well as views of Muslim jurists. It is my sincere belief that the work done will go a long way in dispelling the misconceptions about Jihad in Islam, thereby

paving way for peaceful coexistence between Muslims and those of other faiths. This would make it possible for Islam to achieve its desired objectives of peaceful and stable societies. I therefore support and recommend the production of the book for all and sundry.

Dr. Rafatu AbdulHamid

Lecturer, University of Abuja; and CEO of Arise Muslim Women & Youth Educational Initiative

The book “The Use, Misuse and Abuse of Jihad” is a book written on a very timely topic. It is categorically clear from the book that the abuse and misuse of jihad is as a result of ignorance, misconception and confusion. The book provides answers to the questions usually raised and clears misconceptions that people have. This is clearly pointed out where the book pointed out Quranic injunctions and hadiths that are commonly misinterpreted. It then points out principles governing deductions from textual authorities and interpretations. The book thus serves as a weapon for those who defend Islam and is also valuable to the one trying to understand the concept rightly.

Barr. Ibrahim Muhammad Umar

Shariah Court of Appeal, Gombe State.

This is a well written scholarly book on a topic widely misunderstood by some Muslims and non-Muslims. The work has taken into consideration the correct understanding of classical and contemporary scholars of Islam on the topic of Jihad with copious references made from Qur'an and Hadith (Sunnah). I unequivocally recommend the book to scholars and those seeking authentic knowledge of Islam in order to build bridges and promote understanding.

Prof Abdulrazaq Kilani (FCAI)

*Professor of Islamic Studies,
Department of Religious & Cultural Studies,
University of Port Harcourt*

ACKNOWLEDGEMENTS

All praises and gratitude belong to Allah who has made this work possible. We thank Him for all we have and beseech Him to shower His endless mercy and blessings upon the noble soul of Prophet Muhammad (pbuh), his household, companions, and all those who have, and still are following his example.

The Prophet (pbuh) said: “*Whoever does not show gratitude to people does not show gratitude to Allah*”¹. It is therefore with great pleasure that the Da’wah Institute of Nigeria (DIN) takes this opportunity to express its sincere gratitude to all the brothers and sisters from all over the world, who have in various ways contributed to the development of this material.

We are profoundly grateful to the founding trustees of the IET – late Dr. Sheikh Ahmed Lemu OFR, late Hajiyah Aisha B. Lemu, and late Alhaji Sani Ashafa – for their foresight; and thank all other current members of the IET Board of Trustees – Mallam Lawal Maidoki, Prof. Kamaldeen Balogun, Justice Amina Wambai, Hajiya Hajara Adeola, Alhaji Arzika Rimau - for their unrelenting vision towards the advancement of Islam and Muslims and their continued wise counsel and guidance. May Allah spare your lives and keep your feet firm on His path.

¹ *Sunan al-Tirmidhi*, Hadith no. 1877, Maktabah al-Shamilah, version 3.35

We would like to thank all staff of the Research and Training Department of the Da'wah Institute, Abdulmalik Abdullahi, Adam Abdurahman, Aliyu Bashir, Haleemah Oladamade Ahmad, Hamza Yusuf, Idris Abdurrahman, and Ismail Abdulkadir for their constant efforts. As this book is an improvement of our earlier book, *Jihad and the Spread of Islam*, we would also like to appreciate Abdullahi Orire, Bashir Y. Mundi, Isa Friday Okwonkwo, Mohammed S. Dukuly, and Asiya Nimali Rodrigo who contributed to a very early draft of *Jihad and the Spread of Islam*. We would also like to express our gratitude to our network of volunteers and reviewers for their helpful feedback and suggestions. May Allah accept your efforts and add them to your scales of good deeds.

The contributions to this book have come in many ways, through numerous channels, both formally and informally, and from all over the world. They have come from contributors of various backgrounds, age groups, organizations, and specializations. Such contributions have come from Australia, Bahrain, Kenya, Malaysia, Sudan, and most importantly, Nigeria. It has unfortunately become practically impossible to cite all who deserve mention - but Allah has counted them all, and we continue to pray Allah blesses them with the best in this life and the hereafter.

We would like to acknowledge the following organizations for their support over the years. They include the Interactive Dakwah

Training (IDT) Malaysia, Islamic Foundation of Australia, Da'wah Coordination Council of Nigeria (DCCN), the Federation of Muslim Women's Associations in Nigeria (FOMWAN), the Movement for Islamic Culture and Awareness (MICA), the Muslim Students' Society of Nigeria (MSSN), the Muslim Corpers' Association of Nigeria (MCAN), the Nasirul-Lahi Fathi Society of Nigeria (NASFAT), Muslim Ummah of South-West Nigeria (MUSWEN), Jama'atu Nasril Islam (JNI), National Council of Muslim Youth Organisations (NACOMYO), Muslim Rights Concern (MURIC), Jama'atu Izalatu al-Bid'ah wa Iqamati al-Sunnah (JIBWIS), the Muslim Public Affairs Centre (MPAC), etc. Others include numerous University Departments, Colleges of Education, and Colleges of Arts and Islamic Legal Studies.

As only the Qur'an is perfect, this material will, by Allah's leave, continue to evolve through revisions and improvements with better contributions from people like you, the reader, *in-shā Allah*. We pray that the reward of whatever good comes from this effort goes to everyone who contributed to it, mentioned here or not. While several attempts were made at ensuring the correctness of the content of this book, we take full responsibility for whatever mistakes remain therein, and pray that Allah forgives us for the oversight.

To everyone, we say *Jazakumullahu khayran* – May Allah reward and bless you!

Wassalamu alaykum wa rahmatullah wa barakatuh.

Muhammad Nuruddeen Lemu,

Director, Research and Training Department, Da'wah Institute (DIN), and General Secretary, Islamic Education Trust (IET), Minna.

PREFACE

Some critics have associated violence with Islam, particularly in contemporary times. Attacks on Muslims are justified by such critics on the grounds that aggression and intolerance by some Muslims are threats that must be curtailed. Such aggression is erroneously attributed to the injunctions of Islam, specifically, the concept of *Jihad*. To many non-Muslims, the word *jihad* strongly connotes violence and intolerance towards them, irrespective of their peaceful intent.

Also, because Islam permits retaliation, some have assumed that Islam prescribes it as preferable or as the ideal, in line with fostering among its followers a sense of domination over non-Muslims. Some have condemned Islam for even permitting retaliation rather than promoting unconditional forgiveness alone, irrespective of what others do to one. Some Christians commonly quote the instance of Jesus (peace be upon him) not punishing the woman who committed adultery, arguing that only a sinless person has the moral right to enforce justice. The argument continues that the emphasis on loving and forgiving one's enemy demonstrates the spiritual superiority of Christianity (and some other faiths), while Muslims are over-concerned with justice and punishment.

Another widely spread misconception against Islam, resurfacing in recent times, and a major cause for fear of the Muslim world

by non-Muslims, is that Islam sanctions violence against and forceful conversion of non-Muslims purely on the basis of differences in belief. The result is fear of Islam or Muslim presence in the minds of those who value freedom of religion. This fear lends popular support to the policies of ‘divide and conquer’ by some non-Muslim governments throughout the Muslim world.

This book, which is in six (6) sections, attempts to elucidate the broad meaning of *jihad* from the Qur’an, Sunnah, and views of Muslim jurists; and tries to clarify commonly misinterpreted verses of the Qur’an and Hadith which some non-Muslims and misinformed Muslims use to justify the spread of Islam by force. Special attention is given to the “verse of the sword”² (*ayah al-sayf*) and the claim by some scholars that it abrogates verses of the Qur’an and Hadith that relate to peaceful coexistence with peaceful non-Muslims. This presentation argues that the idea that Islam was spread by the sword is both false and logically implausible in view of certain demographic and historical realities. A brief background is also given of some of the major battles fought by the Prophet (pbuh) for a better understanding of their purpose in protecting the nascent Muslim community, and the preservation of life and faith. It also discusses the conditions for declaration, engagement, conduct, and

² This phrase has been used by some Muslim scholars to refer to Qur’an 9:5.

disengagement from warfare in Islam; as well as the Islamic principles for the treatment of prisoners of war.

It is our hope and prayer that this work would go a long way in dispelling the misconceptions that some Muslims and people of other faiths have about the concept of *jihad* in Islam; correct some extreme positions that some Muslims hold on to; and thereby help achieve Islam's desire for peaceful and stable societies.

INTRODUCTION

No one understood the concept of *Jihad* in Islam better than Prophet Muhammad (pbuh), the Rightly Guided Caliphs of Islam, and other great companions. They understood the meaning and implications of every Qur'anic verse and Hadith on the subject and each text was put into practice during the lifetime of the Prophet (pbuh) – the period of the revelation of the Qur'an. In no single instance have we seen in any authentic historical record of the life (*sirah*) of the Prophet (pbuh) and his companions, the use of the concept of *Jihad* to justify terrorism, violent extremism, wanton destruction of life and property, hostility and aggression towards peaceful Muslims or members of other faiths as we have seen among some contemporary extremist Muslim groups who claim erroneously to also follow the authentic traditional Islamic teachings relating to the concept of *Jihad*.

A simple study of those areas of consensus (*ijma'*) among classical Muslim scholars regarding the justifications and circumstances when warfare or fighting (*harb/qital*) is permissible or prohibited, who and what is a legitimate target, permissible and prohibited weapons, and strategies of warfare, the rules of fighting and the conduct of hostilities in Islamic law, the regulations governing amnesty/quarter and safe-conduct (*aman*), the treatment of prisoners of war, and even the dignified treatment of the corpses of dead enemies is sufficient to make

explicitly clear the defensive and just war theory behind the military form of *jihad* in Islam as taught in the Qur'an and practised by Prophet Muhammad (pbuh) and his greatest companions.

Such a basic study, which this book attempts to undertake, also makes it clear that the concept of *Jihad* as taught by the Qur'an and tradition (*Sunnah*) of the Prophet (pbuh) has absolutely nothing to do with the concept of "Holy War" - fighting others simply due to difference in religion, nor has it anything to do with forcing others to accept the religion of Islam. Understanding these basic issues makes it abundantly clear why unprovoked aggression against others, terrorism, and insurgency are not just prohibited, but actually regarded as punishable offences in Islamic Law.³

Muslim scholars have understandably differed for various reasons on a number of issues relating to *jihad* and the Islamic law of war and peace – the justifications for warfare, the conduct and regulations relating to it, etc. As is usually the case in Islamic jurisprudence, most differences among jurists stem from a number of issues. The most important of these issues are:

³ Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, pp.107-146, 147-196; Muhammad Naqib, Ishan Jan and Abdulrashid Lawan Haruna, *International Humanitarian Law*, IIUM Press, Gombak, Malaysia, 2015, pp.203-219; See also: Khaled About El-Fadl, *Rebellion and Violence in Islamic Law*, Cambridge University Press, Cambridge, 2006.

1. Sometimes, there is ‘silence’ or some degree of ambiguity in the meaning or implications of the text of the Qur’an and *Sunnah*, and so scholars embark on *ijtihad* (individual juristic reasoning) using their preferred secondary sources of law - such as *ijma’* (consensus), *qiyas* (analogy), *urf* (custom), *maslahah* (public interest), etc. – and other analytical methods and rational approaches.⁴ This would include, for example, the differences among scholars on issues relating to modern Weapons of Mass Destruction (WMDs), cyberwarfare, military surveillance, use of unmanned combat drones, etc.
2. Another challenge is the socio-cultural and political realities and contexts that scholars respond to, which differ from one place and time to the other. Scholars may differ in their assessment of the environment, context, priority, situation, or reality (*waqi’*) in which their verdicts will be applied, as their views may sometimes be affected by their own “cognitive culture” and the influence and limits of their socializing contexts. This would include for example the differences among scholars on the implications of international treaties and alliances against colonialism, aggression, or offensive warfare which Muslim nations are parties to.

⁴ See any basic text on the Principles of Islamic Jurisprudence, Islamic legal theory or *Usul al-Fiqh*, for more details on the methodologies of *ijtihad*. See for example: Imam al-Qarafi, *Anwar al-Buruq fi Anwai’ al-Furuq*, Dar al-Islam, 1st edition, 2001.

An example of how juristic reasonings and *fatwabs* have changed with the evolution of geo-political changes in the world applies to the classification of territories or lands into *dar al-Islam* (abode of Islam), *dar al-Sulh*/*Abd* (Abode of treaties) and *dar al-kufr* (abode of disbelief), among other similar classifications.⁵ These categorizations of lands and nations which themselves are products of juristic reasoning (*ijtihad*) applied to diverse contexts have been challenged both in the past and moreso, in light of contemporary geopolitical realities. Some of these definitions have become more difficult to apply in contemporary times. For example, some nations that would traditionally be described as *dar al-kufr* (abode of disbelief) are more hospitable and protecting of the freedom to propagate Islam and the rights of Muslim scholars when compared to other nations that could traditionally be referred to as *dar al-Islam* (abode of Islam). Also, some nations that would be traditionally designated by many scholars as *dar al-kufr* (abode of disbelief) offer greater justice, security, protection of lives and freedoms for everyone including Muslims, than others that are designated as *dar al-Islam* (abode of Islam).

⁵ For a comprehensive discussion on the various views of classical scholars on the geo-political classification of different parts of the world into one domain (*Dar*) or the other, see El-Fadl, Khaled Abou, "Islamic Law and Muslim Minorities: The Juristic Discourses on Muslim Minorities from the 2nd/8th to the 11th/17th Centuries." *Journal of Islamic Law and Society* 2, (1994): 1; Wahbah al-Zuhayli, *Athar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, 3rd Ed., pp. 171 – 195.

Another reality is the fact that nearly all nations have one form of treaty or the other under the United Nations (UN), African Union (AU), European Union (EU), Association of Southeast Asian Nations (ASEAN), North Atlantic Treaty Organization (NATO), Economic Community of West African States (ECOWAS), League of Arab States (also known as the Arab League), etc. These treaties between member-nations have effectively turned most nations of the world into abodes of treaty (*dar al-ahd/dar al-sulh*). And while some classical scholars would describe these contemporary abodes as *dar al-kufr* or *dar al-sulh*, others from the Hanafi and Hambali schools would regard them as *dar al-Islam* simply because of the freedom to practice and propagate the Deen.⁶ Many contemporary scholars therefore regard the traditional classification and designations of lands (based on *dar*) as products of juristic reasoning (*ijtihad*) of the past in response to past contexts which requires review and re-assessment by contemporary scholars.

Many scholars of the past who lived in a context of ‘conquer-or-be-conquered’, or ‘colonize-or-be-colonized’, had reasons, as many other nations did, to accept as valid the idea of “offensive *jihad*” (*jihad al-talab*). This concept of offensive jihad, in the view of scholars who held that notion, was however not applied to lands that had peace treaties with Muslim lands. However,

⁶ Al-Kasani, *Bada'i` al-Sana'i`*, vol.7, p.131

subsequent to the 1948 UN agreements by nations of the world to cease colonization and offensive wars, and incline towards a policy of peace as the status quo in international relations and in line with the Islamic injunctions, Muslims are enjoined to also incline to peace following the dictates of Allah, “...and if they incline to peace, so should you” (Qur’an 8:61). This change in context has supported the change in religious rulings (*fatwas*) among scholars who regarded offensive *jihad* as legitimate. This is based on the universal Islamic legal maxim which states that “there is no denying that with change in context comes change in rulings (*fatwa*)”.

3. Also, sometimes, there are apparently or seemingly conflicting or contradictory texts (*ta’arud*); which lead to different conclusions. This is as a result of the different ways scholars try to manage or resolve what appear to them to be conflicting evidences or texts relating to the subject at hand.

a. Some scholars are successful in harmonizing (*jam’*) all these texts and reconciling their various seemingly contradictory meanings and implications and assigning them their proper contexts, meanings, implications, and purposes. This method is based on a fundamental rule that states that, “applying the text is better than disregarding it” (*ʾImal al-nass awla min ihmalih*).⁷ Therefore, a jurist facing two or more disagreeing narrations should search for a missing condition or context, and attempt to

⁷ Al-Suyuti, *Al-Asbab wa al-Naza’ir*, Vol. 1, p. 192.

interpret both or all authentic narrations based on these.⁸ This is naturally an intellectually demanding task for a scholar as it requires very broad and deep knowledge of various specialized fields and contexts. Consequently, a conclusion arrived at by the method of harmonizing and reconciling evidence (*jam'*) is regarded as the most authoritative and is unlikely to be reviewed or corrected by later scholars' assessment of the evidence.

b. Others who are unable to reconcile these texts, unfortunately, have to resort to other means of arriving at their conclusions such as by elimination of "weaker" evidence in preference (*tarjih*) for what is regarded by the scholar as the "stronger" evidence. Consequently, some scholars have neglected some critical Hadiths, cases in the *sirah* of the Prophet (pbuh), and interpretations of certain verses of the Qur'an that are relating to *jihad*, in preference for interpretations they deem "stronger".

c. Alternatively, some scholars would claim that chronologically later evidence or revealed texts of the Qur'an or Hadith juridically annul, nullify, or abrogate (*naskh*) earlier relevant (and seemingly contradictory) texts. The belief by some scholars that some texts of the Qur'an and Sunnah prescribing peaceful relations have been abrogated by others, and the exaggerated claims by some regarding the scope and number of verses affected by "abrogation" are among the most significant

⁸ Ayatollah Muhammad Baqir al-Sadr, *Durus fi 'Ilmi Al-'Usul*, Dar al-Kitab al-Lubnani, Beirut, 1986, vol. 2, 2nd ed p.222. Cited in Jaseer Auda, *Maqasid al-Shari'ah as Philosophy of Islamic Law*, IIIT, Herndon, 2008, p. 219.

reasons for differing opinions among scholars on the subject of *jihad* and international relations in Islamic jurisprudence.

d. Others arrive at their decisions and conclusions by simply picking or choosing whichever opinion they find most appropriate to their contexts (*khiyar*).

e. Others suspend judgment when confronted with such conflicting pieces of evidence.

f. Others, however, treat the various opposing conclusions as being based on uncertainty or insufficiently credible evidence and so cancel or disregard the evidence (*tasaqut*).

Some Muslims have definitely tried to instrumentalize, misuse and abuse the concept of *jihad* for wrong and un-Islamic purposes. Some others (including some Muslim scholars)⁹ have had misconceptions about the concept of *jihad* as a result of their mistaken interpretations or excessive reliance on abrogation of the relevant texts without due respect to other relevant texts, the historical contexts of the texts and how these texts were understood and applied in the life of the Prophet (pbuh) and his companions. This was the case with certain scholars and their students who due to their inability to harmonize or reconcile (*jam'*) their interpretations of specific seemingly conflicting or contradictory texts on the subject of war and peace in the Qur'an and Hadith, hastily concluded and claimed that some texts (in the

⁹ Particularly by some from among the Shafi'i and Zahiri schools of Islamic jurisprudence – See: Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011.

Qur'an and Hadith) relating to limiting warfare and promoting peacebuilding were "abrogated" (*naskh*) by others. This claim was in spite of the fact that such "abrogation" of texts relating to peaceful coexistence and those relating to the prohibition of aggression or unprovoked hostility towards others was not supported by any historical instance in the life (*sirah*) of the Prophet (pbuh) and his companions.

However, many Muslim jurists and scholars have throughout Islamic history, and from various schools of Islamic jurisprudence, tried to correct these misconceptions and misinterpretations of the texts relevant to the concept of *jihad* and warfare. They have reconciled all the relevant texts on the subject, with the actual lived tradition (*Sunnah*) and biography (*sirah*) of the Prophet (pbuh) and his companions, with past and changing historical realities, and have respected the fundamental classical principles of interpreting the texts of the Qur'an and Sunnah in arriving at their conclusions.

Yet unfortunately, a few other individuals and groups (including non-Muslims) have arrived at erroneous conclusions on *jihad* by taking some of the rulings and opinions (*fatawa*)¹⁰ of some scholars, most especially those of Sheikh Usman bin Fodio, Ibn

¹⁰ A *fatwah* (pl. *fatawa*) is a specific legal ruling or verdict that is sensitive to context, and which is issued by a Mufti, competent jurist (*Mujtahid*) or council of scholars. It is a scholarly opinion or answer to a religious question for a particular time, place or person, and changes with context. (See Ibn Qayyim al-Jawziyyah, *Plam al-Muwaq'ir 'an Rabbi al-'Alamin*, Dar Ibn Jawzi, Dammam, 1423AH, vol.4, p.337).

Taimiyyah, etc., that were made in a particular socio-political context and in response to their specific historical realities, and treating them as if these were unchangeable doctrinal and permanent divine rulings from Allah or Prophet Muhammad (pbuh) for Muslims of all times and places.¹¹

However, as it is clear from a study of the Qur'an, Sunnah (Hadith), and early Islamic history, especially from the time of the Prophet (pbuh) and his companions, the concept of *jihad* in the understanding of the majority of Muslim scholars and schools of Islamic jurisprudence (*madhhab*), has never been a reason for undermining peaceful co-existence among or between Muslims and people of other faiths with whom Muslims have peace treaties. On the contrary, the concept of *jihad* is broad and at the core of the many forms of a Muslim's struggle for self-improvement, justice, and all efforts against the oppression of even non-Muslims, and the protection of their places of worship. The concept of *jihad* is not only at the heart of a Muslim's commitment to peaceful coexistence through justice, magnanimity, compassion, and forgiveness; but it is also at the heart of the struggle against terrorism, and in preventing violent extremism, and building resilience against all forms of extremism

¹¹ Verdicts arrived at through *ijtihad* (juristic reasoning) changes with change in circumstance and context. A well-established legal maxim states that, "it cannot be denied that with change in circumstances comes change in fatwa" (*La yunkar taghayyur al-fatwah bi taghayyur al-zaman wa al-makan*) - Ibn Qayyim al-Jawziyyah, *Plam al-Muwaqqi'in*, Maktaba Khulliyah al-Azhariyyah, Cairo, Egypt, 1968, vol.3, p.47

(*tatarruf/ghulum*) and corruption (*fasad*) of Islamic teachings, both in the past and into the future.

The Qur'an clearly teaches respect for religious diversity and peaceful means of spreading the faith and enlightening others about Islam.

Allah says in Qur'an 5:48-49, that:

"...Unto every one of you have We appointed an (appropriate) law (Shari'ah) and way of life (Minhaj). And if Allah had so willed, He could surely have made you all one single community, but (He willed it otherwise) in order to test you by means of what he has revealed unto you. Compete, then, with one another in doing good works! Unto Allah you all must return, and then he will make you truly understand all that on which you differed..."¹²

Allah also says, *"Let there be no compulsion in religion"* (Qur'an 2:256); *"Invite (all) to the way of your Lord with wisdom and beautiful preaching"* (Qur'an 16:125), and *"Do not dispute with the People of the Book, except in the best manner"* (Qur'an 29:46). Islam, therefore, does not teach aggression against others, *"for Allah does not love the aggressors"* (Qur'an 2:190).

When confusion or important issues arise in any field such as politics, economics, history, media, Catholicism, Judaism,

¹² See also Qur'an 2:148.

Atheism, Quantum Physics, Buddhism, Agriculture, etc., there seems to be no problem at all in agreeing that the experts and longstanding authorities and institutions of scholarship in these matters that have specialized in each of these fields would be the most credible authorities and voices to go to and listen to. For some strange reason, however, there seems to be confusion regarding the appropriate person or authority to speak on issues and questions bordering on Islam. It appears that on issues relating to Islam, no standards matter; and anyone can and should be treated as an authority. It seems that when Islam is on the table for discussion, scholarship, sources of information and qualifications do not matter in the least. Some Muslims and many non-Muslims even seem to appear very confused about who to listen to and fail to go back to the credible sources of Islamic teachings and the longstanding scholars of repute and the institutions of Islamic scholarship and authority.

This book will therefore try to keep its references and information to the most authoritative sources of Islamic teachings – the definitive teachings of the Qur'an and Sunnah as understood and applied by the Prophet Muhammad (pbuh) and his companions during his lifetime (*sirah*).

**SECTION 1:
JIHAD: AN OVERVIEW**

SECTION 1: *JIHAD*: AN OVERVIEW

Some people regard the involvement of Muslims in various forms of warfare, conquests, violence, aggression, and terrorism as demonstrating that the concept of *Jihad* in Islam, by its very nature, undermines peaceful co-existence between Muslims and people of other faiths, especially in multi-religious societies.

Is the Islamic concept of *jihad* to blame for acts of terrorism by some Muslims? Does the concept of *jihad* accommodate intolerance or persecution of people of other religions? How exactly should *jihad* be understood, from Islamic sources? And what is the best *jihad*?

Historically, all religious and non-religious communities – Muslim, Christian, Jewish, Buddhist, Hindu, Atheist, Nationalist, Liberalist, Socialist, Communist, as well as others – have had lapses in following the valued ideals of their religions, ideologies, or philosophies.

As with any other religion, ideology, or way of life, however, Islam should not be judged by those of its followers who disobey or are ignorant of some of its most fundamental teachings. Rather, it should be judged by the actual teachings of its scriptures as presented by its respected scholars and long-standing authorities, and not just any so-called "expert" or extremist that

has never represented the mainstream of the Muslim community of scholars. It is, therefore, more reasonable to assess Islam by the teachings of the Qur'an and the authenticated sayings and deeds (*Sunnah*) of Prophet Muhammad (pbuh).

The Qur'an clearly teaches respect for religious diversity and peaceful means of spreading the faith and enlightening others about Islam. Allah says in Qur'an 5:48-49, that:

*"...Unto every one of you have We appointed an (appropriate) law (Shari'ah) and way of life (Minhaj). And if Allah had so willed, He could surely have made you all one single community, but (He willed it otherwise) in order to test you by means of what he has revealed unto you. Compete, then, with one another in doing good works! Unto Allah you all must return, and then he will make you truly understand all that on which you differed..."*¹ Again He says, "Let there be no compulsion in religion" (Qur'an 2:256), and "Invite (all) to the way of your Lord with wisdom and beautiful preaching" (Qur'an 16:125), and "Do not dispute with the People of the Book, except in the best manner" (Qur'an 29:46). Islam, therefore, does not teach aggression against others, "for Allah does not love the aggressors" (Qur'an 2:190).

What *Jihad* in Islam Does Not Mean

Just as the word "crusade" may mean many things depending on the context in which it is used, so also does the Arabic word "*Jihad*" have many layers of meanings depending on the context

¹ See also Qur'an 2:148.

in which it is used. However, unlike “crusade”, the term or concept of “*jihad*” has never been understood by classical Muslim scholars to include or justify “Holy War” - fighting others purely due to religious differences, or forcing others at the point of the sword to accept Islam. So, while Muslims definitely conquered various lands for varying reasons in history,² there was never any organized attempt to force conquered people to convert to Islam, as evidenced by their current demographics and enduring places of worship in Muslim lands, and as recorded by even non-Muslim historians.³

Suffice it here to quote Professor Emeritus Sir Thomas Arnold who writes:

“...of any organised attempt to force the acceptance of Islam on the non-Muslim population, or of any systematic persecution intended to stamp out the Christian religion, we hear nothing. Had the Caliphs chosen to adopt either course of action, they might have swept away Christianity as easily as Ferdinand and Isabelle drove Islam out of Spain; by the same method which Louis XIV followed to make Protestantism a creed whose

² Most nations and civilizations at some time in their histories, have conquered, occupied or colonized others for various reasons. While the Prophet (pbuh) and the Rightly-Guided Caliphs strictly adhered to the Islamic guidelines for warfare and only engaged in fighting when it is justifiable, unfortunately, not all the subsequent Muslim leaders have followed their example in this regard.

³ Hugh Goddard, *Christians and Muslims: From Double Standards to Mutual Understanding*, RoutledgeCurzon, London, 1995, pp.126-142; See also: K.S. Ramakrishna Rao, *Islam and Modern Age*, Hyderabad, 1978; James A. Michener, *Islam: The Misunderstood Religion*, Reader's Digest (American edition), May 1955; Edward Gibbon, *History of the Saracen Empire*, London, 1870.

followers were to be sentenced to death in France; or with the same ease of keeping the Jews away from England for a period of three hundred [and] fifty years. The Eastern Churches in Asia were entirely cut off from communion with the rest of Christendom throughout which no one would have been found to lift a finger on their behalf, as heretical communions. So that the very survival of these Churches to the present day is a strong proof of the generally tolerant attitude of the Mohammedan [sic] governments towards them.”⁴

A simple study of the areas of consensus of classical Muslim scholars regarding when warfare or fighting others is permissible, who and what is a legitimate target, and the conduct of warfare in Islamic law, is sufficient to make clear the “Just War” concept behind the military form of *jihad* in Islam. It is also why unprovoked aggression against others, terrorism, and insurgency are actually regarded as punishable offences in Islamic Law.⁵

Some Muslims have definitely tried to instrumentalize, misuse and abuse the concept of *jihad* for un-Islamic purposes. However, as is clear from a study of Islamic history, from the

⁴ Sir Thomas Arnold, *The Preaching of Islam: A History of the Propagation of the Muslim Faith*, Westminster A. Constable & Co., London, 1896, p.80

⁵ See Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.107-146, 147-196; Muhammad Naqib, Ishan Jan and Abdurashid Lawan Haruna, *International Humanitarian Law*, IIUM Press, Gombak, Malaysia, 2015, pp.203-219; See also: Khaled Abou El-Fadl, *Rebellion and Violence in Islamic Law*, Cambridge University Press, Cambridge, 2006.

time of the Prophet (pbuh) and his companions, the concept of *jihad* has never been a reason for undermining peaceful co-existence between Muslims and people of other faiths in multi-religious societies. On the contrary, the concept of *jihad* is at the core of a Muslim's struggle for justice and against the oppression of even non-Muslims and for the protection of their places of worship. It is at the heart of a Muslim's commitment to the struggle against terrorism and in preventing all forms of extremism both in the past and into the future.

What *Jihad* Actually Means

“*Jihad*” (from the verb “*jahada*”) on its own simply means “to struggle”, “to exert effort”, “to exert oneself”, “to toil” or “to strive”. *Jihad* simply means to strive hard or struggle in pursuit of a just and goodly cause in a manner that is in line with the guidance/way/path of Allah (*fi sabilillah*).

Jihad in Islamic teachings refers to the unceasing effort that an individual must make towards self-improvement and self-purification in Allah's cause. It also refers to the duty of Muslims, both at the individual and collective level, to struggle against all forms of evil, corruption, injustice, tyranny, and oppression – whether this injustice is committed against Muslims or Non-Muslims, and whether by Muslims or Non-Muslims. In this context, *jihad* may include peaceful struggle or, if absolutely necessary, armed struggle. What should be very clear is that *jihad* cannot be reduced or restricted to simply warfare or fighting, and

that the very important phrase that qualifies and determines the permissibility and acceptance of any form of *jihad* is “*fi sabilillah*” – in the way or cause of Allah, or to achieve the higher intents of Islamic teachings (*Maqasid al-Shari’ah*) – i.e., accruing benefit for all and prevention of harm from society.

Use of the term “*Jihad*” in the Qur’an

The Qur’an generally uses the term “*jihad*” in the broader sense of struggle for Allah’s cause (which could include fighting). It is noteworthy that the term was first used in verses revealed at Mecca, long before the early Muslims were permitted to fight such as:

“*And whoever engages in striving (jihad) he does so for his own soul...*”
(Qur’an 29:6)

“*And those who engage in striving (jihad) in Our (cause), We will certainly guide them to Our paths.*” (Qur’an 29:69)

“*Therefore, listen not to the unbelievers, but engage in striving (jihad) against them (with the utmost endeavour)⁶, with it (the Qur’an).*”
(Qur’an 25:52)

“*Go forth light and heavy, and strive (jihad) hard in Allah’s way with your property and your persons; this is better for you, if you know.*”
(Qur’an 9:41)

⁶ Ibn Kathir states that this was also the interpretation of Ibn Abbas. See, *Tafsir al-Qur’an al-Azim*, (ed. Sami bin Muhammad Salamah), Dar al-Tayba, 2nd ed., 1420AH, vol.6, p.116.

Other Medinan verses reiterate a similar message:

“The believers are only those who believe in Allah and His Apostle then they doubt not and struggle hard (jihad) with their wealth and their lives in the way of Allah; they are the truthful ones.” (Qur’an 49:15)

“Not equal are those of the believers who sit (at home), except those who are disabled (by injury or are blind or lame), and those who strive hard (jihad) and fight (qital) in the Cause of Allah with their wealth and their lives. Allah has preferred in grades those who strive hard (jihad) and fight (qital) with their wealth and their lives above those who sit (at home). Unto each, Allah has promised good (Paradise), but Allah has preferred those who strive hard and fight, above those who sit (at home) by a huge reward.” (Qur’an 4:95)⁷

The many meanings of “Jihad” in the Hadith

Abu Dharr said that the Messenger (pbuh) said, *“The best jihad is for one to perform jihad against his own self and against his desires.”*⁸

Another man asked, “What kind of *jihad* is best?” The Prophet (pbuh) replied, *“A word of truth before an oppressive ruler.”*⁹

Aisha asked, “O Messenger of Allah, we see *jihad* as the best of deeds, so shouldn’t we join it?” He replied, *“Hajj is the most excellent of all jihad (for women).”*¹⁰

⁷ Other similar verses include Qur’an 2:190 – 193, 2:216, 4:74, 4:89, 9:29

⁸ Collected by ad-Daylami, Abu Nu’aim and Ibn an-Najjar, authenticated by Al-Albani, *Sabeeh Jaami’ as-Sagheer*, 3rd edition, al-Maktub al-Islami, Beirut, 1990, Hadith no.1099

⁹ *An-Nasa’i*, Hadith no.4209

The Messenger (pbuh) also said, “...*the one who engages in jihad (mujaḥid) is he who strives against himself for the sake of Allah, and the one who emigrates (muhājir) is he who abandons evil deeds and sinfulness.*”¹¹ Ibn Umar reported that the Prophet (pbuh) said, “*The best jihad is that of one who strives against his own self in the Cause of Allah, Most Great and Glorious.*”¹²

Ibn Umar reported that “A man came to the Prophet of Allah (pbuh) and said, ‘Allow me to fight.’ The Prophet (pbuh) asked him, ‘Are your parents alive?’ ‘Yes,’ replied the man. ‘Then go back and exert your utmost (jihad) in their service,’ said the Prophet (pbuh).”¹³

On another occasion, the Prophet (pbuh) said, “*The one who strives for a widow and the poor is like the one who performs jihad in the way of Allah, and like the one who spends his night praying, and his day fasting.*”¹⁴

The Messenger (pbuh) said (during his farewell Hajj), “*Should I inform you of who the Mu‘min (true believer) is? It is he from whom*

¹⁰ *Sahih al-Bukhari*, Book of Hajj, Hadith no.2784

¹¹ *Sahih Ibn Hibban*, no.4862, Tirmidhi, Ahmad, cited in Jalal Abualrub, *Holy Wars, Crusades and Jihad*, Medinah Publishers and Distributors, 2002, p.80

¹² Collected by al-Tabarani in *Al-Mu‘jam al-Kabir*, authenticated by Al-Albani, *Saheeh Jaami‘ as-Sagheer*, no.1129, and cited in *Mishkat al-Masābiḥ*, vol.1, pp.15-16

¹³ Reported by *Al-Bukhari*, Hadith no.3004; *Abu Dawood*, Hadith no.2529; *An-Nasa’i*, Hadith no.3103; and *Al-Tirmidhi*, Hadith no.1671

¹⁴ *Sahih Muslim*, Hadith no.7659; Muhammad Naqib, Ishan Jan and Abdulrashid Lawan Haruna, *International Humanitarian Law*, IIUM Press, Gombak, Malaysia, 2015, pp.203-219.

people are secure with regard to their wealth and their own selves. The (true) Muslim is he from whom people are safe from (being harmed by) his tongue and hand. The (true) Mujāhid is he who performs jihad bi al-Nafs (struggle with the self) in the obedience of Allah. And the (true) Muhājir (migrant in the Cause of Allah) is he who abandons transgression and sin."¹⁵

Ibn Abbas reported that Allah's Apostle (pbuh) said, "*There is no Hijra (i.e. migration) (from Mecca to Medina) after the Conquest (of Mecca), but Jihad and good intention remain; and if you are called (by the Muslim ruler) for fighting, go forth immediately.*"¹⁶

Abdullah bn Masud said: I asked Allah's Messenger (pbuh), "O Allah's Messenger (pbuh)! What is the best deed?" He replied, "*To offer the prayers at their early stated fixed times.*" I asked, "*What is next in goodness?*" He replied, "*To be good and dutiful to your parents.*" I further asked, "*what is next in goodness?*" He replied, "*To participate in Jihad in Allah's Cause.*" I did not ask Allah's Messenger (pbuh) anymore and if I had asked him more, he would have told me more.¹⁷

The usage of the term "jihad", "mujahid" (a person involved in jihad), and its different derivations in the various Hadiths above

¹⁵ *Musnad Ahmad*, Hadith no.23958; Al-Hakim, *Al-Mustadrak*, Hadith no.24; Al-Tabarani, *Al-Mu'jam al-Kabir*, Hadith no.796

¹⁶ *Sahih al-Bukhari* Vol. 4 Book 52, Hadiths 42.

¹⁷ *Sahih al-Bukhari* 2782.

is enough evidence that the Prophet (pbuh) did not restrict its meaning to warfare.¹⁸

Use of the term “*Jihad*” by Jurists

Even though the Qur’an and Hadith give a variety of meanings to the term “*jihad*” as illustrated above, scholars of Islamic jurisprudence have usually been more concerned with the military form of *jihad* as this requires more jurisprudential elaboration of its legal regulation. Hence, the sections that deal with warfare in traditional Islamic law literature are usually under sections or books titled “*jihad*”. However, while such jurists acknowledge the various meanings of the term “*jihad*” as used by the Qur’an and Hadith, this technical or juristic meaning of “*jihad*” as used in books of law, has unfortunately led many uninformed students of Islam to conclude that “*jihad*” has the exclusive meaning of fighting or warfare (*qital/harb*).

However, rarely in the Qur’an is the word “*jihad*” used with the sole meaning of fighting. The most commonly used words for fighting or warfare, in the literal sense, in both the Qur’an and Hadith are “*qital*” and “*harb*”.

¹⁸ For more on the usage of jihad in the hadith, see *Sahih al-Bukhari* Vol. 4 Book 52, Hadiths 44, 46, 53, 54, 59, etc.

The “Best *Jihad*” and its Prerequisites

The methodology of *jihad* according to all Islamic sources, therefore, does not exclude non-violent resistance against oppression and tyranny, if the general conditions of the moment indicate that this approach is the most effective way to achieve the objective of lasting peace and security.

Depending on the circumstances and those involved, the best form of *jihad* may take several different forms, as cited earlier in the texts above. Thus, it may include, but is not limited to any of the following - being frank in advice to a tyrannical ruler; exercising discipline or self-restraint; *Hajj* (pilgrimage to the Sanctuary of Mecca); taking care of one’s parents; studying and self-improvement; teaching and sharing beneficial knowledge;¹⁹ and sometimes, it may be taking up arms to defend oneself and others, including non-Muslim citizens (*Ahl al-Dhimma*) in a “Just War”.

This implies that Muslims would have to undertake *jihad* in many diverse forms in the course of their lives. The very important phrase or condition that determines the value and acceptance of any form of *jihad* is that it is done “*fi sabilillah*” – (literally) “in the way or path of Allah” or in the general sense, “for the sake of Allah”. This means that one’s intentions are sincere, the means or methods are permissible, and the *jihad* aims to achieve the higher

¹⁹ Qur’an 9:122 which reads “*And it is not (proper) for the believers to go out (to fight) altogether. Of every troop of them, a party only should go forth, that they (who are left behind) may get instructions in religion, and that they may warn their people when they return to them, so that they may beware (of evil).*”

intents of Islamic teachings (*Maqasid al-Shari'ah*) – accruing benefit for all and/or prevention of harm. *Jihad al-Nafs* – the struggle (*jihad*) to purify one's intention and heart, strengthen one's willpower, and ensure that all deeds are in accordance with Allah's guidance – is, therefore, the prerequisite of all other forms of *jihad*.

Ibn al-al-Qayyim summarizes this point very clearly:

“The *jihad* against the enemies of Allah with one’s life is only a part of the struggle (*jihad*) which a true servant of Allah carries on with against his own self for the sake of the Lord ... This striving (*jihad*) against the evil tendencies which have dominated his mind and heart is more important than fighting against the enemies in the outside world ... As long as (the servant of Allah) does not first strive (*jihad*) against his own evil tendencies in obedience to Allah’s commands, it is not possible for him to succeed in striving against the enemies in the outside world.”²⁰

Forms of *Jihad* as Recognised by Classical and Contemporary Muslim Scholars

Muslim scholars use the term *jihad* to refer to various forms, levels, and categorizations of enjoining right, forbidding wrong, and striving for Allah’s cause (*fi sabilillah*) as used in the Qur’an and Sunnah. They have therefore come up with various ways of classifying the different forms of jihad that Muslims may or must be involved in. Regardless of the classifications, they all agree

²⁰ Ibn Qayyim, *Zaad al-Ma'ad*, Maktabah al-Manar al-Islamiyyah, Beirut, vol 3, p.5, 14th edition

based on the clear texts on this issue, that the term *Jihad* has many meanings and forms, and it cannot be narrowly defined to, or reduced to only mean fighting or warfare.

Shaikh Abdullah bin Zaid explains that *jihad* can be made either by statement or action. It could be made using the tongue and argument based on the Qur'an and Sunnah. It can as well be made with the sword. It should however be known that *jihad* through beautiful exhortation and argument precedes that of the sword as that was the *jihad* Allah commanded Muslims to engage in while they were in Mecca before the permission to fight was granted. Allah said: “*And engage in jihad with them with it (i.e., the Qur'an) a great Jihad*” (Qur'an 25:52).²¹

There are different forms of *jihad* according to some scholars of Islam. According to the great medieval jurist Ibn al-Qayyim, *jihad* is of 4 levels namely: *jihad* of the soul (*jihad al-Nafs*), *jihad* of the devil (*Jihad al-Shaitan*), *jihad* of non-believers (*Jihad al-Kuffar*) and *jihad* of hypocrites (*jihad al-Munafiqun*). Each of these four has also been explained with its levels according to Ibn al-Qayyim.²²

²¹ For more on *jihad* and specifically on types and forms of *jihad* in Sunnah, see: Abdullah bn Zaid Al-Mahmud, *al-Jihad al-Mashru'*, p.20 – 21.

²² Ibn Qayyim, *Zaad al-ma'ad*, Maktabatu Al-Manar al-Islamiyyah Beirut, vol 3 page 9, 14th edition

The contemporary jurist Sheikh Yusuf al-Qaradawi²³ further conceptualized three other forms of *jihad* which are similar to that of Ibn al-Qayyim. They are as follows:

- a. **Military Jihad (*al-Jihad al-‘Askari*):** This is where Muslims carry weapons and fight non-Muslims if they attack them or they are planning to attack. This is the type that is meant where the word ‘*jihad*’ is used without any qualification or where Islam is considered as a political entity as in the case of modern nation-state with its military system. This form is usually the focus of books of Islamic Jurisprudence.
- b. **Spiritual Jihad (*al-Jihad al-Ruhi*):** This type is concerned about the human soul and its temptations and egos. In respect to this, the Prophet (pbuh) said: “*the fighter (al-Mujahid) is he who fights (jahada) his whim and caprice*”²⁴. This is the type of jihad that those who are concerned with spirituality and purification of the soul focus much more on. This form covers *jihad* of the soul (*al-Nafs*) and *jihad* of the devil (*Shaitan*) in the categorization of Ibn al-Qayyim.
- c. **Preaching Jihad (*al-Jihad al-Da’wi*):** This type is about proclaiming or conveying the message of Islam to those who have not heard about it starting from the nearest people then the nearer. On this form of *jihad*, Allah says: “*So obey not the*

²³ Yusuf al-Qaradawi, *Fiqh al-Jihad*, Wahba Bookshop, Cairo, 2009, vol.1, p.231.

²⁴ Sunan al-Tirmidhi Hadith no.1621; Musnad Ahmad Hadith no.23958; Sahih Ibn Hibban Hadith no.4862; Sunan bn Majah Hadith no.3934

disbelievers, but strive against them with the utmost endeavour, with it (the Qur'an)" (Qur'an 25:52).

CIVILIAN JIHAD (*al-Jihad al-Madani*)

Aside from the above mentioned three forms of jihad categorized by Shaykh Dr. Yusuf al-Qaradawi (and other classifications by other scholars), and in light of more contemporary realities in most nations, al-Qaradawi has also proposed other forms of classifying Jihad under what he refers to as “civilian *jihad*” (*al-Jihad al-Madani*). According to Shaykh Dr. al-Qaradawi, *al-Jihad al-Madani* is the type that answers various needs of different societies in today’s world, solves their problems and raises their status in all sectors. This is even of greater importance today, as most Muslim citizens would not be expected to participate in any form of military *jihad* due to the existence of government-funded professional full-time military and security personnel. Civilian *jihad* includes, but is not limited to the following:

a. **Scientific or scholarly Jihad (*al-Jihad al-Ilmi*):** The importance of this form of *jihad* is evident in Surah al-Tawbah where Allah instructs the believers to let there be a group among them who will stay back learning while others go to the battlefield for military *jihad*. Allah says: “*And it is not (proper) for the believers to go out to fight (Jihad) all together. Of every troop of them, a party only should go forth, that they (who are left behind) may get instructions in religion, and that they may warn their people when*

they return to them, so that they may beware (of evil)” (Qur’an 9:122).

According to Yusuf al-Qaradawi, the word ‘*nafara*’ (i.e., go forth) used in the verse which is sometimes used for the word *jihad* is an indication that going out for learning is also a form of *jihad* in Allah’s cause – “*fi sabil Allah*”. The Prophet (pbuh) had also said: “*whoever sets out seeking for knowledge is in the cause of Allah (Sabil Allah) until he returns.*”²⁵

b. **Social Jihad (*al-Jihad al-Ijtima’i*):** This form is concerned with taking care of the family such as parents, children, and relatives. Ibn Umar reported, “A man came to the Prophet of Allah (pbuh) and said, ‘Allow me to fight.’ The Prophet (pbuh) asked him, ‘*Are your parents alive?*’ ‘Yes,’ replied the man. ‘*Then go back and exert your utmost (jihad) in their service,*’ said the Prophet (pbuh).²⁶

Similar to this report is that of Mu’awiyah bn Jahimah, that Jahimah came to the Prophet (pbuh) and said: “O Messenger of Allah, I wanted to fight, and I am here seeking your advice? Then he (the Prophet) (pbuh) said: *is your mother still alive?* He said: yes. The Prophet (pbuh) said: *stay with her, indeed, paradise is beneath her feet.*”²⁷

²⁵ *Sunan al-Tirmidhi*, Hadith no.2647

²⁶ *Sahih al-Bukhari*, Hadith no. 3004

²⁷ *Musnad Ahmad*, Hadith no. 155538.

In another Hadith reported by Anas bin Malik, a man came to the Prophet (pbuh) and said: Indeed, I am yearning for jihad, but I am incapable. The Prophet said: “are any of your parents alive?” the man said: my mother (is alive). The Prophet said: “*fear Allah in your kindness to her, for if you do that, you have become a pilgrim (Hajji) and the one who performed Umrah (Mu’tamir) and a fighter (Mujahid).*”²⁸

c. **Economic Jihad (*al-Jihad al-Iqtisadi*):** This involves any struggle on the earth towards making money to feed oneself or family legitimately, or any effort been put towards economic growth of a society that will take the society from being a consumer to a producer, from being an importer to an exporter, etc. It was reported by Ka’b bin ‘Ujrah that one day, a man passed by the Prophet (pbuh) whom the companions of the Prophet (pbuh) perceived to be strong and energetic. They then said, ‘O Messenger of Allah! How we wish that he (the man) uses his strength in *sabilillah* (i.e., fighting in the course of Allah).

The Messenger of Allah (pbuh) said: “*if he is out struggling in order to take care of his baby, he is in the cause of Allah (sabil Allah)! And if he is out struggling for his old parents, he is in the cause of Allah (sabil Allah)! If he is out struggling to take care of himself in order to prevent begging, he is in the cause of Allah (sabil Allah)! But*

²⁸ *Musnad Abu Ya’la*, vol.5, p.149; al-Tabarani, *al-Mu’jam al-Saghir*, Hadith no.218

*if he is out to show off and for pride, he is in the cause of devil (Shaitan)*²⁹

d. **Educational Jihad (*al-Jihad al-Tarbawi*):** This form of *jihad* involves building schools and learning institutions for Muslim children. This act has become among the necessities for whoever intends to build a generation that will be capable of carrying the message of Islam.

e. **Healthcare Jihad (*al-Jihad al-Sibhi*):** This form of *jihad* involves building hospitals and health centers well equipped with all necessary facilities that can raise their standards and cater for people's health needs.

f. **Environmental Jihad (*al-Jihad al-Bi'i*):** This form of *jihad* ensures the safety of the environment and that it is free of pollution that can threaten people or cause damage to their lives. Islam is so concerned about all lives including plants. In Qur'an 7:56, Allah says: *"and do not spread corruption on earth after its reformation..."* Among numerous Hadiths prohibiting any act that causes damage to lives is that where the Prophet (pbuh) said: *"None of you should urinate in stagnant water."*³⁰

²⁹ Al-Tabarani, *al-Mu'jam al-Saghir*, Hadith no 940; *al-Mu'jam al-Awsat*, Hadith no. 6835; *al-Mu'jam al-Kabir*, vol.19, p.129

³⁰ *Sahih al-Bukhari*, Hadith no.239

From all these categorizations of *jihad*, it becomes clear that any form of striving or effort that is necessary to protect a contemporary society from harm and destruction (*darar* or *fasad*) is a form of *jihad* in Allah’s cause. The various community services that are critical to the public interest (*maslahah*) in preventing the society, community, or a portion of it from loss of life, harm (*darar*), insecurity and fear (*khawf*), lawlessness and anarchy (*fitnah*), corruption and destruction (*fasad*) are regarded as “Essential Services”. These are all collective or societal obligations (*fardu kifayah*) upon any society of Muslims and are the responsibility of the leadership. Depending on the society and situation, these could include occupations, sectors, and services such as the police and armed forces, but also hospital and healthcare services, electricity services, water supply services, communication/telephone services, firefighting services, prison services, waste and refuse disposal services, air traffic control, educational services, etc.³¹ The short or long-term damage to a society that would result from a breakdown in any or some of these essential services can end in harm and destruction of life

³¹ Depending on the society and situation, other important services include banking and financial services, taxation services, transport, agriculture, ambulances, government minting services, computer services, petroleum services, animal health, etc. In Islamic legal theory (*Usul al-Fiqh*), when a society is facing a difficult situation (*hajah*) that is not as serious as an emergency or crisis (*darurah*), it is still treated like a *darurah* in order to prevent a worse emergency. (For further discussions on this and other relevant legal maxims (*Qawa'id al-Fiqhiyyah*), see Abdullah bin Mahfuz bin Bayyah, *Sina'at al-Fatwa wa Fiqh al-Aqalliyat*, Dar al-Minhaj, Beirut, 2007, p.193-231; Ibn Qayyim al-Jawziyyah, *I'lam al-Muwaqqi'in 'an Rabbi al-'Alamin*, Egypt: Maktabah al-Kulliyat al-Azhariyyah, 1968, vol.3, p.164; al-Qarafi, *al-Furuq*, vol.2, p.33; Muhammad Abu Zahrah, *Ibn Hanbal: Hayatuhu wa 'Asruhu, Arauhu wa Fiqhuhu*, Dar al-Fikr al-Arabi, Beirut, p.370).

and property that may be similar or even worse than some forms of violent conflict or war. Hence their performance is regarded as another important form of *jihad* in Allah's cause - *fi sabil Allah*. This is in line with the maxim that "the general need attains the position of special necessity" (*Al-hajah al-aa'mah tunzal manzilah al-darurah al-khassah*)³²

It is clear from the above that a Muslim is expected to always be involved in one form of *jihad* or another, whether in times of war or in the more usual longer times of peace.

Just War/Military *Jihad*: Individual or Collective Obligation?

Some have tried to argue that engaging in warfare is an individual obligation (*fardu 'ayn*) on all Muslims and there is no need of getting the permission of a legitimate leader or head of state, in the same way as fasting during the month of Ramadan, paying *zakat* and performing the five (5) daily prayers (*salat*) are individual obligations.³³ It is, therefore, apposite to ask: Is just war or military *jihad* an "individual obligation" (*fardu 'ayn*) or is it a "collective obligation" (*fardu kifayah*) for the purpose of protecting an Islamic society?

³² Al-Juwaini, *al-Burhan fi Usul al-Fiqh*, vol. 2, p. 82, al-Maktaba al-Shamila 3.35; al-Zarkashi, *al-Manthur fi al-Qawa'id*, al-Maktaba al-Shamila 3.35, vol. 2, p.7.

³³ Abdulrahman Muhammad Alsumailh, *The Sunni Concept of Jihad in Classical Fiqh and Modern Islamic Thought*, (PhD. Thesis), University of New Castle Upon Tyne, UK, 1998

An action is described by Muslim scholars as a *fardu `ayn* (individual duty) when it is an obligatory responsibility for each individual adult Muslim, and he/she will be rewarded for performing it or deserving of punishment here or in the hereafter for failing to perform it. A common example is the five daily prayers (*salat*) or the Ramadan fast (*sawm*), for which Muslims are individually held responsible.

On the other hand, a *fardu kifayah* (collective or societal duty) is an act that is an obligation of the Muslim community collectively. If it is adequately carried out by some members of the community, then other Muslims do not have to perform it. If nobody takes it upon himself or herself to perform the act on behalf of the community, then, all Muslims (and especially their leadership) have failed, erred, and are responsible to Allah (at least). A common example is the funeral or burying of the dead. It is obligatory that some attend the funeral and bury the dead, but once someone does it, others are absolved from the obligation or responsibility.³⁴

The various community services to society that are critical to the public interest (*maslahah*) in preventing the society, community or a portion of it from loss of life, harm (*darar*), insecurity and fear (*khawf*), lawlessness and anarchy (*fitna*), corruption and destruction (*fasad*) are regarded as “Essential Services”. As a

³⁴ See <http://faculty-staff.ou.edu/V/David.R.Vishanoff-1/I-terms/FardAyn-FardKifaya.htm>

general rule, each of the “Essential Services” which include the military, defence, and security forms of *jihad* is regarded as a collective obligation (*fardu kifayah*) which some and not all members of or professionals in the society are expected to be responsible for performing. They may, however, be regarded as individual obligations (*fardu ‘ayn*) when the obligation to perform such tasks is required by the leadership, when someone is the only available skilled or specialized professional for the service, or when, as in emergencies, an essential service has to be carried out but those responsible are unable or unavailable to perform their tasks.³⁵ This reasoning, however, applies to the obligation for military defence forms of *jihad* as it does to other forms of *jihad* such as healthcare, firefighting, and waste disposal services, etc.

Armed or military *jihad*, when its need arises, is regarded by Muslim scholars and schools of jurisprudence to be a collective obligation (*fardu kifayah*) – and not an individual obligation (*fardu ‘ayn*) - on the members of the Muslim community under its leadership.³⁶ The following are among the arguments advanced by scholars for this position:

- Allah says in the Qur’an: ***“And it is not (proper) for the believers to go out to fight (Jihad) all together. Of every troop of***

³⁵ Abdulrahman Muhammad Alsumaih, *The Sunni Concept of Jihad in Classical Fiqh and Modern Islamic Thought*, (PhD. Thesis), University of New Castle Upon Tyne, UK, 1998, p.18-21

³⁶ Hassan al-Banna, *Al-Jihad fi Sabeel Allah*, p.84, cited in Abdulrahman Muhammad Alsumaih, *The Sunni Concept of Jihad in Classical Fiqh and Modern Islamic Thought*, (PhD. Thesis), University of New Castle Upon Tyne, UK, 1998, p.17.

them, a party only should go forth, and that they (who are left behind) may get instructions in (Islamic) religion, and that they may warn their people when they return to them, so that they may beware (of evil).” (Qur’an 9:122)

In contemporary times, those exempted from warfare will include those responsible for essential services, which if neglected would lead to even greater suffering and insecurity.³⁷

- Allah says: *“Not equal are those of the believers who sit (at home) - except those who are disabled (by injury or are blind or lame, etc.) - and those who strive hard and fight in the Cause of Allah with their wealth and their lives. Allah has preferred in grades those who strive hard and fight with their wealth and their lives above those who sit (at home). Unto each, Allah has promised good (reward), but Allah has preferred those who strived hard and fight, above those who sit (at home) by a huge reward.” (Qur’an 4:95)*

These two verses are evidence supporting the view that military *jihad* is not obligatory on every individual Muslim, rather it is only obligatory on a group (usually the Defence and Security Forces) in the community. In addition, if *jihad* were to be obligatory on everybody, Allah would not have promised a reward or “good” (*al-husna*) to those who did not fight along

³⁷ See commentary on Qur’an 9:122 in Muhammad Asad, *The Message of the Qur’an*, The Book Foundation, England, 2003, p.319 note 162 for the application of the wisdom of this verse to other branches of knowledge that are also a sacred obligation (*fard*) to acquire and apply according to the “Faith” (*deen*).

with those who did go out to fight, as stated in Qur'an 4:95 above. Indeed, they would have been liable to punishment for staying back (at home) if joining the fighting troops was really an individual obligation (*fardu 'ayn*).³⁸

- “...*But if they fight you, then fight them too.*” (Qur'an 2:191) and “*And fight the polytheists all together as they fight you all together*” (Qur'an 9:36).

According to Imam al-Thawri, and as it is clear from the context of these verses, fighting polytheists is not an obligation unless the initiative to fight first comes from them. If the military form of *jihad* was an individual obligation, its performance would not be dependent on or a reaction to aggression from others.³⁹

- “*There is no fault on the blind or on the lame, or on one afflicted with illness (if they do not go forth in battle) ...*” (Qur'an 48:17).

The fact that the physically disadvantaged – the sick, blind, crippled, weak, elderly, etc. – and women (even if capable) are exempted from joining the fighting troops is additional evidence

³⁸ Yusuf al-Qaradawi, *Fiqh al-Jihad*, Wahba Bookshop, Cairo, 2009, vol.1, p.89

³⁹ Cited in Abdulrahman Muhammad Alsumaih, *The Sunni Concept of Jihad in Classical Fiqh and Modern Islamic Thought*, (PhD. Thesis), University of New Castle Upon Tyne, UK, 1998, p.17.

according to some scholars that the military form of *jihad* is not an individual obligation or responsibility on all Muslims.⁴⁰

- On one occasion, the Prophet (pbuh) addressed the Muslims who were ready to go out for battle saying, “*One out of two should go out forth for jihad*, and then addressing those who stayed behind, he (the Prophet) said: *those of you who look after the family and property of those who have joined the forces shall have the same reward as that of the fighter (mujahid)*.”⁴¹

- The Prophet (pbuh) himself and some of his companions only participated in some and not in all the battles fought during his lifetime. If joining the fighting force was an individual obligation (*fardu ‘ayn*), they would all have joined in and lived by example. Consequently, the term *ghazawat* is used to refer to those expeditions, outings, and battles the Prophet (pbuh) participated in, while *saraya* is usually used to refer to those expeditions, trips, and battles that the Prophet (pbuh) did not participate in.⁴²

⁴⁰Wahbah al-Zuhaili, *al-Fiqh al-Islami wa Adillatubu*, vol. 8, p.8

⁴¹ *Sahih Muslim*, Hadith no.1896; *Musnad Ahmad*, Hadith no.11527; *Musnad Abu Ya’la*, Hadith no.5993

⁴² Muhammad Sayyid Tantawi, *Al-Saraya al-Harbiyyah fi al-‘Abd al-Nabawi*, Al-Zahra li al-Flam al-Arabi, Cairo, 1990, p.21; Husayn Mujib al-Masri, *Ghazawat al-Rasul Bayn Shu’ara al-Shu’ub al-Islamiyyah*, Dar al-Thaqafiyah li al-Nashr, Cairo, 2000, p.32.

According to the majority of scholars, however, fighting or *jihad* could become an individual obligation (*fardu ‘ayn*) in the following situations:⁴³

- When someone (such as a soldier) or a group is specifically appointed by the leader of the state to fight for a just cause (*fi sabil Allah*), it is regarded as an individual responsibility (*fardu ‘ayn*) on them to fight. Imam al-Bukhari opened a related chapter on this with the words: “Fighting is done under an Imam and he serves as a barrier (against the enemy)”, then he related a Hadith where the Prophet (pbuh) said: “*Whoever follows me follows Allah, and whoever follows his Amir (leader) had followed me, and whoever disobeys the leader has disobeyed me. The leader is a barrier whom fighting should be carried out under his umbrella...*”⁴⁴ This Hadith also emphasizes the necessity for fighting to be under the orders of a legitimate leader, and not an individual obligation without respecting the leader.⁴⁵

- It is also *fardu ‘ayn* on the military or those soldiers who have set out for military *jihad*, when they are on the battlefield facing their enemies. Desertion is prohibited. In this regard, Allah says: “*O you who believe, when you meet those who disbelieve advancing on a battlefield, do not turn your backs to them. And whoever turns his back to them on such a day – unless it be a stratagem*

⁴³ Yusuf al-Qaradawi, *Fiqh al-Jihad*, Wahbah Bookshop, Cairo, 2009, vol.1, p.89

⁴⁴ Al-Bukhari, *Sahih al-Bukhari*, Hadith no. 2957

⁴⁵ This is similar to the obligation of the Friday (*Jumu'ah*) prayer under an imam (leader).

of war or to retreat to a troop (of believers) – he has indeed drawn upon himself wrath from Allah.” (Qur’an 8:15).

- It may also be an individual obligation (*fardu ‘ayn*) in self-defence when attacked by an enemy. In such exceptional situations, it may become compulsory for every capable Muslim including women to fight back and defend themselves or their own. This may therefore be without the usual permission of a leader, parents, or husbands (in the case of married women) as the circumstance may not permit this.⁴⁶

As mentioned earlier, and as applied to the other various forms of *jihad*, whatever is regarded under normal conditions as a societal obligation (*fardu kifayah*), may in special circumstances or dire necessity be treated as an individual responsibility or obligation (*fardu ‘ayn*) for some people.

Assumptions from the Categorisations of “*Dar Al-Harb*”, “*Dar Al-Kufr*” and “*Dar Al-Islam*” by Jurists⁴⁷

Some Muslims have concluded that the existence and identification of *Dar al-Kufr* (“Abode of Disbelief”) and/or *Dar al-Harb* (“Abode of War”) implies the existence of an automatic

⁴⁶ Yusuf al-Qaradawi, *Fiqh al-Jihad*, Wahba Bookshop, Cairo, 2009, vol.1, p. 110

⁴⁷ For a comprehensive discussion on the various views of classical scholars on the geo-political classification of different parts of the world into one domain (*Dar*) or the other, see El-Fadl, Khaled Abou, “Islamic Law and Muslim Minorities: The Juristic Discourses on Muslim Minorities from the 2nd/8th to the 11th/17th Centuries.” *Journal of Islamic Law and Society* 2, (1994): 1; Wahbah al-Zuhayli, *Athar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, 3rd Ed., pp. 171 - 195

permanent state of war and hostility between these abodes and *Dar al-Islam* (“Abode of Islam”) or a state governed by Islamic law, and that it is not permissible for Muslims to live there.⁴⁸ The assumption here is that any state other than the *Dar al-Islam* is currently or inevitably going to be at war with Muslims and Islam.⁴⁹

This conclusion and the application of its implications to every current context is a clear example of how some Muslims confuse scholarly interpretations, formulations (*ijtihad*), and verdicts (*fatawa*) in response to their changing contexts, with the divine laws and doctrines of *Shari’ah*. They treat the changeable positions (*al-mutaghayyirat*) and *ijtihad* of scholars which might have been applicable to specific contexts in the past as if they belong to those more permanent Islamic laws (*al-thawabit*).

Firstly, it should be made clear that this classification of the world into two main domains or abodes (of *Darul Islam* vs. *Darul Harb/Kufr*) cannot be found by name either in the Qur’an

⁴⁸ This is the predominantly Maliki position. See El-Fadl, Khaled Abou, “Islamic Law and Muslim Minorities: The Juristic Discourses on Muslim Minorities from the 2nd/8th to the 11th/17th Centuries.” *Journal of Islamic Law and Society* 2, (1994), p.1

⁴⁹ For further reading on Dar al-Islam and Dar al-Harb, see: ‘Abid bin Muhammad al-Sufyani, *Dar al-Islam wa Dar al-Harb wa Asl al-‘Alaqa Bainahuma*, Jami’ah Malik Abd al-Aziz, Riyadh, 1401 AH; Isma’il Lutfi al-Fattani, *Ikhtilaf al-Darayn wa Atharuhu fi Abkam al-Mumakabat wa al-Mu’amalat*, Dar al-Salam, 1998; Yusuf al-Qaradawi, *Fiqh al-Jihad*, Maktabah Wahbah, Cairo, 2009, vol.2; Abdullah bin Bayya’, *al-Kalimah al-Ta’riryah li al-Multaqa al-Thalith*, Muntada Ta’ziz al-Silm fi al-Mujtama’at al-Muslimah, Abu Dhabi, 2016, pp.19-22; Wahbah al-Zuhayli, *Athar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, n.d

or the Hadith. Furthermore, there is no categorical statement by Allah or the Prophet (pbuh) demarcating the world into two bipolar domains. These concepts were also not used by any of the companions of the Prophet (pbuh). Rather, the concepts arose from classical jurists who sought to classify the world in which they lived in order to deduce appropriate juridical rulings for political and strategic relations with others outside the Caliphate. By examining the geographical divisions and power alliances that existed in their times, they were able to theoretically carve out an Islamic space within which their rulings applied. These divisions also allowed them to distinguish between Muslims who were living under Islamic rule and those who were travellers or living abroad who required specific rulings.⁵⁰

It is thus a product of the juristic reasoning (*ijtihad*) of schools of jurisprudence (*madhhabs*), with diverse opinions within and between them and their scholars who lived in various times and contexts.⁵¹ According to Abdulrahman al-Haj, classical scholars came up with at least 34 separate conceptual divisions of the

⁵⁰ Tariq Ramadan, *To Be a European Muslim* (Leicester, UK: The Islamic Foundation, 1999), pp.123-124; Wahbah al-Zuhayli, *Athar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, pp. 194 – 196; Yusuf al-Qaradawi, *Fiqh al-Jihad*, Maktabah Wahbah, Cairo, 2009, vol. 2, pp.865 – 881. (It is noteworthy that the discussion of al-Qaradawi on this point is more of refutation of Wahbah al-Zuhayli, Abu Zahrah and those who assert that the division of the world into Dar al-Islam and Dar al-Harb has no basis in the Qur'an and Sunnah.)

⁵¹ Footnote 210 and 211 and cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.96; See also Al-Dawoody, *The Islamic Law of War*, p.92-102, for those who classify the world into 3 major divisions. See also Wahbah al-Zuhayli, *Athar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, 3rd Ed., pp 167-169, 193.

world relating to the word “*Dar*”, including *Dar al-Muhajirun*, *Dar al-Hijrah*, *Dar al-Baghy*, *Dar al-Da’wah*, *Dar al-Dhimmah*, *Dar al-Shirk*, *Dar al-Arab*, and *Dar al-Riddah*, etc., which were used to describe the diverse historical realities of a broad range of divisions as conceptualized by the jurists who lived during the periods when such terms were formulated.⁵²

Most of the schools of jurisprudence classified *Dar al-Islam* as the territory predominantly populated by Muslims and over which an Islamic system of rule was applied, even if it was taken over by non-Muslims. Hanafi jurists, however, stated that the term referred to any territory where Muslims had security to practice their faith. *Dar al-Harb* was categorized by most jurists as any territory which did not have an Islamic ruling system or government, even if its population was largely Muslim. Hanafi jurists stated that it referred to anywhere Muslims did not feel safe, at peace, and secure to practice Islam. Interestingly, according to jurists, a nation being branded with the title of “Abode of War” did not necessitate that it was in a state of actual warfare with Muslims.⁵³

⁵² Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.96.; Wahbah al-Zuhayli, *Athar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, 3rd Ed., p. 194;

⁵³ Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.126; Yusuf al-Qaradawi, *Fiqh al-Jihad*, Maktabah wahbah, Cairo, 2009, vol. 2, p.867; Isma’il Lutfi al-Fattani, *Ikhtilaf al-Darayn wa Atharuhu fi ahkam al-Munakahat wa al-Mu’amalat*, Dar al-Salam, 1998, pp.30-36; Wahbah al-Zuhayli, *Athar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, p.174

The conditions associated with being an “Abode of War” are the source of much contemporary debate, since no country today truly or completely applies Islamic principles of governance. Some scholars argue that countries with majority Muslim populations should still be classified as *Dar al-Islam*, though imperfect but with the hope of reform.⁵⁴

The binary classification (of *Darul Islam* vs. *Darul Harb/Kufr*) disregards the existence and implications of other “Abodes” identified by the *ijtihad* of other schools and scholars such as *Dar al-Sulh* and/or *Dar al-‘Ahd* (Abode of Treaty/Alliance).⁵⁵ This binary position, therefore, oversimplifies the very diverse juridical and political concepts and realities behind these terms and ignores the details on this subject that make it abundantly clear that these classifications and their implications are completely products of *ijtihad* by scholars who were responding to their various contexts. It disregards the *ijtihad* of those scholars who regard any “abode” in which the lives of Muslims are safe and secure, and in which they have the freedom to worship as being a part of *Dar al-Islam*. Ibn Hajar for example cites the view of al-Mawardi that if a Muslim is able to practise Islam openly in a non-Muslim land, then that land becomes *Dar al-Islam* (the Abode of Islam) by virtue of his settling there, and living there is

⁵⁴ These include respected scholars such as Sheikh Yusuf al-Qaradawi and many others. See Yusuf al-Qaradawi, *Fiqh al-Jihad*, Maktabah wahbah, Cairo, 2009, vol. 2, pp.894-895.

⁵⁵ Muhammad Abu Zahrah, *al-‘Alaqa al-Dawliyyah fi al-Islam*, Dar al-Fikr al-‘Arabi, Cairo, 1995, pp.56-60, p.108; Wahbah al-Zuhayli, *Athar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, p.173

preferable to moving away from it as other people may be attracted to Islam merely by their interaction with him.⁵⁶ According to al-Mawardi, “The public acts of worship (*sha`a`ir*) of Islam such as group prayers in mosques and call for prayers are the criteria by which the Prophet (pbuh) differentiated between the Land of Islam and the Land of Disbelief.”⁵⁷ Al-Razi writes that “If the Islamic acts of worship are evident in streets and public places, this certainly entails that Islam is dominant.”⁵⁸ Ibn Taymiyyah equally wrote that, “The public acts of worship (*sha`a`ir*) of Islam are the true signs that a certain land is a Land of Islam.”⁵⁹ The criterion of “the achievement of justice”, is so central in the Islamic concept of ‘Land or Abode of Islam’ to the extent that the term ‘Land of Justice’ (*Dar al-‘Adl*) is very often used interchangeably with the term ‘Land of Islam’ (*Dar al-Islam*) in numerous sources.⁶⁰ In fact, Imam Abu Hanifa states: “The purpose (*maqsud*) of calling a certain land a ‘Land of Islam’ or a ‘Land of Disbelief (*kufr*)’ is not Islam versus *kufr*. It is security versus insecurity.”⁶¹

⁵⁶ Ibn Hajar al-Asqalani, *Fath al-Bari*, Dar al-Fikr, Beirut, vol.7, p.230.

⁵⁷ Al-Mawardi, *Al-Abkam al-Sultaniyah*, vol.1, p.275.

⁵⁸ Al-Razi, *Al-Mabsul*, vol.4, p.43.

⁵⁹ Ibn Taymiyyah, *Al-Nubuwat*, vol.1, p.197.

⁶⁰ For example: Ibn Taymiyyah, *Kutub wa Rasa`il*, vol.28, p.146; Rashid Rida, *Al-Khilaifah*, p.50 & 62; Al-Mawardi, *Al-Abkam al-Sultaniyah*, vol.1, p.22; Al-Sarakhsi, *al-Usul*, vol.9, p. 182; Al-Kasani, *Bada`i` al-Sana`i`*, vol.7, p.80; Ibn Qudamah, *Al-Mughni*, vol.9, p.14; Al-Nawawi, *Rawdat al-Talibin*, vol.10, p.49; Al-Zar`i, *Al-Jawab al-Kafi*, vol.1, p.101; Ibn Abidin, *Hashiyat Raddul-Mukhtar*, vol.4, p.45; Al-Alusi, *Ruh al-Ma`ani*, vol.18, p.91; Nizam, *Al-Fatawa al-Hindiyyah*, vol.2, p.179.

⁶¹ Al-Kasani, *Bada`i` al-Sana`i`*, vol.7, p.131

Secondly, not only is the categorization and its criteria a product of *ijtihad*, but so also is the conclusion that there exists or should exist a permanent state of war between *Dar al-Islam* and *Dar al-Kufr*. In his detailed discussion of the various views of scholars on this subject, Al-Dawoody even concludes that “what lay behind this division was not a religious criterion, that is, between Islam and other religions, as has been commonly and wrongly assumed. Nor was it a territorial division between the Islamic state and the non-Muslim states. It was a division between peace and war, not only war against Muslims or the Islamic state, as concluded by Al-Zuhayli, but more importantly the prohibition of the practice and preaching of the religion of Islam”.⁶²

In addition, this *ijtihad* that is based on the assumed correctness of another *ijtihad* is itself not supported by a holistic reading of the Qur’an as understood and lived by the Prophet (pbuh) and his companions in both Mecca and Medinah.⁶³ As explained earlier, the clear statement of Allah in the Qur’an (60:8) is that, “*As for those (unbelievers) who do not fight against you on account of (your) faith, nor drive you out of your homelands, Allah does not forbid you to show them kindness and to deal with them with fairness and equity...*”. Also, the categorical declaration of the Prophet (pbuh) that applied to non-hostile people of other faiths was, “*Leave the*

⁶² Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.96

⁶³ See more on this in: Da’wah Institute of Nigeria, *Al-Ameen: 40 Lessons for Building Bridges and Breaking Barriers to Peace from the Life of Prophet Muhammad*, Islamic Education Trust, Minna, Nigeria, 2019; and Da’wah Institute of Nigeria, *Muslim Relations with Christians, Jews and Others*, Islamic Education Trust, Minna, Nigeria, 2018.

*Abyssinians alone, as long as they leave you alone, and do not engage the Turks, as long as they do not engage you.*⁶⁴

Imam al-Shafi'i is credited as introducing the term "*Dar al-Ahd*" ("Abode of Treaty") to juridical discussion, referring to nations that were not politically Islamic but which held political alliances or were at peace with one or more Muslim states.⁶⁵

Several contemporary scholars have stated that, given the existence of international bodies such as the United Nations and the African Union, this later classification is relevant for most nations today. However, others have noted that for this term to be applicable there needs to be a clearly defined *Dar al-Islam* and its opposing *Dar al-Harb*. Moreover, agreements between the governments of various nations do not reflect agreements between the populations of those countries or the real nature of modern power struggles which usually occur not only between nations but also between various multinational forces that transcend geographical bounds.⁶⁶

Applying such non-binding juristic concepts of *Dar al-Harb* and *Dar al-Islam*, therefore, could lead to methodological errors as the terms are simplistic and bipolar – not reflective of the world

⁶⁴ Abu Dawood, No.3748; An-Nasa'i, No.3125; authenticated by Al-Albani in *Sahih Jaami' al-Saghir*, no.3384. The Hadith is also cited in Ibn Rushd's *Bidayat al-Mujtahid*, vol.1, p. 456

⁶⁵ Ibn Abu Ya'la, *Tabaqat al-Hanabilah*, vol.2, p. 193. Cited in Ismail Lutfi Fattani, *Ikhtilaf al-Darain wa Atharuhu fi al-Kam al-Munkahat wa al-Mu'amalat*, p.43.

⁶⁶ *Ibid.*, p.128

that has become a constantly-evolving village, with complex geopolitical configurations, diverse cultural constituencies, and multi-polar domains of power and influence across nations.

The reconciliation of all the relevant evidence, therefore, shows that the assumed conclusion that there is or should be a permanent state of war between the “Abode of Islam” and the “Abode of Disbelief” is not supported by a holistic reading of the texts. Rather, it is a product of *ijtihad*, which if treated as a permanent Islamic doctrine, actually contradicts the clear texts of the Qur’an, the Sunnah, and the many cases of peace-building and peaceful coexistence cited in the authentic historical biography (*Sirah*) of the Prophet (pbuh) and his companions.⁶⁷

***Jihad*: Against Aggression or Religious Diversity?**

Some Muslims and non-Muslims have concluded that the concept of *jihad* in Islamic teachings is identical to the originally Christian concept of "Holy War" – unprovoked and violent aggression against people of other faiths simply because of intolerance of religious diversity, and to spread the faith. This understanding among some Muslims naturally contributes to making people of other faiths more fearful, suspicious, and apprehensive of Muslims having access to greater political and military power. They consequently do

⁶⁷ See Da’wah Institute of Nigeria, *Al-Ameen: 40 Lessons for Building Bridges and Breaking Barriers to Peace from the Life of Prophet Muhammad*, Islamic Education Trust, Minna, Nigeria, 2019.

all they can – for "security reasons" and "national interests" - to restrict the growth and influence of Muslims or Islam. This, in turn, contributes to mutual mistrust, prejudice, bridge-burning, interfaith tension, and hostility.

Is fighting, warfare (*qital/harb*) or combative *jihad* targeted against other religions and their followers, or is it against hostility and violent aggression, irrespective of faith? Is *jihad* an Islamic version of “Holy War”?

Jihad simply means to strive hard or struggle in pursuit of a just and goodly cause in a manner that is in line with guidance/way/path of Allah (*fi sabil Allah*). In Islamic teachings, it refers to the unceasing effort that an individual must make towards self-improvement and self-purification in Allah’s cause.

It also refers to the duty of Muslims, both at the individual and collective levels, to struggle against all forms of evil, corruption, injustice, tyranny, and oppression – whether this injustice is committed against Muslims or Non-Muslims, and whether by Muslims or Non-Muslims. In this context, *jihad* may include peaceful struggle or, if absolutely necessary, armed struggle.

What should be very clear is that *jihad* cannot be reduced or restricted to simply warfare or fighting, and that the very important phrase that qualifies and determines the permissibility and acceptance of any form of *jihad* is “*fi sabil Allah*” – in way or cause of Allah, or to achieve the higher intents of Islamic teachings

(*Maqasid al-Shari'ah*) – i.e., accruing benefit for all and prevention of harm from society.

***Jihad* is neither “Holy War” nor only about War**

“*Jihad*” is sometimes translated as “Holy War”, but this is a misnomer and an incorrect translation that has been very misleading. Though there were “many varying theories and forms of holy war, a defining feature of its dominant expression was that it legitimized war as a means of coercing conversion to Christianity.”⁶⁸ In contrast, “Holy War” does not exist in the Islamic tradition, nor can the term *jihad* “be reduced to a military matter.”⁶⁹

“Holy war” (*al-harb al-muqaddasah*, in Arabic) is not an expression used by the Qur’anic text, the Sunnah, or Muslim theologians and jurists. Indeed, a close scrutiny of all relevant texts and the reasons for each of the actual battles fought during the lifetime of Prophet Muhammad (pbuh) and his companions reveal that in Islamic theology and jurisprudence, “war is never holy, it is either justified or not,” and if it is a “just war”, then those killed in battle are considered martyrs.⁷⁰

⁶⁸ Waleed Aly, *People Like Us: How arrogance is dividing Islam and the West*, Picador Pan Macmillan, Australia, 2007, p.158

⁶⁹ Waleed Aly, *People Like Us: How arrogance is dividing Islam and the West*, Picador Pan Macmillan, Australia, 2007, p.154

⁷⁰ Khaled Abou El Fadl, *The Place of Tolerance in Islam*, Beacon Press, Boston, 2002, p.19

As stated earlier, a simple study of the areas of consensus of classical Muslim scholars regarding when warfare or fighting others is permissible, who and what is a legitimate target (i.e. when it is just to resort to war - *jus ad bellum*, in Latin), and the conduct of warfare in Islamic law (i.e. how to fight justly - *jus in bello*), is sufficient to make clear the “Just War” concept of the military form of *jihad*,⁷¹ and why unprovoked aggression, terrorism, and insurgency are actually regarded as punishable offences in Islamic Law.⁷²

***Jihad* is against Aggression, not Religious Diversity**

The proof that the military form of *jihad* is only directed against aggression and oppression, and not against religious diversity is the fact that the Qur’an in numerous places very categorically states that when the enemy stops fighting or inclines to peace, Muslims are required to cease fighting and also incline to peace, and place their trust in Allah (Qur’an 2:192 and 8:61), and that “*Allah does not love aggressors*” (Qur’an 2:190).⁷³ The following verses of the Qur’an are relevant in this regard:

⁷¹ See Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.8, 11-41.; Muhammad Naqib, Ishan Jan and Abdurashid Lawan Haruna, *International Humanitarian Law*, IIUM Press, Gombak, Malaysia, 2015, pp.203-219.

⁷² See Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011; Khaled Abou El-Fadl, *Rebellion and Violence in Islamic Law*, Cambridge University Press, Cambridge, 2006; Mohamed Salim El-Awa, *Punishment in Islamic Law*, American Trust Publications, USA, 1981.

⁷³ See also, Qur’an 4:75; 4:89-91; 2:190-193; 22:39-40; 49:9; 9:4-6; 9:12-13; and 9:123, etc.

- *Fight (qātilū) in the cause of Allah those who fight (yuqātilū) you, but do not commit aggression, for Allah loves not the aggressor. (Qur'an 2:190)*
- *But if they cease, Allah is Oft-Forgiving, Most Merciful. (Qur'an 2:192)*
- *And fight them back (qātilū hum) until there is no more fitnah⁷⁴, and religion is (acknowledged to be) for Allah, but if they cease, let there be no hostility except to those who practise oppression. (Qur'an 2:193)*
- *And if they (your enemy) incline to peace, incline you also to it, and trust in Allah. (Qur'an 8:61)*
- *(Fight them) except those who join a people between whom and you there is a treaty, or those who come to you because their hearts restrain them from fighting you or their own people. If Allah had willed, He would have given the unbelievers power over you, and they would have fought you. Therefore, if they withdraw from you and fight you not, and instead send you guarantees of peace, know that Allah has not given you a license (to fight them). (Qur'an 4:90)*
- *If one amongst the (combatant) polytheists asks you for asylum grant it to him so that he may hear the word of Allah and then escort him to where he can be secure: that is because they are men without knowledge. ...As long as they stand true to you, stand you true to them: For Allah does love the righteous. (Qur'an 9:6-7)*

If fighting in Islamic law were directed against a people just because they are not Muslims, then Muslims would not be

⁷⁴ *Fitnah* could mean disbelief, discord, dissension, civil strife, persecution, oppression, injustice, etc.

instructed to stop fighting them even if the non-Muslims concerned stopped, since their stopping does not mean they have become Muslims.

Muhammad Asad notes that "all Islamic jurists, without any exception, hold that forcible conversion is under all circumstances null and void, and that any attempt at coercing a non-believer to accept the faith of Islam is a grievous sin."⁷⁵

Non-Combatants are not Legitimate Military Targets

Additional evidence that fighting in Islamic law is only against injustice and not due to religious difference is the clear prohibition in Islamic Law, based on the Qur'an, Sunnah, and practice of the companions, of killing non-Muslims who were non-combatants - such as women, children, etc. – which is recognized and respected by all Schools of Islamic Jurisprudence.⁷⁶

For example, the Prophet (pbuh) said, "*Never kill women and children*"⁷⁷, "*Do not kill hermits*"⁷⁸, "*Do not slay the old and frail...*"⁷⁹,

⁷⁵ Muhammad Asad, *The Message of the Qur'an*, The Book Foundation, England, 2003, p.70, n.249 to Qur'an 2:256

⁷⁶ Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, pp.107-118; Muhammad Naqib, Ishan Jan and Abdulrashid Lawan Haruna, *International Humanitarian Law*, IIUM Press, Gombak, Malaysia, 2015, pp.203-219.

⁷⁷ Imam At-Tahawy, *Sharh Ma'ani al-Athar*, Dar al-Kutub al-Ilmiyyah, Beirut, 1399AH, Hadith no.4770 (ed. Muhammad Zuhri al-Najjar); al-Bayhaqi, *al-Sunan al-Sugrah*, Hadith no. 3894

⁷⁸ Ahmad bin Hanbal, *Musnad Ahmad*, Mu'assasah al-Risalah, Beirut, 1420 A.H, vol.4, p.461

⁷⁹ Al-Bayhaqi, *al-Sunan al-Sugrah*, Hadith no. 3894; al-Bayhaqi, *al-Sunan al-Kubrah*, Hadith no. 17932

and “*Leave them (monks) and that to which they devote themselves.*”⁸⁰ To this list, scholars add other non-combatants such as the blind, chronically ill, clergy, traders, craftsmen, farmers, the insane, peasants, serfs, etc.⁸¹ Others who are included are those with amnesty or peace treaties (*mu’abid* and *dhimmis*), emissaries and diplomats, etc.⁸²

If all these categories of non-Muslims are not to be killed, then fighting any non-Muslim is not because they belong to other faiths, but because they have committed acts of aggression against Muslims. In other words, if the military form (*qital*) of *jihad* was a form of “holy war” and against non-Muslims simply because they had not accepted Islam, then the fact that they were women, elderly, non-combatants, etc. would have made no difference to their being legitimate military targets.

***Jihad* can also be against Muslims**

Moreover, the companions demonstrated after the death of the Prophet (pbuh), and the jurists stipulated in their works, that fighting (*qital*) is also permitted against Muslims should they

⁸⁰ Abu Bakr Abd al-Razzaq, *Musannaf Abd al-Razzaq*, Hadith no. 9377; al-Bayhaqi, *al-Sunan al-Kubrah*, Hadith no. 18614.; *Musnad Ahmad*, Hadith no. 2728; al-Tabarani, *al-Mu’jam al-Kabir*, Hadith no.11396; al-Bayhaqi, *al-Sunan al-Sugra*, Hadith no.3893.

⁸¹ For more references and discussion, see Ibn Rushd’s *Bidayat al-Mujtahid wa Nihayat al-Muqtasid* (The Distinguished Jurist’s Primer), vol.1, 1994, pp.458-460; Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.107-118

⁸² Al-Bukhari, *Sahih al-Bukhari*, Hadith no. 3166

perpetrate aggression, insurgency, or injustice against fellow believers. Allah says in the Qur'an:

“If two parties among the believers fall into a quarrel, make peace between them; but if one of them transgresses beyond bounds against the other, then fight (qātilū) against the one that transgresses until it (the transgressing party) complies with the command of Allah...” (Qur'an 49:9)

This is most evident in the early battles against the Khawarij and other militant Muslim factions in the past and present.⁸³

As has been noted earlier, the pact of protection (*dhimma*) with citizens of a Muslim society but who belong to other faiths, guarantees their safety. In fact, Muslims are obliged, if necessary, to take arms and fight against whoever aggresses against them: “If the enemy of a *dhimmi* (non-Muslim citizen of an Islamic state) comes with his forces to take him, it is our obligation (as Muslims) to fight this enemy with soldiers and weapons and to give our lives for him, thus honouring the guarantee of Allah and His Messenger (pbuh). To hand him over to the enemy would mean to dishonour this guarantee.”⁸⁴

⁸³ Khaled Abou El-Fadl, *Rebellion and Violence in Islamic Law*, Cambridge University Press, Cambridge, 2006.

⁸⁴ Imam Al-Qarafi, *Anwar al-Buruq fi amwa' al-Furuq*, vol.4, p.398, Maktabah al-Shamilah 3.13. As discussed earlier, Muslims are even required (based on Qur'an 22:39-40), to fight if necessary, to defend non-Muslim places of worship from being destroyed, See: Yusuf al-Qaradawi, *The Lawful and the Prohibited in Islam*, IIFSO, Kuwait, 1992, p. 339; Da'wah Institute of Nigeria, *Protection of Churches, Mosques, and Synagogues in Islam*, Islamic Education Trust, Minna, Nigeria, 2012, p. 6.

In conclusion, *jihad* in Islam has nothing to do with “Holy War” and Islam prohibits fighting others simply due to their difference in faith. Fighting, if absolutely necessary, is only permissible against those who are hostile and violently aggressive against others irrespective of their faith and religious affiliation.

Islam and the Normative Relationship with People of Other Faiths

Some believe that Islam prescribes that Muslims should be in a permanent state of enmity with people of other faiths, irrespective of their disposition towards Islam and Muslims. What is the ideal and normative relationship that Islam prescribes between Muslims and non-Muslims? Is it one of hostility or peacebuilding and friendliness?

Historically, from its inception in Medinah, the Islamic State was, and continued thereafter, to be a plural society inhabited by Muslims and various non-Muslim citizens. Its defining feature was justice and equity.

The ideal and normative relationship that Islam prescribes between Muslims and non-Muslims is made explicitly clear in the Qur’an and exemplified in the life of Prophet Muhammad (pbuh). It is not that of war and hostility as opined by some, rather it is peace, justice, security, and promotion of goodness (*maslahah*) and the higher intents (*maqasid*) of *Shari’ah* – and

whatever would contribute to or lead to these. Allah says in the Holy Qur'an:

“As for such (of the unbelievers) who do not fight against you on account of (your) faith, and neither drive you forth from your homelands, Allah does not forbid you to show them kindness and to behave towards them with full equity: for verily, Allah loves those who act equitably. Allah only forbids you to turn in friendship towards those who fight against you because of (your) faith, and drive you forth from your homelands, or aid (others) in driving you forth: and as for those (from among you) who turn toward them in friendship, it is they, they who are truly wrongdoers!” (Qur'an 60: 8-9)

Several verses and prophetic traditions make us realize that the normative relationship that Islam prescribes between Muslims and non-Muslims is peaceful coexistence and not enmity or hostility. In other words, conflict or fighting is the exception and not the rule. Below are some of those texts:

- *"And if they (your enemy) incline to peace, incline you also to it, and trust in Allah" (Qur'an 8:61)*
- *“But if they cease (fighting), Allah is Oft-Forgiving, Most Merciful” (Qur'an 2:192)*
- *“...but if they cease, let there be no hostility except to those who practice oppression” (Qur'an 2:193)*
- *“Fight in the cause of Allah those who fight you, but do not commit aggression, for Allah loves not the aggressors” (Qur'an 2:190)*

- The Prophet says: “*Do not wish to meet the enemy, and ask Allah for safety; but when you face the enemy, be patient, and remember that Paradise is under the shade of swords.*”⁸⁵ This Hadith shows that peace and safety is what Islam desires as a norm and not tribulation and enmity.

All the teachings of Islam relating to seeking peace, arbitration, forgiveness, charity, social justice, and the objectives of Shari’ah (*Maqasid al-Shari’ah*), etc. are all directed towards greater peace in the society.

Even where fighting is permissible, it is only against aggression that for some reason cannot be forgiven. And in this case, fighting is permissible only as a last resort or lesser evil where there is no alternative route to peace with justice.

The fact that Islam would permit a Muslim man to initiate and have a relationship as close and intimate as that of marriage with a Christian or Jewish woman, in spite of the difference in faith, points to the extent of expression of love and kindness that a Muslim is allowed to offer a non-Muslim.⁸⁶ It is also proof that

⁸⁵Al-Bukhari, *Sahih al-Bukhari*, Hadith no. 6810

⁸⁶ This level of respect and, indeed, love is not morally permissible to initiate in some other religions. (See legal studies on Christianity and Judaism, for example, where any form of interfaith marriage is prohibited, whether male or female. This prohibition is derived by some Christian and Jewish scholars in view of II Corinthians 6:14-15, I Corinthians 7:39, Exodus 34:12-16, Deuteronomy 7:1-4, Ezra 10:2-3, Nehemiah 13:25-27, etc. in the Bible. In Christianity, however, an already existing interfaith marriage is tolerated if one of the partners accepts Christianity and the other does not (I Corinthians 7:12-14)). Contemporary canons of Catholicism and guidelines for pastoral practice in

Islam does allow genuine friendship with people of other faiths, for marriage is a relationship that the Qur'an characterizes as one of "tranquility" and "mutual love and mercy" (Qur'an 30:21) – qualities that also characterize the closest of friends. As with all relationships, and irrespective of the person's faith, such a marriage should not be allowed to undermine Islamic ideals.

The Qur'an explains the difference between polytheists (*mushrikun*) and People of the Scripture (*Ahl al-Kitab*) and makes the relationship between the latter and Muslims more intimate by permitting the eating of their slaughtered animals and marriage to their women. The relationship between the early Muslims and all non-Muslim communities – polytheists, Zoroastrians, Jews and Christians, etc. - was always peaceful until and unless they broke their peace treaties with the Muslims. Islam emphasizes the rights of non-Muslims living in an Islamic state as citizens or protected people (*Ahl al-Dhimmah*) which guarantees their rights to life, work, the practice of their religion, etc.

A study of the day-to-day relationship of the Prophet (pbuh) and his companions with their non-Muslim relatives and neighbours reveals that Islam encourages normative peaceful relations between Muslims and people of other faiths (People of the Book in particular). Such activities include greeting and eating the food of and with one another, exchanging gifts and visits, charity,

Protestant churches, however, accommodate the fact that interfaith marriages are legitimate in common law. See: http://www.religioustolerance.org/ifm_bibl.htm, 2005, for more information about Biblical teachings on interfaith marriages.

encouraging forgiveness and patience, goodness to neighbours, trade, establishing peace treaties for mutual safety and security, etc. In fact, the Prophet (pbuh) said: *“Whoever truly believes in Allah and in the Day of Judgment should honour his neighbour.”*⁸⁷ In numerous Hadiths, he also enunciated the importance of upholding the rights of a non-Muslim citizen of an Islamic state (dhimmi). On separate occasions, the Prophet (pbuh) is reported to have said, *“On the Day of Resurrection, I shall dispute with anyone who oppresses a person from among the People of the Covenant, or infringes on his right, or burdens him beyond his strength, or takes something from him against his will”*⁸⁸; and *“Anyone who kills a person from among the people with whom there is a treaty (mu‘abid)⁸⁹ will not smell the fragrance of Paradise, even though its fragrance extends to a walking distance of forty years.”*⁹⁰ This evidently shows that Islam guarantees peaceful people of other faiths their rights in an Islamic state.

⁸⁷ Al-Bukhari, *Sahih al-Bukhari*, Hadith no. 5673

⁸⁸ Abu Dawood, *Sunan Abi Dawud*, Hadith no. 3054

⁸⁹ The term *mu‘abid* is used for an approved non-Muslim visitor from another state, as distinct from a *dhimmi* who is a citizen of the Islamic territory (Al-Shawkani, *Nayl al-Awtar*, vol.7, p.14; cited in Sa’id Ramadan, *Islamic Law: Its Scope and Equity*, Macmillan, London, 1961, pp.109-110).

⁹⁰ *Sahih al-Bukhari*, vol.9, Hadith no.49, in *Alim 6.0*

SECTION 2:
**EXPOSITORY ANALYSIS OF JIHAD
AND WARFARE/FIGHTING
(*HARB/QITAL*) IN THE QURAN AND
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SECTION 2: EXPOSITORY ANALYSIS OF *JIHAD* AND *WARFARE/FIGHTING (HARB/QITAL)* IN THE QUR'AN AND *SIRAH*

“Why did Prophet Muhammad (pbuh) engage in fighting battles if his mission was for peace? Should a Prophet of Allah not be pacifist, or at least personally abstain from taking up arms?”

Part of the mission of Prophet Muhammad (pbuh) was to resist evil and defend truth and justice – sometimes, this could be done by peaceful means; sometimes, the use of force would be inevitable (Qur'an 4:75, 22:39-40). In such cases, it is only reasonable that he should lead by example. It would not befit him to ask people to do what he himself would not do.

If fighting in the cause of truth and justice, or to resist evil, is considered inappropriate for Muhammad (pbuh) as a religious leader, then would it be appropriate for other prophets and religious leaders?

According to the Bible, people like Abraham (Hebrews 7:1-3), Moses (Numbers 31:3), Joshua (Joshua 11:6-14), David (I Samuel 17:48-51, 19:8), etc. engaged in fighting battles.⁹¹ Even Jesus (pbuh) resisted evil by force when, according to John 2:13-

⁹¹ Christians who do not believe David (pbuh) was a Prophet are referred to Acts 2:30 where it says he was a Prophet.

15, he used a whip to drive the traders and moneychangers out of the temple.

Contextualizing the Qur'anic Verses on *Jihad*

How should the verses relating to warfare in the Qur'an be understood? Are there conditions that must be met before warfare becomes permissible?

When their textual and historical/sociological (*sabab al-nuzul/sabab al-wurud/sirah*) contexts are taken into consideration, all the verses of the Qur'an and Hadith relating to military *jihad* can be generally classified into three main groups: (1) verses which deal with the conditions and justification for military engagement, or commencement of warfare, (2) verses which deal with the conduct and ethics of war after it has commenced, and (3) verses which deal with the conditions of military disengagement and termination of warfare.

The inability or unwillingness of some Muslims and non-Muslims to appreciate which of these three main classifications a given text of the Qur'an or Hadith belongs to, has resulted in serious misinterpretations regarding the subject of *jihad* and *qital* in the Islamic law of war and peace. It is a major error to study relevant Qur'anic verses before (or even without) first determining their contexts in the *sirah* and Sunnah.

As with all scriptures, the verses of the Qur'an must be interpreted within the context of the verse and that of the whole Qur'an and the practice of Prophet Muhammad (pbuh) if the meaning is to be true to the intents of the scripture concerned. Neglecting these most fundamental principles of interpreting religious texts has created numerous misleading and erroneous conclusions by some Muslims and many non-Muslims.

To illustrate this with the Bible, consider the following verses from the Old and New Testaments, which if interpreted with disregard to their contexts, and other verses of the Bible, may lead to some very erroneous and dangerous conclusions that go contrary to the "Just War" concept of classical Christian theologians.

Jesus (pbuh) for example is reported to have said in the New Testament, in the Gospel according to Luke 19:27: *"But as for these enemies of mine, who did not want me to reign over them, bring them here and slaughter them before me."* And in Luke 22:36, Jesus instructed his disciples: *"...and he that has no sword, let him sell his garment, and buy one."*⁹²

⁹² In the Old Testament, we have: *"Devour the nations the Lord your Allah delivers over to you. Show them no pity."* (Deuteronomy 7:16); *"You must completely destroy them: you shall make no peace treaties with them, and show no mercy to them."* (Deuteronomy 2:1); *"Utterly destroy all that they have; do not spare them, but kill both man and woman, infant and suckling baby."* (1st Samuel 15:3); *"When you march up to attack a city, make its people an offer of peace. If they accept and open their gates, all the people in it shall be subject to forced labour and shall work for you. If they refuse to make peace and they engage you in battle, lay siege to that city. When the Lord your Allah delivers it into your hand, put to the sword all the men in it. As for the women, and children, the livestock and everything else in the city you may take these as*

It is unfortunately very common to find people quoting verses of the Qur'an (or the Bible) out of their proper context. For the Qur'an, a simple "Rule of Thumb" on verses relating to fighting, is to read five (5) verses before and five (5) verses after the particular verse in question (i.e., "-5+5"!). Sheikh Khaled Abou El-Fadl notes that nearly every reference to *qital* (fighting) in the Qur'an is qualified in the context of the same verse by some moral condition of restraint.⁹³ This is often sufficient to clarify the context of the verse itself, and whether it relates to the justification for initiating or commencement of conflict (*jus ad bellum*), the regulation and conduct of warfare (*jus in bello*), or its termination.

As it has been repeatedly mentioned in this material, however, any honest and serious study of the Qur'anic view of war will have to consider both the Qur'anic texts on the matter and their implementation or the conduct of war in the life of the Prophet (pbuh). Qur'anic texts cannot and should not be interpreted in ways that are contrary to how they were understood and implemented in the *Sunnah* (or tradition) of the Prophet (pbuh) and his rightly guided companions.

plunder for yourselves. And you may use the plunder the Lord your Allah gives you from your enemies. This is how you are to treat all the cities that are at a distance from you and do not belong to the nations nearby." (Deuteronomy 20:10-15)

⁹³ Khaled Abou El-Fadl, *The Place of Tolerance in Islam*, Beacon Press, Boston, 2002, p.102. See, for instance, Qur'an 2:190-194; 4:89-94; 8:39, 61; 9:1-13, 36; 22:39; 60:7-9, etc.

1) Verses that deal with the conditions for commencement of warfare or military engagement

For example:

- *Fight (qātilū, in Arabic) in the cause of Allah those who fight (yuqatilu) you, but do not commit aggression, for Allah loves not the aggressor. (Qur'an 2:190)*
- *But if they violate their pledges after having concluded a treaty, and revile your religion, then fight against the leaders of disbelief who, behold, mean nothing by their pledges, so that they might desist. Will you not fight against people who have violated their pledges, conspired to expel the Prophet, and were the first to attack you? Do you hold them in awe? Nay, it is Allah who you ought to stand in awe of, if you truly are believers. (Qur'an 9:12-13)*
- *Permission is given to those who fight (yuqātālūna) because they have been oppressed...For had it not been for Allah's repelling some men by means of others, [all] monasteries and churches and synagogues and mosques, wherein the name of Allah is oft-mentioned, would assuredly have been pulled down... (Qur'an 22:39-40)*
- *And what ails you that you should not fight (tuqātīlūn) in the cause of Allah and of those helpless men, women and children whose cry is: 'Our Lord! Rescue us from this town whose people are oppressors; and raise for us from Your grace one who will protect us; and raise for us from Your grace one who will bring us succour!' (Qur'an 4:75)*
- *If two parties among the believers fall into a quarrel, make peace between them; but if one of them transgresses beyond bounds*

against the other then fight (qātilū) against the one that transgresses until it (the transgressing party) complies with the command of Allah... (Qur'an 49:9)

- *O you who believe! Fight (qātilū) the unbelievers who are near you (i.e. those whose aggression you are in imminent danger of) and let them find firmness in you; and know that Allah is with those who are conscious of Him. (Qur'an 9:123)*
- Other such verses include Qur'an 4:89-91; 2:190-193; 9:4-6; etc.

Conditions under which it is permissible to resort to armed struggle in Islam include:

- a) To prevent an imminent attack. An example of this is when the Prophet (pbuh) mobilized an army to fight against the Byzantines who were preparing to attack Arabia and subjugate the newly formed Islamic state. The Prophet's expedition went to Tabuk in order to meet this imminent danger. However, when he found that the Romans had not yet taken an aggressive initiative, the Muslim army was led back without attacking Byzantine territory.⁹⁴
- b) In defence (of self or others), as in Qur'an 22:39, 2:190-193: *"Fight...those who fight you, but do not transgress limits..."*
- c) Against oppression and tyranny, as in Qur'an 4:75: *"...for those weak, ill-treated and oppressed among men, women, and children, whose cry is: 'Our Lord, rescue us from this town whose people are*

⁹⁴ Sa'īd Ramadan, *Islamic Scope and Equity*, Macmillan, London, 1961, 1st edition pp.120-121

oppressors, and raise for us from Yourself one who will protect, and raise for us from Yourself one who will help.”

- d) To remove oppressive barriers to the freedom of conscience, the freedom of association, the freedom of expression, and the freedom to practice and share Islam with others. Permission to resort to armed struggle to remove these barriers (or “*fitnah*”, as mentioned in Qur’an 2:193) is also based on the qualification that all other means to remove them have already been attempted; e.g., letters of petition, protests, negotiations, non-violent resistance, defiance, etc.
- e) When any of the above justifications for armed struggle exists, all attempts at reconciliation have been exhausted, and there are no realistic alternatives to fighting; then, the Prophet (pbuh) said, “*Do not wish to meet the enemy, but when you meet (or face) the enemy, be patient and steadfast...*”⁹⁵
- f) Declaration of war must be made only by the head of an Islamic state and commander of the armed forces (referred to as the “*Amīr*”, “Caliph”, or “Sultan” in juridical sources).⁹⁶ This stipulation is necessary to ensure that the state responds to its threats in a policy-driven, strategic, and united⁹⁷ manner.

⁹⁵ *Sahih Al-Bukhari*, vol.4, no.266B, in *Alim 6.0*

⁹⁶ See Ibn Qudamah, *al-Mughni*, vol.12, p.526, cited in Jalal Abualrub, *Holy Wars, Crusades, Jihad*, Medinah Publishers, Florida, USA, 2002, pp.110-111.

⁹⁷ If the decision to engage or disengage in warfare were to rest in the hands of anyone other than the Head of State, then anyone with selfish political ambitions could use times of fear or high security threat to usurp power, weaken the state, or create disunity.

2) Verses that deal with the conduct of war after it has commenced

For example:

- *And slay them (waqtulu hum, in Arabic) wherever you catch them, and turn them out of where they turned you out; for persecution is worse than slaughter (qatl). And fight not (wa lā tuqātilū hum) with them at the Inviolable House of Worship until they first attack you (yuqātilū kum) there, but if they attack you (there) (qātalū kum) then slay them (faqtulū hum). Such is the reward of disbelievers... (Qur'an 2:191)*
- *Then, when the sacred months have passed, slay the (combatant) polytheists wherever you find them, and take them (captive), and besiege them, and wait for them in each place of ambush.⁹⁸ But if they repent and establish worship and pay zakah (i.e., the obligatory almsgiving), then leave their way free. Lo! Allah is Forgiving, Merciful. (Qur'an 9:5)*
- *There is no coercion in religion; Truth stands distinct from error... (Qur'an 2:256)*
- *...If anyone attacks you, attack him just as he has attacked you, but be conscious of Allah and know that Allah is with those who are conscious of Him... (Qur'an 2:194)*

⁹⁸ Such as hiding places in the desert to await passing combatants or sabotaging trade through intercepting caravans as was attempted by the Muslims prior to the Battle of Badr – See Safiur-Rahman al-Mubarakpuri, *Al-Rabeeq al-Makhtum* (The Sealed Nectar: Biography of the Noble Prophet), Darussalam Publications, Riyadh, Revised edition, 2002, p.243; Muhammad Al-Ghazali, *Fiqh-U-Sirah: Understanding the Life of Prophet Muhammad*. Revised edition with Hadith authenticated by Nasiruddeen al-Albani, Islamic Federation of Student Organizations, Riyadh, 1995, p.230, etc.

- *O you who have attained faith, when you go forth (to fight) in the cause of Allah, take care to investigate, and do not say to anyone who offers you a greeting of peace, 'You are not a believer!' in order to seek worldly gains (through plundering him of the spoils of war) ... (Qur'an 4:94)*
- Others are Qur'an 4:94; 8:15-16; 9:1-7, 9:14; 9:123; 47:4; etc.

When war or armed struggle becomes unavoidable, there are also conditions to be observed. Allah and the Prophet (pbuh) forbade the killing of non-combatants (typically, women, children, old people, monks, etc.) and the unjust destruction of properties, trees, animals, farms, etc.⁹⁹ As remarked earlier, Khaled Abou El-Fadl notes that nearly every reference to *qitāl* (fighting) in the Qur'an is qualified by some moral condition of restraint.¹⁰⁰ Furthermore, if the aggressors incline towards peace, the Qur'an instructs believers to also incline towards it.¹⁰¹

⁹⁹ See Qur'an 60:8, and *aHadith* in Muslim, Abu Dawood, Tirmidhi, etc. In more recent years, the Islamic Research Council at Al-Azhar University, Egypt, issued the following statement against theological declarations which sometimes attempt to justify terrorist actions committed by Muslims: "Islam provides clear rules and ethical norms that forbid the killing of non-combatants, as well as women, children, and the elderly, and also forbids the pursuit of the enemy in defeat, the execution of those who surrender, the infliction of harm on prisoners of war, and the destruction of property that is not being used in the hostilities." (*Al-Hayat*, 5th November, 2001).

¹⁰⁰ K. El-Fadl, "Reply", in *The Place of Tolerance in Islam* (Boston: Beacon Press, 2002), p.102. See, for instance, Qur'an 2:190-194; 4:89-94; 8:39, 61; 9:36; 22:39; 60:8-9.

¹⁰¹ Qur'an 8:61. Furthermore, Ibn al-Qayyim writes in *Zad al-Ma'ād fi Hadyi Khawri al-'Ibād*, vol.3, p.237 that, "It is permitted for the Imam (leader) to initiate peace talks with the enemy if he believes this is beneficial for Muslims. In this circumstance, it is not necessary to wait for the enemy to initiate peace talks first." (Cited in Jalal Abualrub, *Holy Wars, Crusades, Jihad*, Medinah Publishers, Florida, USA, 2002, p.173).

3) Verses that deal with the conditions of military disengagement and termination of warfare

- For example: *But if they cease, Allah is Oft-Forgiving, Most Merciful.* (Qur'an 2:192)
- *And if they (your enemy) incline to peace, incline you also to it, and trust in Allah.* (Qur'an 8:61)
- *And fight them back (qātilū hum) until there is no fitnah¹⁰² and religion is for Allah, but if they cease, let there be no hostility except to those who practice oppression.* (Qur'an 2:193)
- *(Fight them) except those who join a people between whom and you there is a treaty, or those who come to you because their hearts restrain them from fighting you or their own people. If Allah had willed, He would have given the unbelievers power over you, and they would have fought you. Therefore, if they withdraw from you and fight you not, and instead send you guarantees of peace, know that Allah has not given you a license (to fight them).* (Qur'an 4:90)
- *If one amongst the (combatant) polytheists asks you for asylum grant it to him so that he may hear the word of Allah and then escort him to where he can be secure: that is because they are men without knowledge. How can there be a league before Allah and His apostle with the polytheists except those with whom you made a treaty near the sacred mosque? As long as these stand true to you, stand you true to them: For Allah doth love the righteous.* (Qur'an 9:6-7)

¹⁰²*Fitnah* could mean disbelief, discord, dissension, civil strife, persecution, oppression, injustice, etc.

Hence, Muslims are not allowed to commit aggression or initiate violence “*for Allah does not love the aggressors*” (Qur’an 2:190). If, however, they are attacked or are in imminent danger of being attacked, they have the right to resist and, if necessary, fight against oppression so that people can live in freedom and with their basic human rights.

However, if the aggressors incline towards peace, the Qur’an as cited above clearly instructs believers to also incline towards it. In fact, according to the great jurist Ibn al-Qayyim al-Jawziyyah, “It is permitted for the Imam (leader) to initiate peace talks with the enemy if he believes this is beneficial for Muslims. In this circumstance, it is not necessary to wait for the enemy to initiate peace talks first.”¹⁰³

Some of the verses cited above are thus picked and quoted by some in isolation and without reference to this general rule of respecting the historical and textual context of verses concerned when trying to derive the meanings and implications of any text of the Qur’an or Hadith.

¹⁰³ Ibn al-Qayyim al-Jawziyyah, *Zad al-Ma’ad fi Hadyi Khairi al-’Ibad*, vol.3, p.237; Cited in Jalal Abualrub, *Holy Wars, Crusades, Jihad*, Florida, USA: Medinah Publishers, 2002, p.173.

Contextualizing the Prophet's (pbuh) *Ghazawat* ("raids", "military campaigns" or "battles") and *Sarayya* ("expeditions")

Some people regard the Prophet (pbuh) as a warmonger who was more interested in bloodshed, aggression, violence, and war, as opposed to peacebuilding. They argue that according to historical sources, the Prophet (pbuh) participated in 27 *ghazawat* ("raids", "expeditions" or "battles") which by their very nature, were expected to undermine peaceful co-existence between Muslims and people of other faiths, especially in a multi-religious society. Is there any evidence in the life of Prophet Muhammad (pbuh) and his companions of any form of unprovoked hostility, terrorism, or of justifying aggression against peaceful people of other faiths simply because of the difference in religion? Did the Prophet (pbuh) and his companions fight any people of other faiths to force them to accept Islam? Is there any evidence in the biography (*sirah*) of the Prophet (pbuh) especially while the Qur'an was being revealed for justifying "offensive jihad" (*Jihad al-Talab*) against peaceful others? Did the Prophet (pbuh) really engage in 27 battles?¹⁰⁴

The importance of studying each of the battles in the lifetime (and *sirah*) of the Prophet (pbuh) cannot be over-emphasized as

¹⁰⁴ In our response to this question, we relied on Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, pp. 11-41.

they give the background and context for the correct understanding of all the relevant verses of the Qur'an and Hadith about warfare and fighting. They are also critical to a correct understanding of the true justifications for warfare in the Islamic law of war and peace as understood by the Prophet (pbuh) and his companions. Failure to engage these contexts and the *sirah* has led many to unfounded assumptions and erroneous conclusions that even contradict clear texts of the Qur'an and authentic statements of the Prophet (pbuh) regarding inter-faith relations, the justifications for war, its limits, and its conduct.

The various texts of the Qur'an relating to warfare have well-known contexts (*asbab al-nuzul*) and their related battles at the time of their revelations. So also, the various Hadiths and sayings of the Prophet (pbuh) on warfare have their contexts (*asbab al-murud*) in which they were uttered and where they applied. It is for example well known that many of the verses relating to warfare and fighting in Surah al-Baqarah, al-Nisa, al-Anfal, al-Tawbah, and al-Fath were concerned with the Battles of Badr, Hudaibiyah, Tabuk, Ahzab, Hunayn, etc. For example, verses 74 -78 of Surah al-Nisa were revealed to encourage Muslims to fight those who persecuted them and to rescue their brethren who were prevented from hijrah from Mecca to Medina.

Similarly, earlier verses of Surah al-Anfal were revealed basically to uncover the reaction of those Muslims who did not want to join the troop the Prophet (pbuh) sent out to intercept the

caravan of Quraish, while some of those verses gave narrations of Badr and how Allah made Muslims victorious over their enemy despite their small number and limited weapons.¹⁰⁵

Ibn Kathir and a number of Mufasssirin (Qur'an exegetes) mention that most of the earlier verses of Surah al-Tawbah were revealed after the battle of Tabuk. For example, verse 38 was revealed to encourage Muslims to participate in it upon their return from the battles of Ta'if and Hunayn¹⁰⁶. In *Asbab al-Nuzul*, Al-Wahid narrates that the whole chapter of Surah al-Fath was revealed between Mecca and Medina concerning al-Hudaibiyah.¹⁰⁷

Understanding these historical contexts from the authenticated *Sirah* and how the Prophet (pbuh) and his companions acted on the relevant verses of the Qur'an sufficiently clarifies many of the misconceptions and misinterpretations that result from quoting verses out of their own contexts.

Even after all these verses of the Qur'an relating to warfare and fighting were revealed, the Prophet (pbuh) and his companions continued to live peacefully and respectfully with law-abiding non-Muslim citizens, and those others who respected their peace treaties, etc. This makes it clear that none of the texts of the

¹⁰⁵ For further reading on this, see commentary of Ibn Kathir and al-Tabari on those chapters or verses.

¹⁰⁶ al-Wahidi, *Asbab al-Nuzul*, al-Maktabah al-Shamilah 3.13, p.236.

¹⁰⁷ al-Wahidi, *Asbab al-Nuzul*, al-Maktabah al-Shamilah 3.13, p.371,

Qur'an were ever understood by the Prophet (pbuh) or his close companions to justify terrorism, provocation, and hostility towards others who were not hostile towards the Muslim community.

Since the Prophet (pbuh) was the best commentator of the Qur'an, and the most authoritative implementer of its implications, a basic understanding of the nature of each of the major instances of fighting or battles during his lifetime would help clarify whether he or his companions ever understood any text of the Qur'an (or Hadith) to justify offensive hostilities and provocation of peaceful others.

As reiterated earlier, all verses of the Qur'an that relate to warfare, fighting, and battles at the time of the Prophet (pbuh) had specific well-known contexts captured in the Sunnah and found in the authenticated Hadith and *sirah*. According to scholars - such as Ibn Taimiyyah, Ibn al-Qayyim, etc. - who have carefully studied each of these battles and military encounters, all of the instances of fighting at the time of the Prophet (pbuh) were defensive (*jihad al-daf'*), and none of them were provocative, aggressive or "offensive *jihad*" (*jihad al-talab*) towards people of other faiths.¹⁰⁸

¹⁰⁸ See Ibn Taymiyyah, *Qā'idah Mukhtasarah fī Qitāl al-Kuffār*, pp. 96, 134; Ibn Qayyim al-Jawziyyah, *Hidayah al-Hayārā*, pp. 137 f.; al-Marāghī, *Tafsīr al-Marāghī*, Vol. 10, p. 92; Mahmassani, *Al-Qānūn wa al-'Alāqāt*, p. 177; al-Zuhaylī, "Majālāt al-'Alāqāt," p. 199; Sābiq, *Fiḥ al-Sunnah*, Vol. 3, pp. 18 f.; 'Afiḥī, *Al-Mujtama' al-Islāmī*, p. 148; al-Ghunaimi, *Qānūn al-Salām fī al-Islām*, p. 59; Ghunaym, *Al-Jihād al-Islāmī*, pp. 32 f.; Ṭabliyyah, *Al-Islām wa Ḥuqūq al-Insān*, p. 72; al-Firjānī, *Uṣūl al-*

This fact, which cannot be over-reiterated, should make it abundantly clear to anyone that no verse of the Qur'an or authentic Hadith of the Prophet (pbuh) could or should be interpreted to justify unprovoked aggression and hostility towards peace-loving people of other faiths, as such an interpretation has no backing in the actual life (*sirah*) and tradition (*Summah*) of the Prophet (pbuh). On the contrary, a complete and thorough study of the Prophet's battles and their contexts reconfirm the defensive nature of all his battles, and the just and peace-building mission of the Prophet (pbuh) and his companions.

This section of the book, therefore, tries to identify some of the most commonly misinterpreted aspects of the *sirah*, with a view to put them in their correct historical contexts and clarifying misconceptions and erroneous conclusions that have been arrived at, as a result of missing information or prejudiced bias in some interpretations of the *sirah*. This is necessary in order to get a fuller picture and more comprehensive understanding of the Prophet's (pbuh) mission for greater peace and justice even when fighting was justified. Clarifying these issues also strengthens the

Alāqāt, pp. 77, 82 f.; al- Rikābī, *Al- Jihād fi al- Islām*, pp. 125 f.; al- Amīn, "Mawqif al- Islām," p. 311; Weeramantry, *Islamic Jurisprudence*, p. 147; Stewart, *Unfolding Islam*, p. 92; Alsumaih, "The Sunni Concept of Jihad," pp. 41, 271, 276. Rudolph Peters indicates that modern Muslim writers "show that all military campaigns, raids and expeditions of Mohammed and the first Caliphs were purely defensive." See Peters, "Djihad," p. 286; al- Qaradāwī, *Fiqh al- Jihād*, Vol. 1, pp. 339–364, 380; all cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.39

argument that the Prophet (pbuh) was sent as a role model of justice and compassion, and with a mission against all forms of oppression and extremism, including religiously motivated violent extremism.

One of the most common misconceptions held by many on the subject of the Prophet's (pbuh) battles comes from the misinterpretation of the meaning of "*ghazawat*" which is usually translated as "battles" or "raids". They then conclude that all, most or some of the cases of *ghazawat* were cases of opportunistic fighting raids, looting and unprovoked hostility against people of other faiths! However, this is an erroneous conclusion.

Biographers generally refer to the incidents of fighting between Muslims and their enemies during the Prophet's (pbuh) lifetime as *al-ghazawat* or *al-saraya*. *Ghazawat* (sing. *ghazwah*), which has the same meaning as *maghazi*, literally means military campaigns but often translated wrongly as "raids". Here, it refers to any of the missionary and military campaigns, and in fact other trips, in which the Prophet (pbuh) took part. *Saraya* (sing. *sariyyah*) refers to expeditions often sent by the Prophet (pbuh) but in which, unlike the *ghazawat*, he did not take part.¹⁰⁹

¹⁰⁹ Muhammad Sayyid Tantawi, *Al-Saraya al-Harbiyyah fi al-'Abd al-Nabawi*, Al-Zahra li al-Flam al-Arabi, Cairo, 1990, p.21; Husayn Mujib al-Masri, *Ghazawat al-Rasul Bayn Shu'ara al-Shu'ub al-Islamiyyah*, Dar al-Thaqafiyyah li al-Nashr, Cairo, 2000, p.32.

Regarding the *Saraya*, it includes expeditions sent for several objectives, such as to preach Islam, get news of what the Quraysh were planning, return stolen property, fight against those who were preparing to attack Medina, kill an individual for the same reason, fight those who killed one of the Prophet's messengers, and, in five instances, to destroy Quraysh idols after the taking of Mecca.

In most instances, biographers give their account in the form of a narration of the incidents, without explaining the background and objectives of these expeditions, and they give different totals for these incidents, such as 35, 38, 47 and 56. These differences indicate that each biographer arrived at his own conception of what constituted a *sariyyah*. For example, Ibn Sa'd at the beginning of his book, following his teacher al-Wāqidī, states that the number of *saraya* sent by the Prophet was 47, but he ends up referring to 56 *saraya*. Some biographers used the word *ghazwah* to refer to incidents others called *sariyyah*, while some used the word *ba'th* (delegation) in the same context. In many incidents, no encounter at all occurred with the clans. A number of incidents involved fighting and, in some cases, the number of victims is not given. These accounts of *saraya* are a much less credible source than those of the *ghazawāt*, not only because of the lack of clarity and details about the reasons for and objectives of such incidents but also because the narrations are not scrutinized and in some cases are unconvincing as stories.

For example, in the *sariyyah* of Abdullah bin Jahsh, the Prophet sent 8 Muslims to Nakhlah, a place between Mecca and al- Ta'if. The point to be addressed here is the objective of this *sariyyah*. Ibn Ishaq's wording of the phrase expressing the objective of this *sariyyah*: "*ārsud bihā Qurayshā, hattā ātīh minhum bi- khabar*" is translated by Guillaume as "Lie in wait there [at Nakhlah] for the Quraysh and find out for us what they are doing." But Watt and many Western researchers base their study of this incident on al-Wāqidī's wording of the phrase expressing the aim of this *sariyyah* as "*fatarassad bihā 'aīr Quraysh.*" They incorrectly understand this phrase to mean "ambush a Meccan caravan." It is worth adding here that all the biographical sources use the former phrase and even al-Wāqidī, the source of the second phrase, mentions a narration that confirms the first report.

The point here is that biographers were not primarily concerned with describing what happened but rather with reporting what was said about what happened, and contradictory or inaccurate reports are unreliable sources for constructing theories on the tradition of war in Islam. In dealing with such narrations, researchers use their imagination to determine what actually happened so that they can construct their theories. These imaginative approaches to interpreting and then assessing these incidents are the origin of the many polemical theories on the tradition of war in Islam, which are determined, to a great extent, by whether the researchers interpret and assess these incidents within their contexts and according to the norms, culture, and

mentality of the people involved in the incidents, or whether they approach them with the mindset of the 21st century.¹¹⁰

As for the Prophet's *ghazawat*, it is noteworthy that the word *ghazwah* has many meanings in Arabic and has been used to describe raids and military campaigns. It has also been used in the past, to describe missionary outings to preach Islam, travel for pilgrimage, scouting and security patrols, expeditions, and visits to make and negotiate peace treaties, etc. The most common mistake by many contemporary non-Muslim authors and some Muslims too has been to interpret each instance of a *ghazwah* as an unjustified raid or military campaign, which was known to be customary among pre-Islamic Arabs. So, while the traditional meaning of *ghazwah*, as used by the early biographers of the prophetic history (*sirah*) accommodated both the benign, peaceful and also hostile encounters and raids, the modern meaning in Arabic lexicons has retained only its negative meaning, i.e., raids and aggressive military expeditions.

Early biographers actually used the word *ghazwah* to denote all the Prophet's (pbuh) travels as well as many of his encounters with non-Muslims, and they give different figures for the total number of these *ghazawat*, such as 18, 19, 26, and 27. Different names are also given to the same incident, referring either to the name of the clan or tribe involved or to the locality where it took

¹¹⁰ Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, pp. 29 – 31.

place. It is also common for the biographers to give different chronologies to the events.¹¹¹ They even differed on what constitutes a single *ghazwah*, in the sense that, if the Prophet (pbuh) left Medina and encountered two tribes before returning to Medina, some considered this one *ghazwah*, while others considered it two.

It is worth mentioning here that the main concern of the early biographers of the Prophet (pbuh) such as Ibn Ishaq, al-Waqidi, Ibn Sa'd, and al-Dhahabi was just to record all the accounts relevant to the life or the person of the Prophet (pbuh). They merely aimed at transferring tens of thousands of reports and organizing them chronologically according to topics. They give different chronologies and, in some cases, details that could lead to different conclusions on the reasons for and objectives of some of these *ghazawat* and *saraya*. They did not attempt to examine the various reports in order to inform the reader of what they considered to be the reasons or justifications for these incidences. One reason that these early biographers did not give adequate explanatory information about these incidents could be because they were addressed to Muslims, who might have been expected to be aware of the relevant background information.

The term *ghazwah* could be used to refer to a journey. It is noteworthy, for instance, that Ibn Ishaq included the *umrah*

¹¹¹See Jones J.M.B, "The Chronology of the Maghazi – A Textual Survey," pp. 193–228; cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.22, f.77.

(lesser pilgrimage) performed by the Prophet (pbuh) in the year 7 AH among the Prophet's 27 *ghazawat*, which has led some to regard it as a "raid", and not just an expedition.¹¹² Indeed, Ibn Ishaq was not mistaken here because this was one meaning of the word *ghazwah* at the time he was writing. Moreover, al-Waqidi also called it *ghazwah al-Qadiyyah* (i.e. the fulfilled *umrah ghazwah*).¹¹³ In this case, the Prophet's journey for *umrah* is called a *ghazwah*, even though it had nothing to do with fighting. Thus, the word *ghazwah* can also mean a journey such as a pilgrimage and does not necessarily mean a hostile raid. Hence, this meaning of the word *ghazwah* is one of the meanings the biographers had in mind when they attempted to describe every single instance of the Prophet's travels or encounters with non-Muslims, but this meaning is no longer found in any modern standard Arabic lexicon.

The term *ghazwah* could also be used to refer to any of the Prophet's (pbuh) expeditions to preach Islam and make peace treaties with different tribes. Nine of the Prophet's 27 *ghazawat* were actually of this nature, which were successful in two cases. In *ghazwah al-Abwa*, the Prophet made a written peace treaty with the clan of Banu Damarah¹¹⁴ and in *ghazwah al-Ushayr*, he

¹¹²Guillaume A., *The Life of Muhammad: A Translation of Ishaq's Sirat Rasul Allah*, Oxford University Press, Oxford, 1955, p. 659.

¹¹³ Muhammad bin Umar al-Waqidi, *Kitab al-Maghazi*, edited by Muhammad Abd al-Qadir Ata, Dar al-Kutub al-Ilmiyyah, Beirut, 2004, vol.2, pp.185 – 192. See also Ibn Sayyid al-Nas, *Uyun al-Athar*, vol. 2, p.203.

¹¹⁴For a translation of this treaty, see Montgomery Watt, *Muhammad at Medina*, Oxford University Press, Karachi, 1981, p. 354.

made peace treaties with the clan of Banu Mudlaj. In 6 of these 9 *ghazawat*, the Prophet (pbuh) did not actually meet the clans or tribes he intended to. This could have been due to the geography of the region and culture of these tribes, for they were mobile nomads, so when the Prophet (pbuh) knew that they would be at a certain place (usually where their animals could find water), he would go to meet them. But by the time the Prophet (pbuh) reached these places, they had already moved on. The Prophet (pbuh) did not make contact with the clans in any of the following *ghazawat*: Buwat, Banu Sulaym in al-Kudr, Dhu Amarr, also called Ghatafan, al-Furu of Buhran, Dhat al-Riqa, and Dumah al-Jandal. Yet, these are still listed among his *ghazawat*.

In the *ghazwah* of Dhat al-Riqa, as the Prophet (pbuh) was traveling to meet three clans, he met one on his way, but the two parties were fearful of each other. They made no contact and the Prophet (pbuh) prayed with the Muslims “the prayer of fear.”

In some of these *ghazawat*, biographers add that the Prophet (pbuh) stayed for a period of a few days, a month, or even two. Staying for a period of up to two months might suggest that he was involved in preaching and teaching. Mahmud Shakir indicates that the aim of such early *ghazawat* was to learn about each new place and preach Islam to the surrounding tribes, and to ensure that the tribes would not support the Quraysh if a war

took place between the Quraysh and the Muslims.¹¹⁵ There is no evidence of any fighting or hostility in these *ghazawat*.

The term *ghazwah* was also used to refer to some incidents where the Prophet (pbuh) went out with an army but did not meet the enemy. In what historians now refer to as the “First *ghazwah* of Badr”, a non-Muslim by the name of Kurz bin Jabir al-Fihri raided the pasturing camels of Medina.¹¹⁶ The Prophet (pbuh), along with thirteen of the emigrants, searched for him until they reached the valley of Safwa, close to the neighbourhood of Badr; but in vain, they returned to Medina.¹¹⁷ In *ghazwah al-Sawiq*, Abu Sufyan, accompanied by 200 (or, in some versions, 400) riders from the Quraysh, attacked a Medinan suburb at night, murdered two Muslim farmers, and burnt some palm trees. The Prophet (pbuh) and a party of Muslims went out after them but were unable to catch up with them, as they had already returned to Mecca.¹¹⁸ These incidents are counted as part of the Prophet’s *ghazawat* simply because the Prophet (pbuh) took part in a

¹¹⁵ Mahmud Shakir, *Al-Tarikh al-Islami: Qabl al-Ba'thah wa al-Sirah*, 8th ed., Al-Maktab al-Islami, Beirut, 2000, p.164.

¹¹⁶ Muhammad bin Ishaq, *Al-Sirah al-Nabawiyah*, edited by Abd al-Malik bin Hisham and annotated by Fu'ad bin Ali Hafiz, Dar al-Kutub al-'Ilmiyyah, Beirut, 2000, vol. 1, p. 176; Guillaume A., *The Life of Muhammad: A Translation of Ishaq's Sirat Rasul Allah*, Oxford University Press, Oxford, 1955, p. 286.

¹¹⁷ Adil Salahi, *Muhammad, Man and Prophet: A Complete Study of the Life of the Prophet of Islam*, The Islamic Foundation, Markfield, UK, 2002, p.246.

¹¹⁸ Muhammad bin Ishaq, *Al-Sirah al-Nabawiyah*, edited by Abd al-Malik bin Hisham and annotated by Fu'ad bin Ali Hafiz, Dar al-Kutub al-'Ilmiyyah, Beirut, 2000, vol. 3, p.23; Meraj Mohiudeen, *Revelation: The Story of Muhammad*, Whiteboard Press, USA, 2015, p.215; Guillaume A., *The Life of Muhammad: A Translation of Ishaq's Sirat Rasul Allah*, Oxford University Press, Oxford, 1955, p. 361.

search for the attackers, even though no encounter took place at all.

Likewise, the day after the Battle of Uhud, the Prophet (pbuh) went out with the Muslims in pursuit of the enemy until they reached a place called Hamra al-Asad. They stayed in the area for three days and then returned to Medina without meeting the Quraysh. This incident is called *ghazwah Hamra al-Asad*.

Similarly, at the battle of Uhud, Abu Sufyan vowed to fight the Muslims again at the fair (trading place) of Badr the following year. Thus, in what is known as the “Last *ghazwah* of Badr”, the Prophet (pbuh) and Muslims attended the fair while Abu Sufyan and the men accompanying him turned back before reaching Badr.¹¹⁹ Calling such an incident a *ghazwah* of the Prophet (pbuh), even though the parties did not see each other, thus confirms that the word *ghazwah* was used to refer to any trip or expedition that the Prophet (pbuh) made and does not necessarily mean a “raid” or “fighting” as it now implies in modern Arabic and as used by most orientalist and Muslims who have not carefully studied the way the word *ghazwah* was traditionally used by the early biographers. Therefore, these examples show that using the word “raid” to translate *ghazwah* in

¹¹⁹ Muhammad bin Ishaq, *Al-Sirah al-Nabawiyah*, edited by Abd al-Malik bin Hisham and annotated by Fu'ad bin Ali Hafiz, Dar al-Kutub al-'Ilmiyyah, Beirut, 2000, vol. 3, pp. 121–123; Guillaume A., *The Life of Muhammad: A Translation of Ishaq's Sirat Rasul Allah*, Oxford University Press, Oxford, 1955, pp. 447–449.

the context of these incidences is often inaccurate and indeed misleading.

Almost all biographers agree that fighting took place in only 9 of the Prophet's 27 *ghazawat*, namely: Badr, Uhud, Khandaq/Ahzab, Qurayzah, Mustaliq, Khaybar, Fathu Mecca, Hunayn, and Ta'if.¹²⁰ Both classical and contemporary Muslim scholars, such as Imam Ibn Taymiyyah, Ibn al-Qayyim Al-Jawziyyah, Sayid Sabiq amongst others, who have studied each of these 9 fighting incidents (*ghazawat*) have concluded that the Muslim's engagement in all these hostilities during the Prophet's lifetime were clearly defensive.¹²¹

Would there have been any outbreaks of hostility in the early days of Islam if the Prophet (pbuh) and the Muslims had not been persecuted, but had rather been permitted to practise their

¹²⁰ Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.38.

¹²¹ See Ibn Taymiyyah, *Qā'idah Mukhtasharah fi Qitāl al- Kuffār*, pp. 96, 134; Ibn Qayyim al- Jawziyyah, *Hidayah al- Hayārā*, pp. 137 f.; al- Marāghī, *Tafsīr al- Marāghī*, Vol. 10, p. 92; Mahmassani, *Al- Qānūn wa al- 'Alāqāt*, p. 177; al- Zuhaylī, "Majālāt al- 'Alāqāt, p. 199; Sābiq, *Fiqh al- Sunnah*, Vol. 3, pp. 18 f.; 'Aḥfīf, *Al- Mujtama' al- Islāmī*, p. 148; al- Ghunaimi, *Qānūn al- Salām fi al- Islām*, p. 59; Ghunaym, *Al- Jihād al- Islāmī*, pp. 32 f.; Tabliyyah, *Al- Islām wa Huqūq al- Insān*, p. 72; al- Firjānī, *Uṣūl al- 'Alāqāt*, pp. 77, 82 f.; al- Rikābī, *Al- Jihād fi al- Islām*, pp. 125 f.; al- Amīn, "Mawqif al- Islām," p. 311; Weeramantry, *Islamic Jurisprudence*, p. 147; Stewart, *Unfolding Islam*, p. 92; Alsumaih, "The Sunni Concept of Jihad," pp. 41, 271, 276. Rudolph Peters indicates that modern Muslim writers show that all military campaigns, raids and expeditions of Mohammed and the first Caliphs were purely defensive." See Peters, "Dijihad, p. 286; al- Qaraḍāwī, *Fiqh al- Jihād*, Vol. 1, pp. 339–364, 380. (Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.213, f.199.)

new religion freely in Mecca? Would there have been any war in Medina if one of the leaders of the Quraysh, Abu Jahl, had not forced the Quraysh to go to war with Muslims at Badr, or if the 3 major Jewish clans had abided by the Constitution of Medina (*Sabifah*) which they had agreed to, and not attempted to assassinate the Prophet (pbuh) or support the Quraysh against the Muslims in the Battle of the Trench?¹²² From all the available evidence, taking up arms by the Prophet (pbuh) and his companions were clearly to defend their lives, properties and secure the freedom to practise their religion without any form of oppression.

Also, none of the wars that the Prophet (pbuh) engaged in can be described as a “holy war” in the sense of a war waged to propagate religion or merely because the enemy held a different religion. The cases of the Jews of Banu Qaynuqa who fought alongside the Prophet (pbuh) after Badr,¹²³ the Jewish Rabbi, Mukhayriq, who fought and called upon his fellow Jews to fight alongside the Prophet (pbuh) against the attack by the Quraysh at the Battle of Uhud, the group of Jews who fought with the

¹²² Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.37.

¹²³ Muhammad bin Idris al-Shafi'i, *Al-Umm*, 2nd ed., Dar al-Ma'rifah, Beirut, 1393AH, vol.4, p.261; Muhyi al-Din bin Sharaf al-Nawawi, *Al-Majmu: Sharh al-Mubaddhalab*, edited by Mahmud Matraji, Dar al-Fikr, Beirut, 2000, vol.21, p. 37; Ali bin Muhammad bin Habib al-Mawardi, *Al-Hawi al-Kabir: Fi Fiqh Madbbab al-Imam al-Shafi'i Radi Allah 'anh wa huwa Sharh Mukhtasar al-Muzni*, edited by Ali Muhammad Mu'awwad and Adil Ahmad Abd al-Mawjud, Dar al-Kutub al-Ilmiyyah, Beirut, 1999, vol. 14, p. 130; Abd al-Munim al-Hifni, *Mawsu'ah al-Qur'an al-Azim*, Maktabah Madbuli, Cairo, 2004, vol.2, p.1905; all cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.39-40).

Prophet (pbuh) and received a share of the war spoils,¹²⁴ and the many idolaters (or polytheists) who fought beside the Prophet (pbuh) at Hunayn and Ta'if, are all examples that oppose and refute the idea that these were wars fought for the spread of a certain religion (Islam), or oppression of people of other faiths. Why would Jews and polytheists fight alongside the Prophet (pbuh) and Muslims, if the aim was purely to propagate Islam?

In conclusion, a meticulous study of the Prophet's (pbuh) *ghazawat* reveals that the meaning of the word has been confused with its pre-Islamic meaning, as biographers used the word *ghazwah* to refer to all the Prophet's journeys from Medina, whether to make peace treaties and preach Islam to the tribes, to go on *umrah*, to pursue enemies who attacked Medina, or to engage in the 9 battles. Below, we expatiate on the 9 battle that the Prophet (pbuh) engaged in.

The Battles that the Prophet (pbuh) Participated In

After a meticulous study of the biography of Prophet Muhammad (pbuh), scholars have agreed that he personally participated in only nine (9) battles, all of which were

¹²⁴ See Ibn Ahmad, *Al-AHadith al-Mukhtarah*, Vol. 7, p. 189; al-Salihi, *Subul al-Huda*, Vol. 9, p. 121; Ibn Mansur, *Sunan Sa'id Ibn Mansur*, Vol. 2, p. 331; Ibn Muflih, *Al-Mubdi'*, Vol. 3, p. 336; al-Shawkani, *Nayl al-Awtar*, Vol. 8, pp. 43 f. See also, for Jews and idolaters fighting alongside the Prophet against the Muslims' enemies, Ibn Qudamah, *Al-Mughni*, Vol. 9, p. 207; al-Ghazali, *Al-Wajiz*, Vol. 2, p. 190; al-Ghazali, *Al-Wasit*, Vol. 7, p. 16; 'Uthman, "Trida' Saddam," p. 183; al-Qattan, "Al-Isti'anah bi-ghayr al-Muslimin," p. 201. – (all cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.39-40, notes 201-203).

defensive.¹²⁵ The circumstances leading to all the battles the Prophet (pbuh) engaged in are hereby explained in further detail.

1. The Battle of Badr

Had it been that when Prophet Muhammad (pbuh) started his call in Mecca, the idolaters left him to his mission; allowing whoever wished to follow him to do so, and whoever wished to remain on polytheism do so; we would not even be discussing the Prophet's battles today. Indeed, if there had been no hostility or persecution of Prophet Muhammad (pbuh) and the early Muslims, perhaps, there would be no battle to talk about. But the reverse was the case.

The Quraysh polytheists of Mecca initiated a state of war by torturing, imprisoning, boycotting, and killing the early Muslims. The aggression was so unbearable that the Prophet (pbuh) had to send some of the weakest of the early companions to seek asylum

¹²⁵ See Ibn Taymiyyah, *Qā'idah Mukhtasarah fi Qitāl al-Kuffār*, pp. 96, 134; Ibn Qayyim al-Jawziyyah, *Hidayah al-Hayārā*, pp. 137 f.; al-Marāghī, *Tafsīr al-Marāghī*, Vol. 10, p. 92; Mahmassani, *Al-Qānūn wa al-'Alāqāt*, p. 177; al-Zuhaylī, "Majālat al-'Alāqāt", p. 199; Sābiq, *Fiqh al-Sunnah*, Vol. 3, pp. 18 f.; 'Afiḥī, *Al-Mujtama' al-Islāmī*, p. 148; al-Ghunaimi, *Qānūn al-Salām fi al-Islām*, p. 59; Ghunaym, *Al-Jihād al-Islāmī*, pp. 32 f.; Ṭabliyyah, *Al-Islām wa Huqūq al-Insān*, p. 72; al-Firjānī, *Uṣūl al-'Alāqāt*, pp. 77, 82 f.; al-Rikābī, *Al-Jihād fi al-Islām*, pp. 125 f.; al-Amīn, "Mawqif al-Islām," p. 311; Weeramantry, *Islamic Jurisprudence*, p. 147; Stewart, *Unfolding Islam*, p. 92; Alsumaih, "The Sunni Concept of Jihad", pp. 41, 271, 276. Rudolph Peters indicates that modern Muslim writers also show that all military campaigns, raids and expeditions of Mohammed and the first Caliphs were purely defensive." See Peters, "Djihad", p. 286; al-Qaradāwī, *Fiqh al-Jihād*, Vol. 1, pp. 339–364, 380. (Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.213, f.199.)

in Abyssinia. Rather than let them be, the pagan Quraysh still sent emissaries after them to bring them back into persecution.

Not just the companions, but even the person of the Prophet (pbuh) was not spared from the aggression. They in fact made attempts to assassinate him at different times, but they did not succeed. Yet, despite the hostility and aggression of the pagans, the Muslims were commanded to bear it with patience. This continued until it became unbearable and the Muslims were permitted to migrate to Medina to take refuge there.

Still, the pagans will not let them leave Mecca in peace. They confiscated their properties, imprisoned some of them so that they would not be able to migrate, and even sent bounty hunters after the Prophet (pbuh) and Abubakr, promising a reward of one hundred she-camels for whoever was able to bring the Prophet (pbuh) back dead or alive. But through all these, Allah saved the Prophet (pbuh) and many of the Muslims from their trials and they began to build their new community in Medina.

Therefore, throughout the Meccan phase of his mission, the Prophet (pbuh) and his followers endured the oppression and persecution of the polytheists of Mecca with forbearance. However, with greater stability and political authority in Medina, the Muslim community began to grow in influence, which made the Quraysh of Mecca feel threatened. Also, with the wealth and properties of the emigrants already confiscated by the Quraysh

leaving them at an economic disadvantage, they had to defend themselves. Hence, the Muslims would capture Meccan caravans passing near Medina, as a means of recovering their own properties which had been seized at Mecca.

It was one of such caravan raids that led to the Battle of Badr. The Muslims had pursued a Mecca-bound caravan led by Abu Sufyan bin Harb; but Abu Sufyan managed to escape his pursuers. Yet, despite the fact that the caravan had arrived safely at Mecca, Abu Jahl, one of the leaders of Mecca, still incited the polytheists to fight the Muslims. Historical records clearly show that the Prophet (pbuh) did not want to fight, and made efforts to dissuade the Qurayshi army; some of the Quraysh also didn't want to fight, and the clans of Zuhrah and Adi withdrew from the impending battle; yet, Abu Jahl insisted that they had to fight. At that point, the Prophet (pbuh) and his followers had no choice but to defend themselves; hence, the Battle of Badr.¹²⁶

¹²⁶ This summary only seeks to explain the justification for the battle. For full details on the Battle of Badr and its aftermath, please see: Da'wah Institute of Nigeria, *Al-Ameen: 40+ Lessons for Building Bridges and Breaking Barriers to Peace from the Life of Prophet Muhammad (pbuh)*, Islamic Education Trust, Minna, Nigeria, 2018, pp.132-194

Adil Salahi, *Muhammad, Man and Prophet: A Complete Study of the Life of the Prophet of Islam*, The Islamic Foundation, Markfield, UK, 2002, pp. 253-273; Tariq Ramadan, *In the Footsteps of the Prophet*, Oxford University Press, New York, 2007, pp.100-105; Meraj Mohiudeen, *Revelation: The Story of Muhammad*, Whiteboard Press, USA, 2016, pp.198-210; Safy al-Rahman Mubarakfuri, *Al-Rahiq Al-Makhtum (The Sealed Nectar: Biography of the Noble Prophet)*, Dar al-Salam Publishers, Riyadh, 1996, pp.210-233; Muhammad al-Ghazali, *Fiqh-u-Sirah: Understanding the Life of Prophet Muhammad*, IIPH, Riyadh, 1997, p.230-254; Zakaria Bashier, *War and Peace in the Life of Prophet Muhammad*, The Islamic Foundation, Markfield, UK, 2006, pp. 37 – 65; Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.24 – 41.

2. The Battle of Uhud

The Battle of Uhud was a direct consequence of the Battle of Badr. Revenge-seeking was so typical of the pre-Islamic Arabian cultures that the Battle of Uhud should not come as a surprise. The Quraysh were shocked and dismayed at their heavy losses at the hands of the inferior Muslim army at Badr that they were determined to avenge their dead. They were further incited by some of the Jews of Banu Qaynuqah. The Quraysh did not only suffer the terrible humiliation and defeat at Badr, but they also suffered economic losses due to the blockade of their vital commercial routes to the north and south. Hence, the agony of the Quraysh and their resolve to wage their war of vengeance reached a climax. Thus, they set out for Medina, aiming to crush the Prophet (pbuh) and his followers; with an army of about 3000 soldiers, of whom 700 were in full armour, and 200 were on horseback. They were accompanied by 3000 camels, and were joined by some of their women, singing and cheering them on. In fact, it was al-Abbas, the uncle of the Prophet (pbuh) who was fearful for the fate of his nephew and the Muslims, who sent a messenger from Mecca to warn the Prophet (pbuh) of the advancing army. In this situation, the Prophet (pbuh) and his people were left with no choice but to protect themselves and their community, hence, the Battle of Uhud, which took place just outside Medina.¹²⁷

¹²⁷ This summary only seeks to explain the justification for the battle. For full details on the Battle of Uhud and its aftermath, please see: Adil Salahi, *Muhammad, Man and Prophet: A Complete Study of the Life of the Prophet of Islam*, The Islamic Foundation, Markfield, UK, 2002, pp. 323 – 365; Tariq Ramadan, *In the Footsteps of the Prophet*,

3. The Battle of Khandaq/Ahzab

Despite the fact that the Battle of Uhud ended with the Muslims suffering major losses, the Quraysh's failure to kill the Prophet (pbuh), as they had boasted they would do, left the Quraysh unsatisfied with their military efforts to exterminate the Prophet (pbuh) and the Muslims.

Similarly, those Jews who had been expelled from Medina following their treachery, especially the Banu Nadir were filled with hatred for the Muslims and wanted to see the end of the Muslim community. Seeing that they had a common goal, these Jews reached out to the Quraysh promising their support to exterminate the Muslims once and for all.

In order to ensure that the Muslim community would be unable to survive this onslaught, they reached out to other Bedouin tribes for support, and their army was boosted with forces from the clans of Sulaym, Ashja', Murrah, Asad, Sa'd, and Fazarah. Thus, did the confederates set out to wipe out the Prophet (pbuh) and his companions at the Battle of Khandaq/Ahzab (The Trench/ The Confederates). In this situation, the only option for the Prophet (pbuh) and the Muslims was to fight back in

Oxford University Press, New York, 2007, pp.122 - 127; Meraj Mohiudeen, *Revelation: The Story of Muhammad*, Whiteboard Press, USA, 2016, pp. 222 - 238; Muhammad al-Ghazali, *Fiqh-u-Sirah: Understanding the Life of Prophet Muhammad*, IIPH, Riyadh, 1997, pp. 265 - 286; Zakaria Bashier, *War and Peace in the Life of Prophet Muhammad*, The Islamic Foundation, Markfield, UK, 2006, pp. 66-104; Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.24 - 41.

defence. The best defence strategy of the city of Medina and its inhabitants was for the Muslims to dig a trench around the city; hence, the name of the Battle – *Khandaq* (trench).¹²⁸

4. The Siege of Banu Qurayzah

The Battle of Ahzab/Khandaq was a very trying one for the Muslim community. Never before had the Quraysh and their Jewish allies managed to gather such a mighty army (of over 10,000 well-equipped soldiers), and never before had they been able to lay siege on Medina for almost a whole month.

The trench dug by the Muslims proved a very effective device, and the Muslims were not short of food and provisions as Banu Qurayzah, their allies within Medina, sold them the necessary supplies. However, as the siege wore on, Banu Qurayzah decided to break their treaty with the Prophet (pbuh) and the Muslims, thus aligning with the allied forces against the Muslim army.

¹²⁸ This summary only seeks to explain the justification for the battle. For full details on the Battle of Ahzab and its aftermath, please see: Da'wah Institute of Nigeria, *Al-Ameen: 40+ Lessons for Building Bridges and Breaking Barriers to Peace from the Life of Prophet Muhammad (pbuh)*, Islamic Education Trust, Minna, Nigeria, 2018, pp.132-194; Adil Salahi, *Muhammad, Man and Prophet: A Complete Study of the Life of the Prophet of Islam*, The Islamic Foundation, Markfield, UK, 2002, pp. 428 - 456; Tariq Ramadan, *In the Footsteps of the Prophet*, Oxford University Press, New York, 2007, pp. 136 - 144; Meraj Mohiudeen, *Revelation: The Story of Muhammad*, Whiteboard Press, USA, 2016, pp. 251 - 262; Muhammad al-Ghazali, *Figh-u-Sirah: Understanding the Life of Prophet Muhammad*, IIPH, Riyadh, 1997, pp.306 - 322; Zakaria Bashier, *War and Peace in the Life of Prophet Muhammad*, The Islamic Foundation, Markfield, UK, 2006, pp. 143 - 190; Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.24 - 41.

This seriously put the Muslim army in jeopardy, as it meant that they were now prone to attacks not only from the south by the Arabs, but also from the inside by the Jews of Qurayzah. Through the divine help of Allah, and then the military tactics of the Prophet (pbuh), the Muslims managed to survive the onslaught of the confederates.

Even though the Confederates had departed, the Jews of Qurayzah remained in their fortress. Their betrayal of the Prophet (pbuh) and their violation of the covenant with him, left him with no option but to take punitive military action against them; as it was clear beyond doubt that they constituted a security hazard that he could no longer afford to ignore. This led to the siege against Banu Qurayzah.¹²⁹

The fate of Banu Qurayzah was however decided by the arbitration of Sa'ad bin Mu'adh, the leader of Banu Aws, who were the closest allies of Banu Qurayzah in Medina.

¹²⁹ This summary only seeks to explain the justification for the siege. For full details on the Siege on Qurayzah and its aftermath, please see: Adil Salahi, *Muhammad, Man and Prophet: A Complete Study of the Life of the Prophet of Islam*, The Islamic Foundation, Markfield, UK, 2002, pp. 457 - 473; Tariq Ramadan, *In the Footsteps of the Prophet*, Oxford University Press, New York, 2007, pp. 144 - 146; Meraj Mohiudeen, *Revelation: The Story of Muhammad*, Whiteboard Press, USA, 2016, pp. 254 - 262; Muhammad al-Ghazali, *Fiqh-u-Sirah: Understanding the Life of Prophet Muhammad*, IIPH, Riyadh, 1997, pp. 322 - 334; Zakaria Bashier, *War and Peace in the Life of Prophet Muhammad*, The Islamic Foundation, Markfield, UK, 2006, pp. 158 - 165; Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, pp.24 - 41.

5. The Battle of Mustaliq

After the defeat of the Muslims at Uhud by the Meccan Quraysh, the Prophet (pbuh) and his companions were faced with internal threats - from the Jews and hypocrites of Medina - and external threats – from other surrounding tribes.

Banu Asad and then Banu Hudhayl tried unsuccessfully to attack Medina. Banu Adal and Banu al-Qarah deceived the Prophet (pbuh) into sending them 6 Muslims who were all murdered at al-Raji, in different circumstances. Similar treacherous plots followed this. About 40 (or as much as 70) companions of the Prophet (pbuh) were ambushed and murdered in cold blood at B'ir Ma'unah, where only one of them was spared.

It was in this situation that the Prophet (pbuh) received information that the tribe of Banu Mustaliq, under the leadership of its chief, al-Harith ibn Abi Dirar, was preparing to launch an attack on Medina. He sent Burayhah bin al-Husayb al-Aslami to verify the reports, and it was confirmed to be true. In fact, Banu Mustaliq had already set out towards Medina but had settled for the night along the way. Thus, the Prophet (pbuh) quickly mobilized some of his men to pre-empt their attack and neutralize their military capabilities before they got fully organized and too close to Medina; leading to the Battle of Mustaliq.

Although the two parties exchanged arrows, little actual fighting took place, and Banu Mustaliq was quickly subdued.¹³⁰

6. The Battle of Khaybar

Although the Jewish tribes of Medina had initially entered the *Sahifah* covenant with the Prophet (pbuh), many of them broke the terms of the Treaty one after the other and were thus expelled from Medina. Upon leaving the city, they went to swell the Jewish settlements in the north of Arabia – Khaybar, Fadak, Umm al-Qura, and others; establishing new colonies there. Khaybar was the largest Jewish settlement in the region. From there, they continued to incite sedition and war against the Prophet (pbuh) and the Muslims of Medina.

The struggle against Banu Qurayzah and the events of the Battle of Khandaq in Medina made it absolutely clear that the Prophet (pbuh) could not ignore the Jewish threat from Khaybar, given the major role which the Jews of Khaybar played in inciting and

¹³⁰ This summary only seeks to explain the justification for the battle. For full details on the Battle of Mustaliq and its aftermath, please see: Da'wah Institute of Nigeria, *Al-Ameen: 40+ Lessons for Building Bridges and Breaking Barriers to Peace from the Life of Prophet Muhammad (pbuh)*, Islamic Education Trust, Minna, Nigeria, 2018, pp.132-194; Adil Salahi, *Muhammad, Man and Prophet: A Complete Study of the Life of the Prophet of Islam*, The Islamic Foundation, Markfield, UK, 2002, pp. 403-407; Meraj Mohiudeen, *Revelation: The Story of Muhammad*, Whiteboard Press, USA, 2016, p.263; Safy al-Rahman Mubarakfuri, *Al-Rahiq Al-Makhtum (The Sealed Nectar: Biography of the Noble Prophet)*, Dar al-Salam Publishers, Riyadh, 1996, p.330; Muhammad al-Ghazali, *Fiqh-u-Sirah: Understanding the Life of Prophet Muhammad*, IIPH, Riyadh, 1997, pp.298-306; Zakaria Bashier, *War and Peace in the Life of Prophet Muhammad*, The Islamic Foundation, Markfield, UK, 2006, pp. 171 – 172; Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.24 – 41.

mobilizing the Quraysh and the Bedouin forces, and also joining the attack against the Muslims at Khandaq.

The Prophet (pbuh) made significant efforts to reach some kind of peaceful accord that would end the hostilities and pave way for peaceful efforts, and even wrote a letter to the Jews of Khaybar in this respect. But his letter went unanswered and his efforts came to naught. This left the Prophet (pbuh) with no other option but to lay siege upon them and neutralize their threat.¹³¹

7. The Occupation of Mecca (*Fathu Mecca*)

The successful conclusion of the Peace Treaty of Hudaibiyyah, even though it was heavily in favour of the Quraysh polytheists, and the subsequent peace agreements with the Jews of Khaybar and Fadak, after their defeat at the hands of the Muslim army, created a tremendous drive for peace in Arabia. This atmosphere of peace was indeed also more convenient and favourable for the spread of Islam, as a creed and as a way of life.

¹³¹ This summary only seeks to explain the justification for the battle. For full details on the Battle of Khaybar and its aftermath, please see: Mahmud Shakir, *Al-Tarikh al-Islami: Qabl al-Ba'thab wa al-Sirah*, 8th Ed., Beirut, Al-Maktab al-Islami, 2000, p.286; Adil Salahi, *Muhammad, Man and Prophet: A Complete Study of the Life of the Prophet of Islam*, The Islamic Foundation, Markfield, UK, 2002, pp. 531 - 550; Tariq Ramadan, *In the Footsteps of the Prophet*, Oxford University Press, New York, 2007, pp. 162 - 163; Meraj Mohiudeen, *Revelation: The Story of Muhammad*, Whiteboard Press, USA, 2016, pp. 286 - 291; Muhammad al-Ghazali, *Fiqh-u-Sirah: Understanding the Life of Prophet Muhammad*, IIPH, Riyadh, 1997, p. 352 - 361; Zakaria Bashier, *War and Peace in the Life of Prophet Muhammad*, The Islamic Foundation, Markfield, UK, 2006, pp. 205 - 214; Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.24 - 41.

This peaceful atmosphere was however abruptly aborted when Banu Bakr, an ally of the Quraysh launched a surprise attack on Banu Khuza'ah who were allies of the Prophet (pbuh); so much so that when Banu Khuza'ah sought refuge in the vicinity of the Sacred Mosque in Mecca, Banu Bakr followed them therein and continued to inflict heavy casualties on them. This action of theirs violated the peace Treaty of Hudaibiyyah, and also violated the sanctity of the Sacred Mosque.

The Prophet (pbuh) expected the Quraysh leaders to denounce the actions of Banu Bakr and even punish them for what they did, but they rather supported their action, thus making them culpable as well. Thus, the Prophet (pbuh) had to rise in support of his allies (Banu Khuza'ah), leading to the 'conquest of Mecca'.¹³²

¹³² This summary only seeks to explain the justification for the conquest of Mecca. For full details on the Conquest and its aftermath, please see: Da'wah Institute of Nigeria, *Al-Ameen: 40+ Lessons for Building Bridges and Breaking Barriers to Peace from the Life of Prophet Muhammad (pbuh)*, Islamic Education Trust, Minna, Nigeria, 2018, pp.132-194; Adil Salahi, *Muhammad, Man and Prophet: A Complete Study of the Life of the Prophet of Islam*, The Islamic Foundation, Markfield, UK, 2002, pp. 603 - 646; Tariq Ramadan, *In the Footsteps of the Prophet*, Oxford University Press, New York, 2007, pp 174 - 179; Meraj Mohiudeen, *Revelation: The Story of Muhammad*, Whiteboard Press, USA, 2016, pp. 305 - 312; Muhammad al-Ghazali, *Figh-u-Sirah: Understanding the Life of Prophet Muhammad*, IIPH, Riyadh, 1997, p. 382 - 396; Zakaria Bashier, *War and Peace in the Life of Prophet Muhammad*, The Islamic Foundation, Markfield, UK, 2006, pp. 223 - 244; Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.24 - 41.

8. The Battle of Hunayn

When the Prophet (pbuh) and the Muslim army set out from Medina to take over Mecca, the Prophet (pbuh) did not disclose his destination. Hence, some of the neighbouring clans who had been plotting against him and felt they could be the target became fearful and started to raise an army in defence.

Such was the case of the great inland tribe of Hawazin to the east of Mecca which assembled their soldiers, just in case. When, however, the Muslim army turned towards Mecca and took over the city, one would have expected that the Hawazin army would lay down their arms; rather, they increased their troop to 20, 000 men, and even brought along their women, children and animals, and advanced to attack the Muslim army.

Thus, the Prophet (pbuh) and his army, which has been further reinforced with 2000 new converts as well as some polytheists of Mecca, marched to meet the advancing army at Hunayn.¹³³

¹³³ This summary only seeks to explain the justification for the Battle of Hunayn. For full details on the battle of Hunayn and its aftermath, please see: Adil Salahi, *Muhammad, Man and Prophet: A Complete Study of the Life of the Prophet of Islam*, The Islamic Foundation, Markfield, UK, 2002, pp. 647 - 661; Tariq Ramadan, *In the Footsteps of the Prophet*, Oxford University Press, New York, 2007, pp 181 - 187; Meraj Mohiudeen, *Revelation: The Story of Muhammad*, Whiteboard Press, USA, 2016, pp. 312 - 316; Muhammad al-Ghazali, *Fiqh-u-Sirah: Understanding the Life of Prophet Muhammad*, IIPH, Riyadh, 1997, pp. 396 - 405; Zakaria Bashier, *War and Peace in the Life of Prophet Muhammad*, The Islamic Foundation, Markfield, UK, 2006, pp. 245 - 254; Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, pp.24 - 41.

9. The Battle of Ta'if

Banu Tha'qif, the inhabitants of Ta'if had been resistant to the Prophet's (pbuh) mission from the very beginning. During the Meccan period, the Prophet (pbuh) along with Zayd bin Harithah, had gone to Ta'if to preach Islam. Not only was his message rejected, but they sent the youth and children after them, who pelted them with stones on their way out of Ta'if so much so that blood flowed down the Prophet's (pbuh) leg. In this overwhelming state, the Prophet (pbuh) was given the chance to order the Angel of the Mountains to crush two mountains over Ta'if and destroy its inhabitants, but the Prophet (pbuh) chose to forgive their aggression, saying to Angel Jubril, "*I hope that Allah will bring from their descendants people who will worship Allah alone without associating partners with him.*"¹³⁴

After the conquest of Mecca, a companion named Urwah bin Mas'ud who was from Ta'if, sought the Prophet's (pbuh) permission to go and preach Islam to his people. Urwah returned to his people, only to be killed by them. The Prophet (pbuh) then marched to Ta'if with his army and laid siege on the city.¹³⁵

¹³⁴ Ibn Hisham, *al-Sirah al-Nabawiyyah*, al-Maktabah al-Shamilah 3.13, vol.2, p.15; Safy al-Rahman Mubarakfuri, *Al-Rahiq Al-Makhtum (The Sealed Nectar: Biography of the Noble Prophet)*, Dar al-Salam Publishers, Riyadh, 1996, p.137; Al-Bukhari, *Sahih al-Bukhari*, Hadith no.3231; Muslim, *Sahih Muslim*, Hadith no.4754.

¹³⁵ This summary only seeks to explain the justification for the battle. For full details on the Battle of Ta'if and its aftermath, please see: Adil Salahi, *Muhammad, Man and Prophet: A Complete Study of the Life of the Prophet of Islam*, The Islamic Foundation, Markfield, UK, 2002, pp. 647 - 661; Tariq Ramadan, *In the Footsteps of the Prophet*, Oxford University Press, New York, 2007, pp. 181 - 187;; Muhammad al-Ghazali, *Fiqh-u-Sirah: Understanding the Life of Prophet Muhammad*, IIPH, Riyadh, 1997, pp. 405 - 407; Zakaria

On the Prophet's (pbuh) Treatment of the Jews of Medina

Historical records show that various Jewish tribes were already inhabitants of Medina before the Prophet's (pbuh) arrival, but at different times after the Prophet's (pbuh) arrival, they were exiled from their settlements. Some assume that for anti-Jewish ("anti-Semitic") reasons, the Prophet (pbuh) expelled the Jewish tribes in general, and executed the Jewish clan of Qurayzah in particular.

What was the Prophet's general disposition towards Jews? Why did he expel them from Medina? What was Banu Qurayzah's crime? Did the Prophet (pbuh) influence Sa'd's decision to execute Banu Qurayzah? Was the execution of Banu Qurayzah an act of genocide? Was the entire clan of Qurayzah actually executed? Were the Prophet (pbuh) and his companions anti-Jewish or anti-Semitic?

Before the arrival of the Prophet (pbuh), Yathrib, the ancient city that was later renamed Medina, was already inhabited by Jews and Arabs. The three (3) major Jewish clans were Nadir, Qaynuqa, and Qurayzah, with other smaller tribes of Jews such as Jasham, Tha'labah, and Murid, amongst others. The Arab

Bashier, *War and Peace in the Life of Prophet Muhammad*, The Islamic Foundation, Markfield, UK, 2006, pp. 254 – 255; Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, pp.24 – 41.

tribes were the Aws and Khazraj.¹³⁶ Initially, there was mutual mistrust and suspicion between the Arab tribes; and tensions, skirmishes, and full-blown battles were commonplace. However, the First and Second Pledges (treaties) of Aqabah¹³⁷ had unified the Aws and Khazraj, just before the migration (*Hijrah*) of the Prophet (pbuh) to Medina. Upon the Prophet's arrival, and in a bid to bring the entire community closer together, the Prophet (pbuh) drafted the *Sahifah* (Medinan Charter) which all the tribes – Jewish and Arab – agreed to, and signed. The terms of the treaty stipulated amongst others that, “*Should a conflict with the polytheists break out, they were all to stand together and not to enter into separate (or conflicting) alliances or peace agreements.*”¹³⁸

Regarding the Jewish Tribe of Banu Qaynuqa

However, shortly after the Battle of Badr, the Banu Qaynuqa broke several terms of the treaty. First, to facilitate the new economy, the Prophet (pbuh) had established his own market,

¹³⁶ Akram Diya' al-Umari, *Medinan Society at the Time of the Prophet (Vol.1): Its Characteristics and Organisation*, International Institute of Islamic Thought, Virginia, 1991, p.43-46.

¹³⁷ For more on the First and Second pledges of Aqabah, see: Adil Salahi, *Muhammad, Man and Prophet: A Complete Study of the Life of the Prophet of Islam*, The Islamic Foundation, Markfield, UK, 2002, pp. 197-208; Tariq Ramadan, *In the Footsteps of the Prophet*, Oxford University Press, New York, 2007, pp.74-76; Meraj Mohiudeen, *Revelation: The Story of Muhammad*, Whiteboard Press, USA, 2016, pp.167-173; Safy al-Rahman Mubarakfuri, *Al-Rabi' Al-Makhtum (The Sealed Nectar: Biography of the Noble Prophet)*, Dar al-Salam Publishers, Riyadh, 1996, pp.154-162; Muhammad al-Ghazali, *Fiqh-u-Sirah: Understanding the Life of Prophet Muhammad*, IIPH, Riyadh, 1997, pp.157-165.

¹³⁸ Tariq Ramadan, *In the Footsteps of the Prophet*, Oxford University Press, New York, 2007, p.89.

which, unlike the one controlled by Banu Qaynuqa, charged no tax on transactions and no interest on loans. The Prophet's (pbuh) move was not intended to antagonize Banu Qaynuqa, it was rather one of his strategies to narrow the divide between the ridiculously rich and the absurdly poor. However, this tax-free market eventually became a point of conflict between the Prophet (pbuh) and Banu Qaynuqa.

After the Muslims' decisive victory against the pagan Quraysh at Badr, the Banu Qaynuqa challenged the Muslims to a fight, saying, *"O Muhammad! Do not deceive yourself; you merely fought a party of the Quraysh who were inexperienced at war. But if you want to fight us, then know that we are an entire people! And indeed you have not met with anyone like us before."*¹³⁹ Then, the Qur'an chapter 8 verses 58-61 were revealed concerning the betrayal of Banu Qaynuqa.¹⁴⁰

The growing hostility between Banu Qaynuqa and the Muslims intensified after a fight in the Banu Qaynuqa marketplace in which a Muslim came to the defence of a Muslim woman who

¹³⁹ Meraj Mohiudeen, *Revelation: The Story of Muhammad*, Whiteboard Press, USA, 2016, p.211.

¹⁴⁰ *"And if you fear treachery on the part of a people, then throw back to them on terms of equality; surely Allah does not love the treacherous. And let not those who disbelieve think that they shall come in first; surely they will not escape. And prepare against them what force you can and horses tied at the frontier, to frighten thereby the enemy of Allah and your enemy and others besides them, whom you do not know (but) Allah knows them; and whatever thing you will spend in Allah's way, it will be paid back to you fully and you shall not be dealt with unjustly. And if they incline to peace, then incline to it and trust in Allah; surely, He is the Hearing, the Knowing"* (Qur'an 8: 58 - 61)

had been assaulted by a Jewish merchant, and both the Muslim man and the Jewish man got killed. The companions suggested that the Prophet (pbuh) arbitrate the matter, as stipulated in the *Sahifah* (Medinan Charter), but the Qaynuqa refused to abide by the terms of their pact with him, and they fortified themselves in preparation for battle. Thereafter, a siege was laid on their fortress, and the Banu Qaynuqa finally surrendered after a two-week standoff. They were exiled from Medina and ultimately resettled in the oasis of Wadi al-Qura' near the Syrian border.¹⁴¹

A careful study of the chain of events towards the expulsion of Banu Qaynuqa makes it clear that they were not expelled because they refused to accept Islam, or because they were Jews. The true reason for their expulsion was the breach of their treaty and open hostility, which convinced the Prophet (pbuh) that it was impossible to live with them in peace, without jeopardizing the security of the city-state of Medina.¹⁴²

¹⁴¹ For more on the actions and subsequent expulsion of Banu Qaynuqa, see: Adil Salahi, *Muhammad, Man and Prophet: A Complete Study of the Life of the Prophet of Islam*, The Islamic Foundation, Markfield, UK, 2002, pp. 299-313; Tariq Ramadan, *In the Footsteps of the Prophet*, Oxford University Press, New York, 2007, pp.107-109; Meraj Mohiudeen, *Revelation: The Story of Muhammad*, Whiteboard Press, USA, 2016, pp.211-214; Safy al-Rahman Mubarakfuri, *Al-Rabiq Al-Makhtum (The Sealed Nectar: Biography of the Noble Prophet)*, Dar al-Salam Publishers, Riyadh, 1996, pp.238-240; Muhammad al-Ghazali, *Fiqh-u-Sirah: Understanding the Life of Prophet Muhammad*, IIPH, Riyadh, 1997, pp.254-261

¹⁴² Akram Diya' al-'Umari, *Medinan Society at the Time of the Prophet (Vol.1): Its Characteristics and Organisation*, International Institute of Islamic Thought, Virginia, 1991, p.124.

It is interesting to note that the two other main Jewish tribes – Banu Nadir and Qurayzah - did not attempt to help Banu Qaynuqa in their confrontation with the Prophet (pbuh). This, in itself, is evidence of the treachery of the Qaynuqa Jews. The other Jews were no less hostile to Islam than the Qaynuqa tribe, although they did not show it at the time. If the case of treachery was not clear cut, the other Jews would at least have mediated between the Prophet (pbuh) and their fellow Jews. The fact that these tribes remained neutral suggests that they understood that the Qaynuqa Jews were guilty, and deserved their punishment of exile.¹⁴³

Regarding the Jewish tribe of Banu Nadir

They were expelled from Medina for attempting to assassinate the Prophet (pbuh). As soon as the Prophet (pbuh) arrived in Medina after the Battle of Badr, Ka'b bin Ashraf, the Jewish leader of Nadir, became one of the Prophet's (pbuh) most vocal critics and would write and recite provocative poetry against the Prophet (pbuh) and the Muslims. The victory of the Muslims at Badr irritated and angered Ka'b, and he visited Mecca, where he used to ridicule the Prophet (pbuh) and incite the Quraysh to seek revenge for their loss at the Battle of Badr. By rallying the Meccans against the Muslims, Ka'b's actions were tantamount to treason and a declaration of war on the Muslims, thus breaking

¹⁴³ Adil Salahi, *Muhammad, Man and Prophet: A Complete Study of the Life of the Prophet of Islam*, The Islamic Foundation, Markfield, UK, 2002, p.308.

the existing peace treaty. Hence, he alone was executed for his role in undermining peace and threatening security.¹⁴⁴

The Prophet (pbuh) in his characteristic manner, did not blame the entire clan of Banu Nadir for Ka'b bin Ashraf's crime; in fact, he renewed his treaty with them. However, they soon made an attempt to assassinate the Prophet (pbuh) during a dinner they had invited him and some companions to. The Prophet (pbuh) received divine inspiration regarding their plot (Qur'an 5:13) and was saved from their scheme of throwing a big rock onto him from the nearby rooftop. Thereafter, the entire clan was given a 10-day ultimatum to leave the city, because of their treachery. After they resettled in the Northern Jewish stronghold of Khaybar, Banu Nadir continued to rally support against the Prophet (pbuh), and they played a considerable role in the formation of the great confederacy (*ahzab*) that besieged Medina, in a bid to annihilate the Muslim community, during the Battle of the Trench (*Khandaq*).¹⁴⁵

¹⁴⁴ Meraj Mohiudeen, *Revelation: The Story of Muhammad*, Whiteboard Press, USA, 2016, p.220; Akram Diya' al-'Umari, *Medinan Society at the Time of the Prophet (Vol.1): Its Characteristics and Organisation*, International Institute of Islamic Thought, Virginia, 1991, pp.128-134.

¹⁴⁵ For more on the actions and subsequent expulsion of Banu Nadir, see: Adil Salahi, *Muhammad, Man and Prophet: A Complete Study of the Life of the Prophet of Islam*, The Islamic Foundation, Markfield, UK, 2002, pp. 314-318, 378-388; Tariq Ramadan, *In the Footsteps of the Prophet*, Oxford University Press, New York, 2007, pp.130-132; Meraj Mohiudeen, *Revelation: The Story of Muhammad*, Whiteboard Press, USA, 2016, pp.240-242; Safy al-Rahman Mubarakfuri, *Al-Rahiq Al-Makhtum (The Sealed Nectar: Biography of the Noble Prophet)*, Dar al-Salam Publishers, Riyadh, 1996, pp.301-304; Muhammad al-Ghazali, *Fiqh-u-Sirah: Understanding the Life of Prophet Muhammad*, IIPH, Riyadh, 1997, pp.292-296.

Again, it is abundantly clear that Banu Nadir's expulsion from Medina was not due to any anti-Jewish sentiments but due to their own disloyalty and treachery of the covenant. In fact, during the siege, they reached out to their old allies for help - the Jewish tribe of Qurayzah and the Arab tribe of Ghatafan, but their Jewish brethren refused to break their covenant with the Prophet (pbuh), and the Ghatafan did not bother to answer their call.¹⁴⁶

Regarding the Jewish Tribe of Banu Qurayzah

As for Banu Qurayzah, theirs was a case of betrayal and treachery of such a magnitude that had it been successful, the entire Muslim community of Medina would have been completely annihilated. Two years after the Battle of Uhud, the Quraysh decided to launch a major offensive onslaught to crush the Prophet (pbuh) and his companions once and for all. They assembled a total of about 10,000 soldiers – three times larger than anything the Muslim army had ever seen - from various tribes, including the earlier expelled Banu Nadir, to launch a unified, decisive attack on Medina.

The entire city was in danger, and following the Persian military defence strategy suggested by Salman al-Farsi the Prophet's (pbuh) companion from Persia, the Muslims began to dig a

¹⁴⁶ Meraj Mohiudeen, *Revelation: The Story of Muhammad*, Whiteboard Press, USA, 2016, pp.240-242; Akram Diya' al-'Umari, *Medinan Society at the Time of the Prophet (Vol.1): Its Characteristics and Organisation*, International Institute of Islamic Thought, Virginia, 1991, pp.128-134.

trench around the city of Medina to make entry into the city difficult for the invading army. Initially, in support of the Muslims, the Banu Qurayzah lent its excavating equipment to the Muslims to speed up the digging of the trench. However, during the long siege of Medina that ensued, Banu Qurayzah, with the encouragement of Banu Nadir and the confidence that the Quraysh and their confederates would be able to conquer the Muslims, decided to break their treaty with the Muslims. This happened even after the Prophet (pbuh) had sent their former allies amongst the Muslims – the leaders of Aws (Sa'd bin Mu'adh) and Khazraj (Sa'd bin Ubadah) – to discourage them from such a course of action and warn them of the already-known customary consequences of such a betrayal. The Banu Qurayzah did not listen to the plea and warning of the Muslim emissaries, and subsequently opened Medina's southern border (their own area) to the allied enemy forces.

Through some very clever political tactics, a Meccan leader from the Ghatafan tribe, Nu'aym bin Mas'ud, who had secretly accepted Islam was able to break the trust and alliance between the Banu Qurayzah and the Quraysh. This mistrust made it impossible for the allied forces to co-operate with Banu Qurayzah in their plan to penetrate Medina from the southern border. In the frustration that ensued and the strong winds and sandstorm that followed which blew their tents away and made it difficult for them to sustain the siege of Medina, the Meccan army and

their confederates were forced to disperse. Thus, the Muslims survived the attack with the help of Allah.

Immediately after it became clear that the Meccan allied forces were no more a threat, it became necessary for the Muslims to decide on the fate of their former allies, Banu Qurayzah, after their betrayal and failed collaboration with the enemy forces to destroy Medina. The Prophet (pbuh) ordered the Muslim army to march to the fortress of Banu Qurayzah.

Thereafter, a siege was laid on Banu Qurayzah for their callous treachery, which lasted for 25 days. Upon their surrender, the members of Banu Aws had pleaded with the Prophet (pbuh) for leniency, as he had shown to Banu Qaynuqa and Banu Nadir. The Prophet (pbuh) then recommended that the judgment be decided by Sa'd bin Mu'adh, the leader of Banu Aws, who were former allies of Banu Qurayzah. Both the Banu Aws and Banu Qurayzah agreed to this. It was however understood by some of the respected companions that the leniency shown by the Prophet (pbuh) to others such as Banu Qaynuqa and Banu Nadir in the past had partly contributed to the audacity of Banu Qurayzah and their readiness to take the risk of breaking their treaty with the Muslims.

The customary punishment within the Arab communities at the time for such betrayal and treachery during a time of war was that all male fighting members of the tribe be executed, the

women and children are to be taken as slaves/captives, and their property as booty.¹⁴⁷ This was actually the punishment that Sa'd bin Mu'adh of Aws and Sa'd bin Ubadah of Khazraj had warned the Banu Qurayzah leadership about when they tried to dissuade them from breaking their treaty with the Muslims during the Battle of the Trench. This punishment was also that which was prescribed by Jewish/Mosaic law at the time, and which was cited by Sa'd bin Mu'adh when he issued his judgment on Banu Qurayzah.¹⁴⁸

The Mosaic Law states:

“But if the city makes no peace with you, but makes war against you, then you shall besiege it; and when the Lord your Allah gives it into your hand, you shall put all its males to the sword, but the women and the little ones, the cattle, and everything else in the city, all its spoil, you shall take as booty for yourselves; and you shall enjoy the spoil of your enemies, which the Lord your Allah has given you.”
(Deuteronomy 20:12-14)

¹⁴⁷Karen Armstrong, *Muhammad: A Biography of the Prophet*, Phoenix, London, 1991, p.207-208; Karen Armstrong, *Muhammad, Prophet for our Time*, Harper Perennial, London, 2006, p.162. See also: William Montgomery Watt, *Muhammad at Medina*, Oxford University Press, 1956, p. 296; Norman Stillman, *The Jews of Arab Lands: A History and Source Book*, Jewish Publication Society of America, Philadelphia, 1979, pp.14-16; Bernard Lewis, *The Political Language of Islam*, University of Chicago Press, 1991, p.191; Maxime Rodinson, *Muhammad: Prophet of Islam*, Tauris Parke Paperbacks, 2002, p. 213; Rudi Paret, *Mohammed und der Koran, Geschichte und Verkündigung des arabischen Propheten*, W. Kohlhammer GmbH, Germany, 2005, p.122-124 - cited in http://en.wikipedia.org/wiki/Banu_Qurayza

¹⁴⁸Martin Lings, *Muhammad: His life based on the earliest sources*, The Islamic Text Society, Cambridge, 1991, p.232

After securing the confidence and assurance that the Prophet (pbuh) and the members of his tribe Banu Aws would accept and not interfere with his final judgment on Banu Qurayzah, Sa'd bin Mu'adh ruled that the fighting men should be executed, their women and children are taken captives and their property be taken as booty.

Contrary to the common misconception that it was the Prophet (pbuh) that ordered the judgment on Banu Qurayzah, all historical records show that both the Prophet and Banu Aws had agreed that the judgment of Sa'd bin Mu'adh would be final. Thus, while this judgment is indeed severe, it was considered within the context to be the most appropriate deterrent for treachery during war. This, and not anti-Semitic prejudice against Jews, was the basis of Sa'd's judgment.¹⁴⁹ It should be noted that after this incident, for the rest of the life of the Prophet (pbuh), no other tribe ever broke a treaty with the Muslims, during a time of war.¹⁵⁰

¹⁴⁹Ismail Buyukcelebi, *Living in the Shade of Islam*, The Light Inc., New Jersey, 2005, p.143.

¹⁵⁰Karen Armstrong, *Muhammad: Prophet for our Time*, Harper Perennial, London, 2006, p.162-163; Karen Armstrong, *Muhammad: A Biography of the Prophet*, Phoenix, London, 1991, p.209; See also: William Montgomery Watt, *Muhammad: Prophet and Statesman*, Oxford University Press, 1961, pp.170-176; Rudi Paret, *Mohammed und der Koran, Geschichte und Verkündigung des arabischen Propheten*, W. Kohlhammer GmbH, Germany, 2005, pp.122-124; William Montgomery Watt, *Muhammad at Medina*, Oxford University Press, 1956, pp.217-218 - cited in http://en.wikipedia.org/wiki/Banu_Qurayza

In the details of what actually occurred, not only were the women and children spared but so were all adult men among the Banu Qurayzah who were opposed to the actions of their leadership. Those members who were given amnesty by their friends amongst the Muslims were also spared.¹⁵¹

As the crime of Banu Qurayzah was committed by them alone, none of the other Jewish tribes, in or around Medina, were punished or in any way prejudiced against, as a result of Sa'd's judgment on Banu Qurayzah. The seventeen other (smaller) Jewish tribes of Medina remained there, living on friendly terms with the Muslims for many years, and the Qur'an continued to insist that Muslims remember their spiritual kinship with the People of the Book [Qur'an 29:46].¹⁵²

The historical accuracy however of some of the details in the above narrative has been challenged by some Muslim historians. The absence of sufficient historical data on the exact number of the fighters among Banu Qurayzah that were killed has left a lot of it to mere speculation, with numbers ranging from just over

¹⁵¹Karen Armstrong, *Muhammad: A Biography of the Prophet*, Phoenix, London, 1991, p.207; Martin Lings, *Muhammad: His life based on the earliest sources*, The Islamic Text Society, Cambridge, 1991, p.231; Muhammad Husayn Haykal, *The Life of Muhammad*, (transl. Isma'il Raji A. Al-Faruqi), North American Trust Publications, USA, 1976, p.314.

¹⁵² Karen Armstrong, *Muhammad: A Prophet for our Time*, HarperCollins, New York, 2006, pp.149-151. See also, William Montgomery Watt, *Muhammad at Medina*, Oxford University Press, 1956, p.217-218; Cecil Roth (Ed.), *The Encyclopedia Judaica*, Keter Publishing House, 1997, Vol. XI, col. 1212; Rudi Paret, *Mohammed und der Koran, Geschichte und Verkündigung des arabischen Propheten*, W. Kohlhammer GmbH, Germany, 2005, p.122-124- cited in http://en.wikipedia.org/wiki/Banu_Qurayza

20 men to as many as 900. Available records also indicate that those to be executed were initially kept in the house of one of the companions, Usamah bin Zayd. This fact casts further doubt on the authenticity of those records that cite a large number of people to be executed. In addition, with so many Jewish women and children as slaves in Medina as a result of Sa'd's verdict on them, it would naturally be expected that historical records, Hadiths, and athar of sahabah would say more about their fate and lives in Medina. The records, however, appear to be silent on this issue. For this reason, also, some scholars have questioned the scale of the executions associated with the punishment of Banu Qurayzah.

Regarding this issue, Adil Salahi in his *Muhammad: Man and Prophet* submits:

“Reports that all adult males of the Qurayzah Jews were killed while all their women and children were enslaved are quoted in practically all books on the Prophet's life and its events... However, a more careful examination of these reports proves that this could not have been the case. The number of those who were killed could not have been more than twenty-five, if not less.

“We find two statements speaking of Sa'd's judgment. Both state that he ruled that ‘their fighters were to be killed and their offspring to be taken captive’. Where Ibn Ishaq's report goes wrong is to interpret this judgment as applying to every single person of the Qurayzah Jews, thus making the death sentence

applicable to all adult males and the captivity to all women and children. There is nothing in either the Qur'an or the Hadith texts to confirm this. The Qur'an speaks of some being killed and some taken prisoners [33:26-27], while the two Hadith traditions speak of executing the fighters and imprisoning their offsprings.

“Several points in Ibn Ishaq’s report call it into question. To start with, he mentions that prior to their execution, the men were placed in Usamah ibn Zayd’s house, while the women were placed in Kayyisah bint al-Harith’s home. How many people could these two homes accommodate? The number of the Qurayzah men mentioned in these reports ranges between 600 and 900. What sort of home would take all these people?

“...Al-Waqidi (130-207 H) was a prominent historian who wrote extensively about the history of Islam... Al-Waqidi gives us the names of nine people executed as a result of Sa’d ibn Muadh’s ruling... He also mentions that two people were sent to each of several clans of the Ansar where they were executed. This brings the total number to less than 25. When we relate this information to the most reliable wording of Sa’d Ibn Muadh’s ruling, which condemns the Qurayzah fighters to be killed, we conclude that these were the actual fighters who took an active part in the treachery that aimed to eradicate Islam and all Muslims.

“Ibn Ishaq’s account of the life of the Prophet Muhammad was the main source on which later historians relied as they analyzed events that took place during the Prophet’s lifetime... The first reason for rejecting this report is that meeting out such collective punishment is contrary to Islamic teachings and the Prophet’s practice. Islam does not condone punishing a group of people for the crime of one or punishing many for the crime of the few. It punishes all those who actually take part in a crime.

“Ibn Ishaq’s report suggests that all women and children were taken captive. The question arises: what happened to them after that? In the universal tradition of the time, they would have become slaves and given to those who took part in the siege of the Qurayzah forts. Yet Islam had already established a rule for the prisoners of war, requiring Muslims to set them free, either against ransom or as a gracious gesture. We have no report to suggest that they stayed in Medinah as slaves. There is not a single story on any such woman going through a problem with the family where she might have been placed. The children involved would have been raised as Muslims. We do not have a single report of any of them distinguishing himself in any field of life. Nor do we have any report of any conversation between the Prophet’s companions referring to the punishment of the Qurayzah Jews or to the fate of their families. How can this absence of reporting be explained? We note that a similar lack of reporting applies to the other two Jewish tribes that were

evacuated from Medinah. The same must have applied to the Qurayzah Jews.

“We, therefore, conclude that after the execution of the perpetrators of the treachery, the rest of the tribe were allowed to leave Medinah on similar terms to other Jewish tribes which were previously evacuated.”¹⁵³

Therefore, the execution of the fighting men of Banu Qurayzah – whatever their actual numbers - was not, as it has so often been presented, reflective of an intrinsic religious conflict between Prophet Muhammad (pbuh) and the Jews. Rather, this conflict had far more to do with political alliances and economic ties than with a theological debate over scripture.¹⁵⁴ There were obviously other Jews who had respected the Charter/Constitution (*sahifah*) of Medina, and had not taken part in any act of treachery. Such were allowed to stay in Medina as long as they did not participate in any hostile action against Islam or the Muslims. They were allowed to work and practise their religion freely, without any pressure. Indeed, when the Prophet (pbuh) died a few years later, his shield was pledged as collateral with a Jewish trader whom he had purchased foodstuff from on credit.¹⁵⁵ It is also on record that years later, during the Caliphate of Umar bin al-Khattab, he ordered a stipend/pension to be given from the *Bayt al-Mal*

¹⁵³ Adil Salahi, *Muhammad, Man and Prophet: A Complete Study of the Life of the Prophet of Islam*, The Islamic Foundation, Markfield, UK, 2002, pp.467-473

¹⁵⁴ Meraj Mohiudeen, *Revelation: The Story of Muhammad*, Whiteboard Press, USA, 2015, p.259

¹⁵⁵ Adil Salahi, *Muhammad, Man and Prophet: A Complete Study of the Life of the Prophet of Islam*, The Islamic Foundation, Markfield, UK, 2002, pp.473-474

(treasury) to all elderly Jews (*abl al-dhimmah*) who needed financial assistance.

From the foregoing, it is abundantly clear that the Prophet (pbuh) did not have any reservation for the Medinan Jews on account of their tribe or religion; he rather treated them in line with the Qur'anic injunctions of dealing in kindness and fairness towards non-hostile people of other faiths.

Conclusions from the Sirah on the Justification for Warfare

In his book *Hidayah al-Hayarah*, Ibn al-Qayyim al-Jawziyyah says:

“It will become clear to whoever carefully studies the life history (*sirah*) of the Prophet (pbuh) that he never forced anyone to embrace Islam. He only fought those who fought him, but as for those who entered into treaty with him, he did not fight them provided they abide by their treaty and they did not violate or go contrary to it. In fact, Allah commands him (pbuh) to stand by the agreement provided they stand firmly by the agreement, Allah says: *“As long as they stand firmly, stand firmly (by the agreement)”*¹⁵⁶. When the Prophet (pbuh) arrived in Medina he had treaty with the Jews and allowed them (to carry) on with their religion, but when they fought him and they betrayed (their terms) and initiated fighting against him, he fought back,

¹⁵⁶ Qur'an 9:7

although he pardoned some of them while he expelled some others (from Medina). Also, when he had a peace treaty of ten years with Quraysh, he did not initiate the fighting with them until they initiated it after violating the agreement; it was then that he fought them in their abode after they had fought him, in a similar manner as they had targeted him in the Battles of Uhud, Khandaq and Badr.¹⁵⁷

Suffice it to reiterate a few key lessons to be taken from a study of each of these battles and hostilities which are related to Prophet Muhammad's understanding of the justification for warfare in Islam. It is clear from each of the battles during the life of the Prophet (pbuh), that the Prophet (pbuh) and his companions never provoked others into conflict, that Muslims were never the aggressors, they were never the first to begin hostilities and that Muslims did not fight others to force them to accept Islam. This fact has been reiterated by many past and present Muslim and even Orientalist scholars and historians who have carefully studied the contexts and justifications for each of these battles.¹⁵⁸

¹⁵⁷ Ibn Qayyim al- Jawziyyah, *Hidayah al- Hayara*, Dar Ibn Zaydun, Beirut, 1990, (Section 3), p.13, al-Maktabah al-Shamilah v.3.13.

¹⁵⁸ See Ibn Taymiyyah, *Qā'idah Mukhtasarah fi Qitāl al- Kuffār*, pp. 96, 134; Ibn Qayyim al- Jawziyyah, *Hidayah al- Hayarā*, pp. 137 f.; al- Marāghī, *Tafsīr al- Marāghī*, Vol. 10, p. 92; Mahmassani, *Al- Qānūn wa al- 'Alāqāt*, p. 177; al- Zuhaylī, "Majālāt al- 'Alāqāt," p. 199; Sābiq, *Fiqh al- Sunnah*, Vol. 3, pp. 18 f.; 'Affīf, *Al- Mujtama' al- Islāmī*, p. 148; al- Ghunaimi, *Qānūn al- Salām fi al- Islām*, p. 59; Ghunaym, *Al- Jihād al- Islāmī*, pp. 32 f.; Tabliyyah, *Al- Islām wa Huqūq al- Insān*, p. 72; al- Firjānī, *Uṣūl al- 'Alāqāt*, pp. 77, 82 f.; al- Rikābī, *Al- Jihād fi al- Islām*, pp. 125 f.; al- Amīn, "Mawqif al- Islām," p. 311; Weeramantrey, *Islamic Jurisprudence*, p. 147; Stewart, *Unfolding Islam*, p. 92; Alsumaih, "The Sunni Concept of Jihad," pp. 41, 271, 276. Rudolph Peters indicates that modern Muslim writers "show that all military campaigns, raids

In each of the historical cases in the life and biography of the Prophet (*sirah*) and his companions, we notice that Muslims were forced to engage their enemies in conflict only when this was absolutely necessary to defend their lives and property, preserve their right to freedom of religion, and to protect and honour their peace treaties and alliances with other non-Muslim communities.

This point is very important as these battles and their justifications were the historical contexts in which the Prophet (pbuh) and his companions applied all the texts of the Qur'an and Hadith relating to warfare and fighting (*harb/qital*). It is by understanding these contexts that a proper comprehension of the Islamic theory of war and its justifications can be realized, without conflicting texts and contradictory evidence, and without recourse to the application of the juristic theory of "Abrogation" (*naskh*) in the interpretation of texts relevant to this topic.

and expeditions of Mohammed and the first Caliphs were purely defensive." See Peters, "Djihad," p. 286; al- Qaradāwī, *Fiqh al- Jihād*, Vol. 1, pp. 339–364, 380; Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.213, f.199.

SECTION 3:
THE ISLAMIC LAW ON THE
JUSTIFICATIONS, REGULATIONS,
AND CONDUCT OF WAR

SECTION 3: THE ISLAMIC LAW ON THE JUSTIFICATIONS, REGULATIONS, AND CONDUCT OF WAR

What are the justifiable reasons for warfare in Islam; and what are the rules that regulate the conduct of war and the treatment of prisoners of war in Islamic law?

The study of laws and their impact is a simple way of understanding their purposes and objectives. Looking carefully at the do's and don'ts of warfare in Islamic law of war and peace is another way of understanding the objectives and justifications for the use of force. Whether fighting or military *jihad* can take the form of defensive, offensive, or both; and what actually is the textual basis for the Islamic justifications for resorting to war (*jus ad bellum*) can easily be deduced by a careful study of the rules that regulate the conduct of warfare (*jus in bello*) in the Islamic law of war and peace. This approach – of looking first at the rules that regulate the conduct of warfare (*jus in bello*) in the Islamic law of war and peace - will also make very clear the position of Islam on terrorism. Therefore, while both the reasons and justifications for resorting to war (*jus ad bellum*) and the conduct of war (*jus in bello*) after it has commenced will both be discussed below, we shall start with a brief outline of the latter.

Islamic Regulations on the Conduct of War

An introductory treatment of the Islamic laws and regulations governing the conduct and ethics of warfare from the perspective of the Qur'an, Sunnah of the Prophet (pbuh), and the practice of the Rightly Guided Caliphs should make it abundantly clear that the justification for fighting in Islamic law is oppression and deprivation of basic rights in general and religious persecution in particular, as well as the unacceptable hostility and aggression of the enemy against peaceful Muslims. These reasons are accepted justifications for warfare according to all schools of Islamic jurisprudence. Thus, the Islamic laws regulating the conduct of warfare make it explicitly obvious that the justification for war in Islam was never because of religious diversity¹⁵⁹, nor was it ever about forcing others to accept or embrace Islam.¹⁶⁰

1. Protection of Civilians, Non-Combatants, Non-Fighters, and Non-Warriors (*ghair al-Muqatilin/ghair al-Muharibin*)

Regarding those who were clearly not to be harmed by hostilities, and who had non-combatant immunity, the Qur'an (2:190) categorically says, "*Fight (qātilū) in the cause of Allah those*

¹⁵⁹ Umar bin Khattab had a slave boy named Isbiq who remained non-Muslim until Umar died. He did not kill him for his rejection of faith. See: Ibn Abi Hatim, *Tafsir ibn Abi Hatim* 2654; Muhammad Saeed Ramadan Bootui, *al-Jihad fi al-Islam kaifa naḥamuhu wa kaifa numarisuhu*, p.52.

¹⁶⁰ Ibn Taymiyah said: "...we will not force anybody to accept the Deen and we will only fight those who fight us and if he (the one fighting us) embraced Islam, his wealth and blood are protected..." See: *Risaalatul- al-Qitaal* 123-125; *al-Siyasatu al-Shar'iyyah*, 123.

who fight (yuqātilū) you, but do not commit transgression, for Allah loves not the transgressors.”

According to the Prophet’s companion Ibn Abbas, the explanation of the verse is as follows: “*it means do not kill women, nor children, nor old people, nor those that meet you with peace and abstain from fighting you; for if you do so, know that you have transgressed beyond the limits.*”¹⁶¹

Imam al-Tabari cites Umar ibn Abdul-Aziz as also having said that those upon whom Muslims should not transgress the limits refer to women, children, and those who have not waged war on the Muslim community. This is the opinion Imam Tabari holds to be the best of all opinions on this verse.¹⁶² Al-Razi defines *al-muqatilin* (the fighters) alluded to in the verse above (Qur’an 2:190) as follows: “They must be taking part in the fighting; anyone who is not willing or prepared to fight cannot be described as a combatant, except in metaphor, until they enter into combat.”¹⁶³ Ibn al-Qayyim puts it quite simply, “Muslims

¹⁶¹ Al-Tabari, *Tafsir of Qur'an 2:190* from *Maktab al-Taalib al-Ilm*, Ariss Computers Inc., Beirut, 2002.

¹⁶² Al-Tabari, *Tafsir of Qur'an 2:190* from *Maktab al-Taalib al-Ilm*, Ariss Computers Inc., Beirut, 2002.

¹⁶³ Muhammad ibn Umar al-Razi, *Tafsir al-Fakhr al-Razi: Al-Mushtahar bi al-Tafsir al-Kabir wa-Mafatih al-Ghayb*, Vol.5, Dar al-Fikr, 1981, p.138; cited in Ahmed Al-Dawoody, *Islamic Law and International Humanitarian Law: An Introduction to the Main Principles*, International Review of the Red Cross, Cambridge, 2018, p.8. Downloaded from <https://www.cambridge.org/core>

must fight those who attack them, but not those who do not attack them.”¹⁶⁴

From the Hadith of the Prophet (pbuh) on this issue, he clearly prohibited targeting five (5) major categories of civilians or non-combatants, so long as they remain non-combatants and do not take up arms and engage in actual fighting, military operations, and direct hostilities.¹⁶⁵ These five (5) are women, children, the elderly/aged, the hermit/clergy, and any hired man/labourer (*al-‘asif*).¹⁶⁶ Based on “reasoning by analogy” (*qiyas*) in Islamic law, and statements by the Rightly Guided Caliphs, Muslim jurists expanded each category in this list to others who by extension would also belong to the same categories of non-combatants.¹⁶⁷

¹⁶⁴ See Wahbah al-Zuhayli, *Mawsu‘ah al-Fiqh al-Islami wa al-Qadaya al-Mu‘asirah*, Vol.7, Dar al-Fikr, Damascus, 2010, p.511; cited in Ahmed Al-Dawoody, *Islamic Law and International Humanitarian Law: An Introduction to the Main Principles*, International Review of the Red Cross, Cambridge, 2018, p.9. Downloaded from <https://www.cambridge.org/core>. See also Ameer Zemmali, *Islam and International Humanitarian Law: Principles on the Conduct of Military Operations*, 4th ed., ICRC, 2010, p.162-163.

¹⁶⁵ Scholars however differ on the killing of those categories of people if they assisted the combatants indirectly; either by supplying the combatants’ arms or supported with their thoughts. (See: Fatawah Ibn Taymiyyah, vol. 28, p.659-661)

¹⁶⁶ References to Hadith for these have been presented earlier in this book under the heading “Fighting is Against Aggression, Not Other Religions”. See also Ibn Rushd’s *Bidayat al-Mujtahid wa Nihayat al-Muqtasid* (The Distinguished Jurist’s Primer), 1994, Vol.1, p.458-460; Ahmed Al-Dawoody, *Islamic Law and International Humanitarian Law: An Introduction to the Main Principles*, International Review of the Red Cross, ICRC, Cambridge, 2018, p.8-10, and Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.111-116.

¹⁶⁷ See Ahmed Al-Dawoody, *Islamic Law and International Humanitarian Law: An Introduction to the Main Principles*, International Review of the Red Cross, Cambridge, 2018, p.8-10.

For example, to the category of “women” they included the hermaphrodite (*khuntha*); To the “children” and “aged/elderly” they added the blind, incapacitated, sick, and the insane; To the “hermit” (*rahib*) category were also added all those non-combatant religious leaders and members of the clergy – rabbis, monks, pastors, priests, etc. The “hired man”, employee or labourer (*‘Asif*, plural of *‘usafa*) referred to anyone hired by the enemy to do a service on the battlefield such as “minding the belongings and the animals, but not engage in fighting”. To this category and that of “women”, scholars extended non-combatant immunity to include craftsmen, farmers, traders, medical personnel, journalists, and reporters, etc.¹⁶⁸

From all of the above, it can confidently be concluded that there is no justification in the Qur’an or Sunnah for warfare and hostilities directed intentionally against non-combatants who are non-Muslims in any form of fighting (*qital*, *harb*, or *jihad*) which is “in Allah’s way (and cause)” – *fi sabilillah*.¹⁶⁹

¹⁶⁸ For a fuller discussion on each of these, see Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.111-116; Wahbah al-Zuhayli, *Athar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, 3rd Ed., p. 502; Muhammad Khayr Haykal, *al-Jihad wa al-Qital fi al-Siyasah al-Shariyyah*, p. 1270.

¹⁶⁹ Even a combatant who gives up fighting or has been offered a promise of security (*aman*) must not be killed. Umar ibn al-Khattab wrote to a lieutenant of an army which he had sent out, "I have heard that it is the habit of some of your men to chase an unbeliever till he takes refuge in a high place. Then one man tells him in Persian not to be afraid, and when he comes up to him, he kills him. By He in whose hand my self is, if I knew someone who had done that, I would strike off his head." Yahya said, I heard Malik say, "This tradition is not unanimously agreed upon, so one does not act on it." (Muwatta Malik, Book of Jihad, Hadith 1630)

These regulations should also make it abundantly clear to all, that the justification of fighting in Islamic law cannot be the difference in religion. If fighting was justified by the mere existence of religious difference, then it would have been permitted to fight each of the non-Muslim categories cited above, and the list of protected citizens and those with non-combatant immunity would not have been expanded by the Prophet's companions or early Muslim scholars.¹⁷⁰

2. Permissible and Prohibited Weapons in War

The weapons and military tactics used during the time of the Prophet (pbuh), his companions, and the early period of Islam were very simple and underdeveloped¹⁷¹ and extremely limited in their capacity to inflict severe damage to the life and property of enemy combatants when compared to those available today. As primitive as the weapons and tactics used by the early Muslims may be, “the establishment of rules on weapons demonstrates

¹⁷⁰ Ibn Ishaq stated that from the authority of Ibn Abbas that the Prophet (peace be upon him) stated to his companions on the day of the battle of Badr, “*I have been informed that some people from Banu Hashim and others were forced to take part: there is no need of killing them. Whoever finds anyone from Banu Hashim must not kill him. Whoever finds Abu al-Bukhturi ibn Hisham ibn al-Harith ibn Asad must not kill him. Whoever finds Abbas bin Abdul Muttalib, the uncle of the Prophet must not kill him: he was forced to take part.*”¹⁷⁰

Ibn Ishaq commented on this saying that the Prophet forbade killing Abu al-Bukhturi since he never harmed the Prophet and he did not know anything bad about him. He also helped to end the boycotting of the Prophet and his companions. Thus, the Prophet here is ‘returning the favour.’ (See: Abd al-Malik Ibn Hisham, *al-Sirah al-Nabawyyia*, Beirut, Dar al-Jabal:1441, III, pp. 177-178 cited in Salah Al-Ansari & Usama Hasan, *Tackling Terror: A Response to Takfiri Terrorist Theology*, p. 47-48)

¹⁷¹ These were mainly swords, arrows, spears and lances for one-on-one combat, and mangonels (large catapults), flooding and fire against enemy fortresses. Usually combat took place on battlefields away from civilian populations and non-combatants.

that the Muslim jurists were dedicated to two objectives: firstly, not to endanger the lives of civilians and non-combatants, and secondly, to spare property of the enemy unless otherwise dictated by military necessity.”¹⁷² These objectives have become of even greater concern in today’s contexts with more indiscriminate weapons being used in urban areas.

Early Muslim jurists for example debated heavily on when, if at all it was permissible to use poison-tipped arrows against an enemy. On the use of the more primitive “weapons of mass destruction” – mangonels, fire, cutting water supply, and flooding - are often used against an enemy fortress in order to force the enemy to surrender. Muslim jurists differed and gave various nuanced conditions and contradictory opinions. Some regarded some of these as absolutely prohibited, others regarded them as reprehensible and disliked, while others regarded them as permissible if this was dictated by “military necessity” and was the only way to overcome the enemy.¹⁷³

These debates have only heightened and become more controversial today with the existence and use of Weapons of Mass Destruction (WMD) that go against nearly every rule of

¹⁷² Ahmed Al-Dawoody, *Islamic Law and International Humanitarian Law: An Introduction to the Main Principles*, International Review of the Red Cross, Cambridge, 2018, p.10

¹⁷³ For a more detailed discussion on this, see Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.122-126.

warfare in Islam.¹⁷⁴ Due to the scale of destruction caused by WMDs and the arms race they trigger, it has been impossible for scholars to justify the use of “reasoning by analogy” (*qiyas*) in comparing and regulating the use or impact of these modern weapons with the earlier more primitive weapons of early Islamic history.¹⁷⁵ There is simply no precedent in the Sirah with which to compare anything close to a modern bomb, chemical, biological or nuclear WMD.¹⁷⁶

Al-Dawoody however concludes that while some scholars have objected, “the majority of classical and modern Muslim scholars have tended to override the Islamic restrictions on the use of weapons that lead to indiscriminate killing, if their enemies use

¹⁷⁴ “These weapons do not permit a level of discrimination between combatants and non-combatants, a requirement in Islamic rules of engagement; even if WMDs could be employed strictly against military targets, they kill or maim in such horrible ways that they violate Islamic teachings on fighting humanely. Also, they cause lasting damage on the natural environment, a result that must be considered in Islamic moral evaluations because all life has worth as Allah’s creation, notwithstanding any utility derived by humans. Qur’an 6:38 reads: “*There is not an animal on earth, nor a bird that flies on its wings, but they are communities like you.*” Thus, destroying or damaging the natural habitat of species unable to defend themselves against human attacks constitutes the height of what the Qur’an labels *fasad fi al-ard* (corruption in the land).” - See Sohail Hashmi, “Islamic Ethics and Weapons of Mass Destruction: An Argument for Non-proliferation”, in Sohail H. Hashmi and Steven P. Lee (eds), *Ethics and Weapons of Mass Destruction: Religious and Secular Perspectives*, Cambridge University Press, Cambridge, 2004, p.323-324.

¹⁷⁵ For a summary of the 3 major views of contemporary scholars on the possession and use of WMDs by Muslims, see Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.125-126, and Ahmed Al-Dawoody, *Islamic Law and International Humanitarian Law: An Introduction to the Main Principles*, International Review of the Red Cross, Cambridge, 2018, p.10-11.

¹⁷⁶ See Sohail Hashmi, “Islamic Ethics and Weapons of Mass Destruction: An Argument for Nonproliferation”, in Sohail H. Hashmi and Steven P. Lee (eds), *Ethics and Weapons of Mass Destruction: Religious and Secular Perspectives*, Cambridge University Press, Cambridge, 2004, p.329.

them, justifying their position by the Islamic principle of reciprocity.”¹⁷⁷ This and the use of analogy (*qiyas*) has however unfortunately been taken advantage of by some to justify the indiscriminate use of modern WMD in urban areas with a significantly disproportionate impact on civilian populations. They claim that this is similar to the “collateral damage” caused by more “primitive WMD” such as mangonels, flooding, fire, etc.

It is important to note here however that the mere existence of the deliberations and debates by early and contemporary Muslim jurists on the rules governing permissible and prohibited weapons and military tactics in warfare, is additional evidence that the objective and justification for warfare were not the killing or obliteration of non-Muslims or even of indiscriminate killing of enemy combatants by all means possible. If killing non-Muslims or all enemy combatants was the objective, why would it matter to Muslim scholars which weapons were used by Muslims? Why would the use of WMD, even when approved of by some scholars, be on the condition that it was only permissible if the enemy also used them?

3. Protection of Enemy Property from Destruction

It is clear from the relevant texts and commentaries by scholars that war in Islam is not an indiscriminate and unregulated free-for-all affair in which anyone and anything can be targeted in any

¹⁷⁷ Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.126.

way. The preservation of life and property are among the well-known higher objectives and intents (*Maqasid*) of Shari'ah, and cannot be taken or destroyed without justifiable reasons.

The Qur'an condemns wanton "*al-fasad* (destruction, damage, corruption) in the land."¹⁷⁸ Allah also condemns the one who, "*And when he turns his back, he hastens about the earth, to do corruption there and to destroy the tillage and the stock. And Allah does not like the corrupt*" (Qur'an 2:205). Commenting on this verse, Imam Awza'i said that, "it is prohibited for Muslims to commit any sort of *takhrīb*¹⁷⁹ or wanton destruction, (during the course of hostilities) in enemy territories because that is *fasad*, and Allah does not like *fasad*."¹⁸⁰

Based on precedents set by the Prophet (pbuh), the Rightly Guided Caliph, Abubakr included in his instructions to his army commanders: "Do not kill a child or a woman; or an aged person; do not cut down fruit-bearing trees, do not destroy buildings; do not slaughter a sheep or a camel, except for food;

¹⁷⁸ See Qur'an 2:11, 2:27, 5:33, 5:64, etc.

¹⁷⁹ *Takhrīb* means sabotage, vandalism, destruction, wastefulness, devastation or ruin.

¹⁸⁰ See Muhammad ibn al-Hassan al-Shaybani, *Sharh, Kitab al-Siyar al-Kabir*, Commentary by Muhammad ibn Ahmad al-Sarakhsi, ed. Abi Abdullah Muhammad Hassan Muhammad Hassan Isma'il al-Shafi'i, vol.1, Dar al-Kutub al-Ilmiyyah, Beirut, 1997, p.32-33, cited in Ahmed Al-Dawoody, *Islamic Law and International Humanitarian Law: An Introduction to the Main Principles*, International Review of the Red Cross, Cambridge, 2018, p.13.

do not burn, cut down or drown palm trees; do not loot; and do not be cowardly.”¹⁸¹

Abdullah bin Umar also reported that the Prophet (pbuh) said: “if someone kills so much as a sparrow or anything larger, without a just cause, Allah Almighty will ask him about it on the day of resurrection.” It was said, O Messenger of Allah, what is a just cause? The Prophet (pbuh) said: “a just cause is what you slaughter for food, but you should not cut off its head and throw it aside.”¹⁸²

Several other Hadiths also state that anyone who kills an animal, a bird, or certain insects unjustly, will be held responsible for it on the Day of Judgment.¹⁸³ Jurists also agreed that it was prohibited during war to burn or drown the beehives of the enemy. This is also on the basis of a Hadith narrated by Ibn Abbas in which the Prophet (pbuh) prohibited the killing of bees and ants, among others.¹⁸⁴ In fact, Ibn Qudamah argues that

¹⁸¹ See Imam Malik's, *Al-Muwatta'*, vol. 2, p. 447, Hadith no.965; Al-Bayhaqi, *Sunan al-Bayhaqi*, Vol. 9, p.85, 89, 90 (Hadiths no. 17904, 17927, and 17929), cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.127. See also, Abdullah bin Abi Shayba, *Kitab al-Musannaf fi al-AHadith wa al-Athar*, Dar al-Kutub al-Ilmiyyah, Beirut, 1995, Vol. 6, p.478; Ibn Rushd, *Bid'ayat al-Mujtabid, The Distinguished Jurist's Primer*, (translated by Imran Ahsan Khan Nyazee), Garnet Publishing Limited, Reading, U.K., Vol.I, p.461.

¹⁸² *Sunan al-Nasai*, Hadith no. 4445

¹⁸³ Ibn Husam al-Din, *Kanz al-Ummal*, Vol.15, p.15-17, Hadith nos. 39968-39988; Ibn Athir, *Mu'jam Jami' al-'Usul fi AHadith al-Rasul*, Vol.10, p.751, Hadith no.8416. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.120.

¹⁸⁴ Abu Dawud, *Sunan Abi Dawud*, Book of Manners, Hadith no.5267; Ibn Majah, *Sunan Ibn Majah*, Book of Game, Hadith no.3224; Ahmad bin Hanbal, *Musnad*, Vol.1, p.347; Darimy, *Sunan*, Book of Sacrifices, Hadith no.1999.

killing bees or any other animal, except for food or if the enemy is using it for fighting, will be tantamount to the crime described in the Qur'an as causing destruction (*fasad*) on earth.¹⁸⁵

It is clear from these texts that the prohibition of destroying property, therefore, included both living creatures such as animals, trees, and crops, and also lifeless property such as infrastructure, buildings, goods, and other valuables.

The only major exception to this rule of protecting an enemy's property, is when destroying specific property is regarded as a "lesser evil" than fighting and killing more people, or if it is required by military necessity (*darurah*), the greater "public interest" (*maslahah*) and is likely to be a more effective way of winning a just war. And as a rule, this must be with the military commander's approval.¹⁸⁶ This is based on the fact that during the lifetime of the Prophet (pbuh), he ordered the cutting down of the palm trees of the rebellious tribe of Banu Nadir (also referred to in Qur'an 59:5), in order to force them to surrender during a bloodless siege that lasted for six nights and which finally ended without fighting.¹⁸⁷ Cutting down trees as in this instance was regarded as a "lesser evil" than fighting and killing

¹⁸⁵ Qur'an 2:205

¹⁸⁶ Ibn Qudamah, *Al-Mughni*, Vol.9, p.223; Al-Shawkani, *Nayl al-Awtar*, Vol.8, p. 131; Al-Zarkashi, *Sharh al-Zarkashi*, Vol. 3, p. 198. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.129

¹⁸⁷ Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.126-127

more people, and a more effective way of successfully winning a just war which the strategy proved to be.

It is worthy of note, however, that as with the issue regarding rules regulating legitimate targets and weapons of war, the fact that enemy property was to be respected, and not destroyed or looted, meant that enmity and fighting were not based on the difference of religion, but hostility towards Muslims. The lives and property of non-hostile people of other faiths are therefore safe.

4. Restrictions on Attacking Human Shields (*Al-Tatarrus*)

Muslim scholars have debated on the permissibility or otherwise of attacking an enemy that uses non-combatant individuals who have immunity (such as women, children, prisoners, etc.) as human shields. This practice is referred to as *tatarrus*. These human shields may be from among the non-Muslim and non-combatant citizens of the non-Muslim enemy (such as their women and children), or they may be Muslims and/or non-Muslim citizens (*alhimmi*s) that are under Muslim state protection.

Where the enemy is launching an attack on Muslims from behind a human shield made up of their own non-combatant citizens, the scholars agreed that military necessity permitted Muslims to attack such an enemy in spite of the human shield, though

women and children should be avoided as much as possible.¹⁸⁸ Otherwise, scholars feared that the Muslim army would be defeated if they stopped fighting, and that the enemy could deliberately turn their women and children into shields so as to force Muslims to stop a war before the enemy is adequately defeated and without surrendering.¹⁸⁹

If, however, the human shield (of enemy citizens) was not used by them as a strategy or shield behind which they would continue to attack Muslims but was instead used only out of fear, to hide and to defend themselves from a Muslim army, and they were otherwise ready to cease fighting and surrender themselves, then they were not to be attacked as they were not hostile against Muslims. This is based on the Qur'anic verse which states, "*but if they cease, let there be no hostility except to those who practice oppression.*" (Qur'an 2:193)

The Qur'an (48:25) states that "*Had they (believing men and women) been separated, We would have inflicted a severe chastisement on those who disbelieved from among them (the Meccans).*" Based on this verse, some scholars regarded it as prohibited for Muslims to

¹⁸⁸ Ibn Qudamah, *al-Kafi*, Vol.4, p.126; al-Nawawi, *Al-Majmu'*, Vol.21, p.59; Al-Mawardi, *Al-Akham al-Sultaniyyah*, p.57; al-Shirazi, *Al-Muhadhab*, Vol.3, p.278; Al-Armanazi, *Al-Shar' al-Dawli*, p.124; Haykal, *Al-Jihad wa al-Qital*, Vol.2, p.1334; cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.117

¹⁸⁹ Al-Shirazi, *Al-Muhadhab*, Vol.3, p.278; Ibn Qudamah, *al-Kafi*, Vol.4, p.231; cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.117

attack a human shield that was composed of Muslims, non-Muslims under Muslim protection (*dhimma*), or any individual who belonged to a country with which Muslims have a peace accord.¹⁹⁰ The majority however regarded it as permissible only in the case of absolute military necessity where the Muslim army would otherwise be defeated, and where an attack on the enemy would try as much as possible to avoid the human shields.¹⁹¹ Imam al-Qurtubi states that an attack on such a human shield is justified solely in cases involving “the absolute and definitely clear interest (*maslahah*) of Muslims”.¹⁹²

Muslim jurists, therefore, tried to always weigh and balance the objectives of respecting and protecting the sanctity of human life against the military necessity of winning a war. And as jurists considered various military contexts, so also did their rulings differ.

Unfortunately, some Muslims have used the argument of “collateral damage”, “lesser evil”, “military necessity” and “public interest” (*maslahah*) so lightly as to completely misuse and abuse the concept and give absolutely no regard to the sanctity of human life in Islam altogether, in spite of the many explicitly clear texts on this, and verses such as Qur’an 48:25 cited earlier.

¹⁹⁰ See Al-Tabari, *Ikhtilaf al-Fuqaha*, p.4-8; Al-Armanazi, *Al-Shar’ al-Dawli*, p.124; Haykal, *Al-Jihad wa al-Qital*, Vol.2, p.1331-1334; cited in *ibid*, p.117

¹⁹¹ Al-Mawardi, *Al-Akham al-Sultaniyyah*, p.57. Cited in *ibid*, p.117.

¹⁹² Al-Qurtubi, *Al-Jami*, Vol.16, p.287 f. Cited in *ibid*, p.117.

It is worth noting, however, that the fact that Muslim scholars even deliberated and put down rules to ensure that non-combatant people of other faiths (along with Muslims) who were being used as human shields were not attacked, or only to be attacked if there was absolute military necessity and no realistic alternative, implies once again that the justification of fighting in the Islamic law of war and peace, is not simply to fight people of other faiths because of a difference in religion but to defeat a hostile enemy.

5. Restrictions on Night Attacks (*al-Bayat*)

Night attacks (*bayat*) are surprise attacks while it is dark and the enemy is usually asleep and not adequately prepared for battle. This tactic is meant to reduce casualties on the Muslim side in a battle that has already been declared, as it is against Islamic rules of combat to start hostilities except when the hostile enemy has refused all options for peaceful coexistence, such as concluding a peace treaty or accepting Islam.¹⁹³

The concern with night attacks is that it was difficult to distinguish combatants from non-combatants and the high risk of endangering women and children, etc. The option of not organizing a surprise night attack on especially a strong enemy was that more innocent casualties were likely to occur on the side

¹⁹³ See among others, Abu Zahra, *Tanzim al-Islam lil-Mujtama'*, p.48; Al-Hindi, *Abkam al-Harb wa al-Salam*, p.147-152; Al-Firjani, *Usul al-'Alaqa*, p.102-104. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.119.

of the Muslim army. Night attacks in some contexts also increased the chances of winning a war, and the innocent casualties were viewed by most scholars as part of the unavoidable collateral damage of warfare.¹⁹⁴ In a Hadith narrated by Al-Sa'b bin Jathamah, "The Prophet (pbuh) was asked if it was permitted to attack the enemy by night which may result in casualties among women and children. The Prophet (pbuh) replied that *'they (women and children) are from them (the enemy warriors)'*."¹⁹⁵ Based on this, the majority of jurists regarded attacking an enemy by night as permissible.¹⁹⁶

However, according to Anas bin Malik, "whenever the Prophet (pbuh) reached a people by night, he never started an attack by night until it was morning."¹⁹⁷ Based on this, some jurists regarded night attacks as permissible, but discouraged or reprehensible (*makruh*).¹⁹⁸

Due to unavoidable collateral damage involved in night attacks (*bayat*) and on some human shields (*tatarrus*), some Muslims

¹⁹⁴ Al-Shawkani, *Nayl al-Awtar*, Vol.8, p.71

¹⁹⁵ Al-Bukhari, *Jami' al-Sahih al-Mukhtasar*, Vol.3, p 1097, Hadith no.2850; Al-Qushayri, *Sahih Muslim*, Vol.3, p.1364, Hadith no.1745; Ibn Majah, *Sunan Ibn Majah*, Vol.2, p.947, Hadith no.2839; Al-Sana'ani, *Al-Musannaf*, Vol.5, p.202, Hadith no.9385-9386. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.119

¹⁹⁶ Al-Shafi'i, *Al-Umm*, Vol.4, p.252; Al-Shirazi, *Al-Muhadhab*, Vol.3, p.278 f; Ibn Qudamah, *Al-Mughni*, Vol.9, p.230; Ibn Hazm, *Al-Muhalla*, Vol.7, p.296; Al-Shawkani, *Nayl al-Awtar*, Vol.8, p.71 f; Sabiq, *Fiqh al-Sunnah*, Vol.3, p.45. Cited in *ibid*, p.119.

¹⁹⁷ Al-Bukhari, *Al-Jami' al-Sahih al-Mukhtasar*, Vol.3, p.1077, Hadith no.2785.

¹⁹⁸ Al-Tirmidhi, *Sunan al-Tirmidhi*, Vol. 3, Book 19, Hadith 1550

today have misused “reasoning by analogy” (*qiyas*) in Islamic jurisprudence and tried to justify their own attacks in urban areas against government buildings, foreign embassies and entities, schools, shopping centres, markets, car parks, mosques, and churches, etc., in spite of the clear fact that these are not military targets that happen to have civilians present. It should also be noted that these military tactics (*tatarrus* and *bayat*) are permissible in Islam only in a legitimate war between two armies, and not between Muslim insurgents and civilian populations. These civilian targets are also not being used as “human shields” in any formal or informal manner by an “enemy” or military. Also, the “night attacks” - which are unfortunately carried out by some Muslims during any time of the day – are not done because civilian casualties are unavoidable. On the contrary, non-combatant civilians – men, women, and children - are the main targets and casualties.

As noted earlier, the concern and discussion about non-combatants among the non-Muslim enemy is additional justification for the fact that fighting in the Islamic law of war and peace is not targeted towards all non-Muslims due to the difference in faith, but only towards unavoidable hostilities and aggression.

6. Prohibition of Mutilation of the Enemy

In Islamic teachings, human dignity is a right bestowed by Allah on all human beings, whether dead or alive. Allah says in Qur’an

(17:70), “*And We have certainly honoured the children of Adam ...*”. Allah also describes the human body as having been “*created in the best of forms.*” (Qur’an 94:4) As an indication of the respect given to the human body, even during the heat of conflict on the battlefield, the Prophet (pbuh) according to Abu Hurayrah, gave instructions to Muslim soldiers to avoid targeting the faces of enemy combatants.¹⁹⁹ In another Hadith narrated by ‘Aisha, the Prophet (pbuh) said, “*breaking the bone of a dead person is equivalent to breaking it when the person is alive*”.²⁰⁰

The Prophet (pbuh) in numerous Hadith prohibited the mutilation of the body of the enemy. He is reported to have said, “*Do not loot, do not be treacherous, and do not mutilate!*”²⁰¹ Similar

¹⁹⁹ See, for example, Ahmad ibn ‘Ali ibn Hajar al-‘Asqalani, *Bulugh al-Maram min Adillah al-Hukam*, ed. Isam Musa Hadi, Vol. 1, Dar al-Siddiq, Saudi Arabia, 2002, p. 377; Hadith 516 in Ahmad ibn ‘Amr ibn Abi ‘Asim al-Dahhak, *Kitab al-Sunnah*, ed. Muhammad Nasir al-Din al-Albani, Vol. 1, Al-Maktab al-Islam, Beirut, 1979, p. 228; Hadith 2458 in Muhammad ibn Fattuh al-Humaydi, *Al-Jam’ bayn al-Sahibayn al-Bukhari wa Muslim*, ed. ‘Ali Husayn al-Bawwab, 2nd ed, Vol.3, Dar ibn Hazm, Beirut, 2002, pp. 210 ff.; Hadith 715 in Hibah Allah ibn al-Hasan ibn Mansur al-Laka’i, *Sharh Usul l’riqad Abl al-Sunnah wa al-Jama’ah min al-Kitab wa al-Sunnah wa Ijma’ al-Sahabah*, ed. Ahmad Sa’d Hamdan, Vol.3, Dar Tibah, Riyadh, 1981, p. 423; ‘Abd al-‘Aziz Saqr, *Al-‘Alaqat al-Dawliyyah fi al-Islam Waqt al-Harb: Dirasah lil-Qawa’id al-Munazzimah li-Sayr al-Qital*, Mashru al-‘Alaqat al-Dawliyyah fi al-Islam No. 6, Al-Ma’had al-‘Alami lil-Fikr al-Islami, Cairo, 1996, p. 56. Cited in Ahmad al-Dawoody, *Management of the Dead from the Islamic Law and International Humanitarian Law Perspectives: Considerations for Humanitarian Forensics*, International Review of the Red Cross, ICRC, 2018, p.2-3.

²⁰⁰ Ahmad ibn Hanbal, *Musnad al-Imam Ahmad ibn Hanbal*, Mu’assasah Qurtubah, Cairo, Vol.6, p.105, Hadith no. 24783; Abu Dawud, *Sunan Abi Dawud*, Darul Fikr, Beirut, Vol.3, p.212, Hadith no.2307; Ibn Hazm, *Al-Muhalla*, Darul Afaq al-Jadidah, Beirut, Vol.5, p.166; Al-Nawawi, *Al-Majmu’*, Darul Fikr, 1997, Vol.5, p.263.

²⁰¹ Malik bin Anas, *Al-Muwatta’*, Dar Ihya’ al-Turath al-Arabi, Beirut, Vol.2, p.448. Cited in Ahmad al-Dawoody, *Management of the Dead from the Islamic Law and International Humanitarian Law Perspectives: Considerations for Humanitarian Forensics*, International

instructions were given by the Rightly Guided Caliphs to their armies. The Caliph Abubakr for example, wrote to one of his governors, “Beware of mutilation because it is a sin and a disgusting act.”²⁰² In fact, as an affirmation of the absolute prohibition of mutilation of the dead enemy, the Prophet (pbuh) forbade mutilation, even if it was the body of a rabid dog (*al-kalb al-‘aqur*).²⁰³

One of the practices of the Persians and Byzantines (Romans) that was a sign of victory in war, was carrying back the severed head of the enemy’s leader. According to Al-Dawoody, Al-Zuhri states that it never happened during the lifetime of the Prophet (pbuh), that a severed head of the enemy was brought to him.²⁰⁴

Review of the Red Cross, ICRC, 2018, p.2. See also, Hadith number 966 in Ibn Malik, *Muwatta’*, Vol. 2, p. 448; Hadiths numbers 1408 and 1617 in al-Tirmidhi, *Sunan al-Tirmidhi*, Vol. 2, p. 22, Vol. 4, p. 162; Hadith number 2857 in Ibn Majah, *Sunan Ibn Majah*, Vol. 2, p. 953; Hadith number 2613 in Abu Dawud, *Sunan Abi Dawud*, Vol. 3, p. 37; Hadith number 1731 in al-Qushayri, *Sahih Muslim*, Vol. 3, p. 1357; Hadiths numbers 9428 and 8430 in al-Sana’ani, *Al-Musannaf*, Vol. 5, pp. 218, 220. See also for the prohibition of mutilation, Hadiths numbers 2342 and 5197 in al-Bukhari, *Al-Jami’ al-Sahih al-Mukhtasar*, Vol. 2, p. 875, Vol. 5, p. 2100; Alsumaih, “*The Sunni Concept of Jihad*,” p. 124. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.120.

²⁰² ‘Abd al-‘Aziz Saqr, *Al-‘Alaqa al-Dawliyyah fi al-Islam Waqt al-Harb: Dirasah lil Qawa’id al-Munazzamah li-Sayr al-Qital*, Mashru’ al-‘Alaqa al-Dawliyyah fi al-Islam 6. Cairo, Al-Ma’had al-‘Alami lil-Fikr al-Islami, 1996, p.57 Cited in Ahmad al-Dawoody, *Management of the Dead from the Islamic Law and International Humanitarian Law Perspectives: Considerations for Humanitarian Forensics*, International Review of the Red Cross, ICRC, 2018, p.2-3.

²⁰³ Al-Sarakhsi, *Kitab al-Masbut*, Vol.9, p.135 and 196, Vol.10, p.129 and 131. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.120.

²⁰⁴ Ibn Qudamah, *Al-Mughni*, Vol.9, p.261; Al-Zayd, *Al-Qanun al-Dawli al-Insani*, p.47; Yusuf al-Qaradawi, *Fiqh al-Jihad*, Wahba Bookshop, Cairo, 2009, vol.1, p.738. Cited in

However, when the severed head of a non-Muslim Syrian chief army commander called Yannaq al-Bitriq, was brought to the first caliph Abubakr, he condemned it as a heinous act. When he was told as a justification of the act, that it was reciprocation and done in retaliation because the Syrian non-Muslim enemies had done the same to the Muslims, the Caliph Abubakr significantly rebuked the Muslim speaker, saying, “Are we going to follow the Persians and the Romans? We have what is enough: the book (the Qur’an) and the reports (i.e., traditions of the Prophet pbuh).”²⁰⁵ In addition, Abubakr went to the pulpit (*minbar*) and addressed the Muslim public concerning this issue, confirming that this un-Islamic act is “a practice followed among non-Muslim foreigners” (*Sunnah al-A’ajim*).²⁰⁶ As Al-Dawoody accurately notes, “Abubakr’s reply precisely and exactly indicates

Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.120.

²⁰⁵ See al-Shaybani, *Al-Siyar al-Kabir*, Vol. 1, p. 110; Hadith number 33616 in Ibn Abi Shaybah, *Al-Kitab al-Musannaf fi al-AHadith wa al-Athar*, Vol.6, p.534; Hadith number 2649 in Ibn Mansur, *Sunan Sa’id ibn Mansur*, Vol. 2, p. 287; Hadith number 8673 in al-Nasa’i, *Sunan al-Nasa’i al-Kubra*, Vol. 5, p. 204; Hadith number 846 in al-Suyuti, *Jami’ al-AHadith*, Vol. 13, p. 209; al-Nawawi, *Al-Majmu’*, Vol. 21, p. 80; Ibn Qudamah, *Al-Kafi*, Vol. 4, p. 129; al-Buhuti, *Sharh Muntaha al-Iradat*, Vol. 1, 624; al-Buhuti, *Kashshaf al-Qina’*, Vol. 3, p. 125; Saqr, *Al-‘Alaqat al-Dawliyyah*, p. 57; Abu al-Wafa, *Al-Nazariyyah al-‘Ammah*, pp. 168 f., 208; al-Zayd, *Al-Qanun al-Dawli al-Insani*, p. 48; Yusuf al-Qaradawi, *Fiqh al-Jihad*, Wahba Bookshop, Cairo, 2009, vol.1, p. 738; Ben Ashoor, *Islam and International Humanitarian Law*, p. 7; Patwari, *Principles of International Humanitarian Law*, p. 31. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.120-121.

²⁰⁶ Ibn Hajar al-‘Asqalani, *Al-Isabah fi Tamyiz al-Sababah*, Vol. 5, p. 130; Hadith number 847 in al-Suyuti, *Jami’ al-AHadith*, Vol. 13, p. 209; Hadith number 18132 in al-Bayhaqi, *Sunan al-Bayhaqi*, Vol. 9, p. 132; Hadith number 11729 in Ibn Husam al-Din, *Kanz al-Ummal*, Vol. 4, p. 251; al-Qarafi, *Al-Dbakbirah*, Vol. 3, p. 408; al-Zayd, *Al-Qanun al-Dawli al-Insani*, p. 48. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.121.

the self-binding nature, and the core objective of Islamic law. In other words, following Islamic law is in itself an objective for Muslims, irrespective of their enemy's behaviour.²⁰⁷

7. Respect for the Dead Bodies of the Enemy

Human dignity is one of those rights bestowed by Allah on all human beings (Qur'an 17:70), and this applies also to the dead. Burying of the dead is one of the final rites of respect in Islam to a dead human being. In line with this, and the same spirit behind the texts cited above on the prohibition of mutilating or desecrating the dead body of anyone, even from the enemy, the Prophet (pbuh) taught that after cessation of hostilities and fighting, the bodies of the enemy warriors should be handed over to the enemy if they require it, otherwise Muslims should bury them.²⁰⁸

At the Battle of Badr, the Muslims buried the corpse of all the enemies killed in a collective grave in a place known as al-Qabil and in a few other places.²⁰⁹ In fact, according to the Prophet's

²⁰⁷ Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.121.

²⁰⁸ Burying the dead was first done by Cain when he was taught by Allah through the example of a raven (bird) how to bury his murdered brother (Abel), in a dignified and respected manner. See Qur'an 5:31.

²⁰⁹ See Ahmad Bin Hanbal, *Musnad*, Vol.6, p.276; Muhammad ibn Jarir al-Tabari, *Tarikh al-Tabari*, Dar al-Kutub al-Ilmiyyah, Beirut, Vol.2, p.37; Al-Mawardi, *Al-Abkam al-Sultaniyyah*, Dar al-Kutub al-Ilmiyyah, Beirut, 1985, Vol.1, p.57. Cited in Ahmad al-Dawoody, *Management of the Dead from the Islamic Law and International Humanitarian Law Perspectives: Considerations for Humanitarian Forensics*, International Review of the Red Cross, ICRC, 2018, p.11.

companion, Ya'la ibn Murrah, “I travelled with the Prophet (peace be upon him) on more than one occasion, and I did not see him leave a human corpse behind; whenever he came across one, he ordered its burial, without asking whether the person was a Muslim or an unbeliever.”²¹⁰ This humanitarian and dignified practice was done by the Prophet (pbuh) and his companions in spite of the fact that Badr was very far (about 150km) from Medina and there would have been no environmental, public health, or public interest (*maslahah*) concerns for Muslims if the non-Muslim dead were left unburied.

If therefore for any reason, the non-Muslim enemies do not bury the dead among their own, it becomes an obligation for the Muslims to do so. Ibn Hazm also argues that if Muslims do not bury the dead of their enemies, the bodies will decompose or will be eaten by wild animals or birds, which will be tantamount to mutilation, which is clearly prohibited in Islamic law, following the Prophet's instruction, “Do not loot, do not be treacherous and do not mutilate.”²¹¹

It is narrated that during the Battle of the Trench (Khandaq), the Muslims had dug a trench around Medina to prevent the Meccan attackers from having easy access into the city. One of the

See also, Wahbah al-Zuhayli, *Mawsu'ah al-Fiqh al-Islami wa al-Qadaya al-Mu'asirah*, Dar al-Fikr, Damascus, 2010, Vol.7, p.495.

²¹⁰ Ali ibn Umar al-Daraqutni, *Sunan al-Daraqutni*, Mu'assasah al-Risalah, Beirut, Vol.5, p.204.

²¹¹ Ibn Hazm, *Al-Muhallab*, Vol.5, p.117. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.121.

polytheists from among the attackers named Nawfal ibn ‘Abd Allah ibn Mughirah attempted to jump across the trench on horseback but died in the process. After the cessation of fighting, when the enemies of the Muslims requested the return of the corpse of Nawfal in exchange for 10,000 dirhams, the Prophet (pbuh) ordered for the body to be returned and refused to accept the money.²¹²

Regarding showing respect for the dead, the Prophet (pbuh) was reported to have stood up when a funeral procession of a Jewish man went by. When asked by his companions why he would stand up for a dead Jewish man, he answered with a rhetorical question, “*But is he not a soul?*”²¹³ It is also narrated on the authority of Jabir bin ‘Abdullah, that, “*There passed a bier (funeral procession) and the Prophet (pbuh) stood up for it and we also stood up*

²¹² Ahmad ibn Ali ibn Hajar al-Asqalani, *Fath al-Bari Sharh Sahih al-Bukhari*, (ed. Muhyi al-Din al-Khatib), Dar al-Ma‘rifah, Beirut, Vol.6, p.283. See also, Muhammad ibn ‘Isa al-Tirmidhi, *Al-Jami’ al-Sahih Sunan al-Tirmidhi*, ed. Ahmad Muhammad Shakir et al, Dar Ihya’ al-Turath al-‘Arabi, Beirut, Vol. 4, p. 214, Hadith no.1715; Muhammad ibn Ishaq, *Al-Sirah al-Nabawiyah*, ed. ‘Abd al-Malik ibn Hisham, annotated by Fu‘ad ibn ‘Ali Hafiz, Vol.3, Dar al-Kutub al-‘Ilmiyyah, Beirut, 2000, pp. 123 ff.; ‘Abd al-Malik ibn Hisham and Muhammad ibn Ishaq, *The Life of Muhammad: A Translation of Ishaq’s Sirat Rasul Allah*, trans. Alfred Guillaume, Oxford University Press, Oxford, 1955, pp. 450-460; Ahmad Abu al-Wafa, *Al-Nazariyyah al-‘Anmah lil-Qanun al-Dawli al-Insani fi al-Qanun al-Dawli wa fi al-Shari’ah al-Islamiyyah*, Dar al-Nahdah al-‘Arabiyyah, Cairo, 2006, p. 297. Cited in, Ahmed Al-Dawoody, *Management of the Dead from the Islamic Law and International Humanitarian Law Perspectives: Considerations for Humanitarian Forensics*, International Review of the Red Cross, ICRC, 2018, p.6.

²¹³ *Sahih al-Bukhari*, vol.2, Hadith no.399, in *Alim* 6.0; also recorded in Al- Tirmidhi, an-Nasa’i, Hadith no.1924 & 1928; See other similar instances cited in Ali Mohiuddin Al-Qaradaghi, *We and the Other: Substantiating the basis of the Ideal Relations between Muslims and Non-Muslims in Light of the Islamic Jurisprudence*, (Transl. Syed Bashir Ahmad Kashmiri), Kuala Lumpur, 2015, p.197-168.

along with him. We said: ‘Messenger of Allah (pbuh), that was the bier of a Jewish lady.’ Upon this, he remarked: ‘Verily, death is a matter of bewilderment, so whenever you come across a bier, stand up!’²¹⁴ While some Muslim scholars have differed on whether this gesture of respect is encouraged, discouraged or only a choice for Muslims,²¹⁵ Ibn Hazm said: “We encourage standing for the bier if a person sees it even if it is the funeral of an unbeliever, until it passes by him or is placed upon the ground, and if he does not stand, there is no sin.”²¹⁶ Imam Al-Nawawi who discussed the details of the diverse opinions on this concludes that standing is the preferred position, and so the command to stand for it is for recommendation; while sitting is (done) in order to clarify the permissibility (of sitting).²¹⁷

Scholars in diverse contexts have held various and often even contradictory views on some of the details relating to burying or disposing of the dead and what is preferable or not based on their individual juristic interpretations and opinions (*ijtihad*). The actual practice (*Sunnah*) of the Prophet (pbuh) however shows that he treated every dead body with the respect and dignity due to a human being, irrespective of their religious affiliation and

²¹⁴ *Sahih Muslim*, vol.4, Hadith no.2095.

²¹⁵ It was narrated by Ali that, ‘standing for *janazah* was mentioned until it is lowered into the grave’. Then Ali said, ‘the Prophet (pbuh) stood for *janazah*, then later, he sat down.’ (*Sunan al-Tirmidhi*, Hadith no.1044).

²¹⁶ Abu Muhammad Ali bin Ahmad bin Said Ibn Hazm, *al-Muhalla bi al-Athar*, Dar al-Fikr, Beirut, n.d., vol.5, p.153, Hadith no.591.

²¹⁷ Abu Zakariyya Yahya bin Sharaf al-Nawawi, *Al-Majmu’*, Dar al-Fikr, Beirut, 1997, vol.5, p.236.

what Allah may choose to do with the soul of a deceased enemy.²¹⁸

8. Safe Conduct, Amnesty or Quarter (*Aman*) given to Enemies

Aman (which literally means protection, safety) is a contract or agreement for the protection of the persons and property of enemy fighters or belligerents, or any other citizen of an enemy state.²¹⁹ There are different forms of *aman*, some of which do not apply to combatants, but to ambassadors, emissaries, traders, tourists, visitors, etc. These are similar to contemporary temporary residence permits or visas under the “passport” system.

In the context of warfare, this treatment of the topic of *Aman* will focus on the form technically referred to as “Quarter” which applies during military operations on the battlefield, and which requires Muslims to stop fighting against the individual or groups, and protect them and their property until they return to their country. It has been defined as a contract of protection, granted during the actual acts of war, to cover the person and property of an individual enemy belligerent, all of a regiment (or

²¹⁸ See some of the diverse opinions held by some scholar in Ahmad al-Dawoody, *Management of the Dead from the Islamic Law and International Humanitarian Law Perspectives: Considerations for Humanitarian Forensics*, International Review of the Red Cross, ICRC, 2018. See also Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.121.

²¹⁹ Isma'il Lutfi Fatani, *Ikhtilaf al-Darain wa Atharuhu fi Ahkam al-Munakahat wa al-Mu'amalat*, 2nd ed. Cairo, Dar al-Salam, 1998/1418, p.127. Cited in *ibid*, p.130.

battalion), everyone inside a fortification, the entire enemy army or city.²²⁰

The concept of *aman* which has been discussed in detail by Muslim jurists is based on various verses of the Qur'an and traditions of the Prophet (pbuh) too numerous to list here.

Allah says, *“If any one of the (combatant) polytheists seeks your protection, then grant it to him, so that he may hear the word of Allah, and then escort him to where he can be secure: that is because they are men without knowledge. ...As long as they stand true to you, stand you true to them: For Allah does love the righteous”* (Qur'an 9:6-7).

“(Fight them), except those who join a people between whom and you there is a treaty or those who come to you because their hearts restrain them from fighting you or their own people. If Allah had willed, He would have given the unbelievers power over you, and they would have fought you. Therefore, if they withdraw from you and fight you not, and instead send you guarantees of peace, know that Allah has not given you a license (to fight them)” (Qur'an 4:90).

²²⁰ ‘Abd al-‘Aziz Saqr, *Al-‘Alaqa al-Dawliyyah fi al-Islam Waqt al-Harb: Dirasah lil Qawa'id al-Munazzimah li-Sayr al-Qital*, Mashru' al-‘Alaqa al-Dawliyyah fi al-Islam 6. Cairo, Al-Ma'had al-‘Alami lil-Fikr al-Islami, 1996 p.78. Cited in Ahmad al-Dawoody, *Management of the Dead from the Islamic Law and International Humanitarian Law Perspectives: Considerations for Humanitarian Forensics*, International Review of the Red Cross, ICRC, 2018, p.2-3.

“... *but if they cease, let there be no hostility except to those who practice oppression*” (Qur’an 2:193).²²¹

The Prophet (pbuh) gave *aman* to numerous individuals and communities during his lifetime as recorded in the authentic records of his life (*Sirah*). He, for example, gave a specific protection (*aman*) to Abu Sufyan, the leader of the Meccan polytheists, and a general amnesty (*aman*) to everyone in Mecca who would not act with hostility towards Muslims on their way back to Mecca during the so-called “Conquest of Mecca”.²²² He allowed other individuals, including his daughter Zaynab to give asylum to her husband who was still a polytheist after a Battle against Muslims where he was captured. The Prophet (pbuh) also allowed Muslims to give *aman* to individual members of the Jewish tribe of Banu Qurayzah before some of them were executed for their treachery during the Battle of the Trench (Khandaq).²²³

From all the relevant texts cited, scholars conclude that general amnesty to a fortress, city, nation, or region is given by the Muslim head of state or his representative, while specific amnesty

²²¹ Other verses include, “*And if they (your enemy) incline to peace, incline you also to it, and trust in Allah.*” (Qur’an 8:61); *Fight (qātilū) in the cause of Allah those who fight (yuqātilū) you, but do not commit transgression, for Allah loves not the transgressors.*” (Qur’an 2:190)

²²² Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.131

²²³ Muhammad Husayn Haykal, *The Life of Muhammad*, (transl. Isma’il Raji A. Al-Faruqi), North American Trust Publications, USA, 1976, p.314; Karen Armstrong, *Muhammad: A Biography of the Prophet*, Phoenix, London, 1991, p.207; Martin Lings, *Muhammad: His life based on the earliest sources*, The Islamic Text Society, Cambridge, 1991, p.231.

or protection can be given by ordinary Muslims, male or female to an individual or group.²²⁴ The protection or amnesty (*aman*) can be given to an individual or community before, during, or after hostilities. Its objective, according to jurists is “*haqn al-dam*”, meaning prevention of bloodshed and protection of life.²²⁵

The position and intents of the Qur’an and Sunnah are so clear on this issue that Muslim jurists of all the schools of Islamic Jurisprudence unanimously agreed that any spoken or written word, phrase, or even gesture that is rightly or wrongly understood by an enemy combatant as granting him amnesty (*aman*) entitles him to the status of a “protected person” (*musta’man*)!²²⁶ In other words, Muslim scholars agreed that if an enemy mistakenly assumes that a Muslim has granted him

²²⁴ Al-Nawawi, *Al-Majmu’*, Vol.21, p.67-70; Ibn Qudamah, *Al-Mughni*, Vol.9, p.196; and *Al-Kafi*, Vol.4, p.162; Wahbah al-Zuhayli, *Athar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, p.225; Mahmassani, *Al-Qanun wa al-Alaqat*, p.94 f.; Zidan, *Abkam al-Dhimmiyyin*, pp.47-52. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.131

²²⁵ Al-Shibrini, *Mughni al-Muhtaj*, Vol.4, p.237; al-Ramli, *Nibayah al-Muhtaj*, Vol.8, p.80; al-Sawi, *Bulghah al-Salik*, Vol.2, p.185. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.130.

²²⁶ Al-Nawawi, *Minhaj al-Talibin*, p. 523; al-Shibrini, *Mughni al-Muhtaj*, Vol. 4, p. 237; Ibn Muflih, *Al-Furu’*, Vol. 6, p. 227; al-Mirdawi, *al-Insaf*, Vol. 4, p. 205; al-Armanazi, *Al-Shar’ al-Dawli*, p. 166; Khadduri, *The Law of War and Peace*, p. 79; Mahmassani, “The Principles of International Law in the Light of Islamic Doctrine,” p. 256; and *Al-Qanun wa al-Alaqat*, pp. 96 f.; Saqr, *Al-Alaqat al-Dawliyyah*, p. 83; Moinuddin, *The Charter of the Islamic Conference*, p. 57; al-Firjani, *Usul al-Alaqat*, p. 127; Zidah, *Abkam al-Dhimmiyyin*, p. 46; al-Saqqar, “Nizam al-Aman”, p. 93; Yusuf al-Qaradawi, *Fiqh al-Jihad*, Wahba Bookshop, Cairo, 2009, vol. 2, p. 1178. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.132.

amnesty (*aman*), then the amnesty (*aman*) is valid, even if the Muslim had no intention of granting it. Common phrases and words indicating *aman* which have been cited by jurists include, “do not be afraid”, “drop your weapons”, “you are safe”, “stop”, etc.²²⁷

Further details regarding *aman* - its forms, granting authorities, procedures, timing, duration and termination, the rights and obligations of the protected (*musta'man*), and differing opinions held by jurists, etc. - are beyond the scope and purpose of this work.²²⁸

Suffice it to say here, however, that the entire gamut of laws and regulations around the subject of protection of enemy combatants who have “dropped their weapons” or who cease hostilities against Muslims before, during, or after warfare and

²²⁷ See al-Shaff'i, *Al-Umm*, Vol. 4, p. 284; al-Nawawi, *Al-Majmu'*, Vol. 21, pp. 67 f.; Ibn Qudamah, *Al-Mughni*, Vol. 9, p. 258; Al-Kafi, Vol. 4, pp. 162 f.; and *Umdah al-Fiqh*, p. 156; al-Shirbini, *Mughni al-Muhtaj*, Vol. 4, p. 238; al-Ramli, *Nihayah al-Muhtaj*, Vol. 8, p. 81; al-Ghazali, *Al-Wasit*, Vol. 7, pp. 44 f.; and *Al-Wajiz*, Vol. 2, p. 194; al-Qarafi, *Al-Dhakhirah*, Vol. 3, pp. 445 f.; al-Buhuti, *Kashshaf al-Qina'*, Vol. 3, pp. 105 f.; al-Mirdawi, *Al-Insaf*, Vol. 4, p. 205; al-Rahaybani, *Mutalib*, Vol. 2, p. 579; Shata al-Dumyati, *Hashbiyah Panah al-Talibin*, Vol. 4, pp. 207 f.; al-Zarkashi, *Sharh al-Zarkashi*, Vol. 3, p. 217; Ibn 'Abd al-Wahhab, *Mukhtasar al-Insaf*, p. 394; al-Armanazi, *Al-Shar' al-Dawli*, p. 166; Wahbah al-Zuhayli, *Athar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, pp. 285-295, 317; Shuman, *Al-'Alaqat al-Dawliyyah fi al-Shari'ah*, p. 74; Peters, *Islam and Colonialism*, p. 30; Saqr, *Al-'Alaqat al-Dawliyyah*, p. 83; Sabiq, *Fiqh al-Sunnah*, Vol. 3, p. 26; Moinuddin, *The Charter of the Islamic Conference*, p. 57. Cited in *ibid*, p.132.

²²⁸ Interested readers are advised to see more in-depth studies on this very important topic; in particular, the works by Ahmad Al-Dawoody and other numerous references he cites. See, Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, pp.129-136

who seek or are given amnesty (*aman*) by Muslims, even after such enemies have earlier on exhibited hostility and aggression towards Muslims is ample evidence that the laws of military jihad and warfare based on the Qur'an and Sunnah were never intended to be a form of aggression against people of other faiths on account of their difference in faith, or even on account of their hatred for Islam and Muslims. Fighting, in the Islamic law of war and peace, is only permitted in response to direct and active hostility by others, if and when treaties and other peaceful alternatives fail to secure peace.

The laws surrounding *aman* clearly prove that Islamic law is not interested in fighting or killing the enemies of Muslims who are not combatants that actively take up weapons and show brazen hostility towards Muslims. The *aman* system also shows that the Islamic law of war and peace actually intends to prevent bloodshed and limit the suffering and devastation of conflict or war.

While concluding on the Islamic laws that regulate the conduct of war, Muslim jurists were often forced by their realities and available Islamic texts to weigh, balance, and decide between two critical principles and objectives:

1. The objective of respecting the sanctity of life and property of the enemy as human beings, and;

2. The objective and military necessity of defeating the enemy and winning a war.²²⁹

How a scholar in a specific context concluded on the permissibility or otherwise of a particular military tactic, weapon or target was often therefore subject to their realities, but still open to debate and diverse opinions as these were based on *ijtihad* (“juristic reasoning”) and not on fixed and conclusive divine injunctions that were meant for all times and places. These positions were therefore subject to review and change by other scholars in their own contexts.

The Fate and Treatment of Prisoners of War (POWs) in Islamic Law of War and Peace

The policies relating to the treatment of prisoners of war (POWs) are based on provisions of the Qur’an and elaborated in the practice of the Prophet (pbuh) as recorded in authentic Hadith and the biography (*Sirah*) of the Prophet and his companions. However, most of the rules regarding prisoners of war are based on the treatment of the prisoners from the Battle of Badr in the second year after *Hijrah* (migration to Medina).

²²⁹ According to Roger C. Algase, “... (Islamic law of war) strikes a balance between military necessity and respect for human life in a manner which gives a higher priority to saving lives of non-combatants than does modern international law.” (See Roger C. Algase, “Protection of Civilian Life in Warfare: A Comparison between Islamic Law and Modern International Law Concerning the Conduct of Hostilities”, *Rue de Droit Penal Militaire et de Droit dela Guerre*, 1977, Vol.16, p.248; cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.109-110)

One major lesson we learn from the benevolent treatment of non-Muslim captives by the Prophet (pbuh) and his companions is that even though enemy prisoners were completely under Muslim authority and militarily subdued, they were never forced to change their religion, nor were they in any way persecuted for holding onto their respective faiths – whether from among the Jews and Christians or from among the polytheists and Zoroastrians. Most of the freed captives were still non-Muslims when they were granted their freedom. This clearly proves that the reason and justification for fighting non-Muslims was not simply because they were non-Muslims, nor was it a means of forcing them to convert to Islam. Otherwise, conversion to Islam would have been a necessary condition for securing their freedom. But it never was.

On the Treatment of Prisoners of War

On taking captives or prisoners of war (PoWs), the Qur'an says, *"It is not for the Prophet to take captives unless he has given (the enemy) a sound thrashing in the land"* (Qur'an 8:67).

It also says, *"When you meet [in war] those who are bent on denying the truth, smite their necks until you overcome them fully, and then tighten their bonds (i.e., take them prisoners); but thereafter (set them free,) either by an act of grace or against ransom, so that the burden of war may be lifted: thus [shall it be] ..."* (Qur'an 47:4)

These verses tell the Prophet (pbuh) and by implication Muslims, when to take captives; which is when Muslims have subdued their enemies, gained full victory, given their enemies “*a sound thrashing in the land*”, have “*overcome them fully*”, and are completely safe from the aggression and hostilities of their enemies. In other words, Muslims should take prisoners of war when it is safe for them to do so.

After military victory, and prisoners of war or captives have been taken, it is then up to the head of state, or in this case, the Prophet (pbuh) to decide on what is the best and most appropriate course of action regarding such captives, as will be discussed below.²³⁰

While under Muslim custody, and before their final fate is decided by the head of state or his representative, the Qur’an and Sunnah recommend good treatment of prisoners. They should be treated with humanity, protected from torture, and given shelter, food, clothing, etc. Where members of the same family are captured, they should be kept together. With a few exceptions, most of the prisoners of war captured during battles (*ghazawat*) that involved the Prophet (pbuh) were ultimately set free. They were either exchanged in return for Muslim prisoners in enemy

²³⁰ The term Prisoners of War was only used to refer to male combatants. In line with the customs at the time, women and children who were captured were either used to ransom in exchange for Muslim prisoners or enslaved, as will be discussed later. See also Ahmed Al-Dawoody, *Islamic Law and International Humanitarian Law: An Introduction to the Main Principles*, International Review of the Red Cross, Cambridge, 2018, pp.15-20. Downloaded from <https://www.cambridge.org/core>

custody, ransomed for a fee, or simply set free as a charitable gesture.²³¹

During the lifetime of the Prophet (pbuh) there were no concentration camps, jails, or prisons prepared for captives of war. Some of the prisoners were held in the mosque in Medina²³² while the rest were divided up and housed with various companions of the Prophet (pbuh).²³³ This provided them with shelter and protection from harm. The Prophet (pbuh) also instructed the Muslims saying, “*Observe good treatment towards the prisoners.*”²³⁴

One of the former non-Muslim prisoners, Abu ‘Aziz ibn Umayr recounts, “I was with a number of the Ansar when they (the Muslim captors) brought me from Badr, and when they ate their morning and evening meals, they gave me bread and ate the dates themselves in accordance with the orders that the Apostle (pbuh) had given about us. If anyone had a morsel of bread, he gave it to me. I felt ashamed and returned it to one of them but he returned

²³¹ See: Maulana Saeed Ahmad, *Slavery in Islam*, Darul Ishaat, Karachi, Pakistan, 2000.

²³² It should be noted that a number of male and female Muslims of Medina who had no housing also slept and camped in the corner of the mosque. They were referred to as *Ahl al-Suffa*.

²³³ Ibn Kathir, *al-Bidayah wa al-Nihayah*, vol.3, p. 307, maktabah al-Shamilah, v.3.35; Wahbah al-Zuhayli, *Athar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, p.408

²³⁴ Sunan al-Bayhaqi, vol. 9, p. 89, maktabah al-Shamilah v. 3.35; Muhammad ibn Jarir al-Tabari, *Tarikh al-Tabari: Tarikh al-Umam wa al-Muluk*, Dar al-Kutub al-‘Ilmiyyah, Beirut, 2001, Vol.2, p.39; Wahbah al-Zuhayli, *Athar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, p.410

it to me untouched.”²³⁵ Similar statements regarding the good treatment by their Muslim captors were made by other former prisoners.²³⁶

The noble and magnanimous treatment of prisoners was praised by Allah in the Qur’an where He compliments Muslims who “*feed the needy, the orphans and the captives (out of their food) despite their love for it* (or also interpreted as: *because of their love for Allah*) ...” (Qur’an 76:8)

In an authentic Hadith narrated by Jabir ibn Abdullah, when it was the day (of the Battle of Badr), prisoners of war were brought including al-Abbas who was undressed. The Prophet (pbuh) looked for a shirt for him. It was found that the shirt of Abdullah bin Ubayy would do, so the Prophet (pbuh) let him wear it. That was the reason why the Prophet (pbuh) took off and gave his own shirt to Abdullah.²³⁷

²³⁵ Ibn Kathir, *A-Bidayah wa al-Nihayah*, Vol.3, p.307; Ibn Ishaq, *Al-Sirah*, Vol.2, p.218; Al-Salihi, *Subul al-Huda*, Vol.4, p.66; Al-Tabari, *Tarikh al-Tabari*, Vol.2, p.39. See also others cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.139; Abd al-Malik ibn Hisham ibn Ayyub al-Mimiyari, *Al-Sirah al-Nabawiyah*, ed. Umar Abd al-Salam Tadmuri, Dar al-Kutub al-Arab, Beirut, 1990, Vol.2, p.287.

²³⁶ See Al-Waqidi, *Al-Maghazi*, Vol.1, p.117. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.139

²³⁷ Sahih Bukhari, Book 4, vol.52, Hadith 252; Muhammad ibn Isma’il al-Bukhari, *Mukhtasar Sahih al-Imam al-Bukhari*, ed. Muhammad Nasr al-Albani, Maktabah al-Ma’arif, Riyadh, 2002, Vol.2, p.318.

The Prophet (pbuh) had on many occasions stressed the importance of preserving family ties (*silat al-rahim*)²³⁸, and in a Hadith, he said, “*If anyone separates a mother and her child, Allah will separate him and his loved ones on the Day of Resurrection.*”²³⁹ Based on these and similar texts, most Muslim jurists also agreed that during captivity (or even enslavement) of prisoners of war, members of the same family should not be separated from their parents or grandparents or siblings.²⁴⁰ The different juristic opinions regarding husband and wife relations after the capture of either or both of them will be treated later under the discussion on enslavement and concubinage.²⁴¹

Muslim jurists also argued for the prohibition of torturing enemy prisoners of war so as to obtain military information. In response to a question, regarding the permissibility of such torturing for gaining military intelligence of the enemy, Imam Malik said that he never heard that this could be Islamically permissible.²⁴²

²³⁸ See also Qur’an 4:36, 4:1, 17:26; *Sahih al-Bukhari*, Hadith no. 2065, al-Maktabah al-Shamilah v.3.35; *Sahih al-Muslim*, Hadith no. 2557, maktabah al-Shamilah, v. 3.35

²³⁹ Al-Tirmidhi, *Sunan al-Tirmidhi*, Hadith no.1566 and classed as *sahih* by al-Albani in *Saheeh al-Tirmidhi*.

²⁴⁰ Ibn Qayyim al-Jawziyyah, *Jami’ al-Fiqh*, vol.4, p.70; Ibn Qudamah, *Al-Mughni*, Vol.9, p.212-214; *Al-Kafi*, vol.4, p.132; *Umdah al-Fiqh*, p.153; Al-Bahuti, *Al-Kashaf al-Qina’*, vol.3, p.57; Saqr, *Al-‘Alaqa al-Dawliyyah*, p.110; Abu al-Wafa, *Al-Nazariyyah al-‘Ammah*, p.182, 202-206. See also others cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.140

²⁴¹ See also: Maulana Saeed Ahmad, *Slavery in Islam*, Darul Ishaat, Karachi, Pakistan, 2000; Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011.

²⁴² Wahbah al-Zuhayli, *Athar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, p.415

On the Deciding Authority regarding the Fate of Prisoners of War

Traditionally, prisoners of war (both men and women), their servants, animals, property, and other belongings were regarded all as part of the spoils of war, booty, and material proceeds (*ghanimah* or *anful*) of warfare under the state authority. It was ultimately the responsibility of the head of state to decide how these are to be managed based on what is in the best interest (*maslahah*) of Islam and Muslims.²⁴³

Allah says in the Qur'an, "*They ask you, (O Muhammad), about the bounties (or spoils of war). Say, 'The (decision concerning such) bounties is for Allah and the Messenger.'* So, fear Allah and amend that which is between you and obey Allah and His Messenger, if you should be believers" (Qur'an 8:1).

The jurists' understanding of this verse along with many other texts, the practice of the Prophet (pbuh) and the Rightly-Guided Caliphs, is that the highest authority in an Islamic society who is responsible for decisions concerning the fate and specific treatment of prisoners of war and all spoils, bounties, or booty is the head of state or president who is also the Commander-in-Chief of the Armed Forces.²⁴⁴ This is the opinion of all schools of

²⁴³ Wahbah al-Zuhayli, *Athar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, p.417

²⁴⁴ Qur'an 4:59: "O you who believe, obey Allah and obey the Messenger and those of you who are in authority"; Other verses include 8:1, 8:46, 58:13.

Islamic jurisprudence and jurists.²⁴⁵ The head of state, who is sometimes referred to as the Caliph, *Amir* (Emir), or Sultan, can delegate authority on some issues relating to warfare and the treatment of prisoners of war, booty, etc. to lower levels of authority such as a governor or military general, etc.

Therefore, just as it is unacceptable in Islamic law for just any citizen to declare war, negotiate international treaties, pass legal judgments, make laws, punish criminals, assign political officers and judges, divide territory, collect taxes, etc., it is also prohibited for any citizen to handle or decide on the fate of prisoners of war or of booty (*ghanimah*) in any way they feel is appropriate, without express authorization from the head of state.

Options for Head of State/Government Regarding the Fate of Prisoners of War

A careful study of the Qur'an and Sunnah reveals that the Prophet (pbuh) as the Head of State adopted any one or a

²⁴⁵ Al-Shafi', *Al-Umm*, Vol.4, p.260; Al-Shaybani, *Al-Siyar*, p.134; Al-Nawawi, *Al-Majmu'*, Vol.21, p.81; Al-Nawawi, *Rawdah al-Taliban*, Vol.10, p.251; Al-Mawardi, *Al-Ahkam al-Sultaniyyah*, p.68; Al-Shirazi, *Al-Muhadhdhab*, Vol.3, p.281; Ibn Qayyim al-Jawziyyah, *Jami' al-Fiqh*, vol.4, p.67; Ibn Qudamah, *Umdah al-Fiqh*, p.153; Al-Buhuti, *Sharh, Muntaha al-Iradat*, Vol.1, p.625; Al-Rahaybani, *Matalib*, Vol.2, p.521; Al-Shawkani, *Nayl al-Awtar*, Vol.8, p.145; Sabilq, *Fiqh al-Sunnah*, Vol.3, p.61; 'Amir, *Abkam al-Asra*, p.184-210. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.138. See also, Ahmad ibn Hanbal, *Usul al-Sunnah*, Dar al-Manar, Riyadh, 1411AH, p.43; Hibatullahi ibn al-Hasan ibn Mansur al-Lalikai, *Sharh Usul Fiqad Abl al-Sunnah*; Dar Taibah, Riyadh, 1402AH, Vol.1, p.160; Muhammad ibn Ahmad al-Safariny, *Al-Aqidatu al-Safariniyyah*, Maktabat Adwai al-Salaf, Riyadh, 1998, p.93.

combination of the following 5 major options in dealing with prisoners of war:²⁴⁶

1. **Releasing prisoners freely:** This is also based on the Qur'anic ruling regarding prisoners of war, "...set them free either graciously or by ransom." (Qur'an 47:4) There is also the well-known case of a polytheist Thumama bin Uthal who was the Chief of Banu Hanifah, and who had assassinated a number of the Prophet's (pbuh) Companions, and even plotted to kill the Prophet (pbuh) himself.²⁴⁷ He was apprehended, tied to a pillar in the mosque as a captive, but eventually forgiven by the Prophet (pbuh) and released freely.²⁴⁸ In most cases, the Prophet (pbuh) forgave prisoners of war and set them free without accepting ransom.²⁴⁹

²⁴⁶ See Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.136-141 on which we have heavily relied.

²⁴⁷ Al-Bukhari, *Sahih Bukhari*, Hadith no.4372; Muslim, *Sahih Muslim*, Hadith no.1764.

²⁴⁸ Al-Bukhari, *Sahih al-Bukhari*, (ed., Muhammad Zuhair bin Nasir al-Nasir), Dar Ta'waj al-Najat, vol.1, p.472; Al-Baihaqi, *al-Sunan al-Sugrah*, al-Maktabah al-Shamilah 3.13, vol. 3, p.374; Al-Baihaqi, *al-Sunan al-Sugrah*, Maktabah Dar al-Baz, Mecca, vol.1, p.171; Abu Dawud, *Sunan Abu Dawud*, Dar al-Kitab al-Arabi, Beirut, vol.3, p.9; Ahmad bin Shu'aib Abu Abd al-Rahman al-Nasa'i, *al-Sunan al-Kubrah*, (ed., Abd al-Gafar Sulaiman al-Bandawi and Sayyid Kusrawi Hasan), Dar al-Kutub al-'Ilmiyyah, Beirut, 1991, vol.1 p.107;

²⁴⁹ For numerous examples of the Prophet (pbuh) freeing hundreds and even thousands of prisoners without accepting ransom after various battles including the Battle of Badr, Hunayn, Banu Mustaliq, the Conquest of Mecca, Ta'if, etc., see Maulana Saeed Ahmad, *Slavery in Islam*, Darul Ishaat, Karachi, Pakistan, 2000, p.100-105, 126-128. See also Ibn Hisham, *Al-Sirah al-Nabawiyyah*, Vol.2, p.249-250 and Vol.3, p.249; Cited in Alsumaih, "The Sunni Concept of Jihad," p.149

2. **Accepting ransom or exchange of prisoner, or financial compensation for enemy prisoners:** In the Battle of Badr, for example, some of the literate Meccan polytheist prisoners were freed (or ransomed) in exchange for teaching 10 Muslim children how to read and write.²⁵⁰ There were a number of other cases of payment of ransom or exchanging prisoners.²⁵¹

3. **Execution of prisoners:** Contrary to the view of some scholars who see the execution of prisoners irrespective of the severity of the crime they commit -as an option, a careful study of the *Sirah* has shown that the Prophet (pbuh) only executed in the cases of those guilty of serious treachery, war crimes, and atrocities, and where it served national interests – as in case of the 3 male Meccans (Al-Nadir bin Harith, Uqbah bin Mu'ayr (both taken captive in the Battle of Badr), and Abu 'Azzah al-Jumahi (who was a captive in the Battle of Uhud). They had shown

²⁵⁰ See Al-Shawkani, *Nayl al-Awtar*, Vol.8, p.144; Mahmassani, *Al-Qanun wa al-'Alaqaq*, p.257; Darwazah, *Al-Jihad fi Sabil Allah*, p.205; Muhammad Hamidullah, *The Battlefields of Muhammad*, p.41. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, *ibid*, p.137; See also, Abdur Rahman I. Doi, *Shari'ah: The Islamic Law*, Ta Ha, London, 1984, p.447; Safiy al-Rahman al-Mubarakpuri, *Al-Rahiq Al-Makhtum (Sealed Nectar)*, Dar-us-Salam Publications, Riyadh, 1996, p.105.

²⁵¹ For example, Abu Shama al-Yahudy paid a ransom to the Prophet (pbuh) for his family. (See Wahbah al-Zuhayli, *Athar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, 423-424). Also, Sa'd ibn an-Nu'man, a Muslim who had gone to Mecca to perform the lesser pilgrimage and had been detained there was released by the Quraysh in return for setting Abu Sufyan's son, a captive with the Muslims, free. Similarly, Zaynab, the daughter of the Prophet (pbuh) paid the ransom of her husband Abu al-'As with a necklace but the Muslims returned the necklace on condition that Abu al-'As allow Zaynab to migrate to Medinah, which he actually did. (See Safiur-Rahman al-Mubarakpuri, *Al-Rahiq al-Makhtum (The Sealed Nectar: Biography of the Noble Prophet)*, Darussalam Publications, Riyadh, Revised edition, 2002.)

excessive cruelty and persecution of Muslims in Mecca.²⁵² The fact that the other prisoners of Badr were not executed clearly implies that their case was an exception. Additional evidence for this option is that the Prophet (pbuh) also seconded the death sentence which was issued by Sa'ad bin Mu'adh for some of the male prisoners of Banu Qurayzah who were guilty of high treason by breaking their peace treaty with the Muslims during the Battle of the Trench and conniving with the Meccan enemies against the Muslims.²⁵³

The option of execution of prisoners of war is also understood by some scholars to be supported by the Qur'anic verse, "*Kill the polytheist (mushrikin) wherever you find them...*" (Qur'an 9:5). This verse is claimed to have "abrogated" other relevant verses and

²⁵² For more details, see Darwazah, *Al-Jihad fi Sabil Allah*, p.131, 205; Haykal, *Life of Muhammad*, p.233, 239; Wahbah al-Zuhayli, *Atbar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, p.437; Al-Hindi, *Abkam al-Harb wa al-Salam*, p.209; Yusuf al-Qaradawi, *Fiqh al-Jihad*, Wahba Bookshop, Cairo, 2009, vol.2, pp.858-862. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.138

²⁵³ See Adil Salahi, *Muhammad, Man and Prophet: A Complete Study of the Life of the Prophet of Islam*, The Islamic Foundation, Markfield, UK, 2002, pp.467-473; Martin Lings, *Muhammad: His life based on the earliest sources*, The Islamic Text Society, Cambridge, 1991, p.232; Ismail Buyukcelebi, *Living in the Shade of Islam*, The Light Inc., New Jersey, 2005, p.143; Karen Armstrong, *Muhammad: A Biography of the Prophet*, Phoenix, London, 1991, pp.207-208; Karen Armstrong, *Muhammad, Prophet for our Time*, Harper Perennial, London, 2006, p.162. See also, William Montgomery Watt, *Muhammad at Medina*, Oxford University Press, 1956, p. 296; Norman Stillman, *The Jews of Arab Lands: A History and Source Book*, Jewish Publication Society of America, Philadelphia, 1979, p.14-16; Bernard Lewis, *The Political Language of Islam*, University of Chicago Press, 1991, p.191; Maxime Rodinson, *Muhammad: Prophet of Islam*, Taurus Parke Paperbacks, 2002, p. 213. Cited in http://en.wikipedia.org/wiki/Banu_Qurayza

texts on this issue that contradict this interpretation.²⁵⁴ Besides this claim, there is nothing in the Prophetic historical records (*sirah*) to suggest that the Prophet (pbuh) or his companions had, based on their understanding of this verse, made a policy of ‘killing polytheists or captives wherever they were found’!

Some have also tried to find support for the execution of prisoners in the verse, “*It is not for the Prophet to take captives unless he has given (the enemy) a sound thrashing in the land*” (Qur’an 8:67). This verse however only tells the Prophet (pbuh) when not to take captives, which is unless and until they have gained a full victory and are completely safe from the harm of their enemies. After a resounding victory, the verse does not in any way prohibit the taking of captives or releasing them later if appropriate, as seen in the actual practice of the Prophet (pbuh) and his companions.

4. Enslavement of prisoners of war: This was a common customary practice of the time everywhere in the world, which

²⁵⁴ Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.136. The context of this verse (Qur’an 9:1-13) however, and in particular, the verses immediately following Qur’an 9:5 clearly indicate that the verse never implied that all polytheists (captives or otherwise) are to be killed - on account of their being polytheists. Explicit exceptions mentioned in the subsequent verses include those who come “*seeking protection (or asylum)*” (or *aman*) from Muslim fighters (Qur’an 9:6) and who continue to honour their peace treaties - “*...If they honour and uphold such a treaty, you shall uphold it as well.*” (Qur’an 9:7). See more in-depth discussion on this verse in the later part of this material dealing with an analysis of Abrogation (*naskh*) and the “Verse of the Sword” (Qur’an 9:5) and the discussion above on Quarter and Amnesty (*aman*) to enemies.

Islam also considered a legitimate option for the Muslim leader. In the absence of fortified prisons and with limited funds, captives would customarily be given as “domestic servants” or farm labourers to soldiers and to families of those who had fallen in battle as a reward or partial “compensation” for their losses and/or efforts.²⁵⁵ This enslavement was therefore a form of “imprisonment” which in the view of some scholars, also served as a stronger deterrent to an enemy than the options of mere release and/or ransom.²⁵⁶

While the option of enslavement was regarded by the majority of scholars as permissible and a legitimate option for the leader, the numerous texts of the Qur’an and Sunnah, and the practice of the companions clearly show that continuous or permanent enslavement of prisoners of war without setting them free is undesirable. This is based on the fact that explicit texts of the Qur’an and Sunnah categorically encourage and, in some situations, even obligate the manumission and emancipation of slaves by creating many incentives, ways, and reasons for securing the freedom of all enslaved people and their reintegration into

²⁵⁵ See Maulana Saeed Ahmad, *Slavery in Islam*, Darul Ishaat, Karachi, Pakistan, 2000, pp.31-54, 85-87, 221-230.

²⁵⁶ Others such as Imam al-Juwayni, view the benevolent treatment of prisoners under Islam, and including its version of enslavement as having actually made it easier for the enemy to opt to surrender and submit, since they did not risk losing their lives if they stopped fighting. (See Omar Suleiman, *Slavery: A Past and Present Tragedy*, lecture available on <https://muslimcentral.com/omar-suleiman-slavery-a-past-and-present-tragedy/>)

society.²⁵⁷ Abu Musa Al-Ashari for example reported that the Prophet (pbuh) said: “*Feed the hungry, visit the sick, and set the slaves free.*”²⁵⁸

As a major step along this line, it is interesting to note that the respected companion and 2nd Rightly Guided Caliph, Umar bin Khattab – in his capacity as head of state - even prohibited the enslavement of Arabs.²⁵⁹ It is also interesting to note that according to Al-Hassan bin Muhammad al-Tamimi, the position that was “the consensus of the Prophet’s companions” which included Ibn Abbas, Abdullah bin Umar, and others such as Al-Hassan al-Basri, ‘Ata’, Sa’id bin Jubayr and Mujahid, was that the ruling by a head of state regarding prisoners of war was limited to releasing them either freely or in exchange for ransom when fighting was over.²⁶⁰ They regard the injunction presented by the Qur’an (47:4) - “...*set them free either graciously or by ransom.*” - as

²⁵⁷ In an interesting Hadith Abu Huraira narrated that, “...!Aisha had a slave-girl from the tribe (of Banu Tamin), and the Prophet said to 'Aisha, "*Manumit her as she is a descendant of Isma'il (the Prophet).*" *Sahih Bukhari*, Book of Freeing Slaves, Vol.3, Book 46, No.719.

²⁵⁸ *Sahih Bukhari*, Hadith no.5058

²⁵⁹ Al-Shafi'i, *Al-Umm*, Vol.4, p.271 f; Al-Suyuti, *Jami' al-AHadith*, Vol.14, p.379; Al-Bayhaqi, *Sunan al-Bayhaqi*, Vol.9, p.73; Ibn Husam al-Din, *Kanz al-Ummal*, Vol.4, p.232; Mahmassani, “The Principles of International Law in the Light of Islamic Doctrine,” p.307; and *Al-Qanun wa al-'Alaqa*, p.254. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.137.

²⁶⁰ Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.137, (ft.nt.228, 229, 230)

the last statement on this issue, superseding or abrogating all other earlier statements and actions of the Prophet (pbuh).²⁶¹

Meanwhile, regarding the treatment of those prisoners who had been enslaved, the Prophet (pbuh) said, *“Your slaves are your brethren upon whom Allah has given you authority, so if Allah has put a person’s brother under his authority, let him feed him from what he eats and clothe him from what he wears, and let him not overburden him with work, and if he does overburden him with work, then let him help him.”*²⁶² This effectively made the slave a member of the family’s household (*Ahl al-Dar*), but with many legal rights that ensured their protection from any form of abuse.²⁶³ Many slaves who were freed, even preferred to remain with the family of their former “masters” (*sayyid/maula*).²⁶⁴

The treatment of enslaved prisoners of war in Islamic law was such that the usual connotations associated with the word “slaves” in other civilizations – chains and shackles, whipping,

²⁶¹ Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.137, ft.nt 231.

²⁶² Sahih Bukhari, Hadith no. 6050

²⁶³ For example: Abu Huraira reported Allah's Messenger (peace be upon him) as saying: *“It is essential to feed the slave, clothe him (properly) and not burden him with work which is beyond his power.”* (Sahih Muslim, Book 15, Hadith 4095) Also, Abu Huraira reported Allah's Messenger (may peace be upon him) as saying: *“When the slave of anyone amongst you prepares food for him and he serves him after having sat close to (and undergoing the hardship of) heat and smoke, he should make him (the slave) sit along with him and make him eat (along with him), and if the food seems to run short, then he should spare some portion for him (from his own share). Another narrator Dawud said: i. e. a morsel or two”.* (Sahih Muslim, Book 15, Hadith 4096)

²⁶⁴ An example is the companion Salim Maula Abi Hudhayfah, who continued to prefer being Abu Hudhayfah’s Maula even after he had been set free.

torture, rape, abuse, brutality, coercion in religion/belief, lynching, change of name, etc. – did not in any way apply to them.²⁶⁵

5. **Paying Jizyah:** Another option for the head of state in the fate of POWs permitted by the Maliki scholars and some of the Hanafis, is for prisoners to remain in the Islamic State in return for payment of the *jizya* (tribute/military exemption) tax as do other protected non-Muslim minorities (*Ahl al-Dhimmah*).²⁶⁶

Jurists have held different and sometimes conflicting opinions regarding their preferences for the fate of prisoners of war – between freeing as compassion/charity, ransom, execution, and enslavement - depending on their contexts and perspectives. The juristic diversity on this subject however also indicates the existence of and room for continuous juristic reasoning (*ijtihad*) regarding what decisions are most appropriate for the leadership of a particular community based on its own unique and changing realities and interests (*maslahah*).

²⁶⁵ Ibn Umar said, “I heard Allah's Messenger (may peace be upon him) as saying: ‘*He who beats a slave without cognizable offence of his or slaps him (without any serious fault), then expiation for it is that he should set him free.*” (Sahih Muslim, Book 15, Hadith 4079). This shows that it is not permissible to slap or beat a slave unjustly. For more, See Maulana Saeed Ahmad, *Slavery in Islam*, Darul Ishaat, Karachi, Pakistan, 2000.

²⁶⁶ Al-Qarafi, *Al-Dhakhirah*, Vol.3, p.414; Ibn Rushd, *Bidayat al-Mujtahid*, Vol.1, p.279; Al-Nafarawi, *Al-Fawakih al-Dawani*, Vol.1, p.398; Al-Sawi, *Bulghah al-Salik*, Vol.2, p.186; Al-Zuhayli, *Al-‘Alaqa al-Dawliyyah*, p.82. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.137.

A minority of scholars for example, mainly from the Hanafi school,²⁶⁷ regarded the head of state as entitled to choose between either enslavement and execution of captives depending on what was in the best interest (*maslahah*) of the Muslim community. They feared that leaving the freeing of prisoners of war as the only option would only contribute to strengthening enemy forces.²⁶⁸ The final decision and choice was in their view however up to the head of state. The opinion of the majority of jurists, however, including the Malikis, the Shafi'is, the Hanbalis, Al-'Awza'i, Abu Thawr, and Al-Thawri, was that it was all entirely up to the head of state to decide on the fate of prisoners of war based on what was in the best interests of Islam and Muslims (*maslahah*).²⁶⁹

Therefore, in spite of the various positions held by the different scholars and schools on what is preferable in a particular context, there is according to Al-Dawoody a consensus (*ijma'*) among the jurists that it is the head of state that has the final say on the fate

²⁶⁷ Wahbah al-Zuhayli, *Athar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, 3rd Ed., p.422

²⁶⁸ See also the diversity even within the Hanafi school of jurisprudence on this in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.137.

²⁶⁹ Al-Nawawi, *Al-Majmu'*, Vol.21, p.81; Ibn Qudamah, *Al-Mughni*, Vol.9, p.179; Al-Mawardi, *Al-Ahkam al-Sultaniyyah*, p.68; Al-Shirazi, *Al-Mubadhab*, Vol.3, p.281; Ibn Qayyim al-Jawziyyah, *Jami' al-Fiqh*, Vol.4, p.67; Al-Zarkashi, *Sharh al-Zarkashi*, Vol.3, p.175; Al-Ansari, *Fath al-Wahhab*, Vol.2, p.302. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.137.

of prisoners of war and all matters relating to booty.²⁷⁰ The discretion of the head of state, however, cannot be arbitrary or indiscriminate or go against the interests (*maslahah*) of Muslims and the intents (*maqasid*) of Islam. Consequently, according to Imam al-Shafi'i, it is even prohibited for the head of state to arbitrarily choose to either free or execute some or all prisoners, unless it will serve the public interest or common good (*maslahah*).²⁷¹

Prohibition on Reprisals against non-Muslim Captives

From the Qur'anic verse (6:164) "*No person shall be liable for the sin of another*"²⁷² scholars conclude that non-Muslim prisoners cannot be mistreated in reciprocation or as a consequence of the mistreatment of Muslims or Muslim prisoners by their enemies. Consequently, the Prophet's companion and later Caliph, Mu'awiyah ibn Abi Sufyan, refused to execute some Roman hostages under his control, even after the Roman emperor at the

²⁷⁰ Al-Shaybani, *Al-Siyar*, p.134; Al-Shafi', *Al-Umm*, Vol.4, p.260; Al-Nawawi, *Al-Majmu'*, Vol.21, p.81; Al-Nawawi, *Rawdah al-Taliban*, Vol.10, p.251; Al-Shirazi, *Al-Mubadhab*, Vol.3, p.281; Ibn Qayyim al-Jawziyyah, *Jami' al-Fiqh*, Vol.4, p.67; Al-Mawardi, *Al-Ahkam al-Sultaniyyah*, p.68; Ibn Qudamah, *Umdah al-Fiqh*, p.153; Al-Buhuti, *Sharh, Muntaha al-Iradat*, Vol.1, p.625; Al-Rahaybani, *Matalib*, Vol.2, p.521; Al-Shawkani, *Nayl al-Awtar*, Vol.8, p.145; Sabiq, *Fiqh al-Sunnah*, Vol.3, p.61; 'Amir, *Ahkam al-Asra*, pp.184-210. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.138. See also, Ahmad ibn Hanbal, *Usul al-Sunnah*, Dar al-Manar, Riyadh, 1411AH, p.43; Hibatullahi ibn Alhasan ibn Mansur al-Lalikai, *Sharh Usul Fiqah Abl al-Sunnah*; Dar Taibah, Riyadh, 1402AH, Vol.1, p.160; Muhammad ibn Ahmad al-Safariny, *Al-Aqidatu al-Safariniyyah*, Maktabat Adwai al-Salaf, Riyadh, 1998, p.93.

²⁷¹ Al-Shafi'i, *Al-Umm*, Vol.4, p.260. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.138

²⁷² See also Qur'an 17:15; 35:18; 39:7; 53:38

time had broken the treaty with the Muslims by executing the Muslim hostages in his custody.²⁷³

This is also supported by the Prophet's instruction, "*Do not be people without minds of your own, saying that if others treat you well you will treat them well and that if they do wrong you will do wrong; but accustom yourselves to do good if people do good and not to do wrong if they do evil.*"²⁷⁴

Respecting Treaties on Treatment of PoWs

If the head of state or government has agreed to treaties and alliances (*sulh* or *mu'ahadah*) with other states regarding the fair, humane and equitable treatment of all prisoners of war, then such agreements must be respected if they also serve Muslim interests (*maslahah*) and objectives (*maqasid*) of Shari'ah.²⁷⁵

The Qur'an in numerous verses urges Muslims to uphold and not break their agreements and treaties, "*Fulfill the covenant of Allah when you have entered into it, and break not your oaths after you have confirmed them...*" (Qur'an 16:91); "*(But if the treaties are) not*

²⁷³ Al-Qarafi, *Al-Dhakhirah*, Vol.12, p.12; Al-Mawardi, *Al-Ahkam al-Sultaniyyah*, p.70; On the prohibition of killing hostages, see also, Khaled Abou El-Fadl, "Islam and the Theology of Power", *Middle East Report*, No.221, Winter 2001, p.30. Cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.139.

²⁷⁴ *Sunan al-Tirmidhi*, Hadith no. 1325 in *Alim 6.0*

²⁷⁵ This would include international treaties on the humane treatment of prisoners of war such as the Geneva Convention and other related Protocols. The self-binding nature of Islamic law for Muslims however, creates an even greater incentive for complying with International Humanitarian Law.

dissolved by the polytheists with whom you have entered into an alliance and who have not subsequently failed you in any way, not aided anyone against you. So, fulfill your engagements with them to the end of their term; for Allah loves the righteous.” (Qur’an 9:4); “...*If they honour and uphold such a treaty, you shall uphold it as well.*” (Qur’an 9:7). All believers are characterized as those “*who are faithful to their trusts and to their pledges*” (Qur’an 23:8). Also, as stipulated in an authentic Hadith and adopted as an Islamic legal maxim, the Prophet (pbuh) said, “*Muslims are bound by their conditions*” (“*al-muslimun ‘inda shurutihim*”).²⁷⁶

The humane treatment of prisoners in the Islamic law of war and peace, was sometimes reciprocated in the treatment by enemy forces towards Muslim captives, and most of these are currently part of the United Nations Geneva Convention and its related protocols. As this humane treatment is already prescribed by both the Qur’an and Sunnah, it engenders a greater and deeper commitment from Muslims that has endured for several centuries than notable international treaties and conventions which later prescribe the same.²⁷⁷

In concluding on the fate of war captives, and as noted by Al-Dawoody and others, the only criterion for the head of state to abide by in the choice of what to do with prisoners of war was

²⁷⁶ Bukhari, *Sahih Bukhari*, Hadith no.2273

²⁷⁷ See Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011.

what best served *maslahah* or the public interest.²⁷⁸ A maxim that is often quoted by scholars in relation to political leadership is that, “The affairs of the leader (Imam) concerning his people are judged by reference to *maslahah*” (*Amr al-Imam fi shu’un al-ra‘iyyah manutun bi al-maslahah*).²⁷⁹

In relation to the justification for initiating hostilities and engaging in warfare in Islam, it is important to stress the fact that the head of state has various options in deciding the fate of PoWs, based on civility, humanity and public interest/common good (*maslahah*). This clearly implies that killing the enemy is not the objective of engaging in warfare in Islamic law, nor is the objective that of fighting people simply because they belong to a different religion. If the difference in religion alone would be a justification for warfare in Islam, there would be no alternative to the execution of prisoners of war besides forced conversion to Islam. The Qur’an would not have mentioned, regarding non-Muslim prisoners of war, the option to “*set them free either graciously or by ransom*” (Qur’an 47:4) nor would it have insisted, “*Let there be no compulsion in religion*” (Qur’an 2:256); “*Invite (all) to the way of your Lord with wisdom and beautiful preaching*” (Qur’an 16:125); and “*Do not dispute with the People of the Book, except in the best manner*” (Qur’an 29:47).

²⁷⁸ Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.138.

²⁷⁹ Mohammad Hashim Kamali, *Qawai’d al-Fiqhiyyah: The Legal Maxims of Islam*, UK, The Association of Muslim Lawyers, 1998, p.1.

However, as has been reiterated earlier, there are certain issues on which some scholars have differed based on their own *ijtihad* (juristic reasoning) and interpretations in response to their own contexts. It is therefore critically important for contemporary Muslim scholars to codify their laws regarding the conduct and treatment of prisoners of war in accordance with what is most appropriate to the current realities, international alliances and treaties, and modern contexts while respecting the eternal principles and intents (*maqasid*) of the Qur'an and Sunnah. This reduces misconceptions and confusion on this subject and guards against the opportunistic interpretation and misuse by some Muslims and non-Muslims of scholarly opinions and *ijtihad* that were prescribed for different contexts.

Are “Just Wars” and Religion Compatible?

Some Christians believe in pacifism, that is, non-resistance to aggression. Yet, the mainstream Christianity has always upheld the right of self-defense and the concept of a “just war.” One of the earliest Christian philosophers who wrote on this subject was St. Augustine of Hippo (354-430 C.E.), who listed four conditions for war to be just.²⁸⁰ The Christian concept of “just war” was further elucidated by St. Thomas Aquinas (1225-1274 C.E.) and other medieval Christian thinkers, who dwelt primarily on the moral

²⁸⁰ These four conditions are: right authority, right cause, right intention and right means. See Douglas P. Lackey's *Moral Principles and Nuclear Weapons*

intentions of the authorities. The current Catechism of the Catholic Church maintains four conditions for a war to be just.²⁸¹

Christian thinkers over time have developed what has come to be known as the “Just War Theory.” This theory involves guidelines for when it is just to resort to war ((*jus ad bellum*, in Latin) and how to fight justly (*jus ad bello*, in Latin). This theory is the basis for the rules of war presently taught to recruits in most Western armies. Christian theological acceptance of warfare accounts for Christian churches all over the world training and posting Chaplains to the armed forces.²⁸²

There is, therefore, an agreement in principle between Christianity and Islam on the legitimacy of self-defense and just wars.

Justifications for Warfare in Islamic Law of War and Peace

What are the acceptable reasons for warfare in Islam? What are some erroneous justifications that have been given for warfare? What are the possible uses, misuses, and abuses of *jihad*?

²⁸¹ For more details on these conditions, see:

http://catholicism.about.com/od/beliefsteachings/p/Just_War_Theory.htm

²⁸² See also John 2:15 and Hebrews 11:32-34, on militancy and fighting respectively.

Acceptable Justifications for Warfare (*Qital*) in Islam

According to Sheikh Yusuf al-Qaradawi²⁸³, the following are the correct reasons for fighting in Islam:

1. **Prevention of aggression:** The first reason for fighting a battle in Islam is to prevent an aggression. This could be either on account of faith, territory or place. The example of the first one was when Muslims were persecuted by polytheists on account of their faith or when the polytheists were blocking people from embracing Islam.

2. **Prevention of *Fitnah* or ensuring freedom to preach and practice Islam:** This is clearly mentioned in two different places in the Qur'an. In Qur'an 2:193, Allah says: *“And fight them back until there is no fitnah (oppression) and religion is for Allah, but if they cease, let there be no hostility except to those who practice oppression.”*

Also, in Qur'an 8:39: *“And fight against them until the mischief ends and the way prescribed by Allah – the whole of it – prevails. Then, if they give up mischief, surely Allah sees what they do.”*

It is also apparent in these verses that the *fitnah* that is meant is tribulation and punishment on account of faith. Ibn Taymiyyah said: “Indeed, fighting is for those who fight us whenever we

²⁸³ Yusuf al-Qaradawi, *Fiqh al-Jihad*, Wahba Bookshop, Cairo, 2009, vol.1, pg. 448 – 466.

attempt spreading our religion. Therefore, whoever does not prevent a Muslim from practicing his religion; such person's disbelief will not harm any except himself".²⁸⁴

3. **Rescue of the weak:** This is another reason for fighting battles in Islam, that is, to rescue the weak from the hands of tyrants.

Allah makes it incumbent on Muslims to help and free those who have been exploited from amongst men, women, and children. Allah says: *“And what is (the matter) with you that you fight not in the cause of Allah and (for) the oppressed among men, women, and children who say, “Our Lord, take us out of this city of oppressive people and appoint for us from yourself a protector and appoint for us from yourself a helper” (Qur’an 4:75).*

This is so important because when the weak are rescued, the establishment of justice takes place. It is noteworthy that the verse that commands helping the weak and the oppressed did not tie it to the religion of the rescued.²⁸⁵ Therefore, Muslims are enjoined to rescue all those oppressed irrespective of their religion, provided that they are not at war with Muslims.

²⁸⁴ Ibn Taymiyyah, *al-Siyasah al-Shar'iyyah fi Islah al-Ra'i wa al-Ra'iyyah*, Dar al-Ma'rifah, al-Maktabah al-Shamilah.3.13, p.159

²⁸⁵ This is in line with the maxim that “the general need attains the position of special necessity” (*Al-hajah al-aa'mah tunzal manzilah al-darurah al-khasah*). See: Al-Juwaini, *al-Burhan fi Usul al-Fiqh*, vol. 2, p. 82, al-Maktaba al-Shamila 3.35; al-Zarkashi, *al-Manthur fi al-Qawa'id*, al-Maktaba al-Shamila 3.35, vol. 2, p.7.

4. **Deterring those who betrayed or broke covenants:** During the time of Prophet Muhammad (pbuh), Islam was tested by a number of those who broke their treaties and betrayed the Muslim community. Some of those people were from the Jews starting from Banu Qaynuqa followed by Banu Nadir and ending with Banu Qurayzah. This is what forced the Prophet (pbuh) to fight them. Allah mentions this in the Qur'an where He says: *“Verily, the worst of moving (living) creatures before Allah are those who disbelieve, so they shall not believe. They are those with whom you made a covenant, but they break their covenant every time and they do not fear Allah. So, if you gain the mastery over them in war, punish them severely in order to disperse those who are behind them, so that they may learn a lesson”* (Q8:55-57).

On this verse, several Muslim exegetes (*Mufasssirin*) have reported that Ibn Abbas said: ‘they are Banu Qurayzah’. This is because they broke the treaty of the Prophet (pbuh), and helped the polytheists over him in the battle of Badr, after which they told him (the Prophet - p) that they erred, then, the Prophet (pbuh) went into another treaty with them which they later broke as well in the battle of Khandaq.²⁸⁶

5. **To ensure and establish internal peace and security using force:** Another legitimate reason for fighting, which is different from the previous ones, is to wage war on a group of

²⁸⁶ Cited in Yusuf al-Qaradawi, *Fiqh al-Jihad*, Wahbah Bookshop, Cairo, 2009, vol.1, p.457. See also *Tafsir al-Fakhr al-Razi*, vol.15, p.182

Muslims themselves in order to settle a dispute. The aim of this is to ensure peace in the Muslim society.

Allah enjoins Muslims under the leadership of a recognized authority to fight this battle. He says: *“And if two parties or groups among the believers fall to fighting, then make peace between them both. But if one of them transgresses/outrages against the other, then fight you (all) against the one that outrages till it complies with the Command of Allah. Then if it complies, then make reconciliation between them justly, and be equitable. Verily, Allah loves those who are the equitable”* (Qur’an 49:9)

Erroneous Aims of *Jihad/Qital* (Warfare) in Islam

1. **Eradication of disbelief in the entire world:** This means fighting for the purpose of eradicating disbelief in the world, until nobody lives on the earth except Muslims, and until no religion is found in human life except Islam. This stand could be understood from some books of Islamic Jurisprudence where some jurists assert that the reason for fighting non-Muslims is due to their disbelief and nothing else.

Some Muslims who hold this view try to justify this point with Qur’an 2:193 where Allah says: *“And fight them back until there is no fitnah and religion is for Allah, but if they cease, let there be no hostility except to those who practice oppression”*. They interpret *fitnah* in the verse above to mean “associating partners with Allah” as

well as “disbelief in Allah and His Messenger (pbuh)” and not as “oppression” or “persecution”.

However, the explanation of Ibn Umar and Ibn Zubair on the meaning of this verse is that aggressors are to be fought until a Muslim is no longer threatened with killing and arrest on account of his faith.²⁸⁷ The context of Qur’an 2:190-193 makes it clear that those being fought against are those who are aggressive to Muslims. The phrase “*until... religion is for Allah*” means until Allah is worshipped without fear of persecution, and none is compelled to bow down before another being. It has never been understood to contradict “*No compulsion in religion*” (Qur’an 2:256), nor has it abrogated any of the numerous texts in the Qur’an and hadith prescribing peace-building and peaceful co-existence. Asad also notes that “all Islamic jurists, without any exception, hold that forcible conversion is under all circumstances null and void, and that any attempt at coercing a non-believer to accept the faith of Islam is a grievous sin.”²⁸⁸

Also, according to Yusuf al-Qaradawi, the view that jihad is meant to eradicate disbelief in the entire world is incorrect because it contradicts what the Qur’an affirms; that differences among people in their faiths, religions, denial, and acceptance of

²⁸⁷ Sheikh Khalid Abdul-Qadir, *Fiqh al-Aqaliyyat al-Muslimah*, Darul-Iman, Lebanon 1998. See also *al-Isabah*, vol.2, p.347

²⁸⁸ Muhammad Asad, *The Message of the Qur’an*, The Book Foundation, England, 2003, p.70, n.249 to Qur’an 2:256

prophets, etc. are by Allah's will. Allah says: *“And had your Lord willed, those on earth would have believed - all of them entirely. Then, would you compel the people in order that they become believers?”* (Qur'an 10:99)

Also, *“And if We had willed, surely We would have given every person his guidance...”* (Qur'an 32:13)

“And if your Lord had so willed, He could surely have made mankind one Ummah (nation or community, following one religion), but they will not cease to disagree....” (Qur'an 11:118).

“He it is Who created you, then some of you are disbelievers and some of you are believers. And Allah is All-Seeing of what you do.” (Qur'an 64:2).

Therefore, whoever is working towards the eradication of these religious differences by forcing everybody to embrace a single religion through warfare, is indeed working towards achieving what is contrary to the will of Allah. The truth is that *jihad* was legislated to counter aggression and not because of disbelief, for if their disbelief was to be the cause of fighting non-Muslims, then it would not have been permitted to spare an adult male disbeliever even after paying the “military exemption/poll tax” (*Jizyah*).²⁸⁹ It would also not have been prohibited for Muslims to kill disbelieving women.

²⁸⁹ Cited in Abdullah bin Zaid Al Mahmud, *al-Jihad al-Masbru' fi al-Islam*, p.8.

Also, Ibn Taymiyyah said in his book *‘Qa’idah fi Qital al-Kuffar’*: “There are two famous opinions of scholars on the reason for fighting the disbelievers; whether it is because of their aggression or for their mere disbelief. A group is of the view that the reason for fighting them is due to their aggression towards Islam and its adherents. This is the view of the majority including Malik, Ahmad bin Hanbal, Abu Hanifah, and many others. The second group opined that the reason (for fighting) is because of disbelief. This is the view of Shafi’i and a group among the followers of Ahmad. The view of the majority is the one that is supported by the Qur’an and Sunnah, as Allah says: *“and fight in the cause of Allah those who fight you, and do not transgress, indeed Allah does not like the transgressors (Qur’an 2:190).”*²⁹⁰

2. **Forcing people to embrace Islam:** Some Muslims also believe that the reason for fighting battles is to force non-Muslims to embrace Islam. This argument can also be refuted by the clear texts of the Qur’an and Sunnah. These two sources prohibit forcing people to accept Islam.

In fact, the Qur’an categorically forbids forcing people to embrace Islam. Allah says: *“And had your Lord willed, those on earth would have believed - all of them, entirely. Then, would you compel people in order that they become believers?”* (Qur’an 10:99) And in Qur’an 2:256, Allah says, *“Let there be no compulsion in religion.”* Moreover, in Islam, the faith of a person who accepts

²⁹⁰ Cited in Abdullah bin Zaid Al Mahmud, *al-Jihad al-Masbru’ fi al-Islam*, p.13.

Islam outwardly but does not believe in it inwardly is not valid as this is considered hypocrisy. It is, therefore, futile to compel any person to accept Islam.

Regarding Qur'an 2:256 (cited above), some including non-Muslims have claimed that it was revealed when Islam was at its early stage in Mecca – when it was weak, but that when Islam gained strength in Medina and it had gotten a lot of followers, this ruling of “no compulsion” was changed. According to Yusuf al-Qaradawi, this assertion is a fallacy that no one will agree to amongst Muslims. In fact, all Muslim scholars in the present and past agree that Surah al-Baqarah which contains this verse is a Medinan and not a Meccan Surah.

It should be noted that Islam is a religion spread by exemplary action and preaching, and not by coercion or compulsion as proven in the following verses:

“Invite to the way of your Lord with wisdom and beautiful preaching...” (Qur'an 16:125),

“O Messenger (Muhammad)! Proclaim (the message) which has been sent down to you from your Lord. And if you do not, then you have not conveyed His Message. Allah will protect you from mankind. Verily, Allah guides not the people who disbelieve.” (Qur'an 5:67)

“Let there arise among you a group of people inviting to all that is good, enjoining what is right and forbidding what is wrong. And it is they who are the successful.” (Qur’an 3:104)

“And We have not sent you except to be mercy for mankind” (Qur’an 21:107)

“Blessed be He Who sent down the criterion (of right and wrong, i.e. this Qur’an) to His slave (Muhammad-pbuh) that he may be a warner to mankind.” (Qur’an 25:1)

“...It (this Qur’an) is only a Reminder for all mankind.” (Qur’an 38:87)

“But if they turn back, then on you devolves only the clear deliverance (of the message).” (Qur’an 16:82)

In *Hidayah al-Hayarah*, Ibn al-Qayyim said: “it will become clear to whoever carefully studies the life history (*sirah*) of the Prophet (pbuh) that he never forced anyone to embrace Islam. He only fought those who fought him, but as for those who entered a treaty with him, he did not kill them provided they abided by their treaty and they did not violate or go contrary to it. In fact, Allah commands him (pbuh) to stand by the agreement provided they stand firmly by the agreement, Allah says: *“As long as they stand firmly, stand firmly (by the agreement)”* (Qur’an 9:7). When the Prophet (pbuh) arrived at Medinah he had a treaty with the

Jews and he left them on their religion, but when they fought him and they betrayed him and initiated fighting against him, he fought back, although he pardoned some of them while he expelled some others. Also, when he had a treaty of ten years with the Quraysh, he did not initiate the fighting with them until they initiated it after violating the agreement. It was then that he fought them in their houses after they had fought him as they targeted him in the battle of Uhud, Khandaq and Badr”.²⁹¹

What if people did NOT accept the preaching of Islam?

The role of the Muslim in this regard is only to invite or explain the message clearly; not to coerce or force conversion. Allah says: *“Answer the Call of your Lord before there comes from Allah a Day which cannot be averted... But if they turn away (O Muhammad), We have not sent you as a watcher over them. Your duty is (only) to convey...”* (Qur’an 42:47-48)

“... Thus, He completes His blessings upon you, so that you may submit. But if they turn away, your only duty is clear communication” (Qur’an 16:81-82)

“If they argue with you, say, “I have surrendered myself to Allah, and those who follow me.” And say to those who were given the Scripture, and to the unlearned, “Have you surrendered?” If they have surrendered, then they are guided; but if they turn away, then your

²⁹¹ Ibn Qayyim al- Jawziyyah, *Hidayah al- Hayara*, Dar Ibn Zaydun, Beirut, 1990, (Section 3), p.13

duty is (only) to convey (the message). Allah is Seeing of the servants.”
(Qur’an 3:20)

“Say, “O People of the Book, come to terms common between us and you: that we worship none but Allah, and that we associate nothing with Him, and that none of us takes others as lords besides Allah.” And if they turn away, say, “Bear witness that we have submitted.”
(Qur’an 3:64)

“Whoever obeys the Messenger is obeying Allah. And whoever turns away—We did not send you as a watcher over them” (Qur’an 4:80)

“Obey Allah and obey the Messenger and be cautious. If you turn away—know that the duty of Our Messenger is clear communication.”
(Qur’an 5:92)

Thus, an individual or a community rejecting the message of Islam is not a justification for warfare (*jihad*), as the Muslims would have already fulfilled their responsibility of presenting Islam.

3. Fighting for economic reasons: Fighting for material gains such as booty, natural resources, lands, or territory is prohibited in Islam. Islam forbade fighting for anything else except for the sake of Allah, in the path of justice and security. Fighting for any selfish worldly benefit be it material (such as resources/wealth) or immaterial (such as power) will render such

warfare (*jihad*) invalid and unacceptable by Allah. Allah says: “*Those who believe fight in the cause of Allah, while those who disbelieve fight in the cause of evil. ...*” (Qur’an 4:76)

It is narrated on the authority of Abu Musa Ash'ari that once a man went to the Holy Prophet (pbuh) and said: One man fights for the sake of spoils of war (booty), the second one fights for fame and glory and the third to display his courage and skill; which among them is the fighter for the cause of Allah? Upon this, the Prophet (pbuh) replied: “*He who fights with the sole objective that the word of Allah should become supreme is a Mujahid in the cause of the Lord*”.²⁹²

Therefore, fighting in Islam is not for the purpose of acquisition of wealth and other self-fulfilling reasons.

Conclusions from the Islamic Law on the Justification for Warfare

This brief exposition of the Islamic laws and regulations governing the conduct and ethics of warfare makes it explicitly obvious that the justification for war in Islam was never because of religious diversity²⁹³, nor was it ever about forcing others to accept or embrace Islam.²⁹⁴

²⁹² *Sahih al-Bukhari*, Hadith no 123

²⁹³ Umar bin Khattab had a slave boy named Isbiq who remained non-Muslim until Umar died. He did not kill him for his rejection of faith. See: Ibn Abi Hatim, *Tafsir ibn Abi*

Also, the benevolent treatment of non-Muslim captives by the Prophet (pbuh) and his companions is exemplary, given that despite the fact that the enemy prisoners were completely under Muslim authority and militarily subdued, they were never forced to change their religion, nor were they in any way persecuted for holding onto their respective faiths – whether from among the Jews and Christians or from among the polytheists and Zoroastrians. Most of the freed captives were still non-Muslims when they were granted their freedom. This clearly proves that the reason and justification for fighting non-Muslims were not simply because they were non-Muslims, nor was it a means of forcing them to convert to Islam.

Thus, *jihad* in Islam is about eliminating oppression and deprivation of fundamental human rights in general and religious persecution in particular, as well as the unacceptable hostility and aggression of the enemy against peaceful Muslims.

Hatim 2654; Muhammad Said Ramadan Buti, *al-Jihad fi al-Islam kaifa nafhamuhu wa kaifa numarisuhu*, Dar Al-Fikr, Beirut, Lebanon, 1995, p.52.

²⁹⁴ Ibn Taymiyah said: "...we will not force anybody to accept the Deen and we will only fight those who fight us and if he (the one fighting us) embraced Islam, his wealth and blood are protected..." See: *Risaalatul- al-Qitaal* pp.123-125; *al-Siyasatu al-Shar'iyah*, p.123.

**SECTION 4:
ISSUES IN THE INTERPRETATION
OF TEXTS**

SECTION 4: ISSUES IN THE INTERPRETATION OF TEXTS

There are several texts in the Qur'an and Sunnah relating to the subject of jihad, warfare (*harb*), fighting (*qital*), peacebuilding, interfaith and international relations. Sometimes, these texts appear to be contradictory. How do scholars resolve apparently conflicting and contradictory textual evidence (*ta'arud*) in order to resolve the seeming contradiction and arrive at a conclusion regarding the most correct meaning of such texts?

There are a number of important fields relating to the rules for interpretation of the Qur'an and Sunnah that are critical to arriving at a correct understanding of the meaning and implication of the text. These include Qur'anic sciences (*ulum al-Qur'an*), hadith sciences (*ulum al-Hadith*), linguistics (*lugha*), and principles of Islamic jurisprudence (*usul al-fiqh*), logic (*mantiq*), rhetoric (*balagha*), etc. There are also several major approaches scholars take when faced with apparently conflicting or contradictory pieces of textual evidence (*ta'arud*) in order to resolve the seeming contradiction and arrive at a conclusion regarding the most probable meaning and implications of the texts. These include conciliation or harmonization (*al-Jam'*) of the meanings of authentic evidence; "elimination" and "preference" (*al-Tarjih*) for certain evidence; and "abrogation" (*Naskh*) of earlier texts by chronologically later texts. Other

responses by scholars to such conflicting evidence which do not “resolve” the conflict but allow the scholar to decide upon what to do include, “waiting” (*al-Tawaqquf*) or suspending judgment on the issue, “cancellation” (*al-Tasaqut*) of the conflicting evidence, and “choice” (*al-Takhyir*) based on his preference or appropriateness to the context. It is important to triangulate and cross-reference all relevant approaches, texts and evidence in order to achieve harmonization and conciliation between seemingly opposing texts.

Fundamental Principles of Interpreting the Qur’an and Sunnah

Here we shall focus on the first 3 major approaches to resolving apparently conflicting and contradictory textual evidence – *jam’*, *tarjih* and *naskh* - as these are the most relevant to the topic at hand.²⁹⁵

1. Conciliation or harmonization (*al-Jam’*)

In the process of understanding texts, scholars sometimes find texts with meanings that seem to conflict or contradict others

²⁹⁵ For a useful and summarized discussion on the major approaches listed below that are used by scholars for approaching and/or resolving “opposition” or apparently conflicting evidence, and some of the merits and demerits of each approach, See Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law*, IIIT, London, 2008, pp.218-226; Abdul wahab Khallaf, *Ilm Usul al-Fiqh*, 8th Edition, Dar al-Qalam, Cairo, pp. 229 – 232; Wahbah al-Zuhayli, *Usul al-Fiqh al-Islami wa Adillatuhu*, 1st Edition, Dar al-Fikr, Damascus, 1986, vol.2, pp.1173 – 1207; Abd al-Salam Wahid Bali, *Ghayab al-Ma’mul Fi Sharh al-Bidayah fi’Ilm al-Usul*, Dar Ibn Rajab, Cairo, 2012, pp.458 – 459; Muhammad bin Ali al-Shawkani, *Irsbad al-fubul Ila Tahqiq al-Haq min Ilm al-Usul*, edited, Ahmad ‘Izu ‘Inayah, 1999, Dar al-Kutub al-Arabi, Beirut, vol.2, pp.67-82.

(*ta'arud*). In truth, scholars also admit that there are no real contradictions in the Qur'an – the Words of Allah, and that any such apparently conflicting texts are only contradictions in the mind of the scholar, and are merely signs of weaknesses and limitations on the part of the human agent – the scholar concerned - attempting to understand the Divine Will.²⁹⁶

A scholar or jurist facing disagreeing narrations should search for an alternative meaning, missing condition or context, and attempt to interpret all the narrations with the aim of resolving the disagreement.²⁹⁷ Consequently, in such situations, the most authoritative interpretation and the meaning that is believed to be closest to the truth for any text is that which is able to harmonize the interpretations of all the relevant texts, and reconcile all seeming contradictions such that there are no more conflicting texts and pieces of evidence relating to the issue under consideration.²⁹⁸ The importance of this method is based on a fundamental rule of interpretation which states that “applying the

²⁹⁶ Wahbah al-Zuhayli, *Usul al-Fiqh al-Islami wa Adillatuhu*, 1st Edition, Dar al-Fikr, Damascus, 1986, vol.2, p.1174; Muhammad Sulayman Al-Ashqar, *al-Wadib fi Usul al-Fiqh*, Dar al-Salam, Jordan, 2013, p.270; Abd al-Salam Wahid Bali, *Ghayab al-Ma'mul Fi Sharh al-Bidayah fi'Ilm al-Usul*, Dar Ibn Rajab, Cairo, 2012, pp. 458 – 459; Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, The Islamic Texts Society, UK, 2017, pp.455 – 467.

²⁹⁷ Ayotallah Mohammad Baqir al-Sadir, *Durus fi 'Ilmi Al-'Usul*, 2nd ed., Dar al-Kitab al-Lubnani, Beirut 1986, Vol. 2, p.222.

²⁹⁸ Muhammad Sulaiman Al-Ashqar, *al-Wadib fi Usul al-Fiqh*, Dar al-Salam, Jordan, 2013, p.270; Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, The Islamic Texts Society, UK, 2017, p.456; Ibn Hajar al-Asqalani, *Fath al-Bari*, al-Maktabah al-Shamilah 3.35, vol.4, p.242; Ibn Rajab al-Hanbali, *Fath al-Bari*, al-Maktabah al-Shamilah 3.35, vol.5, p.84; Abdulwahab khallaf, *Ilm usul al-Fiqh*, 8th ed., Dar al-Qalam, Kuwait, 1942, p. 230.

script is better than disregarding it” - (*Imal al-nassi awla min ihmalih*)²⁹⁹.

At the end of successful harmonization and conciliation (*jam'*) of evidence, not only should there be no more conflicting texts relating to the issue, but the interpretation should also not conflict with the clear values or higher objectives (*Maqasid al-Shari'ah*) and those universal principles and legal maxims (*Qawa'id al-Fiqhiyyah*) of Islamic jurisprudence which capture the spirit of the texts and which in themselves are established by numerous clear texts of the Qur'an and Sunnah.

Ibn al-Qayyim al-Jawziyyah reminds us, “*The foundation of the Shari'ah is wisdom and the safeguarding of people's welfare in this life and the next. In its entirety, it is about justice, mercy, wisdom, and good. Every rule which replaces justice with injustice, mercy with its opposite, the common good with mischief, and wisdom with folly, is a ruling that does not belong to the shari'ah, even though it might have been claimed to be according to some interpretation...*”³⁰⁰.

2. “Elimination” and “Preference” (*al-Tarjih*)

Another method or approach used by scholars when faced with seemingly irreconcilably conflicting texts and evidence (*ta'arud*) is “**elimination**” or “**preference**” (*al-Tarjih*). This approach

²⁹⁹ Al-Suyuti, *Al-Asbab wa al-Naza'ir*, Vol. 1, p. 192.

³⁰⁰ Ibn Qayyim al-Jawziyyah, *Plam al-Muwagqi'in*, (edt. Taha Abdulrauf Sa'd), Maktabah al-Kulliyat al-Azhariyyah, Cairo, 1968, vol.3, p.2

suggests a preference for and an endorsement of the narration or text that is regarded as “most authoritative, authentic or correct” and neglecting, dropping, or eliminating other contrary narrations. It is usually based on an assessment of the “weight” or “preponderance of the evidence” for a particular position or narration. However, scholars also agree that interpretations of any seemingly conflicting texts of the Qur’an or hadith on any issue that have harmonized (*jam’*) all the relevant texts and evidence are more authoritative, closer to the truth and superior to interpretations arrived at by “preference” (*tarjih*). This is supported by the principle that states that “reconciliation (*jam’*) is superior to preference (*tarjih*)” – *al-Jam’ awla min al-tarjih*.³⁰¹ This principle would also apply to the subject of warfare (*jihad*), interfaith and international relations.

3. “Abrogation” (*al-Naskh*)

The other more controversial approach to resolving apparently contradictory texts is “abrogation” (*al-Naskh*). This method suggests that the later evidence, chronologically speaking, should

³⁰¹ Ibn Hajar, *Fath al-Bari sharh Sahih al-Bukhari*, al-Matba’at al-Salafiyah wa Maktabatuhah, Cairo, 1st edition, vol. 9, p. 474; Aliyu al-Tamimi, *Ru’yah al-Nabiy li Rabibi*, Adwahu al-Salfa, al-Ryadh, 1st edition, 2002, p.52; Ibn Rusdh, *Bidayat al-Mujtabid wa Nihayat al-Muqtasid*, Matba’ah Mustapha al-Babi al-Halaby, Egypt, 4th edition, 1975, vol.1, p.70; Badr al-Din Muhammad bin Bahadir al-Din al-Zarkashi, *Al-Babar al-Mubeet fi Usul al-Fiqh*, Dar al-Safwa, Egypt, 1992, Vol.6, p.135; Abu Hamid al-Ghazali, *Al-Mustasfa min Usul al-Fiqh*, Islamic University Medina, Vol.4, p.166; Jalal al-Din al-Suyuti, *Sharh al-Kaukab al-Munir*, Maktabat al-Iman, Cairo, 2000, Vol.2, p.359; Muhammad bin Ali al-Shawkani, *Irsbad al-Fuhul ila Tahqiq al-Haqq min ilmil Usul*, Dar al-Fadila, Cairo, Egypt, 2000, Vol.2, p.1126; Abu Zahra, *Usul al-Fiqh*, Dar al-Fikr al-Arabi, Cairo, p.310; Muhammad Hasan al-Jizani, *Ma’alim Usul al-Fiqh*, Dar Ibn al-Jawzi, Riyadh, 1996, p.258.

“abrogate” (or juridically annul) the former. This, to many contemporary scholars, implies that texts that were revealed at a historically later period in the life of the Prophet (pbuh) do not qualify or restrict (*takhsis*) the general meaning of verses (or Hadith) on the same issue that came or were revealed earlier, but actually abrogate, cancel, override and annul their legal meaning or implication. This approach to conflicting texts (*ta’arud*) is resorted to only as a last option when a scholar has attempted to do his best but failed at all other means of reconciliation and harmonization available to him.³⁰²

Certain verses of the Qur’an and a few statements of the Prophet’s companions have been interpreted by most scholars to endorse the existence of a general “Theory of Abrogation” (*Nasikh wa al-Mansukh*) being applied to the Qur’an and Hadith.³⁰³ However, there is no evidence from the Qur’an or any statement of the Prophet (pbuh) to support the abrogation of any particular text in the Qur’an relating to the subject of jihad, warfare (*harb*), fighting (*qital*), peace-building, interfaith and international relations, etc. Fortunately, every specific text relating to jihad, fighting, and interfaith relations that is claimed

³⁰² On abrogation and critiquing the argument of those who claim that the verse of sword has abrogated many verses of peace, See Yusuf al-Qaradawi, *Fiqh al-Jihad*, Maktabah wahbah, Cairo, 2009, vol.1, pp.285 – 333. See also: Israr Ahmad Khan, *The Theory of Abrogation A Critical Evaluation*, 1st Edition, Research Centre, IIUM, 2006

³⁰³ For a detailed discussion of this theory, see, Israr Ahmad Khan, *The Theory of Abrogation: A Critical Evaluation*, Research Centre, International Islamic University Malaysia (IIUM), Malaysia, 2006

by a particular scholar to have been abrogated by a later text has been harmonized and reconciled by many other scholars.

As mentioned earlier, even scholars who subscribe to the existence of “abrogation” (*Naskh*) - as opposed to “qualification” or “specification” (*Takhsis*) – on texts relating to fighting (*jihad/qital/harb*), all regard the application of “abrogation” in interpreting seemingly conflicting (*ta’arud*) texts as only justifiable as a last resort when harmonization or conciliation (*jam’*) is not achievable. Consequently, it also implies, therefore, that interpretations of texts of the Qur’an or hadith relating to fighting, interfaith relations, or any other issue which have harmonized (*jam’*) all the relevant texts and evidence on this subject are more authoritative, closer to the truth and superior to interpretations arrived at by “abrogation” (*naskh*) or “preference” (*tarjih*).³⁰⁴

As it has been reiterated in this book, all the verses of the Qur’an relating to warfare have well-known contexts and their related

³⁰⁴ Ibn Hajar, *Fath al-Bari sharh Sahih al-Bukhari*, al-Matba’at al-Salafiyah wa Maktabatuhah, Cairo, 1st edition, vol. 9, p. 474; Aliyu al-Tamimi, *Ru’yah al-Nabiy li Rabibi*, Adwahu al-Salfa, al-Ryadh, 1st edition, 2002, p.52; Ibn Rushd, *Bidayat al-Mujtahid wa Nihayat al-Muqtasid*, Matba’ah Mustapha al-Babi al-Halaby, Egypt, 4th edition, 1975, vol.1, p.70; Badr al-Din Muhammad bin Bahadir al-Din al-Zarkashi, *Al-Babar al-Mubteta fi Usul al-Fiqh*, Dar al-Safwa, Egypt, 1992, Vol.6, p.135; Abu Hamid al-Ghazali, *Al-Mustasfa min Usul al-Fiqh*, Islamic University Medina, Vol.4, p.166; Jalal al-Din al-Suyuti, *Sharh al-Kaukab al-Munir*, Maktabat al-Iman, Cairo, 2000, Vol.2, p.359; Muhammad bin Ali al-Shawkani, *Irshad al-Fuhul ila Tahqiq al-Haqq min ilmil Usul*, Dar al-Fadila, Cairo, Egypt, 2000, Vol.2, p.1126; Abu Zahra, *Usul al-Fiqh*, Dar al-Fikr al-Arabi, Cairo, p.310; Muhammad Hasan al-Jizani, *Ma’alim Usul al-Fiqh*, Dar Ibn al-Jawzi, Riyadh, 1996, p.258.

battles at the time of their revelations (*sabab al-nuzul*). So also do the various Hadiths and sayings of the Prophet (pbuh) on warfare have their contexts in which they were uttered and where they applied (*sabab al-murud*). Understanding these historical contexts from the authenticated Sirah and how the Prophet (pbuh) and his companions acted on these verses is sufficient to clarify many of the misconceptions and misinterpretations of the relevant texts that have led some to claim that some of these texts on warfare which appear to contradict each other are, therefore “abrogated” or “superseded” (*naskh*) by others. The fact that even after all these verses were revealed, the Prophet (pbuh) and his companions continued to live peacefully with law-abiding non-Muslim citizens, and others who respected their peace treaties, etc., makes it clear that these texts were never understood by the Prophet (pbuh) to justify provocation and aggression towards others who were not hostile towards the Muslim community.

Abrogation of a ruling enacted by Allah can only be made by Allah and His Messenger and can, therefore, only take place during the time of the revelation and lifetime of Prophet Muhammad (pbuh). The evidence required to confirm any claim of abrogation applied to the Qur’an cannot therefore simply be the claim of a scholar or his inability to reconcile the meanings of two or more texts. Stronger evidence from the Qur’an or Sunnah is required!

However, the application of the Theory of Abrogation (*al-Naskh*) by some scholars to the interpretation of texts relating to jihad, hostilities, peace-building, and interfaith relations has generated some of the strangest interpretations and opinions on this subject matter. The application of the Theory of Abrogation (*naskh*) to this topic has been used to not only justify the claimed abrogation of hundreds of verses of the Qur'an encouraging peace-building, cooperation, forgiveness, compassion, and kindness to people of other faiths but has also completely dismissed the clear actions of the Prophet (pbuh), his respected companions and the Rightly Guided caliphs after him.³⁰⁵

These strange interpretations and the authorities or scholars who held these opinions have resulted in some of the greatest enduring misconceptions and misinterpretations of texts on warfare. They have also provided an avenue for extremist groups, Islamophobes, those interested in opportunistic interpretations of the texts, and those who seek to “intellectually” justify their misuse and abuse of the concept of jihad in the name of “scholarship”. For these reasons, it is, therefore, necessary to look more carefully and deeply into the topic of abrogation as it relates to the verses on *jihad* and *qital*, and especially the so-called “verse

³⁰⁵ Yasir Qadhi for instance, tables the number of abrogated verses mentioned by different scholars, ranging from as many as 214 cases mentioned by Ibn Hazm to as few as 5 cases mentioned by Shah Wali Allah al-Dehlawi. He explains that scholars who list high numbers of abrogated verses attribute this to what they refer to as the “Verse of the Sword” (Qur'an 9:5) having abrogated the majority of the verses. See, Abu Ammaar Yasir Qadhi, *An Introduction to the Sciences of the Qur'aan*, Al-Hidaayah Publishing and Distribution, UK., 1999, p.251.

of the sword” (Qur’an 9:5) which some claim has abrogated most of the texts relating to the promotion of positive peaceful coexistence with others and the limitations and restrictions of warfare.

The Challenge of the Theory of Abrogation (*naskh*) Applied to Verses relating to War and Peace

Some Muslims claim that the verses of the Qur’an prescribing fighting were revealed later in Medina, and that these verses “cancel”, “abrogate” (*naskh*) or “nullify” the relevance of all the other and often earlier verses recommending peaceful relations. The implication of this theory of “abrogation” when applied to verses relating to war and peace, and relations with people of other faiths, is that there is no more a relevant basis in the Qur’an for peacebuilding, promoting positive interfaith relations, and limiting war. It is also why some have even claimed that Muslims can be aggressive and in a constant state of hostility toward peaceful others unless they come under Muslim rule.

Have the verses of the Qur’an prescribing friendliness with people of other faiths been “abrogated” by other verses in the Qur’an such as the so-called “verse of the sword” (i.e., Qur’an 9:5)? Is there any support for this understanding or its conclusions from the Qur’an, the tradition (*Sunnah*) of the Prophet (pbuh), or his companions?

The claim that any one of the numerous verses of the Qur'an and Hadiths of the Prophet (pbuh) recommending peaceful coexistence with people of other faiths has been "abrogated", "nullified" or made irrelevant by other texts has no support from Allah in the Qur'an itself, the authentic narrations (Hadith) of Prophet Muhammad (pbuh), his biography and life history (*sirah*), the actions of his rightly guided companions, or the consensus (*ijma'*) of Muslim scholars.

Such a claim also clearly contradicts what has authentically been narrated of the actual real, lived, and recorded histories of the earliest Muslim community and how they related with the various people of other faiths in times of war and of peace, both during and after the time of the Prophet (pbuh).

A careful analysis of the claim that verses promoting peaceful coexistence have been abrogated by others, makes it clear that such claims originated from the inability of certain scholars to reconcile what seems to them to be an irreconcilable conflict or contradiction (*ta'arud*) between the implications of two sets of texts – those relating to fighting and those relating to peace. To resolve the seeming contradictions between the relevant sets of texts, they conclude that some of the texts (those prescribing peaceful coexistence as a norm) have been abrogated (*mansukh*) by those prescribing fighting or war (*qital/harb*). This claim is in spite of the absence of any categorical evidence for it in the primary sources of law – the Qur'an or Sunnah.

For the scholars who see no conflict or contradictions between the two sets of texts, they maintain that each text is qualified (*takhsis*) and has a specific context in which it is applicable and eternally relevant to the human condition – whether in times of peace or a situation of hostility and war – as demonstrated throughout the life of the Prophet (pbuh) and his companions.

The claim that the Word of Allah in the Qur'an or an undisputedly authentic statement (*Hadith*) of the Prophet (pbuh) on any issue is “nullified”, “abrogated”, “neglected” or “made (legally) irrelevant” by any text of lesser authenticity cannot be accepted. Also, the explicitly clear and categorical meaning of a text (*qat'i al-dilalah*) cannot be abrogated or neglected on the basis of a text with an alternative or multiple implications (*zanni al-dilalah*). The evidence for abrogation or nullification cannot simply be the intellectual interpretive limits or inability of a particular scholar in reconciling seemingly conflicting texts (*ta'arud*).

1) Examples of claimed abrogation of verses relating to war and peace

Verse 5 of Chapter 9 (surah al-Taubah) is believed to be one of the last verses to be revealed, especially with regard to the relationship with people of other faiths. Some have argued that as many as 147 verses may have been abrogated by this single verse.³⁰⁶ Some jurists have claimed that the verse “*fight in the*

³⁰⁶ See reference to master's dissertation by Uthman Ali, cited in Qadhi, *op. cit.*, p.252

cause of Allah, those who fight you, but do not go beyond the limits (to instigate aggression) ...” (Qur’an 2:190) as well as other verses such as *“Those who believe, and the Jews, the Christians, and the Sabians – any who believe in Allah and the Last Day, and act righteously shall have their reward with their Lord. On them shall be no fear, nor shall they grieve”* (Qur’an 2:62 and 5:69 – implying that such categories of people need not fear hostilities from Muslims³⁰⁷) are abrogated (*mansūkh*) by Qur’an 9:5, and that Muslims are now required to be in a permanent state of warfare against unbelievers until they embrace Islam or agree to pay the *jizyah* (military tribute).³⁰⁸

Other verses claimed to have been abrogated by Qur’an 9:5 include:

- 1) Many general injunctions such as: *“And utter good speech to mankind...”* (Qur’an 2:83).
- 2) Verses that enjoin peace and forgiveness such as: *“So leave (the disbelievers) to speak foolishly, and engage in vain play, until they meet their Day which they have been promised”* (Qur’an 43:83), and *“Show forgiveness, enjoin what is good, and turn away from the foolish”* (Qur’an 7:199).

³⁰⁷ Discussion on the subject of the fate of Non-Muslims in the Hereafter is handled in the relevant sections of the *Train the Trainers Course in Islam and Dialogue* (produced by the Da’wah Institute), under the topic “Do all Non-Muslims go to Hell, and do all Muslims go to Paradise?”

³⁰⁸ For some discussion of this, see Sheikh Khalid Abdul-Qadir, *Fiqh al-Aqalliyat al-Muslimah* (Lebanon: Darul-Iman, 1998), p.39.

- 3) Verses that enjoin believers to be patient with insolence and taunting from disbelievers such as: “*So bear patiently with what they say...*” (Qur’an 20:130).
- 4) Verses consoling the Prophet (pbuh) that his duty is only to convey the Message such as: “...*But if you turn away, he (i.e. Muhammad) is only responsible for the duty placed upon him, and you are (responsible) for that which is placed upon you. If you pay him heed, you shall be on the right guidance. The Messenger’s duty is only to convey (the Message) clearly.*” (Qur’an 24:54).
- 5) Verses warning the disbelievers of the consequences they will face in the Hereafter such as: “*Say: O my people... Surely, you will come to know for which of us will be the (happy) end in the Hereafter. Certainly, the wrong-doers will not be successful.*” (Qur’an 6:135).
- 6) Verses enjoining believers to respect treaties made with disbelievers such as “...*but if they turn back, then take hold of them...except those who join a group between you and whom there is a treaty (of peace) ...*” (Qur’an 4:89-90).

It would be difficult to accept that all these verses are no longer legally applicable to Muslims. Rather, it may just be that the original context of their revelation no longer prevails, and the original unbelievers being referred to (i.e. the treacherous Quraysh pagans) no longer exist. Yet almost all of the verses said to be abrogated are applicable to Muslims who may be in a similar situation today. Accordingly, Qadhi (1999) cites the

scholar Muhammad Abd al-Azeem az-Zarqani³⁰⁹ as concluding that verse 9:5 does not in fact abrogate any other verse of the Qur'an, as all the verses said to be abrogated are still relevant for interpersonal relationships between Muslims and Non-Muslims.

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The so-called “verse of the sword” which has created a challenge for some of these scholars reads:

“Once the Sacred Months are past, (and they refuse to make peace) you may kill the polytheists (mushrikun) when you encounter them, punish them, and resist every move they make. If they repent and observe the formal Prayers (Salat) and give the obligatory charity (Zakat), you shall let them go. Allah is The Forgiver, Most Merciful.”
(Qur'an 9:5)

In other words, it is claimed that after the revelation of Chapter 9, and verse 5 in particular, Muslims can never have peaceful relations with any people of other faiths. They claim that Muslims are now required to engage in a permanent state of warfare or hostility against unbelievers until they embrace Islam or agree to pay the *jizya*³¹¹ poll tax. This is in spite of the fact that

³⁰⁹ Muhammad Abd al-Azeem az-Zarqani, *Manaahil al-'Irfan fi 'Ulum al-Qur'an* (Cairo: Dar al-Fikr, n.d.); cited in Qadhi, *op. cit.*, p.254

³¹⁰ Yusuf al-Qaradawi, *Fiqh al-Jihad*, Maktabah wahbah, Cairo, 2009, vol.1, pp.285 – 333.; Wahbah al-Zuhayli, *Athar al-Harb fi al-Islam: Dirasah Muqaranah*, 3rd ed., Dar al-Fikr, Damascus, 3rd Ed., pp. 102-104, 118-119.

³¹¹ For some discussion of this, see Dr. Monqiz As-Saqqar, *Jizya in Islam*, Translated by Hayam Elisawy, Source: http://www.irfi.org/articles/articles_1051_1100/Jizya_in_islam.htm (visited on

this interpretation has no historic precedence in the life of the Prophet (pbuh) or his companions to support it.

As it has been reiterated earlier, the verse under consideration (Qur'an 9:5) or any other text should not be interpreted without reference to its own textual and historical context, or the context of the whole Qur'an and Sunnah. Such interpretation should also not disregard the rules and principles of interpretation of religious texts that help prevent seeming contradictions and clarify any confusion. This is especially true when the Prophet (pbuh) and his companions actually lived to apply this particular verse. Hence, the importance of thoroughly understanding the prophetic history (*sirah*) and what actually took place, when interpreting such texts that have clear practical and social implications.³¹²

2) Clarification of the concept of “naskh”

The word “*naskh*” as used by companions of the Prophet (pbuh) and jurists of Islam has been often translated as “abrogation”. Qadhi in his textbook, *An Introduction to the Sciences of the Qur'an* (1999) explains that many companions did not always mean abrogation (as understood in English) when they spoke of *naskh*.³¹³ For example, Ibn Abbas is reported to

4/12/2013); and also Sheikh Khalid Abdul-Qadir, *Fiqh al-Aqalliyat al-Muslimah*, Darul-Iman, Lebanon, 1998, p.39.

³¹² Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.8, 11-41.

³¹³ Abu Ammaar Yasir Qadhi, *An Introduction to the Sciences of the Qur'aan*, Al-Hidaayah Publishing and Distribution, UK, 1999, p.254

have said that the verse, “*The spoils of war are for Allah and His Messenger*” (Qur’an 8:1) is “*mansūkh*” (i.e. *naskh* has taken place) by the verse, “*And know that (of) all war-booty that you obtain, one-fifth is for Allah and His Messenger...*” (Qur’an 8:41). If the word “*naskh*” here is understood to mean “abrogation”, then it implies that the two verses are contradictory. In reality, the two verses are complementary. This “*naskh*” is therefore actually a specification (or, in Arabic, a “*takhsīs*”), since the second verse clarifies how much of the “*spoils of war*” are to be given to the government (“*for Allah and His Messenger*”). The term “*naskh*” may also mean supersession, or initiation (establishing a precedent or new ruling).³¹⁴

Qadhi (1999) states that:

Therefore, when coming across statements from the scholars of the first three generations that claim that a particular verse was ‘abrogated’ (*nasakha*) by another verse, this cannot be immediately taken as an example of *naskh*. It is this exact factor which has been one of the greatest causes of confusion with regards to the number of *nasikh/mansukh* verses in the Qur’an.³¹⁵

The jurist al-Suyuti wrote that “In reality, it (*naskh*) is rare, despite the fact that many have exaggerated the number of verses

³¹⁴ Abu Ammaar Yasir Qadhi, *An Introduction to the Sciences of the Qur’aan*, Al-Hidaayah Publishing and Distribution, UK, 1999, p.234 on how Imam al-Shafi’i was the first to limit the meaning of *naskh*.

³¹⁵ Abu Ammaar Yasir Qadhi, *An Introduction to the Sciences of the Qur’aan*, Al-Hidaayah Publishing and Distribution, UK, 1999, p.234

of it.”³¹⁶ According to Qadhi (1999), other scholars who mention many dozens of abrogated verses list verses that are not necessarily the basis for any legal ruling, and hence, are not appropriate candidates for abrogation.³¹⁷

3) Criteria for a verse to abrogate another verse

According to scholars, the criteria for such abrogation include that the abrogating verse must be revealed after the abrogated verse; the two verses must have legal applications; they should be mutually irreconcilable, and there is absolute abandonment of the previous ruling (derived from the earlier revealed verse) irrespective of the case. In other words, the abrogated verse is no longer applicable for a ruling on the subject matter. It is distinguished from a case of specification or qualification (*takhsis*) in that after a *takhsis*, a prior ruling is not totally invalid, but rather valid for more specific or narrowly defined cases.³¹⁸

Qadhi elucidates that claims of abrogation are only a last resort once all attempts to reconcile two opposing texts have been made. The two verses must oppose each other with no possibility of being valid at the same time.³¹⁹ “Therefore, if one of the

³¹⁶ Jalal al-Din Abd al-Rahman al-Suyuti, *al-Itqan fi ‘Ulum al-Qur’an*, Dar al-Marifah, Beirut n.d., vol.2, p.28, cited in Qadhi, *op. cit.*, p.256.

³¹⁷ *Ibid.*

³¹⁸ Abu Ammaar Yasir Qadhi, *An Introduction to the Sciences of the Qur’aan*, Al-Hidaayah Publishing and Distribution, UK, 1999, p.250

³¹⁹ Abu Ammaar Yasir Qadhi, *An Introduction to the Sciences of the Qur’aan*, Al-Hidaayah Publishing and Distribution, UK, 1999, p.237; Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law*, IIIT, USA, 2008, pp.221-224.

rulings can apply to a specific case, and the other ruling to a different case, this cannot be considered an example of *naskh* (abrogation).³²⁰

4) No consensus on abrogated verses

There is no consensus among scholars as to how many verses have been abrogated by others in the Qur'an. Yasir Qadhi for instance tables the number of abrogated verses mentioned by different scholars, ranging from as many as 214 cases mentioned by Ibn Hazm to as few as 5 cases mentioned by Shah Wali Allah al-Dehlawi.³²¹ Other scholars insist that there are no cases of abrogation in the Qur'an and all such examples are actually reconcilable cases of qualification or specification (*takhsis*) and that the claim of abrogation is simply a result of the inability of a particular scholar to reconcile two or more seemingly contradictory verses or texts.³²² Scholars who list high numbers of abrogated verses attribute this to what they refer to as the "Verse of the Sword" (Qur'an 9:5) having abrogated the majority of the verses.

³²⁰ Abu Ammaar Yasir Qadhi, *An Introduction to the Sciences of the Qur'aan*, Al-Hidaayah Publishing and Distribution, UK. 1999, p.250

³²¹ Abu Ammaar Yasir Qadhi, *An Introduction to the Sciences of the Qur'aan*, Al-Hidaayah Publishing and Distribution, UK. 1999, p.251

³²² Israr Ahmad Khan, *The Theory of Abrogation: A Critical Evaluation*, Research Centre, International Islamic University Malaysia (IIUM), Malaysia, 2006

5) Qur'an 2:190 is not abrogated by any subsequent verse

The verse in question reads, “*And fight in the way of Allah those who fight against you, but do not transgress the limits, surely Allah does not love those who transgress the limits*”.

The claim of abrogation of Qur'an 2:190, in particular, has been rejected by Ibn ‘Abbas, ‘Umar ibn Abdul-Aziz, Mujahid, and others who assert that it is a firm rule (*muhkam*),³²³ meaning those who Muslims should fight against are those who are in a state of fighting the community.³²⁴

Imam al-Tabari also considers the claim of abrogation of Qur'an 2:190³²⁵ as not supported by any evidence from the Sunnah at the time Qur'an 9:5 was revealed and that Qur'an 9:5 is, in fact, complementing or qualifying (*takhsis*) and not abrogating (*nasikh*) Qur'an 2:190. Tabari cites the opinion of a group of scholars who say that the forbiddance of killing those that have not waged war against Muslims is still a rule that is permanently valid – and that “*fa la shay’in...*” (there is nothing that abrogates) the ruling of Qur'an 2:190. He mentions that Umar ibn Abdul-Aziz said those upon whom Muslims should not transgress the limits refer to women, children, and those who have not waged

³²³ A legal ruling that is firmly established and that cannot be abrogated.

³²⁴ See Muhammad ibn Ahmad Al-Qurtubi, *Al-Jami' li Ahkam Al-Qur'an*, Matba'ah Dar al Kutub al Masriyyah, Cairo, 1354/1935, vol.2, p.348

³²⁵ “*And fight in the way of Allah those who fight against you, but do not transgress the limits...*” (Qur'an 2:190).

war on the Muslim community. This is furthermore the opinion Imam al-Tabari himself holds to be the best of all opinions. He cites Ibn Abbas' explanation of the verse as follows: "*it means do not kill women, nor children, nor old people, nor those that meet you with peace and abstain from fighting you; for if you do so, know that you have transgressed beyond the limits.*"³²⁶

If there is no valid basis for the claim that Qur'an 9:5 abrogates any of the other verses relating to peaceful coexistence, how then can what some view as an irreconcilable conflict in the meaning of the texts be resolved or reconciled (*jam'*)? We will proceed to analyse the verse and its own context.

6) Understanding the "verse of the sword" in its own context

How should the "verse of the sword" be understood? Has it abrogated all verses relating to peaceful relationships which came before it? What are the commonly misinterpreted texts relating to jihad?

The so-called "verse of the sword" will now be examined in itself as to whether or not it means all unbelievers must be fought against. Verses 1-7 of Surah 9 read:

³²⁶ Al-Tabari, Tafsir of Qur'an 2:190 from *Maktab al-Taalib al-Ilm*, Ariss Computers Inc., Beirut, 2002

Freedom from obligation is herein issued from Allah and His Messenger to the polytheists with whom you have entered into a treaty. (Verse 1)

Therefore, roam the earth freely for four months, and know that you cannot escape from Allah, and that Allah will disgrace the disbelievers. (Verse 2)

A proclamation is herein issued from Allah and His Messenger to all the people on the great day of pilgrimage, that Allah is free from obligations to the polytheists, and so is His Messenger. Thus, if you repent, it would be better for you. But if you turn away, then know that you can never escape from Allah. And give tidings of a painful torment to those who disbelieve. (Verse 3)

Except those of the polytheists with whom you have a peace treaty and who have not violated it, nor banded together with others against you, you shall fulfill your treaty with them until the end of its term. Surely, Allah loves the righteous. (Verse 4)

*Once the Sacred Months are past, (and they refuse to make peace) you may kill the polytheists when you encounter them, punish them, and resist every move they make. **If they repent** and observe the formal Prayers (Salat) and give the obligatory charity (Zakat), you shall let them go. Allah is The Forgiver, Most Merciful. (Verse 5)*

And if any one of the polytheists seeks your protection, then grant him protection, so that he may hear the Word of Allah, and then escort him to where he can be secure. (Verse 6)

...Exempted are those who have signed a peace treaty with you at the Sacred Masjid... If they honour and uphold such a treaty, you shall uphold it as well. Allah loves the righteous. (Verse 7)

Verse 8 specifies that the polytheists who Muslims are no longer to trust for peace accords are those who show no respect for treaties or peace agreements, while verse 13 elaborates, “*Will you not fight people who violated their oaths (repeatedly), plotted to expel the Messenger, and were the first to attack you?*”

The context of the verses makes it clear that verse 5 is referring specifically to those pagan Arabs that violated the terms of their peace treaty and who were bent on exterminating the Muslim community (i.e., those other than the ones who are referred to in verse 4). The ending of Verse 5 and the whole of verse 6, also make it very clear that some of those who fought against the Muslims, may repent and themselves become Muslims (“observing the formal prayers and giving the compulsory zakat”, etc.), while some may still remain polytheists but seek protection from Muslims (Verse 6), which must be granted. This is partly what justifies the interpolation – “*(and they refuse to make peace)*”-

in the translation (or interpretation) of the earlier part of Verse 5 above.³²⁷

With specific reference to verses 9:12-13, Sheikh Abdul Rahman as-Sa'di explains that the context was when the Quraysh breached their peace treaty by collaborating with Banu Bakr to attack the pagan tribe of Khuza'ah, the Prophet's allies.³²⁸

As many historians have noted, "pre-Islamic Arabia was caught up in a vicious cycle of warfare, in which tribes fought tribes in a pattern of vendetta and counter vendetta."³²⁹

Because of the absence of any political union and organized government in the land, there had been perpetual conflict and warfare among the Arabs. Tribal feuds, raiding, and plundering of one tribe by the other were the common phenomenon of the Arab life at that time... There being no political unity and organized government in Arabia, the 'might is right' was the law in the land. Besides, the Persians had already annexed Yemen and Hira'a and the Romans had occupied the Ghassanid kingdom. The future of a divided and distracted Arabia looked gloomy if she could not be rescued from her malady.³³⁰

³²⁷ See Shaykh Muhammad al-Ghazali, *A Thematic Commentary of the Qur'an* (Kuala Lumpur, Malaysia, Islamic Book Trust, 2001), p.117-183; and Muhammad Asad, *The Message of the Qur'an*, Dar al-Andalus, Gibraltar, 1980, p.254-258, n.1-22 to Qur'an 9:1-15.

³²⁸ *Tayseer al-Karim al-Rahman fi Tafsir Kalam al-Mannan*, p.291; cited by Jalal Abualrub in *Holy Wars, Crusades, Jihad*, Medinah Publishers, Florida, USA, 2002, p.161

³²⁹ Karen Armstrong, "The True, Peaceful Face of Islam", *Time Magazine*, October 1, 2001

³³⁰ A. Rahim, *Islamic History* (Lagos, Nigeria: Islamic Publications Bureau, 2001), p.6.

Against this background, the verses in question urge the believers to crush all hostilities and vendettas once and for all, while upholding the morality to maintain peace with those who cease hostilities, irrespective of their past aggression. Thus, the interpretation that Qur'an 9:5 gives license to a permanent state of warfare between Muslims and Non-Muslims (following the pre-Islamic tradition of cyclical warfare and ceaseless vendettas), and passes a death sentence on all those who do not convert to Islam appears to most scholars to have contradicted its own context.

The interpretation also contradicts the actions of the Prophet (pbuh) who till his death engaged in peaceful *da'wah* missions with Non-Muslims and had numerous treaties with Non-Muslim and even pagan Arab tribes. The Prophet (pbuh) also instructed his companions in an authenticated hadith to "*Leave the Abyssinians alone, as long as they leave you alone, and do not engage the Turks, as long as they do not engage you.*"³³¹ For further discussion on hadith considered to have prescribed perpetual warfare against unbelievers, see the topic on "The Spread of Islam" later in this book.

³³¹ Abu Dawood, No.3748; An-Nasa'i, No.3125; authenticated by Al-Albani in *Sahih Jaami' al-Sagheer*, no.3384. The hadith is also cited in Ibn Rushd's *Bidayat al-Mujtahid*, vol.1, p. 456.

SECTION 5:
COMMONLY MISINTERPRETED
QURANIC VERSES AND HADITHS
RELATED TO JIHAD

SECTION 5: COMMONLY MISINTERPRETED QUR'ANIC VERSES AND HADITHS RELATED TO JIHAD

Commonly Misinterpreted Verses of the Qur'an on *Jihad*

Reference has already been made in part to some misinterpreted Qur'anic verses on fighting non-Muslims. The following quotes are also mentioned by critics as demonstrative of the Qur'an's inciting violence against non-Muslims who do not convert to Islam:³³²

1) Understanding the Verse on Jizyah

Allah says: "*Fight (qaatilu) those who believe not in Allah nor the Last Day, nor hold that forbidden which hath been forbidden by Allah and His Messenger, nor acknowledge the religion of Truth, (even if they are) of the People of the Book, until they pay the Jizya with willing submission, and feel themselves subdued (saghirun)*" (Quran 9:29).

This verse is understood by some to mean that peaceful People of the Book (Jews and Christians) in particular, who have not shown any hostility to Muslims, must be fought unless they accept to pay the *jizya* tax or embrace Islam. The tax is claimed to be a payment in compensation for the

³³² These quotes are written here as they appear in the works of critics. Note that in some cases, the quote is actually a misquotation of the Qur'an or misrepresents the message in its context. These will be noted as we proceed.

freedom of religion or as a financial punishment for not becoming Muslims. The ending of the verse, “...and feel themselves subdued (*saghirun*)” is assumed by some to imply that the purpose of *jizya* is to humiliate, belittle or disgrace those People of the Book who choose to pay the *jizya* imposed on them. Hence, some believe that Muslims are expected to be in a state of continuous war with non-Muslims until they pay the *jizya* tax, and the payment of *jizya* is considered a mark of humiliation of the non-Muslims under a Muslim state for not converting to Islam. What is the rationale behind the *jizya* tax?

First of all, if the payment of *jizya* is intended to humiliate non-Muslims, why are certain non-Muslims exempted from paying it even though they share the same disbelief? According to the teachings of Islam, only those able-bodied, male adult non-Muslims who do not volunteer to fight for the state are made to pay *jizyah* tax if they can afford it. This explains why all non-Muslim citizens who volunteer for military service are obviously exempted from the payment of *jizya*.³³³ Furthermore, there are a number of non-Muslims who are exempted from paying the *jizya*, even if they are rich. These include a chronically ill man, handicapped, blind and old men, and the insane. It also includes the needy, servants, day labourers, slaves, wageworkers, and religious clergy who keep themselves free for praying and

³³³ Muhammad Asad, *The Message of the Qur'an*. Gibraltar: Dar Al-Andalus, 1980. Footnote 43, page 262.

worshipping, i.e., men of churches, convents, and oratories. The exemption further covers women, children, and any non-Muslim who chooses to participate in military service for protecting the state.³³⁴

It is important to point out that any interpretation of this verse should not be done in isolation from other texts relating to peaceful coexistence, interfaith relations, and freedom of religion, as well as the Islamic regulations on warfare. If the verse is interpreted to mean that Muslims must continue to show aggression and hostility and to be in a continuous state of warfare with all non-Muslims or People of the Book, it will conflict with other verses of the Qur'an which teach tolerance and peaceful relations with non-hostile people of other faiths. For instance, Allah says: *“As for those (unbelievers) who do not fight against you on account of (your) faith, nor drive you out of your homelands, Allah does not forbid you to show them kindness and to deal with them with fairness and equity...”* (Qur'an 60:8-9). Imam al-Razi in his Tafsir commented on this verse saying: *“the majority of the scholars are of the view that ‘those who do not fight against you’ are those who have a treaty with the Prophet (pbuh) neither to fight him nor show enmity to him.”*³³⁵

³³⁴ See Ibn al-Qayyim, *Abkam Ahlul Dhimma*, Volume 1, p.8, 15; al-Shafi', *al-Umm*, p. 172

³³⁵ Imam Al-Razi, *Tafsir al-Kabir*, vol.15, p.325; Al-Bagawi, *Ma'alim al-Tanzil Fi Tafsir al-Quran*, al-Maktabah al-Shamila, version 3.35, vol.8 p.95.

Also, such an interpretation will conflict with the verse which says “*Let there be no compulsion in religion*” (Qur’an 2:256), which makes it clear that one is free to practice the religion of one’s choice.³³⁶ Again, the verses “...and if they (your enemy) incline to peace, incline you also to it, and trust in Allah” (Qur’an 8:61), together with, “...but if they cease, Allah is Off-Forgiving, Most Merciful” (Qur’an 2:192) clearly show that if the non-Muslims embrace peace, Muslims must also do the same. These verses indicate that the prescribed relationship with non-Muslims is not that of humiliation or showing hostility towards them but that of peaceful coexistence.

Furthermore, the Prophet (pbuh) said, “*leave the Abyssinians (Ethiopians) alone as long as they leave you alone, and do not engage the Turks alone as long as they do not engage you.*”^{337,338} This hadith is a clear indication that as long as the non-Muslims and People of the Book in this particular context are not hostile towards Muslims, then, they should not be fought against.

The scholars of Islam have formed a consensus that it is permissible to take the *Jizya* from non-Muslims in the name of charity (*sadaqah*). During the time of Caliph Umar, a tribe of Arab polytheists (i.e., *Banu Taglib*) requested that Umar ibn Al-Khattab take the *Jizya* from them as charity (*sadaqah*) as they

³³⁶ Similar verses to this include Qur’an 18:29 and 17:15.

³³⁷ During the time of Prophet (pbuh), the Abyssinians and Turks were *ahl al-Kitab* (People of the Book).

³³⁸ Sunan Abu Dawud hadith no.4302, Sunan Al-Nasai hadith no.3178

considered it humiliating to be paying jizya to fellow Arabs and Umar accepted.³³⁹ This clearly means that payment of *jizya* by some non-Muslims does not mean they are humiliated because if it is so, Umar would not have agreed to change the term they found humiliating to them. This also means Muslims are supposed to consider the feelings of non-Muslims.

Thus, most Muslim jurists and scholars regard the *jizya* as a special payment collected from certain non-Muslims in return for the responsibility of protection fulfilled by Muslims against any type of aggression³⁴⁰, as well as for non-Muslims to be exempted from military service³⁴¹ and in exchange for the aid provided to poor dhimmis.³⁴² This is the rationale behind the collection of *jizya*.

The claim that the jizya tax on non-Muslims is intended to be a form of humiliation and financial exploitation is not what we see in the life of the Prophet (p) and his companions, and no one understood the Qur'an better than them. This alone indicates a misinterpretation of the verse. From the explanation earlier, it

³³⁹ Ibn Rushd, *Bida'ayat al Mujtahid*, Vol. 6, p. 101; Ibn al-Qayyim, *Zad Al Ma'ad*, Vol. 3, page 643; Ibn Qudamah, *Al-Mughni*, vol. 10, pp. 590-91; Sa'id Ramadán, *Al-jihad fi al-Islam*, Dar Al-Fikr, Damascus, 2005, pp.135-136

³⁴⁰ M. Zawati Hilmi, *Is jihad a just war? War, peace and Human Right Under Islamic and public International Law*. Edwin Mellen Press, 2002, pp. 63-64

³⁴¹ M. Zawati Hilmi, *Is jihad a just war? War, peace and Human Right Under Islamic and public International Law*. Edwin Mellen Press, 2002, pp. 63-64; Imara Muhammad, *Al-Islam Wa al-Aqaliyyat*, Maktabat Al-Shuruk al-Dawliyyah, Cairo 2003, p.15

³⁴² Muhammad Abu Zahrah, *Zabrat al-Tafasir*, Dar al-Fikr al-Arabi, Cairo, pp. 3277-3278

should be clear that this interpretation of the implications of jizya cannot be correct. Once properly understood, there is nothing exploitative or humiliating about Jizya, which was usually lesser in the amount paid, and lesser in number of people who were charged the tax, than in the zakat system for Muslims. This is not to say that some Muslim leaders and tyrants did not try to exploit some non-Muslim and Muslim populations in history. But this is a product of corruption, not Islamic teachings. From the Qur'an and Sunnah, Jizya was seen as a way of giving and alternative tax option for non-Muslims who did not want to sacrifice their lives in defence of the Islamic state, whose ideology they did not believe in. It was a real application of "no compulsion in religion". Other religious states and communities were generally insensitive to the religious affiliation of citizens when it came to options for taxation or joining the military.

Many books of tafsir indeed translate the word *Saagiruun* as humiliation and disgrace. There is therefore the need to look more carefully at this verse and its textual context, and how it was understood by the Prophet (p) and his companions, before scholarly diversity on the subject. The distinguished jurist and Qur'anic commentator, Ibn Jarir al-Tabari said: "the scholars of Tafsir disagreed on the meaning of '*Al-Sagaar*' which Allah referred to in this verse. Some said: it is for the giver to stand while giving and the collector to sit while receiving. And this is the statement of Ikrimah. Other scholars said: the giving of *jizya*

itself is *Sagaar*.³⁴³ These alternative interpretations are supported by what Imam Al-Nawawi said: “The majority (*jumbur*) of scholars say that the *Jizyah* is to be taken with gentleness, as one would receive a debt (*dayn*).”³⁴⁴

To avoid contradicting other clearly explicit texts of the Qur’an and Sunnah, this verse is to be understood not in the context of peaceful co-existence, but in the context of ongoing hostilities and warfare, as this will allow the harmonization of the *jizya* verse with the other seemingly contradicting verses which permit freedom of religion and also allow the Muslims to relate with non-Muslims peacefully. The verse is therefore offering hostile People of the Book an alternative to warfare. They could consider the options of either embracing Islam, or establishing peace treaties with Muslims signified by the payment of *jizya*. If these options are rejected and they persist in their hostility, then Muslims have the full right to go to war in defense of themselves. This verse is similar to the hadith which equally gives hostile enemies the choice of peace through treaties implied by the *jizya* arrangement, embracing Islam or proceeding with warfare.

Some scholars raise the fact that the verse starts with the word “*qaatilu*” which also means “fight back” and usually implies reciprocation in conflict, indicating that those the verse is referring to are already hostile against Muslims. From the

³⁴³ Al-Tabari, *Jamii Al-bayan fi al-Tawil al-Quran*, vol.14 ,pp. 199-200, Maktabah al-Shamilah, version 3.35

³⁴⁴ *Rawdah al-Talibin*, vol. 10, pp. 315-16

context, purpose and language of the text, and from other relevant texts related to the rules of applying jizya, this verse is therefore offering only *hostile* People of the Book an alternative to warfare. They could consider the options of either embracing Islam or establishing peace treaties with Muslims signified by the payment of *jizya* (if they decided not to join the Muslim army). But rejecting peace treaties implies a preference for war, especially in a global and historical context where surrounding hostile super-powers were locked in international relations of conquer-or-be-conquered, colonise-or-be-colonised.

Those who were not hostile towards Muslims, and who decided to also join others in defending the state, were not the ones being addressed in this verse. It was therefore not a verse that applied to all non-Muslims nor to all People of the Book. This was actually the argument used by some scholars such as Syed Abu ‘Ala-Mawdudi to explain that jizya was not to be levied on non-Muslims in the Islamic State of Pakistan, because the non-Muslims there were not hostiles, nor were they conquered by Muslims. They were tax-paying citizens who shared responsibility for the military as did Muslims.

Similar arguments have also been made by many other contemporary jurists, in modern contexts where Muslims and non-Muslims are regarded as equal citizens in defending the state financially and or via conscription into a standing army. Today, however, even women and others who were traditionally

exempted from paying jizya, are not expected to support the military and defence budget.

2) On Fighting Non-Muslims Until They All Embrace Islam

Quran 2:193 states, “*And fight them until persecution ends and agreement is reached and Allah's system of faith prevails, recognizing Allah and His control of destiny, His rightful claim to obedience, reverence and worship.*” Some quote this verse as evidence that Islam promotes fighting others until they all become Muslims and Allah’s religion or Islam, prevails over all others. This verse is interpreted to mean all non-Muslims should be fought until they embrace Islam and an Islamic government is established. In light of the fact that the Qur’an is explicit that there should be “no compulsion in religion”, what is the correct interpretation of this verse?

This understanding and implication of the verse is not what we see in the life of the Prophet (p) and his companions, and no one knew and understood the Qur’an and sunnah and their implications better than them. This alone indicates a misinterpretation of the verse. It is also important to be mindful of context and always adopt the +5-5 rule, i.e., read the preceding 5 verses and the following 5 verses to get a clearer picture of the context of a particular verse.

This quote does not report the verse in full, which from the beginning reads, “*And fight them (qātilū hum) until there is no fitnah (oppression) and religion is for Allah, but if they cease, let there be no hostility except to those who practice oppression.*” (Qur’an 2:193)

The explanation of Companions of the Prophet (pbuh) such as Ibn Umar and Ibn Zubair on the meaning of this verse is that aggressors are to be fought until a Muslim is no longer threatened with killing and arrest on account of his faith.³⁴⁵ The context of Qur’an 2:190-193 makes it clear that those being fought against are those who are aggressive to Muslims. The phrase “*religion is for Allah*” means until Allah is worshipped without fear of persecution and none is compelled to bow down before another being. In other words, until no one is compelled to associate partners with Allah. It has never been understood to contradict “*No compulsion in religion*” (Qur’an 2:256) nor was such a contradiction seen in the life of the Prophet (p) and his companions, who understood the verse best.

3) Misunderstanding Self-defense for Terrorism

In another verse of the Qur’an, Muslims are asked to be militarily prepared to “terrify” or “scare” their enemies. According to Qur’an 8:60, “*And prepare against them with whatever you are able, of power and of steeds of war by which you may terrify the enemy of Allah and your enemy, and others besides*

³⁴⁵ Sheikh Khalid Abdül-Qadir, *Fiqh al-Aqaliyyat al-Muslimah*, Darul-Iman, Lebanon, 1998. See also *al-Isabah*, vol.2, p.347

them whom you do not know [but] whom Allah knows. And whatever you spend in the cause of Allah will be fully repaid to you, and you will not be wronged.” This verse is interpreted by some Muslims to mean that Muslims should incite fear and terror into the hearts of people of other faiths. This is understood to justify various acts of terrorism. What is the correct interpretation of this verse?

This quote is an example of selective quoting out of context by some critics of Islam. The entire passage reads, “*Let not the disbelievers think that they can get the better (of the believers); they will never frustrate (them, with aggression). Against them, make ready your strength to your utmost power, including steeds of war, to strike terror (into the hearts of) the enemies of Allah and your enemies (too), and others besides whom you may not know but whom Allah does know...But if the enemy inclines towards peace, you should (also) incline towards peace, and trust in Allah*” (Qur’an 8:59-61). Hence, the context explains that the “enemies” being referred to, and whom believers are to strengthen themselves against, are those already aggressive to them in one way or another and who are attempting to frustrate the community, until they incline towards peace.

The verse enjoins sufficient preparation of resources so that enemies will be psychologically deterred from attacking Muslims,

through fear of the consequences.³⁴⁶ The teaching of this verse is a practical policy taken by all nations that have a standing army so as to deter known or potential enemies whose aggression is feared. Just because an individual or community is encouraged to prepare against possible aggression does not itself constitute aggression, but common sense in a hostile environment. It is important to note that after this verse was revealed, the Prophet and his companions still continued to treat non-Muslims with fairness and kindness as Allah prescribes in Q60:8-9, and they continued to make peace treaties with various peaceful non-Muslim communities. They did not understand it in any way that implied or permitted injustice or aggression towards others.

There is also no evidence from the Qur'an or Sunnah of the Prophet (pbuh) or his companions to suggest that this verse has been "abrogated" or made irrelevant by any other verse! This is the danger of taking texts that are related to the conduct of just warfare after it has commenced (*jus in bello*) and assuming that the same texts are related to the justification of war (*jus ad bellum*).

4) On Terrorizing People of Other Faiths

The Qur'an states, "*I will instil terror into the hearts of the disbelievers. Smite ye above their necks and smite all their finger-*

³⁴⁶ The "terror" being referred to could, for instance, be through letting others know what weapons are being accumulated to strengthen one's military capacity.

tips off them. It is not you who slew them, it was Allah.” (Qur’an 8:12-17) ³⁴⁷ This verse is interpreted by some Muslims to mean that Muslims should incite terror into the hearts of non-Muslim. This is understood to justify various acts of terrorism. What is the correct interpretation of this verse?

This quote is not only out of context but omits the full contents of the passage (verses 12-17) that help clarify this self-explanatory text in its own context. The quote only includes portions of verses 12 and 17 and makes it seem as if they follow one another. The full context reads, “(Remember) when your Lord inspired the angels, Verily, I am with you, so keep firm those who have believed. I shall cast terror into the hearts of those who have disbelieved, so strike them over their necks and smite over all their fingertips.’ This is because they defied and disbelieved Allah and His Messenger. And whoever defies and disobeys Allah and His Messenger, then verily, Allah is severe in punishment. This is the torment, so taste it, and surely for disbelievers is the torment of the Fire (in the Hereafter). O you who believe, when you meet those who disbelieve advancing on a battlefield, do not turn your backs on them. And whoever turns his back to them on such a day – unless it be a stratagem of war or to retreat to a troop (of believers) – he has indeed drawn upon himself wrath from Allah... You killed them not, but Allah caused them to be killed. And it was not you who cast when you did cast but it was Allah who cast, that He might test the believers by a fair trial from Him...

³⁴⁷ The quote only includes portions of verse 12 and 17 and making it seem as if they follow one another.

This (is the truth), and surely, Allah weakens the deceitful plots of the disbelievers” (Qur’an 8:12-18).

Even if it is not interpreted that the angels physically engaged in combat, verses 15-17 make it clear that it took place in the context of the battlefield (with disbelievers who were present for combat). It is therefore not considered to imply that Muslims should terrorize innocent and peaceful people of other faith. This is the danger of taking texts that are related to the conduct of just warfare after it has commenced (*jus in bello*) and assuming that the same texts are related to the justification of war (*jus ad bellum*). Very often the textual context helps clarify the meaning of the text.

5) On Permanent Hostility with People of Other Faiths
Allah says in the Quran, *“O you who believe, when you face the disbelievers in a battle, do not turn your backs to them [in flight]”* (Quran 8:15). This verse is interpreted to mean that Muslims should fight and not turn back, nor should they relent or surrender. This implies fighting to the very end, and no initiation of peace treaties. Some Muslims, therefore, use the verse to justify persistent hostility with no turning back towards people of other faiths. What is the correct interpretation of the verse?

Every verse of the Qur’an should be understood within its own textual context and in light of the historical occasion of its

revelation (*Sabab al-Nuzul*). The complete verse and the subsequent one (Qur'an 8:15-16) state: "O you who believe, when you face the disbelievers in a battle, do not turn your backs to them. Whoever turns his back to them on such a day, unless it is for a tactic in the battle, or to join a company, turns with wrath from Allah, and his abode is Hell, and it is an evil place to return".

The verses surrounding this text make it clear that it is not in the context of peaceful relations but one of conflict and in response to the provocation of an advancing army on the battlefield. This is clear from the part of the verse that prohibits desertion and running away from the battlefield unless such a retreat is tactical. It is also understood from the verses that Allah is warning them against turning back from the battlefield as that may be detrimental to the fighters and their community.

The historical context and occasion for the revelation of this verse (*Sabab al-Nuzul*) of Qur'an 8:15 according to some scholars of Qur'anic exegesis (*Mufasssirin*)³⁴⁸ is that of the Battle of Badr where the Muslim army of 313 soldiers were being confronted by the hostile Meccan army of 1000 well-armed soldiers. Naturally, some of the Muslim soldiers were afraid. The instruction in the verse not to turn back was to ensure firmness and steadfastness. Verse 17 of the chapter goes on to assure them of Allah's

³⁴⁸ Ibn Jarir al-Tabari, *Tafsir al-Qur'an al-Azim*, al-Maktabah al-Shamilah 3.35, vol. 13, p. 437; Jabir bin Musa al-Jaza'iri, *Aisar al-Tafsir*, al-Maktabah al-Shamilah 3.35, vol. 2, p. 34; Shawkani, *Fathu al-Qadir*, al-Maktabah al-Shamilah 3.35, vol. 3, p. 160; Ibn Ashur, *Al-Tabrir wa al-Tamwir*, al-Maktabah al-Shamilah 3.35, vol. 9, p. 286

support. It should be noted that even when the Quraish had arrived at Badr, the Prophet (pbuh) sent Umar bin Khattab to try and negotiate a peace deal with them instead of proceeding with fighting. This is in line with the hadith of the Prophet (pbuh) where he said: “...*Do not wish for an encounter with the enemy. Pray to Allah to grant you security...*”³⁴⁹

Therefore, the verse in question (Qur’an 8:15) makes clear the graveness of the sin of fleeing or desertion from the battlefield. The verse in no way encourages hostility against peaceful others and does not conflict at all with other texts recommending peaceful coexistence with non-hostile others.

Meanwhile, although turning back from the battlefield is prohibited and made among major sins (*Kaba’ir*) by Qur’an 8:15-16 and other texts due to its bad consequence, Qur’an 8:16 equally explains that it is permitted in some circumstances. Allah says: “*And whoever turns his back to them on such a day – unless it be a stratagem of war or to retreat to a troop (of believers) – he has indeed drawn upon himself wrath from Allah...*” (Qur’an 8:16). Thus, turning back from the battlefield for strategic reasons such as those mentioned in the verse is said to be permissible by some Muslim scholars based on the practice of the Prophet (pbuh) and some of his companions.³⁵⁰

³⁴⁹ Muslim, Book 19, Hadith 4314

³⁵⁰ See for more details, Al-Qurtubi, *Tafsir Ayat al-Abkam*, vol.1, p.271; Abd al-Rahman bn Nasir al-Sa’di, *Taisir al-Karim al-Rahman fi al-Tafsir Kalam al-Mannan*, vol.1, p. 317; al-Qaradawi, *Fiqh al-Jihad*, vol.2, p.856-857; al-Ris, *Muhimmatun fi al-Jihad*, p.2.

When Umar bin al-Khatab (Caliph) heard that Abu ‘Ubaid bin Mas’ud al-Thaqafi together with other Muslim fighters were defeated and killed in the Battle of Qadisiyyah, he (Umar) said: “why did not they retreat to me?”³⁵¹ There is also the case of Khalid bin Waleed’s retreat in the Battle of *Mu’ta*.³⁵² Similar to these was the Prophet’s retreat to higher ground on the hill of Uhud due to severe casualties after the Battle of Uhud. Based on this, fighting can therefore not continue to the very end, if it will result in more unnecessary death of Muslims and the objective of fighting in the first place will not be realised. Therefore, when Muslims are outnumbered or face superior military power in battle, it is permissible for them to stop fighting and surrender, preferably with a treaty agreement. This has been the case throughout Islamic history during the Crusades, the Spanish Inquisition, the Occupation of Baghdad by the Mongols, Western Colonialism, etc.

The Qur’an is categorically clear where it commands the Muslims to respond with peace as soon as an enemy inclines towards peace. Allah says: *“And if they incline to peace, then incline to it and trust in Allah; surely He is the Hearing, the Knowing”* (Qur’an 8:61). Allah also says: *“O you who believe, when you go out in the way of Allah, be careful, and do not say to the one who offers you the salutation (salam), you are not a believer to seek stuff of the worldly*

³⁵¹ Muhammad al-Tahir bn ‘Ashur, *Al-Tabrirwa al-Tanwir*, vol. 6, p. 176; also see, al-Tabari, *Jami’ al-Bayan fi Ta’wil al-Qur’an*, vol. 13, p.439.

³⁵²Mubarakafuri, *Al-Rahiq al-Makhtum*, Vol.1, p.367; Abd al-Aziz bn Ris al-Ris, *Muhimmat fi al-Jihad*, p.16.

life...” (Qur’an 4:94). Also in Qur’an 9:6 Allah says: *“And if any one of the idolaters seeks your protection, give him protection until he listens to the Word of Allah, then let him reach his place of safety. That is because they are a people who do not know”*.

The Sunnah of the Prophet (pbuh) and companions gives a categorical reason to end hostilities and establish peace treaties. Allah says: *“And kill them wherever you find them, and turn them out from where they have turned you out. And Al-Fitnah is worse than killing. And fight not with them at al-Masjid al-Haram (the sanctuary at Makkah), unless they (first) fight you there. But if they attack you, then fight them. Such is the recompense of the disbelievers, but if they cease, then Allah is Oft-Forgiving, Most Merciful”* (Qur’an 2:191 &192), He also says: *“But if they incline to peace, you also incline to it, and put your trust in Allah...”* (Qur’an 8:61) Fighting can therefore not continue to the very end, if the enemy ceases fighting and inclines towards peace.

These texts make it unequivocally and explicitly clear that continuous fighting against an enemy is prohibited once such an enemy surrenders, seeks amnesty, or in any way inclines towards peace. Neither in the time of the Prophet (p) and his companions nor at any point in Islamic history was there a continuous unceasing conflict with any group.

Allah says: *“As for such (of the unbelievers) as do not fight against you on account of (your) faith, and neither drive you forth from your*

homelands, Allah does not forbid you to show them kindness and to behave towards them with full equity: for verily, Allah loves those who act equitably. Allah only forbids you to turn in friendship towards such as fight against you because of (your) faith, and drive you forth from your homelands, or aid (others) in driving you forth: and as for those (from among you) who turn towards them in friendship, it is they, they who are truly wrongdoers!” Qur’an 60:8-9

In conclusion, the verse is simply prohibiting fleeing from the battlefield and desertion. It is neither inciting violence and aggression against non-hostile people of other faiths nor against the initiation of peace treaties as it is clear from the reading of the verse in its textual and historical context.

6) Aggression And Hostility is Only Against Aggressors

According to Quran 9:14, “Fight them; Allah will punish them by your hands and will disgrace them and give you victory over them and satisfy the breasts of a believing people”. This verse is interpreted to justify aggression against non-Muslims with the promise that victory will be on the side of true believers (Mu’minun). What is the correct interpretation of this verse?

Once again, the verse under consideration should not be interpreted outside its own context or the context of the whole Qur’an and Sunnah, while disregarding the rules of interpretation (*tafsir*) of religious texts that help prevent or clarify any

confusions. This is especially when some Companions of the Prophet (pbuh) have actually commented on this particular verse. It is again important to note that after this verse was revealed, the Prophet (pbuh) and his companions still continued to treat non-Muslims with fairness and kindness as Allah prescribes in Qur'an 60:8-9, and they continued to make peace treaties with various peaceful non-Muslim communities. They did not understand the verse in any way that implied or permitted injustice or aggression towards others.

The context of the verse explains what is meant: *“Will you not fight people who violated their oaths, plotted to expel the Messenger, and were the first to attack you? Do you fear them? No, it is Allah who you should more justly fear if you believe. Fight them, and Allah will punish them by your hands, cover them with shame, help you (to victory) over them, and heal the hearts of believers.”* (Q.9:13-14). Here, Allah is consoling the fear of the believers who have been persecuted and oppressed on account of their faith for a long time, and encourages them to fight back and defend themselves, knowing that He will aid them to victory and security. The context of the verse makes it abundantly clear that it is encouraging self-defense in the face of aggression, and is not a prescription for unprovoked aggression against others.

It could also be said that the verse is promising believers that when it comes to war, they should bear in their mind that Allah will punish the aggressive unbelievers by their hands and cover

them with shame, and He will assist against them. The promise of victory to the oppressed doesn't justify aggression against peaceful others but serves as an encouragement and inspiration of confidence to the oppressed to rise in self-defense.

Muslims have also been informed that they can only be victorious against such aggression if certain other conditions are met, which include: Having faith in Allah (*Iman*), abstaining from Shirk, staying just, sincerity of purpose, unity, preparedness, prayer etc. – Qur'an 24:55; 8:70; 3:103; and 8:60 - and where necessary, by earnestly fighting in self-defense. The condition of sincerity of purpose, is made clear in the statement of Umar bin Khattab, that our victory against such oppressors is only by obeying Allah's guidance. Umar said: "We are a people whom Allah has given victory through Islam. And whenever we seek for victory through something else, Allah will humiliate us".³⁵³ From this, it is important for Muslims to realize that among the factors that lead to their weakness is their own injustice and unethical behaviour towards themselves and others, disputes that cause disunity, ignorance, corruption, impatience, inaction, and other violations of Islamic teachings.

³⁵³ Abdullah bin Muhammad bin AbdulWahhab, *Mukhtasar Sirat al-Rasul*, Dar al-Faiyhah, Damascus, 1997, vol.1, p.538.

7) On fighting the “nearby” Enemies

According to Qur’an 9: 123, “*O you who have believe, fight those adjacent to you of the disbelievers and let them find in you harshness. And know that Allah is with the righteous.*” This verse is interpreted as authority to justify aggression and the killing of non-Muslims and Muslims who are believed to have apostatized (*Murtaddun*) and are “nearby”. In light of Islam’s teachings regarding goodness and kindness to neighbours, what exactly does this verse mean?

This quote conveniently omits the portion of the verse which explains which disbelievers are to be fought against. The entire verse reads, “*O you who believe, fight the disbelievers who are surrounding you; let them find harshness (or firmness³⁵⁴) in you, and know that Allah is with those who are Allah-conscious (have taqwa).*”

This verse, similar to previous ones, is meant to give courage to the believers against those who are preparing to attack them, with the reassurance that Allah is with those who are pious.

Fighting, in all such cases, was not on account of non-Islamic faith *per se*, but on account of the aggression and treachery initiated by certain groups. Muhammad Asad notes that “all Islamic jurists, without any exception, hold that forcible conversion is under all circumstances null and void and that any

³⁵⁴ “...and let them find you adamant ...” i.e., “Uncompromising with regard to ethical principles” (Muhammad Asad’s translation and commentary, p.285, n.163 to Q9:123)

attempt at coercing a non-believer to accept the faith of Islam is a grievous sin”.³⁵⁵

Also, the verse does not in any way conflict with the respect for the rights of non-Muslim neighbors, peaceful non-Muslims citizens (*alhimmi*), non-Muslim parents, wives, and family members, etc. as emphasized in many other verses of the Qur’an and hadith. Qur’an 4:36 emphasizes the levels of closeness of neighbors. Allah says: “*serve Allah, and join not any partners with him, and do good to parents, kinsfolk, orphans, those in need, neighbors who are of kin, neighbors who are strangers, the companion by your side...*” (Qur’an 4:36)

It is important to note that after this verse was revealed, the Prophet and his companions still continued to treat non-Muslims neighbours with fairness and kindness as Allah prescribes in Q60:8-9, and they continued to make peace treaties with various peaceful non-Muslim communities. They did not understand the verse in any way that implied or permitted injustice or aggression towards others. Lastly, there is no evidence from the Qur’an or Sunnah of the Prophet (pbuh) or his companions to suggest that this verse has been “abrogated” or made irrelevant by any other verse!

³⁵⁵ Muhammad Asad, *The Message of the Qur’an*, Dar al-Andalus, Gibraltar, 1980, p.58, n.249 to Qur’an 2:256

8) The Meaning of “fight” (*qatl*) is Not Limited to Warfare

According to Quran 4:76, “*Those who have attained to faith fight in the cause of Allah, whereas those who deny Allah and lose sight of Him, fight in the cause of the Devil (taghut). Therefore, O you Muslims fight against the allies of Satan. Indeed, the plot of Satan has ever been weak*”. This verse is interpreted by some Muslims to mean that all those who fight for other than Allah and for the establishment of an Islamic state are fighting for Satan, the Devil (*taghut*), and thus become disbelievers (*kuffar*). So, fighting the armed forces (including Muslims) of a non-Islamic state is understood to be fighting in the cause of Allah. What is the correct interpretation of this verse?

The verse under consideration should not be interpreted outside its own context or the context of the whole Qur’an and Sunnah, while disregarding the rules of interpretation (*tafsir*) of religious texts that help prevent or clarify any confusion. The context is clear from the preceding verse which shows that the fighting which Allah commands to be fought is defensive and in response to oppression. It stressed the moral obligation to liberate the oppressed Muslims from the unjust Meccan polytheists.

The verse reads: “*And what is (the matter) with you that you fight not in the cause of Allah and (for) the oppressed among men, women, and children who say, “Our Lord, take us out of this city of oppressive*

people and appoint for us from yourself a protector and appoint for us from yourself a helper. Those who have attained to faith fight in the cause of Allah, whereas those who deny Allah and lose sight of Him, fight in the cause of the Devil (taghut). Therefore, O you Muslims fight against the allies of Satan. Indeed, the plot of Satan has ever been weak". (Quran 4:75-76).

The context of the verses themselves therefore makes it clear that they are not supporting unprovoked aggression. This verse cannot therefore be used as evidence to fight anyone who has not already shown aggression towards others as clarified in the preceding verse (Qur'an 4:75) whether they are Muslims or non-Muslims of a non-Islamic State. The focus of this verse is similar to that of other verses that recommend fighting against clear aggression. It does not recommend fighting against non-hostile Muslims or non-Muslims irrespective of the state they belong to.

After the Treaty of Hudaibiyah, and the establishment of the Islamic State in Medina, there existed Muslims living under non-Muslim rule in Mecca and Abyssinia. Their merely living under non-Muslim rule (in a non-Muslim State) was never understood by the Prophet (pbuh) and his companions as a justification to regard or describe them as "followers of *Taghut*" or consider them as disbelievers (*kuffar*) or apostates (*murtaddun*), let alone to justify fighting them.

Only fighting “in the cause of Allah” (“*fi sabilillah*”) is acceptable in Islam. The intent must be sincere and for seeking Allah’s pleasure, and the form or action must itself be permitted by Shari’ah. No form of fighting can be regarded as “*fi sabilillah*” if it does not respect the commandments of the Qur’an and Sunnah. The verse therefore cannot be used to justify any form of fighting that involves killing non-combatant men, women and children, killing with fire, suicide bombing, mutilation of dead, destroying synagogues, mosques and churches, and fighting those who did not cause aggression.

9) Permissibility to Fight Only those Non-Muslims Who Break Their Treaties

The Qur’an (9:36) says, “*Fight all polytheists together the way they fight you together.*” Some Muslims have understood this verse to legalize the killing of all non-Muslims “all together” (*kaafatan*) because they are non-Muslims irrespective of where they are, and without concern for whether they are combatants or not, and also disregarding whether or not there exist any treaties with them. It is also interpreted to justify the destruction of their properties. How do commentators of the Qur’an interpret the verse?

This verse was never understood to imply an abrogation of the rules of warfare as mentioned in the Qur’an, taught by the Prophet (pbuh) and practised also by his companions. It is for

example not permissible to fight non-Muslims if they are not aggressors and non-combatants. (Qur'an 60:8; 2:193; 9:6) The Prophet said, "Leave the Abyssinians alone, as long as they leave you alone, and do not engage the Turks, as long as they do not engage you."³⁵⁶ The prohibition by the Prophet (p) of killing non-Muslims who were non-combatants, such as women, children, etc. For example, he said, "Never kill women, children, and the old weakened with age"³⁵⁷, "Do not kill hermits"³⁵⁸, "Do not slay the old and decrepit nor..."³⁵⁹, and "Leave them (monks) and that to which they devote themselves."³⁶⁰ To this list, scholars add other non-combatants such as the blind, chronically ill, the insane, peasants, serfs, etc.³⁶¹ Just because non-Muslims may not respect such ethics of just warfare does not mean that Muslims should disrespect clear teachings of the Qur'an and Sunnah.

The context of the verse is in respect to fighting those polytheists/pagans who banded together to fight against Muslims

³⁵⁶ Abu Dawood, No.3748; An-Nasa'i, No.3125; authenticated by Al-Albani in *Sahih Jaami' al-Sagheer*, no.3384. The hadith is also cited in Ibn Rushd's *Bidayat al-Mujtahid*, vol.1, p. 456

³⁵⁷ Imam At-Tahawy, *Shahr Ma'ani al-Athar*, Dar al-Kutub al-Ilmiyyah, Beirut, 1399AH, hadith no.4770 (ed. Muhammad Zuhri al-Najjar); al-Bayhaqi, *al-Sunan al-Sugrah*, hadith no. 3894.

³⁵⁸ Ahmad bin Hanbal, *Musnad Ahmad*, Mu'assasah al-Risalah, Beirut, 1420 A.H, vol.4, p.461.

³⁵⁹ Al-Bayhaqi, *al-Sunan al-Sugrah*, hadith no. 3894; al-Bayhaqi, *al-Sunan al-Kubrah*, hadith no. 17932.

³⁶⁰ Abu Bakr Abd al-Razzaq, *Musannaf Abd al-Razzaq*, hadith no. 9377; al-Bayhaqi, *al-Sunan al-Kubrah*, hadith no. 18614.; *Musnad Ahmad*, hadith no. 2728; al-Tabarani, *al-Mu'jam al-Kabir*, hadith no.11396; al-Bayhaqi, *al-Sunan al-Sugra*, hadith no.3893.

³⁶¹ For more references and discussion, see Ibn Rushd's *Bidayat al-Mujtahid wa Nihayat al-Muqtasid* (The Distinguished Jurist's Primer), vol.1, 1994, pp.458-460.

and break their treaties – see from Qur’an 9:1 to 36. The term “*Kaafatan*” in the verse means “all together”, “as a group” or “collectively”. The verse is encouraging Muslims to also band together to fight against such aggression. It is not asking Muslims to behave in ways that contradict the clear and explicit codes of conduct that regulate the ethics of warfare in Islam. The verse therefore does not justify rape, mutilating the dead, killing of non-combatants, women, children, elderly, clerics, non-Muslim citizens (*dhimmi/mu’abid*)³⁶², respect treaties³⁶³, killing with fire, destruction of places of worship, farmland, animals, trees, poisoning of water sources, or any other unethical forms of warfare.

This verse does not justify reprisals whereby non-Muslims nearby are killed because some non-Muslims elsewhere killed some Muslims. The Prophet and his companions did not punish the Jews of Medina for the wrongs of Jews elsewhere, nor were Pagans of Banu Tha’qif punished because of the wrongs of the Pagans of Quraish. Each person and group were responsible for its own actions. The Qur’an teaches that no one should bear the sins of another (Qur’an 53:38); each soul gets what it has earned (Qur’an 2:286); “*And whatever [sin] each soul earns [its evil outcome] falls back upon it. And no bearer of burden will bear another’s burden. Then you are to return to your Lord alone, and He will inform you of that wherein you used to differ.*” (Qur’an 6:164).

³⁶² Al-Bukhari, *Sahih al-Bukhari*, hadith no. 6914.

³⁶³ Muslim, *Sahih Muslim*, hadith no. 4729.

Lastly, Muslims should not let hatred of or towards any enemy make them deviate from justice and the clear teachings of the Qur'an and Sunnah.

“O you who have attained to faith! Be ever steadfast in your devotion to God, bearing witness to the truth in all equity; and never let hatred of anyone lead you into the sin of deviating from justice. Be just; this is closest to being God-conscious. And remain conscious of God; verily, God is aware of all that you do.” (Qur'an 5:8)

“...Do not, then, follow your own desires, lest you swerve from justice; for if you distort (the truth), behold, God is indeed aware of all that you do!” (Qur'an 4:135).

10) On the Treatment of Muslims believed to have “apostatized”

The Qur'an says: “O you who believe, if anyone from you turns back from his Faith, then Allah will bring a people whom He loves and who love Him, humble toward the believers, hard on the disbelievers, who fight in the way of Allah and are not afraid of the reproach of any critic. That is a grace of Allah. He confers it on whom He wills. Allah is All-Embracing, All-Knowing” (Qur'an 5:54)

Some Muslims quote the verse above for guidance on the treatment of those Muslims who they believed to have apostatized and “turned their backs” on their religion. This

they regard as having been done by such Muslims accepting to work with, or choosing to live in a state that is not an Islamic caliphate. Such Muslims are regarded as apostates and unbelievers to whom persistent and perpetual hostility and harshness is regarded as justified. How is this verse best understood?

Verses of the Qur'an should not be interpreted in isolation of their own contexts and other verses of the Qur'an that clarify their meaning. They should also not be interpreted without reference to sunnah of the Prophet (p) and his Rightly Guided companions.

The claim that Muslims who work with or live in a state that is not an Islamic Caliphate are to be regarded as apostates and therefore disbelievers is not supported by the Qur'an or the Sunnah of the Prophet (pbuh). The Qur'an encourages people to travel and explore other lands and places so long as these places are safe, and freedom of worship is not threatened. Such verses include, "Say, *Go about in the land and look how He has originated the creation...*" (Qur'an 29:20) and "O My servants who believe, surely My earth is vast. So, Me alone you must worship." (Qur'an 29:56).³⁶⁴ Hence, the legal presumption (*Istishab*) for travel is

³⁶⁴ A similar verses states: "He is the One who made for you the stars, so that you may be guided by them in darkness of the land and the sea..." Qur'an 6:97. In a hadith, the Prophet (pbuh) said: "The earth has been made for me (and for my followers) a place for praying and a thing to perform Tayammum, therefore anyone of my followers can pray wherever the time of a prayer is due..." Bukhari, Book 1. Volume 7, Hadith 331

that of permissibility and freedom of movement. Early companions of the Prophet (p) traveled to Abyssinia and stayed under a system that was just even though it was not governed by Islamic law or a caliphate. Companions of the Prophet (p) such as Tufayl al-Dawsi and his uncle Abbas bin Abdul Mutallib both stayed in non-Muslim majority communities. Muslims lived as minorities in Mecca under the leadership of Abu Sufyan who was then not a Muslim. Additionally, Islam got to many parts of the world as a result of the travels by numerous companions and their successors for various reasons including but not limited to the propagation of Islam and establishing peace treaties. The fact that these early Muslims lived in lands under non-Muslim rule is clear evidence of the permissibility for Muslims to reside in such places and not be regarded as apostates or having turned their back on their religion. Some scholars also cite the fact that in Qur'an 12:55, a respected prophet of Allah, Yusuf (p) sought to work for the common good in the service of a non-Muslim government. *“He said: appoint me to (supervise) the treasures of the land. I am indeed a knowledgeable keeper.”* Such employment did not and does not take a person outside the fold of Islam.

The verse in question Qur'an 5:54, therefore, cannot be interpreted to justify the declaration of Muslims living or working under a non-Muslim government as apostates. It also does not justify hostility towards others who have not fought Muslims on account of their faiths nor driven them out of their lands as it is clear from Qur'an 60:8-9 *“As for such (of the*

unbelievers) as do not fight against you on account of (your) faith, and neither drive you forth from your homelands, Allah does not forbid you to show them kindness and to behave towards them with full equity: for verily, Allah loves those who act equitably. Allah only forbids you to turn in friendship towards such as fight against you because of (your) faith, and drive you forth from your homelands, or aid (others) in driving you forth: and as for those (from among you) who turn towards them in friendship, it is they, they who are truly wrongdoers!”

According to commentators of the Qur’an such as Razi, this verse was actually revealed on the occasion of those who committed apostasy and treason during the lifetime of the Prophet (p). These included some leaders and members of the tribes such as Al-Aswad al-Unsi of Banu Mudlij, Musailamah al-Kazzab of Banu Hanifa and Tulaiha bin Khuwailid³⁶⁵ of the tribe of Banu Asad.³⁶⁶ The historical context of this verse therefore makes it clear that it was not referring to Muslims who lived or worked among non-Muslims but to those who apostatized and rejected Islam and who turned hostile against Muslims.

Concerning the phrase in the verse, “... *then Allah will bring a people whom He loves and who love Him...*” The Prophet (pbuh) was reported to have said: “*They are your people, O Abu Musa, the*

³⁶⁵ He returned to Islam during the reign of Abubakar, the first Caliph

³⁶⁶ Fakhr al-Din al-Razi, *Al-Tafsir al-Kabir/ Mafatih al-Gaib*, al-Maktabah al-Shamilah 3.35, vol, 6, p. 80; Zuhaili, *Al-Tafsir al-Mumir*, al-Maktabah al-Shamilah 3.35, vol, 6 p. 230-231,

People of Yemen".³⁶⁷ These apostates and insurgents were eventually fought due to their acts of treason in the Riddah wars during the caliphate of Abubakar (ra).³⁶⁸ It is regarding these apostates that Allah says: "...He would bring (in their place) a people whom He loves and who love Him, humble toward the believers, hard on the disbelievers, who fight in the way of Allah and are not afraid of the reproach of any critic..."

In light of the numerous texts of the Qur'an and hadith that promote harmony and peaceful coexistence with non-hostile people of other faiths, the phrase "hard on the disbelievers" (*kuffar*) cannot possibly refer to all people of other faiths but specifically to those who are hostile and oppressive.

In conclusion, the verse is simply saying that whomever apostasies from Islam would be replaced by Allah with more obedient and God-fearing Muslims. The verse in no way justifies hostility against peaceful others, nor does it support the view that Muslims who live among or work with friendly people of other faiths are apostates.

³⁶⁷ Suyuti, *Al-Durr al-Manthur fi al-Ta'wil bi al-Ma'thur*, al-Maktabah al-Shamilah, vol, 3 p. 401; Ibn Jarir al-Tabari, *Tafsir al-Qur'an al-Azim*, al-Maktabah al-Shamilah 3.35, vol. 10, p. 415 hadith no. 12191; Zuhaili, *Al-Tafsir al-Mumir*, al-Maktabah al-Shamilah 3.35, vol, 6 p. 231,

³⁶⁸ Ibn Jarir al-Tabari, *Tafsir al-Qur'an al-Azim*, al-Maktabah al-Shamilah 3.35, vol. 10, p. 412-413.

11) On Persistent Hostility with the belief that “*Allah’s will shall prevail*”

Qur’an 12:21 ends with, “... *And Allah is predominant over His affair, but most of the people do not know*”. This has been used by some Muslims to justify persistent violence against non-hostile others, in the belief that their actions are in Allah’s cause, and His will shall prevail. Is this a correct interpretation of this phrase?

This verse is similar to numerous other verses in the Qur’an which make it clear that “*Allah has power over all things*” (Qur’an 2:20), and “*If Allah decrees a matter, He merely commands it to be and it is*” (Qur’an 2:117; 36:82; 40:68); and “*..Allah is powerful to do everything.*” (Qur’an 3:189). This is also the interpretation given to Qur’an 12:21 by Mujahid and al-Suddy in the commentary (*Tafsir*) of Ibn Kathir.³⁶⁹

This attribute of Allah being All-powerful and supportive of good done in His cause does not justify any action that is contrary to the letter and spirit of the clear dictates of Allah in the Qur’an or the categorical teachings of the Prophet (p). Allah said, “*...do not seek to make mischief in the land. Surely, Allah does not like the mischief-makers.*” (Qur’an 28:77). While Allah would support the cause of justice and self-defense, He will not support hostility

³⁶⁹ Ibn Kathir, *Tafsir al-Qur’an al-Azim*, al-Maktabah al-Shamilah 3.35, vol. 4, p. 378.

and aggression against those who have not fought Muslims on account of their faith nor driven them out of their lands (Qur'an 60:8-9).

Allah will also not support those who fight non-combatants and kill innocent women and children of any community, regardless of their faith. On the contrary, Allah promises to punish those who killed or harm innocent others and who cause mischief and destruction in the land. He says: *“Those who fight against Allah and His Messenger and run about trying to spread disorder on the earth, their punishment is no other than that they shall be killed, or be crucified, or their hands and legs be cut off from different sides, or they be kept away from the land (they live in). That is a humiliation for them in this world, and for them there is a great punishment in the Hereafter.”* (Qur'an 5:33).

It is actually a crime in Islamic law to justify fighting anyone without having the authority of the State. Taking the law into your hands and deciding to punish others is usurping the power of the state and is itself an offence – irrespective of the crime.

12) On Fighting others just because of their disbelief

Allah says in the Qur'an, *“They ask you concerning the sacred month about fighting in it. Say: Fighting in it is a grave matter, and hindering (men) from Allah's way and denying Him, and (hindering men from) the Sacred Mosque and turning its people*

out of it, are still graver with Allah, and “Fitna” is graver than fighting; ...” (Qur’an 2:217). This verse is used by some Muslims to justify fighting peaceful non-Muslims on account of their disbelief alone. These Muslims consider the sin of disbelief (*kufir*) as being the wrongdoing (“*Fitna*”) that is so grave as to justify fighting even non-hostile disbelievers. What is the correct interpretation of the verse?

As with all verses of the Qur’an, it is important to consider the textual and historical context of the verse in order to arrive at a correct understanding of the intent and implications of the text. Reading the whole verse and understanding its historical context (*sabab al-wurud*) makes clear the meaning and nature of the word “*fitna*” as used in the verse. The remaining text of the verse reads, “...They will go on fighting you until they turn you away from your faith if they could, ...”. This part of the verse makes it clear that the enemy will not stop fighting and persecuting the Muslims on account of their faiths until they leave Islam. The earlier part of the verse also makes it clear that existing hostilities such as “... prevent (people) from the path of Allah, to disbelieve in Him, and in Al-Masjid-ul-Haram, and to expel its people from there, ...” were ongoing. It is this persecution, civil strife, denial of religious freedom and disorder that are the *fitnah* which justifies fighting back by Muslims. To interpret the word *fitnah* in the verse as disbelief or idolatry and then imply that it is permissible to fight people of other faiths due to their disbelief alone would conflict with too many other texts of the Qur’an and

applications in the Sunnah of the Prophet (p). The interpretation of *fitnah* therefore could only mean persecution and denial of religious freedom and other acts such as expelling people from their lands as it is clear from the verse itself and other relevant texts.

This interpretation is also strengthened by the consideration of the historical context of the verse. The context of the verse was in reference to the persecution meted out on the Muslims by the pagan Quraish of Mecca. They had fought and killed Muslims, persecuted and expelled them from their homes and prohibited them from worship at the Sacred Mosque (Masjid al-Haram) in Mecca. On one occasion, about two months before the Battle of Badr, some Muslims had fought back against the Quraish. Unbeknownst to them the month of Sha'aban had not begun and they were still in the last day of Rajab which was one of the sacred months during which fighting was traditionally not permissible. The Quraish accused Muslims of fighting in the sacred month. This verse was revealed in defense of the Muslims as it argued that what the Quraish were guilty of was far graver and worse than what they accused the Muslims of. Elsewhere in the Qur'an (2:191-194), Allah makes it clear that the sacredness of the "Sacred Months" (*Ashhur al-Hurum*) and of the "Sacred Mosque" (Masjid al-Haram) is not as important in the eyes of Allah as the value and sacredness of innocent lives and justice. The implication is that they should be concerned about the

graveness of their sins instead of accusing the believers.³⁷⁰ Muslims are therefore allowed to fight back during these months and in the Sacred Mosque when necessary.

The context of the verse, and the numerous texts of the Qur'an and authentic hadith which categorically prohibit the killing of various categories of non-combatants among people of other faiths – women, sick, elderly, children etc. – even in the context of war is clear evidence that the verse in question (Qur'an 2:217) only justifies fighting against hostility and violence. Thus, there is no justification for the interpretation of the word "*fitna*" in the context of this verse as "disbelief" (*kufri*) instead of the normal meaning of the word *fitna* which is persecution, oppression, strife, etc.

Those who hold the opinion that it is permissible to commit violence based on this verse consider their act of violence lesser to the sin of disbelief of the non-Muslims because of the phrase: "...persecution is graver than slaughter...". The persecution here is interpreted by commentators of the Qur'an to mean disbelief or shirk.³⁷¹ However, this form of deduction is not in line with any classical methodology of ruling derivation from the texts of the shariah. Additionally, the verse was not interpreted as such by the

³⁷⁰ Suyuti, *Al-Durr al-Manthur fi al-Ta'wil bi al-Ma'thur*, al-Maktabah al-Shamilah 3.35, vol, 2 p. 3; Zuhaili, *Al-Tafsir al-Munir*, al-Maktabah al-Shamilah 3.35, vol, 2 p. 259

³⁷¹ Al-Bagawi, *Ma'alim al-Tanzil Fi Tafsir al-Quran*, al-Maktabah al-Shamila, version 3.35, vol.1 p.248.

earliest Muslims, neither by those who followed them (the Ta'bioon) nor any classical scholars.

In the light of the entire Qur'an and the lived life of the Prophet (pbuh), and his rightly guided caliphs; non-Muslims were not fought on account of disbelief for a Jewish rabbi called Mukhyriq was reported to have fought alongside the prophet (pbuh) during the battle of Uhud³⁷². Also, Umar bin Khattab had a slave boy named Isbiq who remained non-Muslim until Umar died. He did not kill him for his rejection of faith.³⁷³ In a battle, Usama bin Zaid bin Haritha proceeded to kill his opponent who proclaimed shahada at the sword point, and he was queried by the Prophet (pbuh)³⁷⁴. This was because his method was not in line with the

³⁷² Ibn Ahmad, *Al-AHadith al-Mukhtarab*, Vol. 7, p. 189; al-Salihi, *Subul al-Huda*, Vol. 9, p. 121; Ibn Mansur, *Sunan Sa'id Ibn Mansur*, Vol. 2, p. 331; Ibn Muflih, *Al-Mubdi'*, Vol. 3, p. 336; al-Shawkani, *Nayl al-Awtar*, Vol. 8, pp. 43 f. See also, for Jews and idolaters fighting alongside the Prophet against the Muslims' enemies, Ibn Qudamah, *Al-Mughni*, Vol. 9, p. 207; al-Ghazali, *Al-Wajiz*, Vol. 2, p. 190; al-Ghazali, *Al-Wasit*, Vol. 7, p. 16; 'Uthman, "Ptida' Saddam," p. 183; al-Qattan, "Al-Isti'anah bi-ghayr al-Muslimin," p. 201. – (all cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.39-40, notes 201-203).

³⁷³ Ibn Abi Hatim, *Tafsir ibn Abi Hatim* 2654; Muhammad Saeed Ramadan Bootui, *al-Jihad fi al-Islam kaifa nashamuhu wa kaifa numarisuhu*, p.52.

³⁷⁴ Narrated Usama bin Zaid bin Haritha: "Allah's Apostle sent us (to fight) against Al-Huraqa (one of the sub-tribes) of Juhaina. We reached those people in the morning and defeated them. A man from the Ansar and I chased one of their men and when we attacked him, he said, "None has the right to be worshipped but Allah." The Ansari refrained from killing him but I stabbed him with my spear till I killed him. When we reached (Medina), this news reached the Prophet. He said to me, "O Usama! You killed him after he had said, 'None has the right to be worshipped but Allah?'" I said, "O Allah's Apostle! He said so in order to save himself." The Prophet said, "You killed him after he had said, 'None has the right to be worshipped but Allah.'" The Prophet kept on repeating

Prophet's methodology of Jihad. So, the name is not what matters but rather the reality. Thus, the means to a good act must be good as bad means cannot be acceptable as means to a good act.

In conclusion, the verse is not evidence in support of aggression and hostility against peaceful people of other faiths merely on account of their faith. There is no compulsion in religion, and the Prophet (p) and his companions lived peacefully with non-Muslim citizens of various religions and had peace treaties with many others. *Shirk* (polytheism) or *Kufr* (disbelief) without hostilities were never a justification for Muslim hostilities during the time of the Prophet (p) and his companions. And they understood the Qur'an and sunnah best.

13) Fighting a State or its leadership based on Qur'an 5:33

Some Muslims have interpreted Qur'an 5:33 which prescribes a series of punishments against state crimes – such as brigandage, banditry, treason, terrorism, assassination, etc. – as justifying insurgency and fighting against the state itself, when the leadership is believed to have also committed such crimes. Can a state or its leadership be regarded as

that statement till I wished I had not been a Muslim before that day" *Bukhari*, Vol 9, book 83, number 11.

guilty of the crime of “*hirabah*” and fought by its citizens based on this verse?

Qur’an 5:33 reads: “The recompense of those who wage war against Allah and His Messenger and do mischief in the land is only that they shall be killed or crucified or their hands and feet be cut off on the opposite sides, or be exiled from the land. That is their disgrace in this world, and a great torment is theirs in the Hereafter”.

This verse is understood by some to also mean that if a state is guilty of “war against Allah and, His Apostle and spread corruption on earth”, the punishment to be meted against such leadership is that “... they should be killed ...”. This is understood to imply that citizens can punish their leaders or organize a rebellion.

This understanding and implication of the verse is not what we seen in the life of the Prophet (p) and his companions. It was never used by scholars among the Tabi’un (successors of the Companions) to justify insurgency or rebellion even when they faced tyrant and no one knew and understood the Qur’an and sunnah and their implications better than that generation. This alone indicates a likely misinterpretation of the verse.

The historical context of the verse is about a particular band of people from the community of ‘Ukl or ‘Uraina who accepted Islam and came to seek the assistance of the Prophet (pbuh) and

was assisted. They thereafter tortured and gruesomely killed the shepherd in Medina whom the Prophet (pbuh) assigned to serve and assist them during their illness and drove away the camels. Abu Qilaba said: “Those people committed theft and murder, became infidels after embracing Islam and fought against Allah and His Apostle”.³⁷⁵ According to other authorities, the context of the verse was in connection with a group of People of the Book who broke their peace treaty with the prophet (pbuh) by committing armed robbery.³⁷⁶

The word “*Hirabah*” mentioned in the verse has traditionally been understood to refer to violent crimes such as banditry and armed robbery which were both crimes against the state and national security. This was confirmed by the punishment meted by the Prophet (pbuh) against the criminals in connection with the revelation of this verse. “*Hiraba*” has been understood to embrace other state crimes including treason, terrorism, assassinations etc.

In a situation whereby the constituted authority is charged with malpractices or social injustices, the verse cannot be quoted to justify citizens fighting against the state. Rebellion, insurgency or fighting against the state by its own citizens is regarded in Islamic

³⁷⁵ Bukhari, 233; 6802; Muslim, 1671

³⁷⁶ Al-Tabari, *Jamiu Al-bayan fi al-Tawil al-Quran*, vol.10, pp. 243, Maktabah al-Shamilah, version 3.35; Al-Baghawi, *Ma'alim al-Tanzil Fi Tafsir al-Quran*, al-Maktabah al-Shamila, version 3.35, vol.3 p.45.

law as a crime referred to as *Bugha*.³⁷⁷ And *Bugha* against the state cannot be justified by the verse that empowers the state to punish violent crimes against its citizens.

If the head of state is unjust and tyrannical, only a tiny minority of the jurists including Ibn ‘Uqayl, Ibn al-Jawzi and al-Juwayni and later Rida permit rebellion after all means to correct him has failed based on the fight of al-Husayn against Yazid ibn Muawiyah.³⁷⁸ But even within this minority group, some proposed that if overthrowing the leader could lead to fitnah, the juristic principle of “choosing the lesser of the two evils” should be applied.³⁷⁹

The opinion of the majority remains solid even under the justification of principle of enjoining right and preventing evil. The fight of al-Husayn against Yazid ibn Muawiyah who is a *tabi’* (a follower of the era of sahaba) is a weak justification amidst the general spirit of Islamic law – of protection of lives and

³⁷⁷ Allah says: “And if two parties of the believers are quarrel, make peace between them, but if one of them acts wrongly towards the other, fight that which acts wrongfully until it returns to Allah’s command...” Qur’an 49:9 Scholars such as al-Qasim in *Iklil fi Tanzil al-Qur’an on Qur’an 49:9*, Ibn Taymiyyah in *Al-Khilafa wa al-Muluk* p. 88, Abou El Fadl in *Rebellion and violence* page 239 and other scholars refer to this verse as prohibiting *bugha*. Ahmed Al-Dawoody concluded that with regard to the scriptural basis for the law of rebellion, the jurists refer only to the verse above. Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p. 151

³⁷⁸ Rashid Rida, *Tafsir al-Manar*, al-Maktabah al-Shamilah 3.35, vol. 6, p. 304

³⁷⁹ Ibn Abidin, *Hashiyah Radd al-Mukhtar*, vol. 4, p. 264; Awdah, *Al-Tashri’ al-Jina’i al-Islami*, vol. 2 p. 677 cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.154

properties.³⁸⁰ Opposition against the state authority can only be done through non-violent means such as legal actions, elections and petitions. A Muslim, therefore, is not allowed to take the law into his own hands as it could lead to anarchy (*fitnah*).³⁸¹ The Prophet (p) said: "*He who took up arms against us is not of us*".³⁸²

A narration from the Prophet (pbuh) further elucidates on the importance of not taking the law into one's hands. It was reported by Abu Hurayrah that Sa'd bn 'Ubadah once said asked the Messenger of Allah (pbuh), "What do you think if I find with my wife a man, should I give him some time until I bring four witnesses?" The Prophet (pbuh) said: "Yes".³⁸³ In another narration, it was reported that Sa'd bn 'Ubadah asked, "If a man finds a man with his wife, should he kill him?" The Messenger of Allah (pbuh) said: "No". Sa'd responded, "Why not, by Him who has honoured you with the truth?" The Prophet (pbuh) said: Listen to what your chief is saying. The narrator 'Abd al-Wahhab said: (Listen) to what Sa'd is saying.³⁸⁴

³⁸⁰ Ibn Qudamah, *Al-Mughni*, vol, 9, p. 5; Ibn Muflih, *Al-Furu'*, vol, 6, p. 153; al-Buhuti, *Al-Jihd fi al-Islam*, p. 153, al-Buhuti, *iKashaf al-Qina'*, vol, 6 p. 159; cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p. 154-155

³⁸¹ Prophet (p) said: "Seek refuge with Allah from turmoil (*fitnah*), its visible and invisible (aspects), and they said: We seek refuge with Allah from turmoil and its visible and invisible aspects."

³⁸² Muslim, Book 1, Hadith 181

³⁸³ Sahih Muslim 14398; Abu Dawud Hadith 4533

³⁸⁴ Sunan Abi Dawud hadith 4532

Abu Umar Ibn AbdulBarr al-Nimury while commenting on this hadith said: “In this hadith, there is a prohibition of killing someone in this condition in honour of protection of life/blood and for the fear of delving into the discussion of splitting of the blood of Muslims without doing what was commanded to be done of establishing concrete evidence or the acknowledgement of the sin by the accused person. This also is to shut the door of assuming the position of a judge in what he was charged to do of handling issues to do with punishments....”³⁸⁵

The Prophet (p) also said: “Listening to and obeying the leader is an obligation upon a Muslim, whether he likes it or dislikes it, as long as he is not commanded to disobey Allah. If he is commanded to disobey, then there is no listening or obedience”³⁸⁶
Therefore, there is no command to fight.

In conclusion, all legal punishments (*Hudud, Ta’zir and Qisas*)³⁸⁷ in Islamic Law are only implemented through the state’s judicial system or constituted authority. Imam Shafii said: “No punishment is imposed on the free-born except by the Imam and whomever he has delegated because punishments were not established during the lifetime of the Prophet (p) except with his

³⁸⁵ Ibn AbdulBarr *al-Tamhid*, Mu’assah al-Qurtobah, vol21, p253, Maktabah Shamilah

³⁸⁶ Bukhārī 2796

³⁸⁷ Hudud refers to a fixed punishment in the clear text of the Qur’an and Sunnah which comprises the punishment for theft, adultery and fornication etc. Ta’zir refers to discretionary punishment for crimes for which there is no specific punishment in Islam. Qisas refers to equitable retribution for an injury caused to someone else or death penalty for killing a soul unjustly.

permission, nor during the days of the caliphs except with their permission...”³⁸⁸ Ibn Muflih writes: “It is forbidden to establish a legal punishment unless it is done by the leader or his deputy”.³⁸⁹ Imam al-Qurtabi said: “There is no dispute that the person addressed in this matter- i.e. the command to punish for adultery is the Imam and whoever acts on his behalf,³⁹⁰ And according to the Kuwaiti Encyclopedia of Fiqh: “The jurists came to a consensus that a legal punishment may not be implemented unless by the leader or his deputy. That is in the best interest of people, which is to safeguard their lives, their property, and their reputations”.³⁹¹ By extension, if *ta’zir* (discretionary punishment) and *Qisas* (equitable retribution) cannot be left in the hands of individuals, how much more for the most severe punishments for violent crimes such as those related to “*Hirabah*”.

Commonly Misinterpreted Hadiths on *Jihad*

1) On Fighting “so that the word of Allah is supreme”

Abu Musa al-Ash‘ari reported that a Bedouin Arab came and asked the Messenger of Allah (pbuh) about a man who fights

³⁸⁸ Imam Shafii, *al-Umm* vol. 6 p. 154

³⁸⁹ Ibn Muflih, *al-Furu’* 6. p. 153; al-Mirdawi, *Al-Insaf*, vol. 10, p. 311.

³⁹⁰ Al-Qurtabi, *Al-Jami’ li ahka’m al-Qur’an*, vol. 2 p. 245; Ibn Rushd, *Bidayat al-Mujtahid wa nihaya al-Muqtasid*, vol. 2 p. 365.

³⁹¹ al-Mawsū’at al-Fiqhīyah al-Kuwaytīyah 17/144

out of valour (bravery), a man who fights out of tribalism, and a man who fights out of ostentation (pride); which one (of these) fights in the cause of Allah? He replied: "*Whoever fights so that the word of Allah be supreme is indeed fighting in the cause of Allah.*"³⁹²

Some have interpreted the ending of this hadith "so that the word of Allah is supreme" (*li-takuna kalimatu Allah hiya al-'ulya*) as a justification for fighting if it is with the intention to establish an Islamic state or Islamic social order. They have understood the phrase in a political sense, and imply that the greatest form of striving "in the cause of Allah" (*fi sabilillah*) is fighting to establish a state and regard other forms of striving in Allah's cause as inferior to this. What is the correct interpretation of this hadith?

As with any other hadith or text of the Qur'an, this one cannot be interpreted in isolation from its own historical and textual context, nor can it be interpreted without reference to other clear texts that are relating to the justifications and conduct of war in Islamic jurisprudence. Its interpretation cannot also disregard the lived tradition and example of Prophet Muhammad (pbuh) and his rightly guided companions. These are among the key requirements for a correct scholarly understanding of any text of the Qur'an or Hadith.

³⁹² Bukhari hadith 123, Muslim hadith 1904

The claim that this hadith is evidence for justifying fighting to establish an Islamic state, or for regarding military or political forms of jihad as superior to any or all others irrespective of the context is not supported by a careful study of the hadith itself. The claim of the superiority of this political jihad is also contradicted by numerous explicitly clear texts of the Qur'an and authentic statements of the Prophet (pbuh), many of which have been cited earlier in this work.³⁹³

The best and most meritorious form of jihad depends on the **person(s)**, their **context**, and the sincerity of their **intention** to act in **Allah's cause**. Based on these factors, the best form of jihad could be "telling the truth to a tyrannical ruler", fighting to defend the community or remove corruption, staying away from battle so as to teach or educate the community or so as to serve one's parents, going for pilgrimage (Hajj), taking care of orphans, freeing slaves, or striving for greater economic or political rights and freedom, etc. Or it could be any sincere personal effort towards character improvement, increasing Allah-consciousness and self-purification. **What would be a priority form of jihad for various individuals and communities during times of peace, may not be a priority during times of war, occupation, and civil unrest.** Muslims should therefore under all circumstances strive to the best of their capacities and in all walks of life, towards self and societal improvement, guided by the Islamic teachings towards greater respect for rights, religious

³⁹³ See discussion on the "The Best Jihad" earlier in the book.

freedom, and realization of Islamic ideals, values, and objectives. Based however on the explicit teachings of the Qur'an and tradition of Prophet Muhammad (pbuh) regarding the Islamic laws of war, none of these ideals and objectives justifies unprovoked aggression, terrorism, or fighting and killing of innocent people.³⁹⁴

Depending on the definition and context, the promotion and establishment of an “Abode of Islam” (Darul Islam), a “Shari’ah-compliant state” or a system of governance that is compatible with the rights and religious freedoms of Muslims is a legitimate goal for Muslims. However, such a political goal, cannot be realized by means and methods that conflict with the teaching of the Qur'an, Sunnah and Islamic law of war and peace. During the lifetime of the Prophet (pbuh) and his rightly guided companions, no political state was established through hostility or unprovoked aggression against any peaceful community. The city-state of Medina became more and more Islamic through the acceptance by its people of the Prophet and his companions’ exemplary character, *da’wah* and message of enlightenment -

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The hadith under discussion is not teaching anything new or different from what numerous other texts in the Qur'an and hadith have instructed regarding the importance of sincerity and purity of our intention and motivation when fighting or doing anything in Allah's cause (*fi sabilillah*). The Hadith, based on its own context, was not presenting the Bedouin Arab who asked the question with a brand-new justification for warfare to establish a state, nor was it prescribing for him (or anyone else) a new military or political policy. The hadith was answering a question of what is and what is not an acceptable motivation for fighting in Allah's cause (*fi sabilillah*). The Prophet's answer simply and succinctly stressed the well-established need for Muslims to ensure that all their actions and intentions are in line with and guided by the Word of Allah (the Qur'an) and the Prophetic example (the Sunnah).³⁹⁵

The primary focus of this hadith as discussed by numerous hadith commentators and scholars is on the importance of being sincerely motivated to serve Allah's cause alone.³⁹⁶ Consequently,

³⁹⁵ According to Imam An-Nawawi, this implies that actions are only acceptable when the objective is righteous and that the bounty attached to those who fight in the course of Allah, is specific with those whose aim is to make the word of Allah supreme. See Imam al-Nawawi, *Al-Minhaj*, Vol, 6 p. 383, al-Maktabah al-Shamilah 3.35

³⁹⁶ Ibn Uthaymeen, *Sharh Riyadh al-Salihin*, al-Maktabah al-Shamilah 3.35, p.10; Badr al-Deen al-'Ayni, *Umdat al-Qaari Sharh Sahih al-Bukhari*, al-Maktabah al-Shamilah 3.35, vol.3, p.398.

the respected hadith commentator, Imam An-Nawawi cites this particular hadith in the first chapter of his book *Riyadh al-Salihin*, titled “*Kitab al-Niyyah*” (The Book of Intentions).³⁹⁷ This is in line with a number of verses of the Qur’an that call Muslims to fight in the cause of Allah for reasons such as fighting against oppression, tyranny, insecurity and for religious freedom, etc.,³⁹⁸ and not to serve the ego or a selfish cause - such as fighting for fame, recognition, outrage, booty, etc. The hadith calls on Muslims to treat Allah’s cause and goals as supreme and exalted above all and any personal interests.

Imam al-Nawawi said, “Although this hadith is apparently about fighting the disbelievers, it could cover those who set out to fight the tyrants, armed robbers and to ensure the establishment of good and the avoidance of evils”.³⁹⁹

In the context of warfare, the Qur'an (8:45-46) reiterates the point made in the hadith under consideration, which is that Muslim fighters should be conscious of Allah in order to be successful. They should act in Allah’s cause by obeying the guidance of Allah and His Messenger; be steadfast and patiently persevere. They should not be boastful or show off, and not deny the legitimate rights of others.

³⁹⁷ Imam al-Nawawi, *Riyadh al-Salihin*, Dar ibn Hisham, Cairo, hadith 9.

³⁹⁸ See Qur’an 4:75, Qur’an .2:193, Qur’an 22:39; and the section on “Justifiable reasons for warfare” as discussed earlier in this book.

³⁹⁹ Imam al-Nawawi, *Al-Minhaj*, Vol, 6 p. 354, al-Maktabah al-Shamilah 3.35

Allah says, "O you who believe, when you meet an enemy, be firm, and remember Allah much, that you may be successful. And obey Allah and His Apostle. And fall with no disputes, lest ye falter and your strength fail; but be steadfast! For Allah is with those who patiently persevere. Be not as those who came forth from their dwellings boastfully; and to be seen of men and who debar (men) from the way of Allah. And Allah encompasses what they do". (Qur'an 8:45-46).

On the motivation for fighting in Allah's cause, the Qur'an also says, "And what reason have you not to fight in the way of Allah and for the oppressed among men and women and children who say: Our Lord! take us forth from the town whereof the people are oppressors and grant us from You a friend and grant us from You a helper. Those who believe fight in the way of Allah and those who disbelieve fight in the way of the devil. So, fight against the friends of Satan; verily weak indeed is the strategy of the devil" (Qur'an 4:75-76).

Also, "And fight in the Way of Allah those who fight you, but transgress not the limits. Truly, Allah likes not the transgressors. And kill them wherever you find them, and turn them out from where they have turned you out. And persecution (al-fitnah) is worse than killing..." (Qur'an 2:190-191).

These verses, in conjunction with the hadith under discussion, make it clear that those people who fight for self-glorification or the exploitation of the weak are in fact friends of the devil; whereas, those who raise arms to fight tyranny and aggression, to

eradicate evil and persecution from the human society, fight in the way of Allah. Mere fighting, therefore, is not an acceptable form of Jihad in Allah's cause; it is the noble objective and the respect for the divinely prescribed conduct of warfare that makes it a sacred and noble pursuit.

The phrase "so that the word of Allah is supreme" or "is exalted" (*li takuna kalimat Allah hiya al-'ulyah*) is also used in Qur'an 9:40. Allah says, "Even if you do not help the Prophet, Allah helped him when the disbelievers drove him out: when the two of them were in the cave, he [Muhammad] said to his companion, 'Do not worry, Allah is with us,' and Allah sent His calm down to him, aided him with forces invisible to you, and brought utterly low the word of those who were bent on denying the truth, whereas the word of Allah remained supreme: for Allah is Almighty, Wise" (Qur'an 9:40).

The immediate context of this verse makes it obvious that the phrase "*kalimat Allah hiya al-'ulyah*" (so that "the word of Allah is supreme") is being juxtaposed with "*kalimat al-kuffar hiya al-sufila*" (so that "the word of the deniers of truth is abased" or "brought low"). The earlier part of the verse provides its historical context and makes it clear that the successful escape of the Prophet (pbuh) and his companion (Abu Bakr) in Allah's cause from their hostile enemies were being described as Allah resulting in "*kalimat Allah hiya al-'ulyah*" ("the word of Allah as supreme"). In contrast, the failure of the plans of the hostile Quraish who tried to kill the Prophet (pbuh) and their ultimate

disgrace was described by Allah as resulting in “*kalimat al-kuffar hiya al-sufra*” (“the word of the deniers of truth is abased”).⁴⁰⁰

Some scholars, however, view the last part of the verse “*aided him with forces invisible to you, and brought utterly low the word of those who were bent on denying the truth, whereas the word of Allah remained supreme...*” as a reference to the victory of the Muslim forces over the hostile polytheists of Mecca during the Battle of Badr in the second year after Hijra.⁴⁰¹

In both interpretations, the meaning of the phrase “*kalimat Allah hiya al-‘ulyah*” (“the word of Allah as supreme”) remains the same. It describes Allah’s word, promise, cause, and plan as becoming supreme, exalted, and victorious over those of His enemies. It should be noted that while the Arabic term “*kalima*” (‘word’) in the phrase “*kalimat Allah*” or “*kalamu Allah*” as used in the Qur’an and hadith often refers to the Qur’an itself – which is the “Speech of Allah”.⁴⁰² It is also used in the Qur’an to refer to the “Decree” or “Promise” of Allah.⁴⁰³ Depending on the context,

⁴⁰⁰ Al-Razi, *al-Tafsir al-Kabir wa Mafatih al-Gayb*, al-Maktabah al-Shamilah 3.35, vol.8, p.34; Al-Wahidy, *al-Wajiz fi Tafsir al-Katab al-‘Aziz*, al-Maktabah al-Shamilah 3.35, p.284

⁴⁰¹ Al-Razi, *Tafsir al-Kabir wa Mafatih al-Gayb*, al-Maktabah al-Shamilah 3.35, vol. 8, p.31

⁴⁰² See Qur’an 6:115, Qur’an 9:6, Qur’an 48:15, Qur’an 18:27. In Qur’an 2:75, the phrase “Kalamullah” is used to refer to earlier revelations.

⁴⁰³ Imam al-Qurtuby, *al-Jami’ li-Ahkaam al-Qur’an*, al-Maktabah al-Shamilah 3.35, vol.8, p.149

therefore, it could also refer to Allah's cause, plan, statement, design, etc.⁴⁰⁴

The word "*al-'ulya*" means, 'higher', 'highest', 'most supreme', 'most exalted', 'most sublime', 'most victorious', 'most dominant', 'most prevailing', 'having the upper hand', etc. Consequently, the phrase "*kalimah Allah hiya al-'ulya*" also refers to any successful outcome which makes Allah's goodly cause and purpose for His creation prevail and become victorious over the cause of evil, ungodliness, and falsehood. Such an outcome has to be the product of sincere effort that is guided by the Qur'an and Sunnah.

According to Ibn Hajar al-Asqalani, "...and some (scholars) say that "*kalimatullah hiya al'ulyah*" refers to "Allah's invitation of people to Islam" (*da'watuLlahi ila al-Islam*)⁴⁰⁵. According to others, the meaning of "*kalimatullah*" in the phrase "*kalimatullah hiya al-'ulyah*" is the "expression of monotheism" (*Kalimatu al-Tawhid*). This is the meaning of "*kalimah*" in the verse in which Allah says "*Say 'O people of the scripture' (Jews and Christian), come*

⁴⁰⁴ See Al-Tabari, *Jami'u al-Bayan fi Tawil al-Qur'an*, al-Maktabah al-Shamilah 3.35, vol.9, p.419; Al-Qurtuby , *al-Jamiu li-Ahkam al-Qur'an*, al-Maktabah al-Shamilah 3.35, vol.6. p.22

⁴⁰⁵ Ibn 'Alan, *Dalil al-Falihin li-Turuq Riyadh al-Salihin*, al-Maktabah al-Shamilah 3.35, vol.1, p.71; Ibn Hajar, *Fath al-Bari Sharh Sahih al-Bukhari*, al-Maktabah al-Shamilah 3.35, vol.8, p.406.

to a word (*kalimah*) that is common between us and you, that we worship none but Allah...” (Qur’an 3:64).⁴⁰⁶

The implication of the broad meaning therefore to the phrase “*kalimat Allah hiya al-’ulya*” would be that it could refer to anything that represents the success of Islam, Allah’s cause, and the higher intents and purposes (*maqasid*) of Shari’ah. It would therefore apply to any success of Islam on any level or sector of society – economic, political, intellectual, military, legal, educational, social, cultural, etc. – that also respects the means and methods approved by the Qur’an and Sunnah.

2) The hadith on Three Options for Non-Muslims

One particular hadith is often cited by some to claim that peaceful non-Muslims have only three options when interacting with a Muslim community or state, and these are: Either become Muslim and join us, or agree to a treaty where you pay a military exemption tax (Jizya), or we go to war.

How is this a reasonable offer to people who just want self-rule and self-determination? They don’t want to become Muslims, they don’t want to pay Jizya, and they don’t want to fight or go to war. What are their options?

What is the correct interpretation of this Hadith?

⁴⁰⁶ Ibn Hajar, *Fath al-Bari Sharh Sahih al-Bukhari*, al-Maktabah al-Shamilah 3.35, vol.21, p.34.

The Prophet (pbuh) said: “...*When you meet your enemies who are polytheists, invite them to three courses of action. If they respond to any one of these, you also accept it and withhold yourself from doing them any harm. Invite them to (accept) Islam; if they respond to you, accept it from them and desist from fighting against them. Then invite them to migrate from their lands to the land of Muhajirs and inform them that, if they do so, they shall have all the privileges and obligations of the Muhajirs. If they refuse to migrate, tell them that they will have the status of Bedouin Muslims and will be subject to the commands of Allah like other Muslims, but they will not get any share from the ‘spoils of war’/booty (ghanima and fai) except when they actually fight alongside Muslims. If they refuse to accept Islam, demand from them the Jizya tax. If they agree to pay, accept it from them and hold off your hands. If they refuse to pay the tax, seek Allah's help and fight them...*”⁴⁰⁷ **What is the correct interpretation of this Hadith?**

Some have interpreted this hadith to mean that all non-Muslims including peaceful and non-hostile ones are to be fought by Muslims unless they either embrace Islam or pay the *jizyah* tax. This implies compulsion in religion and regards the *jizyah* as a tax imposed on non-Muslims as a result of their having rejected Islam. This interpretation is also claimed to support the idea of an existing and constant state of war and hostility against non-

⁴⁰⁷ *Sahih Muslim*: Book 19, hadith 4294; Al-Baihaqi, *al-Sunan al-Saghir*, al-Maktabah al-Shamilah 3.35, vol. 7, p. 397, hadith no. 2817; Abu Dawud, *Sunan Abi Dawud*, al-Maktabah al-Shamilah 3.35, vol. 7, p. 193, hadith no. 2245

Muslims. It is understood to justify surprise attacks against even peaceful people on account of their different faith.

The context of this hadith, however, which is clear from its own text - “...*When you meet your enemies who are polytheists, invite them to three courses of action...*” – indicates that it referred specifically to a context of warfare and the existence of hostile enemies. To interpret this hadith without regard to this context of warfare would imply an unnecessary contradiction with numerous clear texts of the Qur’an and hadith that prescribe peaceful co-existence with non-hostile people of other faiths.

The fact that this hadith does not apply to peaceful people of other faiths is also supported by the fact that during the lifetime of Prophet Muhammad (pbuh), there were many non-Muslim communities and nations with whom the Muslims had peaceful relations who did not embrace Islam, and who did not pay the *jizyah* tax. These included the various Jewish communities of Medina who agreed to join the Muslims in defending their city. The Prophet (pbuh) also maintained peaceful relations and exchanged gifts with non-Muslim leaders such as the Coptic Christian king (Muqawqas) of Egypt and the Christian king (Negus) of Abyssinia.⁴⁰⁸ These non-Muslim leaders who were not hostile towards Muslims were therefore not threatened on account of their faith, nor were they presented with the three options listed in the hadith under consideration.

⁴⁰⁸ Al-Tabarani, *Al-Mu’jam al-Kabir*, hadith no. 3497.

As noted earlier on, some consider the *jizyah* tax as a financial burden charged on non-Muslims for not having embraced Islam. This opinion, however, is not supported by the fact that those non-Muslims (such as women, clergy, children, etc.) who are not able or required to join the military service of the state are exempted from paying *jizyah* in spite of their disbelief while still having the financial means. The *jizyah* tax was a military exemption tax that placed an obligation upon the Islamic state to guarantee the protection of non-Muslim citizens from internal and external threats. Historically, when the Islamic State or its army was unable to guarantee that protection, the *jizyah* tax was either returned or not collected from the non-Muslim communities. Consequently, during the reign of Umar bin al-Khattab as caliph, Abu Ubaidah returned the *jizya* collected from the Syrians in Homs when the State could not protect them against the Byzantine army. Abu Ubaidah did a similar thing with the people of Damascus when he was preparing for the Battle of Yarmuk.⁴⁰⁹ According to Ibn al-Qayyim, “when the Islamic state is unable to protect its non-Muslim citizens, then they are exempted from paying the *jizyah* tax”.⁴¹⁰ All these demonstrate that the *jizyah* tax is not intended as a punishment for not embracing Islam but as a protection tax in lieu of military

⁴⁰⁹ Al-Iktifa' and Futuh al-buldan Hitti, P.K., trans.; Murgotten, F.C., trans., "*Al-Baladhuri: The Battle of The Yarmuk (636) and After*" in *The Origins of the Islamic State, being a translation from the Arabic of the Kitab Futuh al-Buldhan of Ahmad ibn-Jabir al-Baladhuri* (Studies in History, Economics and Public Law, LXVIII. New York, Columbia University Press. I, pp. 207-211, 1916-1924). <https://sourcebooks.fordham.edu/source/yarmuk.asp>

⁴¹⁰ Ibn Qayyim, *Abkam Ahl al-Dhimma*, vol.1, pp. 8, 15 and al-Shafi', *al-Umm*, pp. 171-2

service to the state. Non-Muslims who choose to join the military service have the same rights to booty and the spoils of war as Muslim soldiers and they are not required by any Islamic law to change their religion.

Ordinarily, Muslims have the right to reciprocate to a hostile enemy with warfare in a just manner. The fact that this hadith requires Muslims who have been provoked to offer their enemies two other peaceful courses of action as alternatives to fighting, is testimony that Islamic law prefers peaceful co-existence to conflict.

The three options cited in the hadith under consideration were provided to ensure peaceful co-existence among all by either agreeing to practice the same faith which would surely ease togetherness or pay the *jizya* as a tax to the state for its provision of welfare and security and in lieu of military service. In a real sense, therefore, the hadith provided a platform for a more peaceful resolution to hostility. The third option (of fighting) presupposes that the enemy rejects a peaceful resolution and decides to wage war. The army should consequently stand firmly to fight back after seeking Allah's assistance.

In conclusion, the hadith that gives hostile enemies three options – embrace Islam, pay *jizyah* tax, or fight – is evidence that Islamic teachings regard fighting and warfare as a last resort when all peaceful options have been rejected by an enemy.

3) On fighting people until they accept Islam

The Prophet (pbuh) was reported to have said, “*I have been ordered to fight the people until they say, ‘There is none worthy of worship but Allah.’*”⁴¹¹ Some Muslims have interpreted this hadith to imply that Muslims must continue to fight people of other faiths until they pronounce the Declaration of Faith (*Kalimatush Shabadah*) and accept Islam. What is the correct understanding of this hadith?

The Arabic word in this hadith is not “*aqtul*” which means “kill”, but “*uqaatil*,” which means “to fight back” – a meaning more ambiguous than *qatl* which implies proactivity and taking the first initiative. The word “*qaatal*” implies reciprocity, and thus may not be used for a scenario where one initiates an attack without provocation. This act of fighting with a people may also not contradict the injunctions of the Qur’an on the type of people to be fought, the specific exemptions mentioned in Qur’an 2:193, 9:4-7, 4:90, and others like them (all of which should be read in their contexts), as well as the example of the Prophet (pbuh).⁴¹² Even those who interpret the above hadith as

⁴¹¹ *‘Abridged’ Sahih al-Bukhari*, vol.4, no.196; Zaki al-Din al-Mundhiri, *Mukhtasar Sahih Muslim*, ed. Nasiruddin al-Albani (Al-Maktab al-Islami wa Dar al-Arabiyyah, 1972), p.8

⁴¹² Even those who interpret the above hadith as permitting aggression towards polytheists restrict it to only the pagan Arabs who, at the time of the Prophet (pbuh), were notorious for breaking their treaties and continuously fighting and conspiring against the Muslim community. This is based on the understanding that the fighting enjoined in Qur’an 9:5 was only in respect of aggressive polytheist Arabs, and thus not applicable to non-Arab polytheists, “People of the Book”, Sabians, etc. (See Louay Safi, *Peace and the Limits of War: Transcending Classical Conception of Jihad*, Herndon, USA:

permitting aggression towards polytheists restrict it to only the pagan Arabs who, at the time of the Prophet (pbuh), were notorious for breaking their treaties and continuously fighting and conspiring against the Muslim community. This is based on the understanding that the fighting enjoined in Qur'an 9:5 was only in respect of aggressive polytheist Arabs, and thus not applicable to non-Arab polytheists, "People of the Book", Sabians, etc.

The second aspect of this hadith conveys the sacredness of the declaration of faith in One God since it is one of the means (and not the only means!) to cease fighting.⁴¹³ This understanding has also been demonstrated by the Prophet (pbuh) in other Hadiths where he chastised a believer for killing an enemy in battle after the enemy uttered the declaration of faith on the brink of being defeated.

Like any other hadith or verse of the Qur'an, the hadith under consideration cannot be interpreted outside the context of the whole Qur'an and Sunnah, neglecting other explicit statements in the Qur'an and hadith on this issue, and disregarding the rules of interpretation (*tafsir*) of religious texts. Furthermore, it would be wrong to try and conclude that this hadith (or any other Hadith)

IIIT, 2001, pp.12-15, citing authorities such as Abu Hanifa, al-Shafi'i, Malik, and Abu Yusuf).

⁴¹³ Other means to cease fighting include: surrendering or seeking peace (Q8:61, 2:193), seeking Muslim protection (Qur'an 9:6-7), becoming a citizen and paying the *jizyah* or military exemption tax (Q9:29), etc.

abrogates any of the verses of the Qur'an on this topic. *“There is no compulsion in religion”* (Qur'an 2:256)

4) Perpetual Jihad: A misinterpretation of the Prophetic Mission

The Prophet (pbuh) said, *“A party of my community shall not cease fighting for truth and it shall be triumphant over its opponents.”*⁴¹⁴ This hadith had been understood by some to justify never-ending fighting and warfare until such a time that all have been conquered. What is the correct understanding of the hadith?

The commentary of the great hadith Scholar, Imam An-Nawawi on this hadith states, *“This party consists of different classes of the faithful, of them being the brave fighters, and the jurists, and the collectors of hadith, and the zuhad (those who abstain from worldly lusts and devote themselves to the service of Allah), and those who command the doing of good and prohibit evil, and a variety of other people who do other good deeds.”*⁴¹⁵ This commentary elaborates that the fighting for truth mentioned by the hadith is not restricted to armed struggle or the battlefield but indeed refers to any form of struggle or “fighting for truth” for the benefit to Islam and humanity.

⁴¹⁴ *Abu Dawood*

⁴¹⁵ Shams al-Haqq Abaady, *‘Awnu al-Ma’bud Sharh Sunan Abi Dawud*, Maktabah Shamilaah version 3.35, Vol. 9, P.292, P.361-367

Using the hadith to justify never-ending fighting is not supported by the Qur'an, the Sunnah, or practice of the Companions. The Qur'an categorically says, "...*But if they attack you, then fight them. Such is the recompense of the disbelievers, but if they cease, then Allah is Oft-Forgiving, Most Merciful*" (Qur'an 2:192). It similarly says: "*But if they incline to peace, you also incline to it, and put your trust in Allah...*" (Qur'an 8:61) Fighting can therefore not continue perpetually, if the enemy ceases fighting and inclines towards peace.

The practice of the Prophet (pbuh) who mentioned the hadith, has shown that fighting was not done throughout his whole life. He enacted many peace treaties that ended hostility and fighting. Just as he engaged in fighting sometimes, he also ceased fighting for most of the time, and likewise his companions. The Treaty of Hudaibiyah which was made after the victory of Muslims following the Battle of the Trench (Al-Khandaq) stands as clear proof that war must not be an objective or a never-ending act. The Companions of the Prophet (pbuh) also made numerous peace treaties with various non-Muslim communities. War was the exception and not the norm.

The true meaning of this hadith is therefore that a part of prophet's nation will not cease upholding Islam and struggling for its prevalence, using different means which include armed Jihad, and these will continue until the Last Day. They will, however, not engage in armed Jihad until the conditions are met

and they ensure that they are physically and spiritually prepared and there is benefit in such fighting for the *Ummah*.⁴¹⁶

All this makes it clear that the interpretation of the hadith or any other evidence to justify unceasing fighting is not supported by the Qur'an, sunnah or understanding of the Companions of the Prophet (pbuh).

5) On the “Sword” Leading to Paradise

The Prophet (pbuh) said, “*Paradise is under the shade of the swords*”.⁴¹⁷ This hadith is understood to mean that fighting is to be encouraged and is an obligation for Muslims, and an important means for getting into Paradise. What is the correct interpretation of this hadith?

Like any other hadith or verse of the Qur'an, the hadith under consideration cannot be interpreted outside the context of the whole Qur'an and Sunnah, neglecting other explicit statements in the Qur'an and hadith on this issue, and disregarding the rules of interpretation (*tafsir*) of religious texts.

The hadith in full assists in clarifying its meaning: “*Do not wish to meet the enemy, and ask Allah for safety; but when you face the enemy, be patient, and remember that Paradise is under the shade*

⁴¹⁶Abd al-Aziz bn Ris al-Ris, *Muhimmat fi al-Jihad*, p.23

⁴¹⁷ ‘Abridged’ *Sabih al-Bukhari*, vol.4, no.73

of swords.” This hadith, rather than encouraging warfare, discourages believers from seeking it. However, it reassures them that if it becomes unavoidable and one gets killed by the sword, then Paradise is the reward of a martyr.

The battles fought during the lifetime of the Prophet (pbuh) were in defence of the young Islamic State against the pagan forces of Arabia who tried to destroy it, and the surrounding imperial powers. For about fifteen years, the fledgling Muslim community had patiently undergone torturous persecution; when the strategy of non-violence was no longer bearable (and the threat of physical extermination became imminent), the early Muslim community was granted permission to fight to protect themselves and their freedom to maintain an Islamic state.⁴¹⁸

The ending of this hadith also clarifies that fighting or killing in Islam only becomes encouraged when it is fought to prevent aggression and in the absence of peaceful alternatives (such as peace treaties). The hadith also shows that jihad in Islam is defensive and not aggressive against peaceful non-Muslims as mentioned in Qur’an 60:8. Lastly, the way to paradise is not confined to fighting *jihad* as the *Shari’ah* identifies many other alternative ways such as loving one another, spreading Salam (greeting) among one another, fasting, prayer, etc.

⁴¹⁸ For more on this hadith, see also Yusuf al-Qaradawi, *Fiqh al-Jihad*, vol. 1, p.335 - 345.

**SECTION 6:
OTHER RELATED QUESTIONS ON
JIHAD**

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Sanctity of Every Human Life in Islamic Law

Some think that the life of a Muslim is more sacred than that of a non-Muslim, and that Islamic law does not offer the same level of protection to people of other faiths as it does to Muslims. They believe or suspect that Islam has little respect for the lives of people of other faiths and discriminates against them, regarding Muslims as being inherently superior people and whose lives are more valuable than others.

What do Islamic texts have to say on the sanctity of human life, irrespective of faith?

The Qur'an teaches that every human being has a special place in Allah's creation irrespective of what faith or belief an individual chooses to profess. Allah says: "*And we have certainly honoured the sons of Adam; provided them with transport on land and sea; given them for sustenance things good and pure; and conferred on them special favours, above a great part of our creation.*" (Qur'an 17:70)

Not only are all humans children of Adam to whom Allah commanded the Angels to bow (Qur'an 2:34), but each human

has a spirit Allah breathed into him or her. Allah says “...and then He forms him in accordance with what he is meant to be, and breathes into him of His spirit.” (Qur’an 32:7-9). Thus, every human is a spiritual being living in a physical or earthly body.

While repeating in the Qur’an what was revealed in earlier revelations, Allah clearly describes the importance and sacredness of the life of every human being, and says,

“...if anyone slays a human being – unless it be (in punishment) for murder or for spreading corruption on earth – it shall be as though he had slain all mankind; whereas, if anyone saves a life, it shall be as though he had saved the lives of all mankind. ...” (Qur’an 5:32)

Every human irrespective of their faith, social standing or gender is a spiritual being whose life is sacred; thus, harming or taking it unjustly is a great sin and crime that is punishable by death, irrespective of the murdered person’s religious identity.

The equality of human life irrespective of faith, ethnicity, race or gender, etc. is clear from the equal regard the Qur’an and authentic Sunnah give to the punishment or “equitable retribution” (*qisas*) and recompense (*diyyah*) for taking of innocent life, whether murder or manslaughter, etc.

Allah says in Qur’an 5:45,

“We have prescribed therein for them (the Children of Israel); a life for a life, an eye for an eye, nose for nose, ear for ear, tooth for tooth ...” To prevent any confusion about the implication to Muslims of this Qur’anic verse, the respected Companion of the Prophet (p), Ibn Al-Musayyab is reported as having said regarding this particular verse, that *“this verse is for us (Muslims) and for them (Jews).”*⁴¹⁹ In other words, this verse applies to Muslims, and it does not make any distinction regarding the value of one life over another based on religion.

In another verse, Qur’an 2:178 we read,

“O you who have attained to faith! Just retribution (qisas) is ordained for you in cases of killing: the free for the free, and the slave for the slave, and the woman for the woman. And if something [of his guilt] is remitted to a guilty person by his brother, this [remission] shall be adhered to with fairness, and restitution to his fellow-man shall be made in a goodly manner.” (Qur’an 2:178)

In his commentary on this verse, Muhammad Asad says,

“As for the term *qisas* occurring at the beginning of the above passage, it must be pointed out that - according to all the classical commentators - it is almost synonymous with *musawah*, i.e., "making a thing equal [to another thing]": in this instance, making the punishment equal (or appropriate) to the crime - a meaning which is best rendered as "just retribution" and not (as

⁴¹⁹ Badr al-Din al-‘Ayni, *Umdat al-Qari*, vol.2, p.161; Abu Bakr Abd al-Razzak bn Hummam al-San’ani, *Musanaf Abd al-Razak*, al-Maktab al-Islami, Beirut, 1403AH, hadith no.18134.

has been often, and erroneously, done) as "retaliation". Seeing that the Qur'an speaks here of "cases of killing" (*fil-qatla*, lit., "in the matter of the killed") in general, and taking into account that this expression covers all possible cases of homicide - premeditated murder, murder under extreme provocation, culpable homicide, accidental manslaughter, and so forth - it is obvious that the taking of a life for a life (implied in the term "retaliation") would not in every case correspond to the demands of equity. (This has been made clear, for instance, in Qur'an 4:92, where legal restitution for unintentional homicide is dealt with.) Read in conjunction with the term "just retribution" which introduces this passage, it is clear that the stipulation "the free for the free, the slave for the slave, the woman for the woman" cannot - and has not been intended to - be taken in its literal, restrictive sense: for this would preclude its application to many cases of homicide, e.g., the killing of a free man by a slave, or of a woman by a man, or vice-versa. Thus, the above stipulation must be regarded as an example of the elliptical mode of expression (*ijaz*) so frequently employed in the Qur'an, and can have but one meaning, namely: "if a free man has committed the crime, the free man must be punished; if a slave has committed the crime...", etc. - in other words, whatever the status of the guilty person, he or she (and he or she alone) is to be punished in a manner appropriate to the crime."⁴²⁰

⁴²⁰ Muhammad Asad, *The Message of the Qur'an*, The Book Foundation, England, 2003, p.47, n.147 to Qur'an 2:178.

This verse is therefore general in its import and makes no distinction regarding the value of the lives of people based on religion.

In the Qur'an 17:33, Allah says,

*“And take not the life which Allah has made sacred, unless it be in the cause of justice. **Whoever is killed unjustly**, We have appointed to his next-of-kin authority; but let him not exceed in slaying. He (the near kin) will certainly be helped (to seek redress).”* This verse again makes no distinction regarding the value of one person's life over another based on religion, class or gender, etc.

In Qur'an 4:92 it says,

“And it is not conceivable that a believer should slay another believer, unless it be by mistake. And upon him who has slain a believer by mistake there is the duty of freeing a believing soul from bondage and paying an indemnity (diyya) to the victim's relations, unless they forgo it by way of charity. Now if the slain, while himself a believer, belonged to a people who are at war with you, [the penance shall be confined to] the freeing of a believing soul from bondage; whereas, if he (the victim) belonged to a people to whom you are bound by a covenant, [it shall consist of] an indemnity (diyya) to be paid to his relations in addition to the freeing of a believing soul from bondage. And he who does not have the wherewithal shall fast [instead] for two consecutive months. (This is) the atonement ordained by God: and God is indeed all-knowing, wise.”

This verse treats 3 distinct cases. The first and earlier part of the verse that reads, “...upon him who has slain a believer by mistake...” refers to the case of a Muslim victim and what the prescribed punishment or atonement is for such manslaughter.

The second case mentioned in the middle of the verse – “*the slain, while himself a believer, belonged to a people who are at war with you*” - deals with a Muslim victim who was living among those non-Muslims who are hostile or at war with the Muslim community.

The third case in the latter part of the verse reads, “...if he (the victim) belonged to a people to whom you are bound by a covenant ...”, and refers to a non-Muslim victim who is a member of a community that has a peace treaty or covenant with Muslims. According to Asad, “*This relates to cases where the victim is a non-Muslim belonging to a people with whom the Muslims have normal, peaceful relations; in such cases, the penalty is the same as that imposed for the killing, under similar circumstances, of a fellow-believer.*”⁴²¹

In other words, in both the first case of the accidental killing of Muslim, and the third case of the accidental killing of a non-Muslim citizen, the same amount of “blood money” (*diyyah*) as indemnity is to be paid to the family or next-of-kin of the victim, irrespective of the faith of the victim or that of the killer.

⁴²¹ Muhammad Asad, *The Message of the Qur'an*, The Book Foundation, England, 2003, p.141, n. 117 to Qur'an 4:92

All these verses are very clear and general in their import, making no distinction between human beings based on gender, religion, age, ethnicity, class or social status. No verse in the Qur'an regards the life of any innocent citizen more sacred or valuable in the consideration of Islamic law than another based on religious difference.

Similarly, in the hadith of the Prophet (p), he is reliably reported to have made some general statements regarding the sin and punishment for murder without discrimination based on the religion of the victim.

The Messenger of Allah was asked about the gravest of all sins (*al-kaba'ir*), and he said, "*To join partners in worship with Allah, to slay a soul (which Allah has forbidden), and to be unkind to one's parents...*"⁴²²

In another hadith, Aisha, the wife of the Prophet (p) is reported to have said that the Prophet (p) said, "The blood of a Muslim who confesses that there is no god but Allah and that I am the messenger of Allah, cannot be shed except in three cases: a married person who commits illegal sexual intercourse, for he shall be stoned to death, and a man who leaves Islam and engages in fighting against Allah and His Prophet, for he shall be

⁴²² Bukhari, *Sahib al-Bukhari*, Dar bin Kathir, Beirut, 1407AH, hadith no. 5632.

executed, crucified or exiled, or **one who kills, for which he shall be killed (too)**.⁴²³

In another version of the same hadith, Abdullah bin Mas'ud said: "The Prophet (p) said, "The blood of a Muslim who confesses that there is no god but Allah and that I am the Messenger of Allah, cannot be shed except in three cases: **a life for life**, a married person who commits illegal sexual intercourse, and the one who turns renegade from Islam (i.e. one who apostatises) and leaves the community of Muslims."⁴²⁴

In both these hadiths, scholars have concluded that a Muslim may be killed if he commits murder (or adultery), and these hadiths make no distinction regarding the religion of the victim (or partner in the case of adultery). They make it explicitly clear as do all the related verses of the Qur'an on this issue, that the Muslim killer is also liable to be killed in just retribution (*qisas*).⁴²⁵ Similarly, the criteria for a decision on the punishment in Islamic law in the case of theft, robbery, injury, etc., does not regard as

⁴²³ Abu Dawud, *Sunan Abu Dawud*, hadith no. 4355, vol. 4, p. 223, Dar al-Kitab al-Arabi, Beirut, n.d. the hadith was authenticated by al-Albani; Al-Shawkani, Muhammad bin 'Ali bin Muhammad, *Nayl al-Awtar*, vol.7, p.5-6, Dar al-Kutub al-'Ilmiyyah, Beirut n.d. - All cited in Abdullah Saeed and Hassan Saeed, *Freedom of Religion, Apostasy and Islam*, Ashgate Publishing Ltd., England, 2004, p. 59. See also al-Suyuti, *al-Durr*, vol II, p. 306 and al-al-Jassas, *Abkam al-Qur'an*, vol. II, p. 409 cited in Khaled Abou El-Fadl, *Rebellion and Violence in Islamic Law*, Cambridge University Press, Cambridge, UK, 2001, (See footnote 83), p. 51.

⁴²⁴ Bukhari, *Sabih al-Bukhari*, Dar bn Kathir, Beirut, 1407AH, hadith no. 6484; For a slightly different version, see: al-Bayhaqi, *Kitab al-Sunnah al-Kubra*, hadith no. 16700

⁴²⁵ Ahmad bin Ali al-Razi al-al-Jassas, *Abkam al-Qur'an*, edited by Muhammad al-Sadiq Qamhawi, Dar Ihya' al-Turath al-'Arabi, Beirut, 1405AH, vol.I, p.173

relevant the religion, class or gender of the victim of the crime in deciding the punishment to the guilty Muslim.⁴²⁶ A Muslim, therefore, does not get a lesser punishment because he/she stole or injured a fellow non-Muslim citizen. It, therefore, stands to reason that taking the life of a non-Muslim would not incur a lesser punishment when compared to taking the life of a fellow Muslim citizen.

From the clear and explicit texts of the Qur'an and Sunnah, the life of every human being is sacred and should be equal in the eyes of the law, irrespective of a difference in religion and gender, etc.⁴²⁷ From these clear texts, Muslims jurists have concluded on a legal maxim which states that "The premise (or original rule) regarding the shedding of blood is its prohibition." To take the life of anyone requires very clear and undisputed evidence. And in the absence of such explicit evidence from the Qur'an and tradition of the Prophet (p) and his Companions, the legal

⁴²⁶ Ibn Taymiyyah, *Al-Siyasah al-Shar'iyyah*, p.143; Zuhayli, *Al-Fiqh al-Islami*, vol.6, p.218; Musaylihi, *Huquq al-Insan*, p.327; Wafi, *Himayat al-Islam*, p.26. Cited in Mohammad Hashim Kamali, *The Right to Life, Security, Privacy and Ownership in Islam*, Ilmiah Publishers, IIAIS Malaysia, 2013, p.15.

⁴²⁷ Some hadiths that have generated controversy and divergent opinions among scholars include one where the Prophet (p) is reported to have said, "... that no Muslim should be killed (in retaliation - *qisas*) for killing a disbeliever (*kafir*)."⁴²⁷ (*Sahih al-Bukhari*, vol.9, hadith no. 50 in Alim 6.0 and vol.4, p.326-327). Another hadith states, "The blood money of an unbeliever (*kafir*) is half that of a Muslim" (Ahmad bin Hanbal, *Musnad*, vol.2, p.180). Scholars have differed on whether the term "*kafir*" (disbeliever) in the context of both hadiths refers to all non-Muslims including citizens under covenant and state protection (*Ahl al-Dhimma*), or only to hostile and warring (*kafir haribi*) people of other faiths. For a full discussion on this controversy, please see, Da'wah Institute of Nigeria, *Muslim Relations with Christians, Jews and Others*, Islamic Education Trust, Minna, Nigeria, 2018, pp. 181 - 189.

maxim and general rule stands, which is that it is prohibited to take the life of any innocent human being.

Interfaith Cooperation in Defence and Security Services

Some Muslims regard it as prohibited for Muslims to collaborate with people of other faiths in fighting against Muslim terrorists or other criminals. They also regard it as forbidden for Muslims to join the military, law enforcement and security services of non-Muslim governments, especially if such engagement could result into fighting against Muslims.

Can Muslims cooperate with people of other faith in defence and security services against criminals, terrorists, insurgents and violent or belligerent Muslims and non-Muslims?

It is permissible to fight non-Muslims if they are violent aggressors. Allah says in the Qur'an:

“Fight (qātilū, in Arabic) in the cause of God those who fight (yuqātilū) you, but do not commit aggression, for God loves not the aggressors”. (Qur'an 2:190);

“And kill them wherever you find them, and turn them out from where they have turned you out. For persecution is worse than killing. And fight not with them at al-Masjid al-Haram (the sanctuary at

Mecca), unless they (first) fight you there. But if they attack you, then kill them. Such is the recompense of the disbelievers, but if they cease, then Allah is Oft-Forgiving, Most Merciful. And fight them until there is no fitnah (oppression) and religion is for Allah, but if they cease, let there be no hostility except to those who practice oppression". (Q2:191-193);

"But if they violate their pledges after having concluded a treaty, and revile your religion, then fight against the leaders of disbelief who, behold, mean nothing by their pledges, so that they might desist. Will you not fight against people who have violated their pledges, conspired to expel the Prophet, and were the first to attack you? Do you hold them in awe? Nay, it is Allah who you ought to stand in awe of, if you truly are believers. (Qur'an 9:12-13)

From the verses of the Qur'an cited above, the relevant hadiths on this topic, and the actual historical happenings (*seerah*) of the times, it can confidently be concluded that all the battles against communities belonging to other faiths by the Prophet (p) and his Companions were against their oppression, aggression and hostility.⁴²⁸

However, it is not permissible to fight non-Muslims if they are not aggressors and non-combatants. Allah says in the Qur'an,

⁴²⁸ Sir Thomas Arnold, *The Spread of Islam in the World: A History of Peaceful Preaching*, Goodword Books, New Delhi, India, 2002; Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011; Yusuf Al-Qaradawi, *Fiqh al-Jihad*, 2 Vols., Maktabah Wahbah, Cairo, 2009.

“Allah does not forbid you to deal justly and kindly with those who fought not against you on account of religion and did not drive you out of your homes. Verily, Allah loves those who deal with equity.” (Qur’an 60:8);

“And fight them until there is no fitnah (oppression) and religion is for Allah, but if they cease, let there be no hostility except to those who practice oppression”. (Qur’an 2:193);

“...and if anyone of the Mushrikun (polytheist) seeks your protection then grant him protection, so that he may hear the Word of Allah, and then escort him to where he can be secure, that is because they are men who know not”. (Qur’an 9:6)

The Prophet (p) is reported to have instructed his Companions to, *“Leave the Abyssinians alone, as long as they leave you alone, and do not engage the Turks, as long as they do not engage you.”*⁴²⁹

There is in addition, the prohibition by the Prophet (p) and his Companions of killing even during warfare, those non-Muslims who were non-combatants, such as women, children, etc.⁴³⁰ For

⁴²⁹ *Abu Dawood*, hadith no.3748; *An-Nasa’i*, hadith no.3125; authenticated by Al-Albani in *Sahih Jaami’ al-Sagheer*, no.3384. The hadith is also cited in Ibn Rushd’s *Bidayat al-Mujtahid*, vol.1, p. 456

⁴³⁰ Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.107-118

example, he said, “Never kill women and children”⁴³¹, “Do not kill hermits”⁴³², “Do not slay the old and frail...”⁴³³, and “Leave them (monks) and that to which they devote themselves.”⁴³⁴ To this list, scholars add other non-combatants such as the blind, chronically ill, clergy, traders, craftsmen, farmers, the insane, peasants, serfs, etc.⁴³⁵ Others who can be safely included are those with amnesty or peace treaties (*mu’abid* and *dhimmis*), Emissaries and Diplomats, etc.⁴³⁶

All these prove that it is not permissible for Muslims to fight non-Muslims unless they are violent aggressors and combatants. Regarding fighting fellow Muslims (as seen during the period of the Companions against the Khawarij and in some of the other civil wars) it is permissible for Muslims to fight other belligerent Muslims if these are also violent aggressors.⁴³⁷

⁴³¹ Imam At-Tahawy, Shahr Ma’ani al-Athar, Dar al-Kutub al-Ilmiyyah, Beirut, 1399AH, hadith no.4770 (ed. Muhammad Zuhri al-Najjar); al-Bayhaqi, *al-Sunan al-Sugrah*, hadith no. 3894

⁴³² Ahmad bin Hanbal, *Musnad Ahmad*, Muassasah al-Risalah, Beirut, 1420 A.H, vol.4, p.461

⁴³³ Al-Bayhaqi, *al-Sunan al-Sugrah*, hadith no. 3894; al-Bayhaqi, *al-Sunan al-Kubrah*, hadith no. 17932

⁴³⁴ Abu Bakr Abd al-Razzaq, *Musannaf Abd al-Razzaq*, hadith no. 9377; al-Bayhaqi, *al-Sunan al-Kubra*, hadith no. 18614.; *Musnad Ahmad*, hadith no. 2728; al-Tabarani, *al-Mu’jam al-Kabir*, hadith no.11396; al-Bayhaqi, *al-Sunan al-Sugra*, hadith no.3893.

⁴³⁵ For more references and discussion, see Ibn Rushd’s *Bidayat al-Mujtahid wa Nihayat al-Muqtasid* (The Distinguished Jurist’s Primer), vol.1, 1994, pp.458-460; Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.107-118

⁴³⁶ Al-Bukhari, *Sahih al-Bukhari*, hadith no. 3166

⁴³⁷ Abubakar Jabir al-Jazhiri, *Aysar al-Tafasir*, Maktabah al-’Ulum wa al-Hikam, Medina, 5th Edition, 1424 A.H, vol.5, p.127; Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.147-196; Khaled

Allah says in (Qur'an 49:9) *“And if two parties or groups among the believers fall to fighting, then make peace between them both, but if one of them rebels against the other, then fight you (all) against the one which rebels till it complies with the Command of Allah; then if it complies, then make reconciliation between them justly, and be equitable. Verily! Allah loves those who are equitable”*.

In addition, all criminal punishments on Muslim individuals or groups – such as murder,⁴³⁸ theft,⁴³⁹ armed robbery (*hirabah*),⁴⁴⁰ adultery,⁴⁴¹ etc. - are punished in Islamic law because of the wrongs they commit even though they are Muslims.

However, it is not permissible to fight Muslims if they are not violent aggressors. Allah says in the Qur'an, *“And whoever kills a believer intentionally, his recompense is Hell to abide therein, and the Wrath and the Curse of Allah are upon him, and a great punishment is prepared for him.”* (Qur'an 4:93).⁴⁴²

From all the above points, therefore, it is permissible to fight against an aggressor irrespective of his or her religious affiliation. It is also not permissible to fight a non-aggressor irrespective of his or her religion.

Abou El-Fadl, *Rebellion and Violence in Islamic Law*, Cambridge University Press, Cambridge, 2006.

⁴³⁸ Qur'an 4:93-94; 5:45.

⁴³⁹ Qur'an 5:38

⁴⁴⁰ Qur'an 5:33

⁴⁴¹ Qur'an 24:2

⁴⁴² See also, Qur'an 49:9-10

When it comes to justice, the religion of the victim or perpetrator is immaterial. Muslims must stand for justice against anyone and everyone irrespective of their relationship with them – whether Muslims or otherwise. Allah says:

“O you who have attained to faith! Be ever steadfast in your devotion to God, bearing witness to the truth in all equity; and never let hatred of anyone lead you into the sin of deviating from justice. Be just; this is closest to being God-conscious. And remain conscious of God; verily, God is aware of all that you do.” (Qur’an 5:8)

“O you who have attained to faith! Be ever steadfast in upholding equity, bearing witness to the truth for the sake of God, even though it be against your own selves, or your parents and kinsfolk. Whether the person concerned be rich or poor, God’s claim takes precedence over (the claims of) either of them. Do not, then, follow your own desires, lest you swerve from justice; for if you distort (the truth), behold, God is indeed aware of all that you do!” (Qur’an 4:135)⁴⁴³

The means and ends of fighting should always respect Allah’s guidance – *fi sabilillah*- and be in His Cause of justice. There should also be no justification for abandoning proportionality and justice during a conflict, as the Qur'an forbids that a person should hurt others more than they were hurt.⁴⁴⁴

⁴⁴³ See also, Qur’an 28:15-19

⁴⁴⁴ Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.122-129

Allah says in the Qur'an, "And if you have to respond to an attack, respond only to the extent of the attack levelled against you; but to bear with patience is indeed far better for you, (since God is with) those who are patient in adversity." (Qur'an 16:126)

Muslims are also permitted to form alliances with people of other faiths for their mutual safety and security. Many such treaties were entered into during the life of the Prophet (p) and his Companions with Polytheists, Jews, Christians, Zoroastrians (*Majus*), etc.⁴⁴⁵

It is permissible for a Muslim to fight to defend a community of non-Muslims with whom they have a treaty of mutual safety and security. This security was part of the contract for *Ahl al-Dhimmah* (Protected non-Muslim citizens) and was observed by the Prophet (p).

During the early period of the Prophet's (p) stay in Medina, there was a document or agreement that was signed between the various Muslim and Jewish clans and communities there. This document was referred to as the *Sahifah* (document) and it was the "constitution" of Medina. The 24th Clause of the document states that "The Jews will contribute to the cost of war as long as they are fighting alongside the believers". The 37th Clause of the *Sahifah* states that, "The Jews must bear their expenses and the

⁴⁴⁵ See for example, Qur'an 4:90; 9:6-7; 9:4, etc.; See also: Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.23-31

Muslims their expenses. Each must help the other against anyone who attacks the People of this Document. They must seek mutual advice and consultation, and righteousness is a protection against sinfulness.”⁴⁴⁶

According to Ibn Hazm (995-1063 CE), a classical jurist of Islam, “If we are attacked by an enemy nation who is targeting the People of the Covenant (non-Muslim citizens) living among us, it is our duty to come fully armed and ready to die in battle for them, to protect those people who are protected by the covenant of God and His Messenger. Doing any less and surrendering them (to an enemy) will be blameworthy neglect of a sacred promise.”⁴⁴⁷

Non-Muslims who have treaties with Muslims are allowed to cooperate and if necessary to fight alongside Muslims for their mutual safety and security. Jubair bin Nufair reported that the Messenger of Allah said: “*You will make a peace-treaty with the Romans and together you will invade an enemy beyond Rome. You*

⁴⁴⁶ Muhammad Hamidullah, *Majmu'at al-Watha'iq al-Siyasiyyah*, 2nd ed., Dar al-Irshad, Beirut, 1969, p.41-47, cited in Akram Diya' al-'Umari, *Madinan Society at the Time of the Prophet (Vol.1): Its Characteristics and Organisation*, International Institute of Islamic Thought, Virginia, 1991, p.109-110. For further readings on the *Sabifah* of Medina, see also, Ahmad Ibn Yahya Ibn Jabir al-Baladhuri, *Ansab al-Ashraf*, (with commentary by Muhammad Hamidullah), Dar al-Ma'arif, Egypt, 1959, vol.1, p.286, 308; Abu Muhammad Ali Ibn Sa'id Ibn Hazm, *Jawami' al-Sirah*, (with commentary by Dr. Ihsan Abbas and Dr. Nasir al-Din al-Asad), Dar al-Ma'arif al-Misriyyah, Egypt, n.d., p.95; Muhammad Ibn Jarir al-Tabari, *Tarikh al-Rusul*, (with commentary by Muhammad Abu El-Fadl Ibrahim, Egypt, vol.2, p.479; 'Imad al-Din Abu al-Fida' Isma'il Ibn Umar Ibn Kathir, *Al-Bidayah wa al-Nihayah*, Al-Sa'adah Press, Cairo, 1932, vol.4, p.103-104.

⁴⁴⁷Cited in al-Qarafi, *'al-Furuq*, vol. 3, p. 14.

will be victorious and take much booty.”⁴⁴⁸ Some members of the polytheist tribe of Banu Khuza’ acted as spies or military scouts for the Prophet (p).⁴⁴⁹ Also, military service with Muslims was a reason for exemption of non-Muslim citizens from paying the *Jizya* (poll tax or tribute) to the Islamic government.⁴⁵⁰

Moreover, the cases of the Jews of Banu Qaynuqa who fought alongside the Prophet (p) after Badr,⁴⁵¹ the Jewish Rabbi, Mukhayriq, who fought and called upon his fellow Jews to fight alongside the Prophet (p) against the attack by the Quraysh at the battle of Uhud,⁴⁵² the group of Jews who fought with the Prophet (p) and received a share of the war spoils,⁴⁵³ and the

⁴⁴⁸ Abu Dawud Sulaiman bin Ashath, *Sunan Abu Dawud*, Dar al-Kitab al-Arabi, Beirut, hadith no.2769; Muhammad bin Hibban bin Ahmad Abu Hatim, al-Busti, *Sahih Ibn Hibban*, Mu’assasah al-Risalah, Beirut, 1993, vol.15, p.108, hadith no.6709.

⁴⁴⁹ Sayyid Sabiq, *Fiqh us-Sunnah*, vol.4, hadith no. 6A in *Alim* 6.0.

⁴⁵⁰ Yusuf al-Qaradawi, *Rights of Non-Muslims under Islamic Rule*, p.26; See also, Yusuf al-Qaradawi, *Fiqh al-Jihad*, vol.2, p.851, citing AbdulKarim Zaidan, *Abkam al-Dhimmiyyin wa al-Musta’minin*, p.155; Muhammad Asad, *The Message of the Qur’an*, The Book Foundation, England, 2003, p.295, n.43 to Qur’an 9:29.

⁴⁵¹ See al-Shaffi’, *Al-Umm*, vol. 4, p. 261; al-Nawawi, *Al-Majmu’*, vol. 21, p. 37; al-Mawardi, *Al-Hawi*, vol. 14, p. 130; al-Hifni, *Mawsu’ah al-Qur’an*, Vol. 2, p. 1905 (all cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011).

⁴⁵² Meraj Mohiudeen, *Revelation: The Story of Muhammad*, Whiteboard Press, USA, 2015, p.232.

⁴⁵³ See Ibn Ahmad, *Al-Ahadith al-Mukhtarab*, vol. 7, p. 189; al-Salihi, *Subul al-Huda*, vol. 9, p. 121; Ibn Mansur, *Sunan Sa’id Ibn Mansur*, vol. 2, p. 331; Ibn Muflih, *Al-Mubdi’*, vol. 3, p. 336; al-Shawkani, *Nayl al-Awtar*, vol. 8, pp. 43 f. See also, for Jews and idolaters fighting alongside the Prophet against the Muslims’ enemies, Ibn Qudamah, *Al-Mughni*, vol. 9, p. 207; al-Ghazali, *Al-Wajiz*, vol. 2, p. 190; al-Ghazali, *Al-Wasit*, vol. 7, p. 16; ‘Uthman, *Prida’ Saddam*, p. 183; al-Qattan, “Al-Isti’anah bi-ghayr al-Muslimin,” p. 201. (all cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011).

many idolaters who fought with the Prophet at Hunayn and al-Ta'if are all examples that mitigate against the idea that these were wars fought for the spread of a certain religion. On the basis of these incidents, most of the classical Muslim jurists advocated that it was permissible for polytheists to fight alongside the Muslims against the *dar al-harb*.⁴⁵⁴

With regard to the sensitivity of trusting people of other faiths with serious issues related to security, it is up to the State to decide which Muslims or non-Muslims can be trusted with such sensitive tasks. Islamic history and everyday experience is filled with cases of good and honest Muslims as well as treacherous hypocrites within the Muslim community. Also, good and trustworthy people are found in all faiths. There can be no stereotyping and injustice in judging people who the Shari'ah regards as "innocent until proven guilty" (*Istishab*). Allah says in the Qur'an, "*Among the People of the Book are some who, if entrusted with a hoard of gold, will (readily) pay it back; others, who, if entrusted with a single silver coin, will not repay it unless you constantly stand over them demanding it.*" (Qur'an 3:75)

⁴⁵⁴ See al-Shaybani, *Al-siyar*, p. 249; al-Nawawi, *Al-Majmu'*, vol. 21, pp. 37 f.; al-Nawawi, *Rawdah al-Talibin*, vol. 10, p. 239; Ibn Qudamah, *Al-Mughni*, vol. 9, p. 207; al-Shawkani, *Nayl al-Awtar*, vol. 8, pp. 42 – 45; Ibn 'Abidin, *Hashiyah Radd al-Muhtar*, vol. 4, p. 148; al-'Abdari, *Al-Taj wa al-Iklil*, vol. 3, p. 353; 'Amir, *Abkam al-Asra*, pp. 57 – 59; al-Qaradawi, *Al-Halal wa al-Haram*, pp. 295 f.; Shuman, *Al-'Alaqa al-Dawliyyah fi al-Shari'ah*, pp. 57 f.; al-Qaradawi, *Fiqh al-Jihad*, Vol. 1, pp. 703 – 711. (all cited in Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011).

Muslims are thus not prohibited from cooperating with non-Muslims in fighting injustice and aggression. Muslims are also not prohibited from collaborating with or joining non-Muslim security personnel or armed forces (and vice-versa) if the target of fighting is just and against aggression, and if its means and the conduct of warfare do not contradict Shari'ah teachings.

If, however, the purpose of fighting others is against justice and contrary to the objectives (*maqasid*) of Shari'ah and *maslahah* (public interest), then it is prohibited for a Muslim to cooperate with any such security services or armed forces whether these are led by Muslims or non-Muslims.

Allah reminds us, *“O you who have attained to faith! Be ever steadfast in upholding equity, bearing witness to the truth for the sake of God, even though it be against your own selves, or your parents and kinsfolk. Whether the person concerned be rich or poor, God’s claim takes precedence over (the claims of) either of them. Do not, then, follow your own desires, lest you swerve from justice; for if you distort (the truth), behold, God is indeed aware of all that you do!”* (Qur’an 4:135)

Fate in the Hereafter vs. Rules of War in Islam

Is collateral damage and the unintended killing of civilians not justified because in the hereafter, the good ones go to paradise? Meanwhile, will the perpetrators who have good

intentions, not also be forgiven by Allah, and end up in Paradise?

In Islam, for every action, both the intention (ends) and the means must be justified, correct and in line with Islamic teachings. Good intentions do not make what is prohibited to become permissible. With regard to military *jihad* also, the end does not justify the means. Rather, the reason for fighting must be one of the acceptable justifications for warfare, and all the ethics and regulations for warfare in Islam must be observed. And even where fighting (*jihad*) is justified, the Qur'an categorically states that non-combatants have immunity and are not to be harmed. Qur'an (2:190) states, "*Fight (qatilu) in the cause of God those who fight (yuqatilu) you, but do not commit transgression, for God loves not the transgressors.*" According to the Prophet's companion Ibn Abbas, the explanation of the verse is as follows: "it means do not kill women, nor children, nor old people, nor those that meet you with peace and abstain from fighting you; for if you do so, know that you have transgressed beyond the limits."⁴⁵⁵

Also, the Prophet (p) said, "*Never kill women and children*"⁴⁵⁶, "*Do not kill hermits*"⁴⁵⁷, "*Do not slay the old and frail...*"⁴⁵⁸, and "*Leave them*

⁴⁵⁵ Al-Tabari, *Tafsir of Qur'an 2:190* from *Maktab al-Ta'alib al-Ilm*, Ariss Computers Inc., Beirut, 2002.

⁴⁵⁶ Imam At-Tahawy, *Shahr Ma'ani al-Athar*, Dar al-Kutub al-Ilmiyyah, Beirut, 1399AH, hadith no.4770 (ed. Muhammad Zuhri al-Najjar); al-Bayhaqi, *al-Sunan al-Sugrah*, hadith no. 3894.

(monks) and that to which they devote themselves.”⁴⁵⁹ Based on “reasoning by analogy” (*qiyas*) in Islamic law, and statements by the Rightly Guided caliphs, Muslims jurists expanded this list to include others who by extension would have also belonged to same categories of non-combatants.⁴⁶⁰ These include the blind, incapacitated, sick, the insane, craftsmen, farmers, traders, peasants, serfs, medical personnel, journalists and reporters, non-combatant religious leaders and members of the clergy – rabbis, monks, pastors, priests, etc.⁴⁶¹ Others who can be safely included are those with amnesty or peace treaties (*mu’ahid* and *dhimmis*), Emissaries and Diplomats, etc.⁴⁶² From all of the above, it can confidently be concluded that there is no justification in the Qur’an or Sunnah for warfare and hostilities directed intentionally against civilians non-combatants who are non-Muslims in any form of fighting (*qital*, *harb* or *jihad*).

Intentional murder of innocent persons, irrespective of faith, is a crime that can take one to hell and may deserves capital

⁴⁵⁷ Ahmad bin Hanbal, *Musnad Ahmad*, Mu’assasah al-Risalah, Beirut, 1420 A.H, vol.4, p.461.

⁴⁵⁸ Al-Bayhaqi, *al-Sunan al-Sugrah*, hadith no. 3894; al-Bayhaqi, *al-Sunan al-Kubrah*, hadith no. 17932

⁴⁵⁹ Abu Bakr Abd al-Razzaq, *Musannaf Abd al-Razzaq*, hadith no. 9377; al-Bayhaqi, *al-Sunan al-Kubrah*, hadith no. 18614; *Musnad Ahmad*, hadith no. 2728; al-Tabarani, *al-Mu’jam al-Kabir*, hadith no.11396; al-Bayhaqi, *al-Sunan al-Sugra*, hadith no.3893.

⁴⁶⁰ See Ahmed Al-Dawoody, *Islamic Law and International Humanitarian Law: An Introduction to the Main Principles*, International Review of the Red Cross, Cambridge, 2018, p.8-10.

⁴⁶¹ For more references and discussion, see Ibn Rushd’s *Bidayat al-Mujtahid wa Nihayat al-Muqtasid* (The Distinguished Jurist’s Primer), vol.1, 1994, pp.458-460; Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.107-118.

⁴⁶² Al-Bukhari, *Sabih al-Bukhari*, hadith no. 3166.

punishment (under the crime of *qatl/hiraba*) in this world. Allah says, “...whosoever kills a soul, unless it is for manslaughter or mischief in the land, it is as if he had killed the whole of mankind. And whoever saves a soul, it is as if he has saved all mankind...” (Qur’an 5:32) Killing innocent people (irrespective of their religious affiliation) is similar to killing the whole of humanity. It is the worst offense in interpersonal relations (*mu’amalat*). “Hastening innocent people to paradise or hell” is forbidden (*haram*) and never justified. In Islamic law, it is murder and criminal!

After the emigration (*hijrah*) of the Prophet (pbuh) and his companions from Mecca to Medinah, a number of Meccans – both men and women – had embraced Islam, but had been prevented by the pagan Quraysh from emigrating. Their identities were generally not known to the Muslims of Medina, hence, Allah forbade the Muslims from fighting the Meccans generally at that time.⁴⁶³ The Qur’an (48:25) states that, “...*Had they (believing men and women) been separated, We would have inflicted a severe chastisement on those who disbelieved from among them (the Meccans).*” Consequently, having good intentions does not make what is prohibited (*haram*) to be permissible (*halal*).

Thus, for the perpetrators of such heinous acts, Allah sees, judges, and decides based on the intentions and the conditions of the heart of a person. As humans, we can only see, judge the

⁴⁶³ Muhammad Asad, *The Message of the Qur’an*, Dar al-Andalus, Gibraltar, 1980, p.897, n.32 to Qur’an 48:25. See Qur’an 48: 19 – 25 for the full details.

actions, give judgements and prosecutions based on clear evidence and proof that satisfies a judge. Abu Hurayrah narrated from the Prophet (pbuh) that "...Allah that does not look at your actions only, but also looks at your heart." Ibn Hajar (in Fath al-Bari) and Al-Nawawi assert that there is an *Ijma'* (consensus) based on the hadith of Usama killing the person who made Shahadah, that in this world, people can only judge based on what evidence is obvious (*dhabir*) in actions and statements. Al-Khattabi and Ibn Hajar, commenting on the hadith in Bukhari on what makes a person a Muslim said: "He who prays like us, faces our Qibla, eats what we slaughter... is a Muslim" – which also confirms that what we as humans can judge is not the heart, but clear (*Zahir*) actions.

As humans we can only judge by what is clear, provable, and evident, and not what is in the heart. This is also the reason why hypocrites who are disbelievers in their heart, are not excommunicated (*tafkir*) in Islam. We can only judge their actions, not their intentions. It is considered an act of disbelief (kufr) if one knowingly and consciously regards what Allah has categorically prohibited to be permissible:

"Whoso judges not according to what God has sent down, they are the un-believers". (Qur'an 5:44)

"Whoso judges not according to what God has sent down-they are the evil-doers". (Qur'an 5:45)

“Whosoever judges not according to what God has sent down-they are the ungodly”. (Qur’an 5:47)

There can therefore not be any legal relaxations of a clear textual prohibition such as taking innocent life (murder), due to an intention that is itself evil and contrary to Shari’ah. It is only Allah that can decide to forgive such a perpetrator if the conditions of repentance have been met.

Meanwhile, the fate of individuals in the hereafter - going to Paradise or Hell - is known only to Allah, and in Islamic Law, it is completely unrelated to the permission to fight or kill anyone. It is possible that an individual fights and dies on the battlefield as a Muslim soldier, and yet ends up in hell. This was the case of Qazman whom the Prophet (pbuh) talked about.⁴⁶⁴ And it is also possible that a non-Muslim civilian later accepts Islam and aids its Cause. Thus, collateral damage must be avoided at all costs in line with the preservation of life which is one of the major objectives (*maqasid*) of the Shari’ah.

⁴⁶⁴ Umar narrates: when it was **the day of Khaybar**, a group of the Companions of the Prophet (pbuh) came there and said ‘So and so is a martyr, so and so is a martyr’ till they happened to pass by a man and said: ‘**So and so is a martyr.**’ However, the Prophet (pbuh) opposed this and said, ‘**No. I have seen him in the Fire for the garment or cloak that he had stolen from the booty.**’ Then, he said, ‘**O Umar, son of Khattab! Go and announce to the people that none but the believers shall enter Paradise.**’ I went out and proclaimed ‘**Verily none but the believers shall enter Paradise.**’ Muslim, 182

The only major exception to this rule of avoiding collateral damage is when it is regarded as a “lesser evil”, absolutely necessary (*darurah*), unavoidable, with no alternative, and part of a defensive and not offensive strategy. It should as a rule be considered only after serious caution and consultation of experts and scholars. Also, the decision to permit unavoidable collateral damage and unintended killing of civilians as a “lesser evil” is one to be made by the Commander in Chief of the Armed Forces or one delegated to make such decisions after due regard for Islamic war ethics, consultation with competent specialists, and concern for the greater good of all concerned (*maslahah*). This is a decision for the leadership to make in its own peculiar context.

Conclusively, Muslim jurists have tried to always weigh and balance the objectives of respecting and protecting the sanctity of human life against the military necessity of winning a war. And as jurists considered various different military contexts, so also did their rulings differ. Unfortunately, some Muslims have used the argument of “collateral damage”, “lesser evil”, “military necessity” and “public interest” (*maslahah*) so lightly as to completely misuse and abuse the concept, and give absolutely no regard to the sanctity of human life in Islam altogether, in spite of the many explicitly clear texts on this, and verses such as Qur’an 48:25 cited earlier.

Military Jihad, Martyrdom and Paradise

Is Military jihad a prerequisite for martyrdom and entering Paradise (*Jannah*)? What is the best form of *jihad* and martyrdom for a Muslim?

A martyr (a “*shahheed*,” in Arabic) according to most religions and nations is a person killed in the pursuit of truth or justice. In Islam, martyrs are given some special privileges which includes that all their sins are forgiven, and they would not face punishment in the grave. On the Day of Judgment, they will not feel any fear, they will have a crown of honour placed on their head which has jewels that could illuminate the earth from their brilliance, and they would be able to intercede for seventy members of their family. These and many more privileges promised to martyrs in Islam makes many Muslims yearn for martyrdom. However, martyrdom is not attained through jihad only as there are two categories of martyrdom in Islam.

The first type of martyrdom is attained through having been killed in legitimate fighting (*fi sabilillah*), and for this category, there would be no ritual bath (*ghusl*) or funeral prayer (*janazah*), and the deceased would be buried in the clothes they were killed in. The second category of martyrs are those who would get the reward of martyrdom in the hereafter even though they died in different ways as outlined in several authentic narrations of the Prophet (pbuh). In fact, Sahl Ibn Haneef narrated that the Prophet said: "*Whoever sincerely asks Allah for martyrdom, Allah will grant him the ranks of*

*the martyrs even if he died on his bed.*⁴⁶⁵ And in another narration, Prophet (pbuh) said: *“The martyrs are seven besides the one who is killed in Allah’s cause; the one who dies of the plague is a martyr and the one who drowns is a martyr and the person who dies from pleurisy (chest infection) is a martyr and the person who dies of an abdominal complaint is a martyr and the one who dies in a fire is a martyr and the one who dies underneath a building falling is a martyr and the woman who dies whilst pregnant is a martyr.”*⁴⁶⁶

Thus, fighting a valid *jihad* is only one of the many ways that Allah has made possible to attain martyrdom. It is only one of the many ways to Paradise when the intent, purpose of fighting and its conduct satisfy the requirements of the Islamic Law. In other words, it is *fi sabilillah* – in Allah’s Way/Cause. Otherwise, it could lead to hell.⁴⁶⁷ A person who is killed in *jihad* in which he was fighting in order to be seen of men or for a worldly purpose is only a martyr of this world, but would not get the reward of martyrdom in the hereafter. Abu Hurayrah narrated, “I heard Allah’s Messenger (pbuh) saying: *The first of the people whose case will be decided on the Day of Judgment will be a man who died as a martyr. He will be brought forth. Allah will make him know about*

⁴⁶⁵ Muslim 1909

⁴⁶⁶ *Sunan Ibn Majah*, Hadith no. 2803. See also *Riyadh us-Saliheen*, no.1359 and 1361, pp.228-229; *Abu Dawood*, no.1367 in *Alim 6.0*.

⁴⁶⁷ Umar narrates: “When it was **the Day of Khaybar**, a group of the Companions of the Prophet (pbuh) came there and said ‘So and so is a martyr, so and so is a martyr’ till they happened to pass by a man and said: ‘**So and so is a martyr.**’ However, the Prophet (pbuh) opposed this and said, **‘No. I have seen him in the Fire for the garment or cloak that he had stolen from the booty.’...**” (Muslim, Iman, 182; Ibn Kathir, the interpretation of Aal-i Imran, 3/161)

*His blessings (which He had bestowed on him in the world). The man will acknowledge them. Then Allah will ask him: What did you do with them? He will say: I fought in Your way until I died as a martyr. Allah will remark: You are lying. You fought so that you may be called a brave warrior. Then orders will be passed against him. So, he will be dragged along on his face and cast into Hell.*⁴⁶⁸

Hence, jihad must meet the conditions that justify it in terms of its objectives and its conduct, for its martyr to be worthy of paradise. The Prophet (pbuh) said: *“the one whose fighting is in the cause of Allah (Sabilillah) is that who fights in order for the Word of Allah to be supreme.”*⁴⁶⁹ According to the Qur’an, every martyr is granted Paradise, and everyone who is granted Paradise is promised their heart’s content: *“We are close unto you in the life of this world and in the life to come; and in that [life to come] you shall have all that your souls may desire, and in it you shall have all that you ever prayed for, as a ready welcome from Him who is Oft-Forgiving, a Dispenser of Grace”* (Qur’an 41:31). Given the conditions discussed earlier for the permissibility of a just war/fighting in Islam, such a reward is only befitting for someone who has sacrificed his/her life to defend and protect the lives of others, truth and justice.

Regarding ways of entering Paradise (*Jannah*), while fighting a just *jihad* is one of them, there are many others ways of doing or

⁴⁶⁸ Muslim 1905a

⁴⁶⁹ Al-Bukhari, *Sahih al-Bukhari*, hadith no. 1810. See section on commonly misinterpreted hadiths discussed earlier for explanation of this hadith.

enjoining right and forbidding wrong that can earn a person the reward of Paradise. Even if one does not die through any of the means mentioned by the Prophet (pbuh) as granting the reward of martyrdom, a person can still attain paradise through several other good deeds such as, helping orphans, being honest in business, prayer, good conduct, Hajj, *dhikr*, charity, etc. In fact, one of the gates of Paradise is *Bab al-Rayyan* (the gate of fasting) which would admit into paradise people who used to fast a lot while on earth.⁴⁷⁰

The fact that most of the Prophet's companions and many pious members of the first generation of Muslims did not die as martyrs on the battlefield is proof that jihad is not a prerequisite for paradise. When the Prophet (pbuh) proceeded for the Battle of Badr, one of the female companions Umm Waraqah bin Nawfal said to him: *'O Apostle of Allah allow me to accompany you in the battle. I shall act as a nurse for patients. It is possible that Allah might bestow martyrdom upon me.'* He said: *"Stay at your home. Allah, the Almighty, will bestow martyrdom upon you."* Thereafter, everyone called her *"the martyr"*. *At the end of the day, she died in her home through assassination by her servants, during the reign of Umar bin al-Khattab as Caliph.*⁴⁷¹

In fact, of the 10 companions given the glad tidings of Paradise while on earth (*al-ʿAsharah al-Mubashsharun*), only one – Talhah

⁴⁷⁰ Bukhari 1896

⁴⁷¹ Abu Dawud 592, Musnad Ahmad 26022, al-Hakim's Mustadrak and al-Bayhaqi's Dala' il al-Nubuwwah

bin Ubaydullah - died in battle. Abubakr Sideeq, Sa'd bin Abi Waqqas, Sa'id bin Zayd and Abdurahman bin Awf all died from illness; Umar bin al-Khattab, Uthman bin Affan, Ali bin Abi Talib and Zubayr bin al-Awwam all died by assassination; while Abu Ubaydah bin al-Jarrah died from the epidemic plague in Syria.

Thus, military jihad is not the only means of attaining martyrdom or paradise, and depending on the circumstances and those involved, the best form of *jihad* may take several different forms, which may include, but is not limited to any of the following - Being frank in advice to a tyrannical ruler; Exercising discipline or self-restraint; *Hajj* (pilgrimage to the Sanctuary of Mecca); Taking care of one's parents; Studying and self-improvement; Teaching and sharing beneficial knowledge,⁴⁷² and sometimes, it may be taking up arms to defend oneself and others, including non-Muslim citizens (*Ahl al-Dhimma*) in a "Just War".

According to the Qur'an, every martyr is granted Paradise, and everyone who is granted Paradise is promised their heart's content: "*We are close unto you in the life of this world and in the life to come; and in that [life to come] you shall have all that your souls may desire, and in it you shall have all that you ever prayed for, as a ready welcome from Him who is Oft-Forgiving, a Dispenser of Grace*" (Qur'an 41:31). Given the

⁴⁷² Qur'an 9:122 which reads "*And it is not (proper) for the believers to go out (to fight) altogether. Of every troop of them, a party only should go forth, that they (who are left behind) may get instructions in religion, and that they may warn their people when they return to them, so that they may beware (of evil).*"

conditions discussed earlier for a just war in Islam, such a reward does not seem unreasonable for someone who has sacrificed his/her life to protect the religion, lives of others, truth, and justice. However, Allah's reward is for those who follow those stringent conditions for a just war, not vain-glorious and self-serving warmongers.

Forcing People to Embrace Islam

Is it allowed in Islamic Law to force anyone to embrace Islam?

There is no single text in the Qur'an or Sunnah (practice) of Prophet (pbuh) allowing a Muslim to force anyone to embrace Islam. Nor is there any instance in the life of the Prophet (pbuh) or his companions where a non-Muslim was forced to accept Islam. This is so explicitly clear from the Qur'an that it suffices to simply quote from its text. Allah says:

- *“There shall be no compulsion in the religion. The right course has become clear from wrong...”* (Qur'an 2:256)
- *“And say, the truth [has now come] from your Sustainer: let, then, him who wills, believe in it, and him who wills reject it.”* (Qur'an 18: 29)
- *“And [thus it is:] had your Sustainer so willed, all those who live on earth would surely have attained to faith, all of them: do you think that you could compel people to believe?”* (Qur'an 10: 99)

- *“And [because He is your Creator,] it rests with God alone to show you the right path: yet there is [many a one] who swerves from it. However, had He so willed, He would have guided you all aright.”* (Qur’an 16: 9).
- *“Say: [know,] then, that the final evidence [of all truth] rests with God alone; and had He so willed, He would have guided you all aright.”* (Qur’an 6: 149)
- *“...and yet, to all this your people have given lie, although it is the truth. Say [then]: “I am not responsible for your conduct.”* (Qur’an 6: 66.)
- *“And so, [O Prophet,] exhort them; your task is only to exhort: you cannot compel them [to believe].”* (Qur’an 88: 21).
- *“Fully aware are We of what they [who deny resurrection] do say; and you can by no means force them [to believe in it].”* (Qur’an 50: 45).
- *“Say [O Prophet]: “O mankind! The truth from your Sustainer has now come unto you. Whoever, therefore, chooses to follow the right path, follows it but for his own good; and whoever chooses to go astray, goes but astray to his own hurt. And I am not responsible for your conduct.”* (Qur’an 10: 108).
- *“...and to convey this Qur’an [to the world]. Whoever, therefore, chooses to follow the right path, follows it but fir his own good; and if any wills to go astray, say [unto him] “I am only a Warner!”* (Qur’an 27: 92).
- *“Now as for him who rebels against God and His Apostle- truly, the fire of the hell awaits him.”* (Qur’an 72: 23)

- *“And We send [Our] message-bearer only as heralds of glad tidings and as warners: hence, all who believe and live righteously – no fear need they have, and neither shall they grieve; whereas those who give the lie to Our messages- suffering will afflict them as a result of their sinful doings.” (Qur’an 6: 48-49)*
- *“Truly you cannot guide aright everyone whom you love: but it is God, Who guides him that wills [to be guided]...” (Qur’an 28: 56)*
- *“Yet- however strongly you may desire it- most people will not believe [in this revelation].” (Qur’an 12: 103)*
- *“And [so, O Prophet,] if they give thee the lie, say: “to me [shall be accounted] my doings, and to you, your doings: you are not accountable for what I am doing, and I am not accountable for whatever you do.” (Qur’an 10: 41).*
- *“And if they surrender themselves unto Him, they are on the right path; but they turn away- behold, your duty is no more than to deliver the message”. (Qur’an 3: 20).*
- *“Nay, but God alone has the power to decide what shall be. Have, then, they who have attained to faith not yet come to know that, had God so willed, He would indeed have guided all mankind aright?” (Qur’an 13: 31).*
- *“...the Apostle is not bound to do than deliver the message [entrusted to him].” (Qur’an 24: 54).*
- *“Whoever pays heed unto the Apostle pays heed unto God thereby; and as for those who turn away- We have not sent thee to be their keeper.” (Qur’an 4: 80).*

- *“But as for him who, after guidance has been given to him, cuts himself off from the apostle and follows a path other than that of the believers- him shall We leave unto that which he himself has chosen and shall cause him to endure hell...”* (Qur’an 4: 115).
- *“Pay heed, then unto God, and pay heed unto the Apostle, and if you turn away, [know that] Our Apostle’s only duty is a clear delivery of this message.”* (Qur’an 64: 12).
- *“No more is the apostle bound to do than deliver the message [entrusted to him].”* (Qur’an 5: 99)

All the Qur’an and Sunnah encourage us to preach to people with wisdom and not with sword. The following verses serve as evidence:

- *“Invite to the way of your Lord with wisdom and good instruction, and argue with them in a way that is best. Indeed, your Lord is most knowing of who has strayed from His way, and He is most knowing of who is (rightly) guided”* (Qur’an 16:125)
- *“Repel, by (means of) what is best, (their) evil. We are most knowing of what they describe”* (Qur’an 23:96)
- *“And do not argue with the people of the scripture except in a way is best, except for those who commit injustice among them...”* (Qur’an 29:46)
- *“And not equal are the good deed and the bad. Repel (evil) by that which is better...”* (Qur’an 41:34)

The Prophet (pbuh) exemplified these verses of the Qur’an by only inviting people to Islam without forcing them to embrace the religion. When a young Jewish boy who used to serve him

fell ill, the Prophet (p) visited him, and asked him to embrace Islam, and with encouragement of his father, the boy embraced Islam, after which he passed away.⁴⁷³ Also, when Thumama bin Uthal was captured and imprisoned in the Prophet's mosque in Medina, the Prophet (pbuh) invited him to Islam three times and when he refused, he was released. He later accepted Islam of his own volition.⁴⁷⁴ Were it permissible to force anyone to accept Islam, the Prophet (p) would have forced his uncle Abu Talib whom he loved so much, to accept Islam, but he only continued to invite him until he passed away as a pagan. In addition to invitation, the Prophet (p) would pray Allah to guide them to Islam as he did for Umar bn al-Khattab. During the heat of persecution of the Muslims in Mecca, the Prophet (pbuh) was reported to have said, "O Allah, strengthen Islam with one of two men whom you love more: Amr ibn Hisham (Abu Jahl) or Umar bin Al-Khattab."⁴⁷⁵ The following day, Umar accepted Islam.

⁴⁷³ Al-Bukhari, *al-Adab al-Mufrad*, (ed. Muhammad Fu'ad Abd al-Baqi), Dar al-Bashair al-Islamiyyah, Beirut, 1989, hadith no.524; Al-Baihaqi, *Sunan al-Kubrah*, Maktabah Dar al-Baz, Makkah, hadith no.6389; Abu Dawud, *Sunan Abu Dawud*, hadith no.3095 and 3097; Ibn Hibban, *Sahih Ibn Hibban*, (ed. Shu'aib al-Arna), 2nd edition, Mu'assasah al-Risalah, Beirut, 1993, hadith no.4884; Al-Bukhari, *Sahih al-Bukhari*, hadith no.1356; Ahmad bn Hanbal, *Musnad al-Imam Ahmad bn Hanbal*, hadith no.13375.

⁴⁷⁴ Al-Baihaqi, *al-Sunan al-Sugrah*, Maktabah Dar al-Baz, Makkah, vol.1, p.171; Abu Dawud, *Sunan Abu Dawud*, Dar al-Kitab al-Arabi, Beirut, vol.3, p.9; Ahmad bin Shu'aib Abu Abd al-Rahman al-Nasa'i, *al-Sunan al-Kubrah*, (edited by Abd al-Gafar Sulaiman al-Bandawi and Sayyid Kusrawi Hasan), Dar al-Kutub al-'Ilmiyyah, Beirut, 1991, vol.1 p.107; Al-Bukhari, *Sahih al-Bukhari*, (edited by Muhammad Zuhair bin Nasir al-Nasir), Dar Tawq al-Najat, vol.1, p.472.

⁴⁷⁵ Al-Tirmidhi, *Sunan al-Tirmidhi*, hadith no.3681

An event in the life history of another notable companion also shows that Islam forbids forcing people to embrace Islam, but rather beautiful invitation and prayers. Abu Hurayrah said: I used to call my mother to Islam when she was polytheist (*mushrik*). I called her one day and she said to me something about the Messenger of Allah (pbuh) that I disliked. I came to the Messenger of Allah (pbuh) weeping, and said: *O Messenger of Allah, I have been calling my mother to Islam but she refuses. I called her today and she said to me something about you that I disliked. Pray to Allah to guide the mother of Abu Hurayrah. The Messenger of Allah (pbuh) said: "O Allah, guide the mother of Abu Hurayrah."* I went out, feeling optimistic because of the *du'aa'* of the Prophet of Allah (pbuh). When I came near the door, I found it closed. My mother heard my footsteps and said: *Stay where you are, O Abu Hurayrah! I heard the sound of water. She did ghusl then she put on her chemise and quickly put on her head cover, then she opened the door and said: O Abu Hurayrah, I bear witness that there is no god but Allah and I bear witness that Muhammad is His slave and Messenger. He said: I went back to the Messenger of Allah (pbuh) and I came to him, weeping with joy. I said: O Messenger of Allah, be of good cheer, for Allah has answered your prayer and has guided the mother of Abu Hurayrah. He praised and glorified Allah and said good things.*"⁴⁷⁶

In his book *Hidayah al-Hayarah*, Ibn Qayyim al-Jawziyyah says:

⁴⁷⁶ Al-Muslim, *Sahih Muslim*, hadith no. 2491.

“It will become clear to whoever carefully studies the life history (*seerah*) of the Prophet (p) that he never forced anyone to embrace Islam. He only fought those who fought him, but as for those who entered into treaty with him, he did not fight them provided they abide by their treaty and they did not violate or go contrary to it....”⁴⁷⁷

Evidently, the Quranic texts instruct Muslims to only invite people to Islam and not to force them. The Prophet (pbuh) and his companions all exemplified this throughout their lifetime. Hence, there is no compulsion in Islam!

On Reclaiming Muslim Lands

Is it permissible to engage in armed *Jihad* with the intention of reclaiming Muslim lands that were conquered in the past such as Andalus, India, Palestine, Cyprus, etc.?

Some individuals use the following arguments to justify armed jihad to reclaim Muslims' lands:

- “*All lands belong to Allah*” (Quran 7:128), (Quran 23:84-85) etc.
- “*Drive them out of where they drove you out...*” (2:191)

⁴⁷⁷ Ibn Qayyim al- Jawziyyah, *Hidayah al- Hayara*, Dar Ibn Zaydun, Beirut, 1990, (Section 3), p.13, al-Maktabah al-Shamilah v.3.13.

When it comes to jihad in the context of reclaiming Muslim-seized lands, there is a difference of opinion among Muslim scholars. Some scholars believe that if a Muslim land is occupied by non-Muslims, then it becomes obligatory for Muslims to fight to reclaim it. They based their argument on the principle of self-defense and the idea that Muslims have a duty to protect their religion and their community. For instance, Sheikh Yusuf al-Qardawy said: “If the enemy enters the Muslim lands and occupies them, it becomes an obligation to fight and expel them from those lands”.⁴⁷⁸

Contexts however matters; we cannot take verses and rules that apply to the context of on-going warfare, and apply these to contexts where hostilities have ended, and peace treaties entered into. Reclaiming lands that were taken from Muslims in the distant past does not justify Jihad after hostilities have ended, and peace treaties agreed upon. This is an erroneous purpose of military Jihad in Islamic law. Similarly, reclaiming lands that were taken from non-Muslims in the distant past does not justify non-Muslims colonizing such Muslim lands, once peace has been agreed upon, and peace treaties entered into. Otherwise, there would be endless justifications for every community to continue fighting others based on historical records and forgotten territorial boundaries. It would result in never-ending

⁴⁷⁸ al-Qardawy, *Fiqh al-jihad*, Markaz al-Qardawy li al-wasatiyyah al-islamiyyah wa al-tajdid, 1st edition, 2009, ‘Abideen Cairo, vol. 2 p. 147

justifications for hostilities and social strife (fitna) by whoever is stronger.

Other scholars argue that armed struggle should only be used as a last resort and that peaceful means should be exhausted first. They point out that Islam values peace and reconciliation and that Muslims should seek to resolve conflicts through diplomacy and negotiation. They also argue that the use of violence can only be justified in self-defense and that Muslims should avoid causing harm to innocent civilians. Imam Malik said: “When the enemy occupies the Muslim lands, the first obligation is to try to expel them through peaceful means, such as through negotiation or by seeking the help of other Muslim countries”.⁴⁷⁹

It is worth noting that according to the teachings of Islam, real ownership (of all things) belongs to Allah Almighty.⁴⁸⁰ Allah is the owner of the land, and this is categorically mentioned at different places in the Qur’an e.g.,

- “...*Indeed, the earth belongs to Allah alone...*” (Quran 7:128),
- “*O My believing servants! My earth is truly spacious, so worship Me alone*” (Quran 29:56)

⁴⁷⁹ Imam malik, Al-Muwattah, Maktabah al-Furqan, Dabi, 2003 vol.9 p. 21

⁴⁸⁰ Nuzhat Iqbal, *the concept of land ownership in Islam and poverty alleviation in Pakistan*, the Pakistan development review 39:4-part II (winter 2000) p. 649-662

Dr. Faruq Aziz, Naveed Ur Rehman K, Refutation of private ownership of land: an Islamic perspective, journal of Islamic Economics, Banking, and Finance, vol.8 No. 2, April-Jun 2012

- “Ask them, O Prophet, “To whom belong the earth and all those on it, if you really know?” They will reply, To Allah....” (Quran 23:84-85)⁴⁸¹.

However, it is also important to note that land is open for all mankind, and it is the right of human beings to get benefits from it. It is an open right, and this right is given to all mankind⁴⁸². Allah says:

- “And He has set up the earth for all beings (*al-An’am*)” (Quran 55:10)
- “He is the One Who has made the earth a place of settlement for you and the sky a canopy.....” (Quran 2:22)
- “Indeed, we have already established you (*mankind*) in the earth and made for you therein (*means of*) subsistence...”. (7:10)⁴⁸³.

Caliph Umar refused to divide lands conquered through victories among soldiers for fear of its concentration in a few hands. Most of the lands were kept with the state and used as the commons.⁴⁸⁴ Aslam narrated that Umar said, "*Were it not for those Muslims who have not come to existence yet, I would have distributed (the land of) every town I conquer among the fighters as the Prophet distributed the land of Khaibar.*"⁴⁸⁵

⁴⁸¹ Dr. Faruq Aziz, Naveed Ur Rehman K, *Refutation of private ownership of land: an Islamic perspective*, journal of Islamic Economics, Banking, and Finance, vol.8 No. 2, April-Jun 2012

⁴⁸² Dr. Faruq Aziz, Naveed Ur Rehman K, *Refutation of private ownership of land: an Islamic perspective*, journal of Islamic Economics, Banking, and Finance, vol.8 No. 2, April-Jun 2012

⁴⁸³ See also Quran 41:10, 79:30-33, 80:25-32, 55:10

⁴⁸⁴ <https://www.dawn.com/news/1154522>

⁴⁸⁵ Sahih Bukhari hadith No. 354

Another point that makes clear that an individual can own land is that hadith in which the Prophet (pbuh) said “*Whoever revives a barren (or dead) land, then it is for him*”⁴⁸⁶. It is abundantly clear in this hadith that one of the ways a person can own land is by reviving it. In addition, there is clear punishment for usurping land owned by an individual. The Prophet (pbuh) said: “*Whoever seizes a handspan of land unlawfully, will surround him to the depth of seven earths*”.⁴⁸⁷

Again, in Islamic jurisprudence, lands are majorly classified into Dar al-Islam and Dar al-kufr. This classification which is a product of juristic effort (*ijtihad*) is an indication that even non-Muslims can own lands. Also, the hadith of the Prophet (pbuh) where he said “*Leave the Turks alone, as long as they leave you*”⁴⁸⁸ indicates that you cannot go and seize the lands of a people on the basis of saying the lands belong to Allah.

Moreover, lands are sold and inherited and there is nothing from Quran and the sunnah that prohibit an individual whether Muslim or non-Muslim to buy or sell any property (including land) if they own it. Allah says “*Allah has permitted trade (bay’) and has forbidden interest (riba)*” (Quran 2:275). It is also clear from the sunnah that Allah's Messenger (pbuh) bought some foodstuff (barley) from a Jew on credit and mortgaged his iron

⁴⁸⁶ Sunan al-Tirmidhi hadith No. 1379

⁴⁸⁷ Sahih al-Bukhari 2453

⁴⁸⁸ Abu Dawud hadith no. 4302; al-Mu’jam al-Kabir hadith no. 10389; al-Mu’jam al-Awsat hadith no. 5630

armour to him. The Prophet (pbuh) didn't say "I will forcefully have the foodstuff because all properties belong to Allah".

The non-Muslim lands that were seized in the past were a form of booty in the context of war and not in normal and peaceful situations and circumstances. It is clear from the aforementioned, therefore, that Allah's ownership is not a justification to confiscate any property of anyone.

The second claim for the justification of jihad to reclaim Muslim land is the verse "*Drive them out of where they drove you out...*" (2:191)

This verse is only instructing Muslims to defend themselves against those who are attacking them and driving them out of their homes, land, or territories. It is important to note that this verse should be understood within its historical context as it was revealed to the Prophet (p) during a time of conflict between the early Muslims and the non-Muslims of Mecca who were persecuting and attacking them.

The verse is about the right of self-defense and protecting one's land, property, and community from aggression and persecution. It does not encourage aggression or violence for historical atrocities of past generations but rather emphasizes the importance of protecting oneself and one's community against oppression and injustice.

Contexts matters; we cannot take verses that apply to the context of on-going warfare, and apply these to contexts where hostilities have ended, and peace treaties entered into. This would negate the purpose of peace treaties. The Qur'an is clear that: *“As for such (of the unbelievers) who do not fight against you on account of (your) faith, and neither drive you forth from your homelands, Allah does not forbid you to show them kindness and to behave towards them with full equity: for verily, Allah loves those who act equitably. Allah only forbids you to turn in friendship towards those who fight against you because of (your) faith, and drive you forth from your homelands, or aid (others) in driving you forth: and as for those (from among you) who turn toward them in friendship, it is they, they who are truly wrongdoers!”* (Qur'an 60: 8-9)

The Qur'an is categorical regarding accepting and respecting peace offerings and reconciliation (Sulhu) from former enemies: *“And if they (your enemy) incline to peace, incline you also to it, and trust in Allah. (Qur'an 8:61)*

“...Therefore, if they withdraw from you and fight you not, and instead send you guarantees of peace, know that Allah has not given you a license (to fight them). (Qur'an 4:90)

“If one amongst the (combatant) polytheists asks you for asylum grant it to him so that he may hear the word of Allah and then escort him to where he can be secure: that is because they are men without

knowledge. ...As long as they stand true to you, stand you true to them: For Allah does love the righteous". (Qur'an 9:6-7)

Again, most of these lands were seized hundreds of years ago and the present residents of the land would not be responsible for what was done by their predecessors without their knowledge or participation. Allah says: "...each soul is responsible for its own actions; no soul will bear the burden of another..." (Quran 6:164). This means that no one bears the sins of another person unless he was in any way complicit in committing them. No one is held accountable for another person's misdeeds.

Viewing this issue through the lens of public interest (*maslahah*), it can be said that the use of force to reclaim territory or lands can lead to serious consequences, including loss of life, destruction of communities, and increased tensions and conflicts. In that regard, the well-established maxim of Islamic jurisprudence, which states that "prevention of harm takes precedence over protection or preservation of benefit" (*Darhu al-mafasid muqaddamun 'ala jalb al-masalih*)⁴⁸⁹ should be applied. So from that perspective, the harm (*mafsadah*) in the loss of lives and properties, etc. would be greater than the assumed benefit from getting the lands back. Likewise, most of the seized Muslim lands of the past already have a good number of Muslims living

⁴⁸⁹ Tajuddeen al-Subuki, *Al-asbab wa al-nazair*, Daar al-Kutub al-'Ilmiyyah, 1st edition, vol. 1 p. 105

there having the full right to practice their religion without any fear of persecution.

The explicitly clear texts in recognition of Sulh (peace treaties) in the Qur'an and Sunnah between Muslims and others is undisputed. Such recognition also implies the recognition that non-Muslims own their land and have political sovereignty and legal jurisdiction there, and this autonomy is explicit in the Qur'an and seen clearly in the Sunnah and Seerah of the Prophet (pbuh) and his companions. Allah says in the Qur'an (8:72), *“Those who believed, emigrated, and strived with their wealth and lives in the cause of Allah, as well as those who gave them shelter and help—they are truly guardians of one another. As for those who believed but did not emigrate, you have no obligations to them until they emigrate. But if they seek your help (against persecution) in faith, it is your obligation to help them, except against people bound with you in a treaty. Allah is All-Seeing of what you do.”*

Consequently, even though most of the Companions of the Prophet (p) were opposed to the unfair and humiliating conditions of the Treaty of Hudaibiyah which the Prophet (p) had agreed to, all Muslims of Medina and Mecca were required to respect and honour the signed treaty. Such non-Muslim communities who agreed to peace treaties with Muslims were not regarded by the Prophet (p) as targets of hostility for the sake of their lands because of past hostilities, once peace treaties were concluded. If war and hostilities cease, then Muslims are to cease

from hostilities as Muslims are only allowed to fight those who fight them.

According to some Shafiis, such as al-Mawardi and al-Nawawi, they took the view that the existence of a single household in which the main rites and distinguishing practices of Islam were carried out was enough to make a land an abode of Islam. Some defined Dar al-Sulh/Adl as an area of land wherein the citizens were able to enjoy peace and security. Among those who took this opinion are the followers of Abu Hanifah, particularly al-Kasani⁴⁹⁰. What is the logical or Islamic point of fighting to reclaim a land where Muslims are able to practice their religion with peace and security if the objective of fighting was for sustainable peace and freedom of religion?

Finally, the new reality is that most of the states or countries today are in a peace treaty with one another, and as Muslims, we are obliged to keep to our promises. Allah says:

- "O you who have believed, fulfill [all] contracts" (Qur'an 5:1).
- "If the enemy is inclined towards peace, make peace with them. And put your trust in Allah. Indeed, He alone is the All-Hearing, All-Knowing" (Qur'an 8:61).⁴⁹¹

⁴⁹⁰ Ibn Bayyah, *The nation-state in Muslim societies*, 3rd framework speech of the Abu Dhabi Forum for peace, 2016, p.16

⁴⁹¹ <https://www.ipl.org/essay/Advantages-And-Disadvantages-PKMA8WH4AJP6>

Abu Darda reported that the prophet said, “*Shall I not tell you of what is better in degree than extra fasting, prayer, and charity?*” They said, “Of course!” The Prophet said, “*Reconciliation between people. Verily, grudges and disputes between people is the razor*”⁴⁹² (that shaves faith)⁴⁹³.

The concept of jihad and fighting in the context of reclaiming Muslim-seized lands is a complex issue that requires a nuanced understanding of Islamic law and ethics. It is important to note that the Islamic tradition has a strong emphasis on peace and the avoidance of harm to innocent civilians. While some scholars may argue for armed struggle in certain circumstances, the general principle is to exhaust peaceful means of conflict resolution before resorting to violence.

On Rebellion or Insurgency

When, if at all is rebellion or insurgency permitted in Islamic Law?

Some scholars describe this as permissible where a Muslim Caliph, government, or Islamic state is guilty of *Kufr baw'ah* (open disbelief). This is based on the hadith narrated by Junada bin Abi Umaiya. He said: “We entered upon 'Ubada bin As-Samit while he was sick. We said, "May Allah make you healthy. Will you tell us a Hadith you heard from the Prophet (pbuh) and

⁴⁹² The razor refers to such a bad quality that removes faith, just like a razor removes hair.

⁴⁹³ Sunan al-Tirmidhi Hadith No. 2509

by which Allah may make you benefit?" He said, "*The Prophet (pbuh) called us and we gave him the Pledge of Allegiance for Islam, and among the conditions on which he took the Pledge from us, was that we were to listen and obey (the orders) both at the time when we were active and at the time when we were tired, and at our difficult time and at our ease and to be obedient to the ruler and give him his right even if he did not give us our right, and not to fight against him unless we noticed him having open Kufr (disbelief) for which we would have a proof with us from Allah.*"⁴⁹⁴

Some scholars considered *Kufr baw'a'ah* (open disbelief) as sins committed openly and not Kufr that invalidates Iman. In the narration by Imam Ahmad, 'Ubadah ibn al-Samit said, the Messenger of Allah (p) said: "...Unless they command you to sin openly"⁴⁹⁵ In Musnad al-Bazar, among the narrators said: "To order you to disobey Allah"⁴⁹⁶ In another version, 'Ubadah ibn al-Samit added, "Except that he commands you to sin openly which the Qur'an has forbidden"⁴⁹⁷

⁴⁹⁴ Imam Bukhari, Sahih Bukhari hadith No. 7055, 7056

⁴⁹⁵ Imam Ahmad, *Musnad Ahmad*, vol. 37, p. 404, hadith no. 22737, Maktabah al-Shamilah, version 3.35

⁴⁹⁶ Al-Bazzar, *Musnad al-Bazzar*, vol. 1, p. 416, hadith no. 2697, Maktabah al-Shamilah, version 3.35

⁴⁹⁷ al-Tabarani, *Musnad al-Shamiyyin*, vol. 1, p. 287, hadith no. 220, Maktabah al-Shamilah, version 3.35

This is the opinion of an-Nawawi in his commentary on Sahih Muslim⁴⁹⁸. Al-Uthaymeen considers it to be the major form of Kufr. He mentioned three conditions to oust a leader.⁴⁹⁹

- To clearly see disbelief as mere suspicion cannot be a valid reason for fight.
- Certainty of kufr not sin (*fisq*). No matter the degree of sin committed by a leader, fighting him is not permissible even when he drank liquor and committed fornication except when we see a clear *kufr*.
- Al-Kufr al-Bawa'ah means clearly open disbelief...But if it is subject to multiple interpretations, ousting a leader cannot be permissible by it...However, if it is clearly a kufr, for example, he said to the followers: drinking liquor, committing sodomy and adultery are permissible, then it is clearly a kufr.⁵⁰⁰ It is obligatory on the followers to oust him through every means.

These conditions are meant to ensure that a lesser evil does not result into a greater evil or removing a leader does not result in a greater evil. This hadith does not apply to non-Muslim states or Dar al-Sulh (abodes of treaty) as can be seen from the practice or the seerah of the Prophet (p) and his companions. In the case of Abyssinia, Muslims actually supported the government against

⁴⁹⁸ Nawawi, *al-Minhaj*, vol.6, p. 314, Maktabah al-Shamilah, version 3.35

⁴⁹⁹ Sheikh Muhammad bin Salih al-Uthaymeen, *Shar Riyad al-Saliheen*, vol. 1. p. 220

⁵⁰⁰ Considering a clearly forbidden act as permissible or clearly permissible act as forbidden is Kufr.

its opposition even though it was a non-Muslim government to the extent that Zubair was honoured with an award of a spear by the Christian king for his support. Zubair presented this to the Prophet when he arrived in Medina.⁵⁰¹

This hadith of Ubaidullah can therefore not be used to justify rebellion or insurgency in a non-Muslim state.

Imam an-Nawawi also mentioned that it is haram to fight leaders even when they are sinners and unjust.⁵⁰² Thus, what is expected is to speak against the wrong and not fighting. For those who believe that *kufir bawā'ah* means actions of disbelief on the part of the leader and support fighting and ousting the leader when *kufir bawā'ah* is seen; this is not without any restriction as the possibility of success has to be measurable otherwise the fighters would just be subjecting themselves to unnecessary death.

The Prophet (p) said: “... *You would soon find after me preferences (over you in getting material benefits). So, you should show patience till you meet me in the hereafter (Haud)*”.⁵⁰³ Umar bin Khattab also stated in his last sermon thus: “So if any person gives the Pledge of allegiance to somebody (to become a Caliph) without consulting the other Muslims, then the one he has selected should not be granted allegiance, lest both of them should be killed”.⁵⁰⁴

⁵⁰¹

⁵⁰² Nawawi, *al-Minhaj*, vol.6, p. 314, Maktabah al-Shamilah, version 3.35

⁵⁰³ Muslim, book 5, hadith 2313

⁵⁰⁴ Bukhari 6830

Based on the above, even when invited to join forces by individuals who are ready to take up arms, non-obedience to them is the exhortation proposed by Umar bin Khattab.

It is contained in the hadith stated in Sunan Ibn Majah and in the as-Sunnah of Ibn Abi A'sim on the authority of Anas bin Malik (RA) that the Messenger of Allah (peace and blessings of Allah be upon him) said: *'Some people open the door to good and close the door to evil and some people open the door to evil and close the door to good. Glad tidings to those in whose hands Allah places the keys to good, and woe to those in whose hands Allah places the keys to evil.'*⁵⁰⁵

In conclusion, rebellion or insurgency is not permissible in Islam and one cannot fight a leader because of the sins he has committed or sins committed by his followers.

On the Legitimate Authority for Jihad

Who is it that has the legitimate authority to declare war or armed Jihad? Is it only a political leader or could it also be the leader of any group?

⁵⁰⁵ Sunan Ibn Majah 237, Ibn Abi A'sim in as-Sunnah 297, At-Tayalisi in his Musnad 2082, al-Baihaqi in al-Iman 698. Al-Bani ranked it as good in Silsila al-ahadith al-Sahiha 1332.

The significance of political leadership in a society cannot be underestimated. Declaring war or armed struggle (jihad) is too important to be left unregulated by the political leadership of a state. Leaving it unregulated opens the door to insurgency and rebellion (*Bughya*) which is a crime against the state. The same importance of legal authority applies to all other legal punishments (Qisas, Hudud or Ta'zir) in Shari'ah. These were never seen as the jurisdiction of any other than the state. The same applies to Jihad, which is similar to a "defensive punishment" by the state against hostile others. It is not an individual obligation without state regulation. Other related issues such as terms of engagement and disengagement, treatment of POWs, establishment of treaties, terms of surrender, etc. are all related to authority of the state, not individuals taking law into their hands. This was the understanding of the Prophet (p) and seen in the lives of the Companions.

Armed or military *jihad*, when its need arises, is regarded by Muslim scholars and schools of jurisprudence to be a collective obligation (*fardu kifayah* on the members of the Muslim community under its leadership) – and not an individual obligation (*fardu 'ayn*).⁵⁰⁶

Allah says: "O you who have believed, obey God and obey the Messenger and those in authority among you..." (Qur'an 4: 59).

⁵⁰⁶ Hassan al-Banna, *Al-Jihad fi Sabeel Allah*, p.84, cited in Abdulrahman Muhammad Alsumaih, *The Sunni Concept of Jihad in Classical Fiqh and Modern Islamic Thought*, (PhD. Thesis), University of New Castle Upon Tyne, UK, 1998, p.17.

Umar bin Khattab stated in his last sermon thus: “So if any person gives the Pledge of allegiance to somebody (to become a Caliph) without consulting the other Muslims, then the one he has selected should not be granted allegiance, lest both of them should be killed”.⁵⁰⁷

Imam al-Bukhari opened a related chapter on this topic with the title: “Fighting is done under an Imam and he serves as a shield (against the enemy)”. He then related a Hadith where the Prophet (pbuh) said: “*Whoever follows me follows Allah, and whoever follows his leader (Amir) had followed me, and whoever disobeys the leader has disobeyed me. The leader is a shield behind whom fighting is carried out....*”.⁵⁰⁸ This hadith thus emphasizes the necessity of fighting under the command of the legitimate leader.

According to Al-Qarafi, the one who is being addressed by the words, “I have been commanded to fight...” is the Prophet (p) in his capacity as Caliph or Head of State. So, it is not possible for anyone other than his authorized representatives to fall under these words. For fighting has been prescribed to repel an external threat or enemy or put down an internal rebellion, both of which are exclusively the domain of government”.⁵⁰⁹ Imam al-Juwayni

⁵⁰⁷ Bukhari 6830

⁵⁰⁸ Al-Bukhari, *Sahih al-Bukhari*, Hadith no. 2957.

⁵⁰⁹ Al-Qarafi, *al-Ihkam fi Tamyiz al-Fatava min al-Abkam wa Dhikr Tasarrufat al-Imam* cited by Abdallah bin Bayyah, in *the pursuit of peace* p. 62.

also emphasised this when he stated: “Jihad is the jurisdiction of the caliph... He is the representative of the Muslims”⁵¹⁰

The Prophet (p) said: "*It is obligatory upon you to listen and obey the orders of the ruler in prosperity and adversity, whether you are willing or unwilling, or when someone is given undue preference to you*".⁵¹¹

Also, he said: “Whoever breaks away from obedience and separates from the group and dies, he dies the death of ignorance...”⁵¹²

Abu Huraira reported: Sa’ad bin Ubadah said: “O Messenger of Allah, if I were to find another man with my wife, should I not touch him until I bring four witnesses? The Prophet (pbuh) said Yes. Sa’ad said, “Never! By the One who sent you with the truth, if that happened to me, I would hasten with my sword to him before that! The Prophet (pbuh) said: Listen to what your leader is saying. He is jealous of his honour, I am more jealous than he (is) and God is more jealous than I”⁵¹³

Abu Umar Ibn AbdulBarr al-Nimury while commenting on this hadith said: “In this hadith, there is a prohibition of killing someone in this condition in honour of protection of life/blood and for the fear of delving into the discussion of splitting of the

⁵¹⁰ Abu al-Ma’ali Abdulmalik ibn Abdullahi al-Juwayni, *Ghiyath al-Umam fi iltiyath al-Zulam*, Maktabat Imam al-Haramayn, 1401/1980, p. 210.

⁵¹¹ Muslim 3327; Imam An-Nawawi, *Riyad as-Salihin*, no. 666.

⁵¹² Muslim .3344

⁵¹³ Muslim 1498

blood of Muslims without doing what was commanded to be done of establishing concrete evidence or the acknowledgement of the sin by the accused person. This also is to shut the door of assuming the position of a judge in what he was charged to do of handling issues to do with punishments....⁵¹⁴

If solid evidence is required for the execution of a single soul, what about a rebellion that could lead to loss of lives and properties? Ibn Taymiyyah cited a wise saying: “Sixty years of an unjust sultan is better than one night without authority”.⁵¹⁵

In conclusion, the legitimate right to declare or end warfare, contracts, treaties, and alliances, decide on the fate of prisoners of war, etc. rests only in the hands of the head of state and Commander-In-Chief of the Armed Forces, or any other delegated authority, and no one else. This ensures unity and coordination of armed forces when it is needed most, and prevents “divide and rule” and weakening of the society’s strength by enemy forces. Allah says: *Obey God and obey His Messenger in all your circumstances, and do not differ, lest your words become divided and your hearts differ, so you become weak and your strength and victory vanish...*” (Quran 6:46).

⁵¹⁴ Ibn AbdulBarr *al-Tamhid*, Mu’assah al-Qurtobah, vol21, p253, Maktabah Shamilah

⁵¹⁵ Ibn Taymiyyah, *Majmoo al-Fatawa*, al-Maktabah al-Shamilah.3.35, vol.30, p.159

On Fighting to Establish an Islamic State

Is it permissible to initiate jihad for the purpose of establishing an Islamic State in a society where there is none and/or where Muslims are a majority? For example, is it permissible for a group of Nigerian Muslims to fight the Nigerian State to establish an Islamic State?

Muslims are permitted to live or reside and contribute to any society or state where they are not persecuted on account of their faith or driven out of their lands. This was how the early Muslims (*Salaf*) during the time of the Prophet (p) and his companions lived. They moved into non-Muslim lands that respected their freedom to practice and propagate Islam and had peace treaties with them during the lifetime of the Prophet (p) as seen in Abyssinia, and soon after the demise of the prophet (p) as seen in Iliya (Jerusalem) and other places.⁵¹⁶

No Islamic state was established during the time of the Prophet (p) or his companions through the fighting of jihad for the sole purpose of establishing an Islamic state. The first city-state of Medina was established through a peace treaty and constitution

⁵¹⁶ Safy al-Rahman Mubarakfuri, *Al-Raheeq Al-Makhtum* (The Sealed Nectar: Biography of the Noble Prophet), Revised Edition, Maktabah Dar al-Salam, Riyadh, 2002, pp.118-123; www.readthespirit.com/interfaith-peacebuilders/king-negus-ashama-ibn-abjar-of-abyssinia; Muhammad Salim al-Khidr, *Al-Balagha al-Umariyyah*, 1st ed. Mibras al-al wa al-Ashab, 2014, p.325.

referred to as the Sahifa of Medina.⁵¹⁷ After establishing the Islamic city-state of Medina, the Prophet (p) did not immediately order the Muslims living in Abyssinia to migrate to Medina. Some Muslims however migrated to Medina many years later after Hijrah.⁵¹⁸

The spread of Islamic influence was through enlightenment and awareness of the wisdom and teachings of Islam (*da'wah*), good admonition, good disputation, good character, peacebuilding between communities, etc. Allah says: *“Invite (people) to the way of your Lord with wisdom and good counsel. And argue with them in the best of manners. Surely, your Lord knows best the one who deviates from His way, and He knows best the ones who are on the right path”* (Quran 16:125).

One of the major assignments of the Prophet (pbuh) after migration to Medina was to be a mediator, arbiter, and peace builder for the mainly non-Muslims clans and communities there. Islam established itself politically, economically, etc. through a process of evolution, not revolution. Muslims who lived in peaceful non-Muslim societies during the time of the Prophet (pbuh) and his companions were never required to wage war against any peaceful or non-hostile state. Such states were

⁵¹⁷ Akram Diya' al-'Umari, *Madinan Society at the Time of the Prophet (Vol.1): Its Characteristics and Organisation*, International Institute of Islamic Thought, Virginia, 1991, p.99-106.

⁵¹⁸ Safiy al-Rahman Mubarakfuri, *Al-Rabeeq Al-Makbtum* (The Sealed Nectar: Biography of the Noble Prophet), 1st ed. Dar al-Hilal, Beirut, p. 324.

referred to as Dar al-Sulh or Dar al-Adl, Dar al-Ahd, etc. such as Abyssinia, Mecca during the treaty of Hudaibiyah, etc...⁵¹⁹

The justification for fighting (jihad or war) in the Qur'an and sunnah is against aggression and hostility towards Muslims and not disbelief (*kufir*) of an individual, community, or nation. Allah says: *“Allah does not forbid you as regards those who did not fight you on account of faith and did not expel you from your homes, that you do good to them, and deal justly with them. Surely Allah loves those who maintain justice. Allah forbids you only about those who fought you on account of faith and expelled you from your homes and helped (others) in expelling you, that you have friendship with them. Those who develop friendships with them are the wrongdoers”*. [Quran 60:8-9].

The Qur'an requires Muslims to be inclined towards peace if an enemy inclines towards it, and to only fight those who fight them. Allah says: *“And if they tilt towards peace, you too should tilt towards it, and place your trust in Allah. Surely, He is the All-Hearing, the All-Knowing”*. [Quran 8:61] *“Fight in the way of Allah against those who fight you, and do not transgress. Verily, Allah does not like the transgressors”*. [Quran 2:190]. *“There is no compulsion in religion”* (Quran 2: 256)

Muslims are therefore permitted to live in non-Muslim societies where they can practice and propagate Islam, or where the persecution does not warrant migration (*Hijrah*), and where they

⁵¹⁹ These states are regarded as Dar al-Islam by some scholars.

can positively influence others and contribute to such societies. Such states are referred to as Dar al-Ahd/Sulh (abode of treaty) by some scholars and as Dar al-Islam (abode of Islam) by others. In most Muslim-majority countries of the world today – that are Dar al-‘Ahd/Sulh at worst, or Dar al-Islam at best – many or most of the so-called “man-made” laws and policies (and punishments) in various aspects of life – legal, traffic, civil, environmental, commercial, health, political, security, educational, professional, etc. - are actually already valid and justified in Usul al-Fiqh and Shari’ah under laws related to *Ta’zir* (discretionary punishment) and *Qisas* (equitable retribution), and most are based on *Maslahah*, *Sadd al-Dhari’ah*, *‘Urf wa al-‘Adah*, *Istihsan*, *Istishab* and *Rukhsa* considerations, which do not necessarily conflict with Islam.

Most Muslims forget that in areas of worldly (*dunya*) and social transactions (*mu’amalat*), “everything is permissible except what is clearly prohibited based on valid evidence” – not the other way round. Most (not all) of the actual reforms that are critical are related only to those policies and systems of governance that clearly conflict with the Qur’an and Sunnah (and these are very few), and more importantly, personal and communal character, and corruption, and deep ignorance among many preachers and scholars regarding pragmatic Islamic governance in contemporary contexts. This improvement requires incremental improvement towards excellence and cooperation with others in doing good in every field of education, profession and career.

This is partly why many contemporary jurists regard such Muslim countries as sufficiently Islamic to be regarded as Dar al-Islam, or “Shari’ah compliant”, but definitely not Dar al-Kufr. These states are far from perfect, but good enough, especially if taken from the perspective of Imam Al-Mawardi and others who considered the safety and security of Islam and Muslims. The reforms needed are therefore few and theoretically not difficult to implement if Muslims are serious and enlightened, but so far violence has been costly to the Ummah and counter-productive. In conclusion, it is not permissible for Muslims to initiate fighting against a state or individual that has not shown hostility to the degree that justifies self-defence. There should be no coup, colonisation, insurgency, or rebellion for the sole purpose of establishing Dar al-Islam or an Islamic society or state.

On Suicide Bombing

Is suicide bombing permissible in jihad?

Suicide is where a person is the deliberate cause of his or her own death. It is where s/he intentionally and voluntarily kills him/herself for one reason or the other.⁵²⁰ In other words, s/he is the murderer or killer of him/herself. There is no intention to survive. This is not the same as putting oneself in a high-risk situation where others may choose to kill him. In this second

⁵²⁰ Al-Harithi, Jamal bin Farihan, *Al-Fatawa Al-Mubimma fi Tabseer al-Umma*, Maktaba al-hadyil Muhammadi, Cairo, 1429 AH, p.74,

instance, the ultimate or final cause of death is not the individual him/herself, but others.

The Qur'an (4:29-30) and Sunnah clearly forbid suicide and regard it as a major sin, "... *and do not kill yourselves. Indeed, Allah has been most Merciful to you...*" The Prophet (p) said, "*Whosoever kills himself with something in this world, he will be punished with it on the Day of Judgment*".⁵²¹ In another hadith from the Prophet (pbuh) said, in response to a man who committed suicide, "Allah said, '*My servant hurried to bring death upon himself, so I have declared Paradise unlawful for him*'."⁵²²

There is no known situation at the time of the Prophet (pbuh) or his companions where suicide by any means was used as a war tactic or strategy. There are however, cases where some of the Muslim soldiers would put themselves in a high-risk situation, where others may choose to kill them or take them as prisoners.⁵²³ Here, the final cause of death was not the individual concerned but others who chose to kill them instead of taking them prisoner or setting them free. There is no certainty of death in these cases. While these soldiers were ready and prepared to be

⁵²¹ *Sahih Muslim*, hadith no. 315, vol.1, p.37; *Sunan Al-kubra*, vol.8, p.23

⁵²² Al-Bukhari, Muhammad bin Ismail bin Ibrahim, *Sahih al-Bukhari*, hadith no. 3463, vol.8, p.569; Al-Qushairy, Muslim bin Hajaj, *Sahih Muslim*, hadith no. 315, vol.1, p.37; Al-Baihaqi, Ahmad bin Husaini bin Ali bin Musa Abubakr, *Sunan Al-Kubra*, hadith no.15657 vol.8, p.24.

⁵²³ Al-Athari, Fauzi bin Abdullahi bin Muhammad Al-Humaidi, *Al-Futubat ilabiyya fi Tabreem al-Amaliyat al-Intihariyya*, al-Maktabah al-Shamilah, p.5.

killed by others, the intention of such Muslims was still to survive against all odds if at all possible, but not to be the one who will actually kill themselves. In many of these high-risk situations, the Muslims concerned in fact survived.

Some Muslims have tried to draw similarities between these two very distinct cases, and have referred to such as suicide missions, attacks or bombings instead of as “Martyrdom” or “Self-sacrificial Operations”. While suicide bombing is a contemporary tactic in warfare, there is no known incident during the life of the Prophet (pbuh) or his Rightly Guided Companions where something similar was used, permitted or prescribed and from which one could draw an analogy (*qiyas*) for its permissibility. The operative legal cause (*illah*) for prohibiting suicide in the Qur’an (4:29-30) is that one kills oneself – “do not kill yourselves”. This cause (*illah*) and basis for the prohibition is still there in “Martyrdom Operations” and is hence also prohibited by the clear texts of the Qur’an and Sunnah.

Suicide bombing (or “Martyrdom Operations”) is not about putting oneself in a high-risk situation where others might choose to kill or imprison the suicide bomber. Here the suicide bomber is the actual killer and direct initiator and cause of his own death – and usually along with others. It is not a situation where others may choose to kill the person concerned or decide what else to do with them. In suicide bombing, the person or bomber (and not others or his situation) is the direct cause of his

own death. Such “Martyrdom operations” or “Suicide missions” are clear cases of suicide and prohibited by explicit and authentic texts. While some may argue that this is often done out of despair and frustration, it should also be clear that these justifications do not make permissible what is clearly prohibited. Nor is it permissible to encourage, support or facilitate what is clearly prohibited. And while actions will be judged by Allah according to their intentions, having good intentions do not make permissible what is clearly prohibited. Life is a sacred gift from Allah and can only be taken in accordance with Allah’s will and guidance.

In contemporary history, it was the Japanese military (during the Second World War) and the Tamil Tigers of Sri Lanka that were among the first to innovate suicide bombing as a military strategy.⁵²⁴ Warfare is under the category of *mu’amalat* – “social transactions” and all actions are permissible in the absence of prohibiting textual evidence - only those innovative strategies that do not contradict the teachings of the Qur’an and Sunnah may be considered acceptable. Imitating non-Muslim military strategies that contradict Islamic teachings⁵²⁵ stand prohibited as has also been declared by the over-whelming majority of contemporary scholars.⁵²⁶ It should be noted that even those

⁵²⁴ Al-Harithi, Jamal bin Farihan, *Al-Fatawa Al-Muhimma fi Tabseer al-Umma*, Maktabat Hadyil Muhammadi, Cairo, 1429 AH, p.74.

⁵²⁵ *Sunan Abi Dawud*, Hadith no. 4031, vol.2, p.441

⁵²⁶ Including scholars such as al-Albani, Ibn Uthaimen, al-Fauzan, Ubaidu Al-Jabiry, Abdul Azeez Al-Rajih, Abdulazeez Ali Sheikh, Al-Madkhaly, and Al-Sadlan (See Al-

scholars who have tried to consider it as permissible under certain circumstances (such as in the Israeli-Palestinian conflict), agree that it cannot be used against non-combatant civilians, as killing such people is also clearly prohibited by the Qur'an⁵²⁷ and Sunnah as has been discussed under the rules of combat in Islamic International Humanitarian Law.⁵²⁸ And Allah knows best.⁵²⁹

On Muslim Conquests and the Spread of Islam

Some non-Muslims have posited that Islam was spread by the sword through Muslim conquests and forced conversions of people. How true is this assertion?

The Qur'an makes it clear how its message is to be spread. The Prophet (pbuh) was told by Allah, "*Your duty is only to proclaim...*" (Qur'an 36:17), "*Invite all to the way of your Lord with wisdom and beautiful preaching...*" (Qur'an 16:125), "*Say: 'The*

Harithi, Jamal bin Farihan, *Al-Fatawa Al-Muhimma fi Tabseer al-Umma*, Maktabat Hadyil Muhammadiyah, Cairo, 1429 AH, p.74-96)

⁵²⁷ Quran 4:29, 2:195,

⁵²⁸ Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations*, Palgrave Macmillan, New York, 2011, p.107-129.

⁵²⁹ For further reading see: Muhammad Tahir-ul-Qadri, *Fatwa on Terrorism and Suicide Bombings*, Minhaj-ul-Qur'an International, London, UK, 2012; Ergün Çapan, *Terror and Suicide Attacks: An Islamic Perspective*. The Light Inc., New Jersey, USA, 2004; Feisal Abdul Rauf, *What's Right with Islam: A New Vision for Muslims and the West*, Harper Collins Publishers Inc., San Francisco, USA, 2004; Muhammad Munir, *Suicide attacks and Islamic law*, International Review of the Red Cross, Volume 90, Number 869, March 2008.

truth has now come from your Sustainer. Let then he who wills, believe in it, and let he who wills, reject it” (Qur’an 18:29) and “*Let there be no compulsion in religion...*” (Qur’an 2:256). In fact, the word “Islam” itself connotes conscious and willing submission to Allah’s will. If someone is forced to become a “Muslim”, he is submitting to the will of the one who forced him and not really to Allah.

The Qur’an condemns aggression in any form and admonish believers to embrace just-peace.⁵³⁰ The Prophet Muhammad (pbuh) was also a man of peace and preached peaceful co-existence between the Muslims and non-Muslims throughout his life. hadith and *Sirah* (Prophetic history) literature cite numerous examples of his kind and generous treatment of non-Muslim neighbours, and even tribes who had been defeated in battles against Muslims.⁵³¹ The homage and tolerance demonstrated by early Caliphs towards non-Muslims is thus a direct result of their faithful adherence to such religious teachings.⁵³²

Some have argued that Muslim conquests are evidence of Islam being spread by the sword. However, it must be mentioned that these events of history were never a means of converting others to Islam or of spreading the religion. They were only a means of

⁵³⁰ See for example Qur’an 2:190, 21:107; 16:125-128; 33:21; 49:9-10.

⁵³¹ For further discussion on this, see Da’wah Institute of Nigeria, *Al-Ameen: 40+ Lessons for Building Bridges and Breaking Barriers to Peace from the Life of Prophet Muhammad (pbuh)*, Islamic Education Trust, Minna, Nigeria, 2018.

⁵³² Karen Armstrong, *Muhammad: A Biography of the Prophet*, Harper Collins, San Francisco, 1993.

securing political and societal security in potentially hostile environments. This was particularly so when “any significant power of their day was essentially in a conquer-or-be-conquered situation.”⁵³³

Conquests were sometimes necessary as the only reasonable option when living in environments dominated by aggressive empires (such as Persia and Byzantium) that were hostile to one’s group or community. In such situations, a state could establish treaties and covenants with others similar to the NATO alliance. It could alternatively join forces with its allies in conquering those who would otherwise refuse peace treaties and who, if they had the chance, would participate in conquering such a state. Records of such treaties, including those which allowed for neutrality on the part of non-Muslim territories, may be found in the accounts of renowned historians.⁵³⁴

At the time of the Prophet (pbuh), the surrounding “Super-Powers”, the Persian Sassanid and Byzantine Empires were ruled by brute force and competed for control of populations and resources. With ambitious expansion plans, the empires both competed in usurping even more land for their own power and glory, oppressing their subjects including some of those

⁵³³ Jeffrey Lang, *Struggling to Surrender: Some Impressions of an American Convert to Islam*, Aman Publications, USA, 1994, p.190

⁵³⁴ For example, Ibn Sa’d, *Kitab al-Tabaqaat al-Kabir*, vol.1, p.2, 26-27, 48; vol.2, p.1 & 3; Ibn Hisham, *Sirah al-Nabi*, pp.341-344; Ibn Kathir, *Al-Bidaayah wal-Nihaayah*, vol.3, pp.224-226; and Al-Tabari, *Al-Tarikh*, vol.1, p.2659, 2826 & 3244.

belonging to the same religion. In such hostile territory, the only way for a community to survive was to form alliances and fight those who were planning to crush them. When the Persian King Khusraw Parvez died, for instance, the Muslim army was dispatched to quickly take advantage of the instability and secure themselves against further Persian might. Such preventive means against the threat of aggression were the basis for the battles of Banu al-Mustaliq, Khaybar, and Hunayn.⁵³⁵

The conquests brought not subjugation but liberation of the conquered people. Orientalist historian, Jane Smith (1999), writes that:

The Byzantine state ruled its eastern subjects with an authority that was often experienced as ruthless and oppressive. Thus, it was that many Oriental Christians welcomed Muslim political authority as a relief from Byzantine oversight and cooperated with their new Muslim rulers. This was one of the most important factors in the remarkable ease with which Islam was able to spread across Christian lands... For many Christians, the arrival of Islam was seen as a liberation from the tyranny of fellow Christians rather than as a menace or even a challenge to their own faith.⁵³⁶

⁵³⁵ Muhammad Hamidullah, *The Muslim Conduct of State*, Hafeez Press, Lahore 1977, p.193

⁵³⁶ Jane I. Smith, "Islam and Christendom: Historical, Cultural, and Religious Interaction from the Seventh to the Fifteenth Centuries" in *The Oxford History of Islam*, ed. John L. Esposito, Oxford University Press, UK, 1999, Ch.7, p.311.

The very first conquest was the Conquest of Mecca – a bloodless takeover that the Prophet (pbuh) undertook after the Pagan Quraysh violated the terms of their peace treaty.⁵³⁷ Upon successfully securing Mecca, the Prophet (pbuh) reminded the people of how for twenty years the Muslim community had to endure religious persecution, unjust confiscation of their property, continuous invasions, and hostilities. He then proclaimed, “*May Allah pardon you. Go in peace – there shall be no responsibility on you today. You are free!*” and, without leaving a single soldier in Mecca, he proceeded to appoint a Makkan chief as governor and returned to Medina.⁵³⁸

Charters issued by the Prophet (pbuh) to conquered communities guaranteed plentiful rights to non-Muslims.⁵³⁹ This example was followed by the Prophet’s successors. The Caliph Umar’s treaty with the non-Muslims of Jerusalem, for instance, states:

This is the assurance of security (amān) which the servant of Allah, Umar, the Commander of the Faithful, has granted to the people of Jerusalem. He has given them an assurance of safety for themselves, for

⁵³⁷ Muhammad Hamidullah, *The Muslim Conduct of State*, Hafeez Press, Lahore, 1977, p.193.

⁵³⁸ Muhammad Hamidullah, *The Muslim Conduct of State*, Hafeez Press, Lahore, 1977, p.13.

⁵³⁹ An example of such a charter may be found at <http://salam.muslimonline.com/~azahoor/charter1.html>. See also A. Thomson and M. Ata’ur-Rahim, *Islam in Andalus*, Ta Ha Publishers, London, UK, 1996 for mention of the rights and privileges given to the Non-Muslims of Spain under the Andalusian Caliphate.

*their property, their churches, their crosses, the sick and the healthy of the city, and for all the rituals that belong to their religion. Their churches will not be inhabited [by Muslims] and will not be destroyed. Neither they nor the land on which they stand, nor their cross, nor their property will be damaged. They will not be forcibly converted.*⁵⁴⁰

Of similar import is the treaty declared by Khalid ibn al-Walid, the Muslim army general with the people of Damascus:

*This is what Khalid bin Walid gives to the inhabitants of Damascus. He gives them security for their persons, property, churches, and the wall of their city. None of their houses shall be destroyed or confiscated. On these terms they have alliance with Allah, and the protection of His Prophet, the caliphs, and the believers. Nothing but good shall befall them if they pay tribute.*⁵⁴¹

Conquered non-Muslims are further given a year in which to decide whether they wish to be citizens of a Muslim state or leave for another territory, but never forced to become Muslims.⁵⁴² These guarantees were extended to conquered non-Muslims long after the Prophet's time. For example, Jane Smith writes that "Records of the time indicate that Saladin's⁵⁴³ treatment of the

⁵⁴⁰ Al-Tabari, *The History of al-Tabari*, vol.12, "The Battle of al-Qadisiyyah and the Conquest of Syria and Palestine", trans. from Arabic by Yohanan Friedmann, State University of New York Press, Albany, USA, 1992, p.191

⁵⁴¹ A.S. Tritton, *The Caliphs and Their Non-Muslim Subjects: A Critical Study of the Covenant of Umar*, Frank Cass, London, 1970, p.9, quoting Ibn Athir

⁵⁴² Maawardee, *Al-Abkam al-Sultaniyyah*, p.132, cited in Muhammad Hamidullah, *The Muslim Conduct of State*, Hafeez Press, Lahore, 1977, p.222

⁵⁴³ Refers to Salahud Din al-Ayyubi

Christian population was humane and reasonable, in notable contrast to the way in which Christians had earlier dealt with Muslims and Jews upon their arrival in Jerusalem.”⁵⁴⁴

Conquests, therefore, where absolutely necessary, were only for state security, and not for forcing anyone to accept Islam.⁵⁴⁵ Jane Smith, further wrote,

“Military expeditions were political in nature and not undertaken for the purpose of forcing conversion to Islam as an alternative to the sword... Conversion was accepted, of course, but not encouraged, and for a number of centuries Christians remained the majority in much of what was nominally Muslim territory.”

Indeed, historical records show that conquests are not limited to non-Muslims. Past Muslim rulers in some territories have even conquered other Muslim lands. For example, the Ottoman Empire had a number of clashes with the Shi’a Safavid Empire of Persia and succeeded in conquering the Sunni Mamluk Sultanate

⁵⁴⁴ Jane I. Smith, “Islam and Christendom: Historical, Cultural, and Religious Interaction from the Seventh to the Fifteenth Centuries” in *The Oxford History of Islam*, ed. John L. Esposito (Oxford, UK: Oxford University Press, 1999), Ch.7, pp.305-345, quote on p.339

⁵⁴⁵ This is echoed by Jane Smith, who writes, “Military expeditions were political in nature and not undertaken for the purpose of forcing conversion to Islam as an alternative to the sword... Conversion was accepted, of course, but not encouraged, and for a number of centuries Christians remained the majority in much of what was nominally Muslim territory.” (Jane I. Smith, “Islam and Christendom: Historical, Cultural, and Religious Interaction from the Seventh to the Fifteenth Centuries” in *The Oxford History of Islam*, ed. John L. Esposito (Oxford, UK: Oxford University Press, 1999), p.312)

of Arabia in the early sixteenth century CE.⁵⁴⁶ The Ottomans embarked upon a great number of conquests which frequently clashed with the imperial powers of Europe. Like other expansionist empires of the time, Ottoman rulers were at times excessive in their show of might.

Yet for those who insist that Islam was spread by the sword⁵⁴⁷, one could ask:

- a. How is it that there are estimated to be up to 14 million indigenous non-Muslims (mainly Christians and Jews) in the Middle East within the predominantly Muslim countries⁵⁴⁸? If Islam was spread by the sword, such a number could not have still existed. By contrast, when the Christians conquered Spain after 8 centuries of Muslim rule, not a single Muslim or Jew was allowed to survive and live there with religious freedom.⁵⁴⁹ Indeed, Jewish refugees fleeing from the

⁵⁴⁶ Bernard Lewis, *Istanbul and the Civilisation of the Ottoman Empire* (Oklahoma, USA: University of Oklahoma Press, 1963), pp.28-31. The Muslim world was rarely ever a single polity which was ruled by one individual or party. Historically, its lands were ruled over by various dynasties, sultanates, empires, emirates etc., many of which existed within the same time period. At varying intervals, one would conquer many of the others within a particular territory and succeed in overall leadership of the conglomerate, though (like Non-Muslim subjects) each subjected Muslim sultanate would have a significant amount of autonomy in the governance of its own people. Notable autonomous sultanates included the Fatimid Sultanate in Egypt, the Mughal Empire in South Asia, and the Sokoto Caliphate in what is now Northern Nigeria.

⁵⁴⁷ i.e. by forced conversion

⁵⁴⁸ See <http://phoenicia.org/christiansmea.html>. Last accessed in April 2005.

⁵⁴⁹ “In 1474 Ferdinand II of Aragon and Isabella of Castile, husband and wife, succeeded to conjoint but separate thrones. For the first time in nearly eight centuries the Iberian Peninsula was governed by one united authority, the Christian kingdoms of Castile and Aragon. The king and queen were remembered as ‘the Catholic monarchs,’ a measure of their dedication to the reuniting of all of Spain under Christendom... The takeover was

Inquisition settled primarily in Muslim countries for care, protection, and the freedom to exist as Jews.⁵⁵⁰

- b. What explains the fact that in Medina, the city-state of Islam during the lifetime of the Prophet (pbuh), there were non-Muslim citizens living there with others sojourning there for visits, trade, and treaties, etc.?⁵⁵¹
- c. What explains the historical fact that Islam spread faster during times of peace than of war (e.g., after the Treaty of Hudaibiyyah)?
- d. What explains the fact that people who conquered Muslim lands themselves converted to Islam after coming to know it better (e.g., the Mongols in Baghdad)?⁵⁵²
- e. What explains the fact that the majority of Muslims live in places where not a single Muslim soldier went (e.g.,

followed by intense efforts at conversion, accompanied by translation of the Christian scripture and liturgy into Arabic. Soon baptisms were no longer optional but forced, and by the turn of the fifteenth century not only in Granada but throughout Castile Muslims had to choose between conversion, emigration, or death.” (Smith, *op. cit.*, p.344)

⁵⁵⁰ “When the Moors were driven out of Spain, the Christian conquerors held a terrific persecution of the Jews. Those who were fortunate enough to escape fled, some of them to Morocco and many hundreds to the Turkish Empire, where their descendants still live in separate communities, and still speak among themselves an antiquated form of Spanish.” (M. Pickthall, *Cultural Side of Islam*, Lahore, Pakistan: Sh. Muhammad Ashraf, 1966, p.92)

⁵⁵¹ Muhammad Al-Ghazali, *Fiqh-u-Sirah: Understanding the Life of Prophet Muhammad*. Revised edition with hadith authenticated by Nasiruddeen al-Albani (Riyadh: International Islamic Federation of Student Organizations, 1995), pp.194-199.

⁵⁵² Sir Thomas Arnold, *The Spread of Islam in the World: A History of Peaceful Preaching* (Goodword Books, 2002), Chapter 8.

Indonesia, which has the highest Muslim population in the world of more than 150 million)⁵⁵³?

f. Which “sword” is it that has made Islam presently the fastest-growing religion in the world, especially in the West where Muslims are a minority with no military strength⁵⁵⁴?

While there may be instances where Muslims failed to follow the teachings of Islam and attempted to convert others by force, historical records show that this failure is not expressed by Muslims alone. Marmaduke Pickthall remarks that:

It was not until the Western nations broke away from their religious law that they became more tolerant, and it was only when the Muslims fell away from their religious law that they declined in tolerance and other evidence of the highest culture... Of old, tolerance had existed here and there in the world, among enlightened individuals; but those individuals had always been against the prevalent religion... Before the coming of Islam, it (tolerance) had never been preached as an essential part of religion.⁵⁵⁵

⁵⁵³ See *Indonesia in Islam: A Challenge for Christianity* by Küng H. and Moltmann J. (Eds.), 1994, p.23 and <http://www.theglobalist.com/nor/quiz/2001/08-07-01.shtml>, 2001.

⁵⁵⁴ See: Jonah Blank, “The Muslim Mainstream”, *US News*, July 20th, 1998; The Population Reference Bureau, *USA Today*, Feb. 17th, 1989, p.4A; Lucy Berrington, “Why British Women are Turning to Islam”, *The Times*, Nov. 9th, 1993; Chris L. Jenkins, “Islam Luring More Latinos”, *Washington Post*, Jan. 7th, 2001, p.C01; Tara Dooley, “Searching Americans Embrace the Logic Behind the Teachings of Islam”, *Chicago Tribune*, Sept. 8th, 1999

⁵⁵⁵ Marmaduke Pickthall, *Tolerance*, (5th in a series of lectures on Islamic Civilisation given in Madras, India, 1927), published in *The Cultural Side of Islam* (Lahore, Pakistan: Sh. Muhammad Ashraf Publishers, 1966), p.96

Non-Muslim Scholars on the Spread of Islam

Overcoming centuries of deep-rooted prejudice, renowned non-Muslim scholars on Islam and history have themselves now conceded that the idea of Islam spreading by force is no more than an illusory tale.

De Lacy O’Leary, for example, writes, “History makes it clear... that the legend of fanatical Muslims sweeping through the world and forcing Islam at the point of the sword upon conquered races is one of the most fantastically absurd myths that historians have ever repeated.”⁵⁵⁶

Hindu Professor Ramakrishna Rao states, “The theory of Islam and the sword... is not heard now in any quarter worth the name. The principle of Islam that ‘there is no compulsion in religion’ is well-known.”⁵⁵⁷

James A. Michener writes, “No other religion in history spread so rapidly as Islam... The West has widely believed that this surge of religion was made possible by the sword. But no modern scholar accepts that idea and the Qur’an is explicit in support of the freedom of conscience.”⁵⁵⁸

⁵⁵⁶ De Lacy O’Leary, cited in Muhammad Asad, *Islam at the Crossroads*, Kegan Paul, Trench, Trubner And Co. Ltd., London, 1923, p.8.

⁵⁵⁷ K.S. Ramakrishna Rao, *Islam and Modern Age*, Hyderabad, 1978/

⁵⁵⁸ James A. Michener, *Islam: The Misunderstood Religion*, Reader’s Digest (American edition), May 1955.

Historian **Edward Gibbon** in 1870 reports, “The greatest success of Muhammad’s life was effected by sheer moral force *without the stroke of a sword.*”⁵⁵⁹

Professor Emeritus Sir Thomas Arnold writes: “...of any organised attempt to force the acceptance of Islam on the non-Muslim population, or of any systematic persecution intended to stamp out the Christian religion, we hear nothing. Had the Caliphs chosen to adopt either course of action, they might have swept away Christianity as easily as Ferdinand and Isabelle drove Islam out of Spain; by the same method which Louis XIV followed to make Protestantism a creed whose followers were to be sentenced to death in France; or with the same ease of keeping the Jews away from England for a period of three hundred and fifty years. The Eastern Churches in Asia were entirely cut off from communion with the rest of Christendom throughout which no one would have been found to lift a finger on their behalf, as heretical communions. So that the very survival of these Churches to the present day is a strong proof of the generally tolerant attitude of the Mohammedan [sic] governments towards them.”⁵⁶⁰

⁵⁵⁹ Edward Gibbon, *History of the Saracen Empire*, Alex. Murray and Son, London, 1870, (emphasis added).

⁵⁶⁰ Sir Thomas Arnold, *The Preaching of Islam: A History of the Propagation of the Muslim Faith*, Constable & Co., Westminster, London 1896, p.80

Thus, from what we now know of history, it is fair to say that the rapid spread of Islam may be more accurately attributed to the “sword of truth” and not the “sword of steel”.

The Ideal in Islam

How can Islam claim to be a religion of peace and forgiveness when it clearly permits retaliation or vengeance? What is the Islamic ideal in this regard?

Islam upholds the value of virtues such as justice, love, and mercy, and each plays a prominent role in the lives of individual Muslims as well as the functions of the Muslim State. Indeed, mercy is considered one of the highest virtues and is considered a gift from Allah for use by all Creation.

While compassion towards a perpetrator of injustice may come in the form of mercy or forgiveness, seeking justice against a perpetrator may be a form of compassion towards victims and future victims of injustice. Compassion may therefore be in the form of justice for the victim against the perpetrator, or mercy to the undeserving perpetrator, or kindness and charity to those deserving victims.

Sometimes however, showing mercy to the perpetrator may be misguided compassion when it emboldens them in their injustice and sustains insecurity for current and future victims. It is the

victim (and also society) that should reserve some of the right to forgive wrong done to them. It is not the right of those who are not victims to forgive. Their responsibility is to ensure justice. That is what compassion should mean to those who are not victims of injustice.

Seeking justice therefore, in the form of equitable retribution is permissible in Islam (through the right legal channels) when one is wronged (Qur'an 2:194), but Allah makes it clear in Qur'an 16:126: *“And if you have to respond to an attack, respond only to the extent of the attack levelled against you; but to bear yourselves with patience is indeed far better for you, (since Allah is with) those who are patient in adversity.”* In other words, it is considered better in Islam to show patience and forgiveness in such a situation. Man, thus has the free will to choose the most reasonable course of action in a particular situation and he is responsible for his choice.

Unrestrained vengeance and vendetta (such as blood feuds between entire clans for the death of a single member) were features of pre-Islamic Arabia, and Islam was able to uproot such practices. Forgiveness was encouraged by the Prophet (pbuh). As someone once remarked, always insisting on “an eye for an eye” would make the world blind. Justice should be tempered with mercy.

It was reported in a hadith by Anas that the Prophet (pbuh) never retaliated against any personal assault on him and never raised his hand to beat anybody.⁵⁶¹ Indeed, the Prophet's example was always **mild, magnanimous, merciful and forgiving** as taught by the Qur'an 42:40- 43:

“But (remember that an attempt at) requiting an evil may, too, become an evil: hence, whoever pardons (his foe) and makes peace, his reward rests with Allah – for, verily, He does not love evildoers. Yet indeed, as for any who defend themselves after having been wronged – no blame whatever attaches to them: blame attaches but to those who oppress (other) people and behave outrageously on earth, offending against all right: for them there is grievous suffering in store! But, if one is patient in adversity and forgives – this, behold, is indeed something to set one’s heart upon!”

The Islamic ideal is not only to forgive and be patient with the harm done but **to respond to the bad with that which is better, and push back evil with goodness**. In Qur'an 41:34, Allah says, *“since goodness and evil cannot be equal, repel (evil) with something that is better – and lo! he between whom and you was hatred (may then become) as it were your friend and intimate.”* Qur'an 23:96 conveys the same message. In Qur'an 28:54, those who do this are promised a double reward.

Nevertheless, just retaliation is still permitted as a deterrent to would-be offenders. Otherwise, passive forgiveness in the face of

⁵⁶¹ Abu Dawood, al-Nasa'i

all forms of oppression can lead to anarchy and the destruction of the community.

Balancing Forgiveness with the Provision for Justice

How can we strike a balance between being forgiving and seeking justice in Islam?

The fact that Islam maintains punishment and retribution within its canons is erroneously presumed to demonstrate its lack of mercy. However, this argument bears some flaws. Taking the statement used by some, that “*Let he who is without sin cast the first stone*” to its full societal application would lead to serious chaos and injustice. If only a sinless person may punish another, it would imply that no human should enforce the law, and no parent has the moral right to discipline their children. This would lead to the abolition of all courts, and removal of the entire police force, under the assumption that anarchy is more spiritual! This is clearly not practical for any religion to espouse.

A more realistic option is to open the doors for forgiveness but not to make it mutually exclusive to law enforcement, since this would be a precursor to opening the door to all kinds of crime and permitting Satan to have his way. This realistic option is the one Islam maintains.

Justice is a fundamental tenet of Islam and is espoused by the Qur'an for all Muslims, even towards those they hate and even if it is against themselves or those they love.⁵⁶²

“O you who have attained to faith! Be ever steadfast in your devotion to Allah, bearing witness to the truth in all equity; and never let hatred of anyone lead you into the sin of deviating from justice. Be just; this is closest to being Allah-conscious. And remain conscious of Allah; verily, Allah is aware of all that you do.” (Qur’an 5:8)

“O you who have attained to faith! Be ever steadfast in upholding equity, bearing witness to the truth for the sake of Allah, even though it be against your own selves, or your parents and kinsfolk. Whether the person concerned be rich or poor, Allah’s claim takes precedence over (the claims of) either of them. Do not, then, follow your own desires, lest you swerve from justice; for if you distort (the truth), behold, Allah is indeed aware of all that you do!” (Qur’an 4:135)

Hence, Islam does not prescribe punishment when it is not just. Moreover, Islam lays down very detailed procedures for giving and accepting evidence to ensure that there is a minimum chance of punishing the wrong person. Also, there is a legal maxim in the Shari’ah that it is better to err in letting a guilty person go free than to err by letting an innocent person be punished.⁵⁶³

⁵⁶² See Qur’an 29:46; 6:108; 60:8; etc.

⁵⁶³ Tirmidhi No.1011: Narrated Aisha: Allah’s Messenger (peace be upon him) said, “Avert the infliction of prescribed penalties (*hudud*) on Muslims as much as you can, and if there is any way out, let a man go, for it is better for a leader to make a mistake in

CONCLUSION

In conclusion, the Islamic concept of *Jihad* does not advocate aggression, nor is it opposed to peaceful relations with non-Muslims. Rather, the attitude expected of Muslims towards friend or foe is summarized in Qur'an 60:8-9 which says; *“As for such (of the unbelievers) as do not fight against you on account of (your) faith, and neither drive you forth from your homelands, Allah does not forbid you to show them kindness (tabarru) and to behave towards them with full equity: for verily, Allah loves those who act equitably. Allah only forbids you to turn in friendship towards such as fight against you because of (your) faith, and drive you forth from your homelands, or aid (others) in driving you forth: and as for those (from among you) who turn towards them in friendship, it is they, they who are truly wrongdoers!”*

forgiving than to make a mistake in punishing.” In another hadith (Abu Dawood, No. 2106): Abu Umamah ibn Sahl ibn Hunayf said that “some companions of the Apostle of Allah (peace be upon him) said that one of their men suffered so much from some illness that he pinned away until he was skin and bone (i.e., only a skeleton). A slave-girl of someone visited him, and he was cheered by her and had unlawful intercourse with her. When his people came to visit the patient, he told them about it. He said: Ask the Apostle of Allah (peace be upon him) about the legal verdict for me, for I have had unlawful intercourse with a slave-girl who visited me. So, they mentioned it to the Apostle of Allah (peace be upon him) saying: We have never seen anyone (so weak) from illness as he is. If we bring him to you, his bones will disintegrate. He is only skin and bone. So, the Apostle of Allah (peace be upon him) commanded them to take one hundred twigs and strike him once.” Note that the normal punishment for this is a hundred stripes (Qur'an 24:2). See also Abu Dawood, no. 2079, 2085; and Muwatta vol.41, no.2 for other cases of leniency within the system of justice.

Being the practical religion that it is, and in the context of a political entity, Islam permits military action in response to aggression; and in such cases, Islam has laid down regulations on when warfare or fighting (*harb/qital*) with others is permissible or prohibited, who and what is a legitimate target, permissible and prohibited weapons and strategies of warfare, the rules of fighting and the conduct of war in Islamic law, the regulations governing amnesty/quarter and safe-conduct (*aman*), and those relating to the treatment of prisoners of war, and even the dignified treatment of the corpses of dead enemies. All of these and many other issues addressed in this book make abundantly clear the defensive and “Just War” theory behind the military form of *jihad* in Islam as taught in the Qur’an and practiced by Prophet Muhammad (pbuh) and his greatest companions.

The *maqasid* (higher objectives) of military jihad is to ensure sustainable peace, and military ethics aims to ensure that a war is morally justifiable through a series of criteria, all of which must be met for a war to be considered just and acceptable by the Qur’an and Sunnah. Below is a summary of the Islamic Law of war and peace before, during, and after war:

Justice Before War (*Jus ad bellum*):

- The **intention** behind the war must be good and just – *fi sabilillah*.
- The war must be lawfully **declared** by a lawful **authority**.

- Fighting back must be a **last resort** - All other ways of resolving the problem should have been tried first.
- There must be a reasonable **chance of success**.
- The **means used must be in proportion** to the end that the war seeks to achieve. There should be no over-kill.

Justice During War (*Jus in bello*)

- Non-combatant immunity must be ensured.
- There should be proportionality in strategy and fairness in the use of weapons.
- Amnesty and safe quarters (*Aman*) must be respected.
- Fighting must be stopped once the aggressors incline towards peace.

Justice After War (*Jus post bellum*)

- Justice and magnanimity must be ensured in the treatment of prisoners of war.
- Respect must be shown for the dead – there must be no mutilation and they must be buried as appropriate.
- Ordinary fighters should be differentiated from war criminals.
- There should be justice in punishments and in vindication/exoneration.
- Arrangements should be made for compensation and rehabilitation, mediation and treaties, as well as peacebuilding and reconciliation.

This today, is also what is referred to as the “Just War Theory” – but this in Islam is over 1,400 years old. There is definitely the need for a “Revisionist” Just War Theory and competent juristic effort (ijtihād) to consider current changes in contexts of warfare, such as cyber-warfare and the use of “ABC Weapons” – Atomic, Biological and Chemical Weapons of mass destruction which do not discriminate or consider proportionality, etc. This is based on the universal Islamic legal maxim which states that “there is no denying that with change in context comes a change in rulings (*fatwa*)”. There is also a need to put more effort toward the prevention of war and criminalising the use of certain weapons.

It is important to always bear in mind the Qur’anic injunctions: *“O you who have attained to faith! Be ever steadfast in your devotion to God, bearing witness to the truth in all equity; and never let hatred of anyone lead you into the sin of deviating from justice. Be just; this is closest to being God-conscious. And remain conscious of God; verily, God is aware of all that you do.”* (Qur’an 5:8)

“...Do not, then, follow your own desires, lest you swerve from justice; for if you distort (the truth), behold, God is indeed aware of all that you do!” (Qur’an 4:135)

Some Muslims and non-Muslims, individuals and groups, have definitely tried to instrumentalize, misuse and abuse the concept of *jihad* for wrong and un-Islamic purposes. However, as it is clear from a study of the Qur’an, Sunnah (Hadith), and early

Islamic history, especially from the time of the Prophet (pbuh) and his companions, the concept of *jihad* in the understanding of the majority of Muslim scholars and schools of Islamic jurisprudence (*madhabib*), has never been a reason for undermining peaceful co-existence among or between Muslims and people of other faiths with whom Muslims have peace treaties.

On the contrary, the concept of *jihad* is broad and at the core of the many forms of a Muslim's struggle for self-improvement, justice, and all efforts against the oppression of even non-Muslims, and the protection of their places of worship. The concept of *Jihad* is not only at the heart of a Muslim's commitment to peaceful coexistence through justice, magnanimity, compassion, and forgiveness; but it is also at the heart of the struggle against terrorism, and in preventing violent extremism, and building resilience against all forms of extremism (*Tatarruf/ghuluw*) and corruptions (*fusad*) of Islamic teachings, both in the past and into the future.

Religious freedom is sanctioned by the Qur'an itself, which states, "*The truth is from your Lord, so whosoever wishes let him believe, and whosoever wishes let him deny*" (Qur'an 18:29), while Qur'an 109:1-6 ends with "*...unto you (the unbelievers) your religion, and unto me, mine*".

In our humble assessment of the opinions of past and contemporary scholars on this subject, there are at least **10** critical texts of the Qur'an and authentic Hadiths at the core of reconciling many of the controversies and confusions surrounding the interpretations of various texts relevant to the subject of warfare (or *Jihad*) in Islamic law through the ages. Once the meanings and implications of these texts are well understood in the context of the life of the Prophet (pbuh) and his companions, it is more difficult to arrive at views on *jihad* that are either extremist or in contradiction with other clear texts or with the application of the Qur'an in the life (*Sirah*) of Prophet Muhammad (pbuh). These texts which have not been abrogated by any others, are in the literal sense unequivocal and explicitly clear, needing very little explanation, if any, besides their obvious meanings. A deeper study of their textual and historical contexts only adds to the certainty and clarity of their explicit meanings.

1. *“As for such (of the unbelievers) as do not fight against you on account of (your) faith, and neither drive you forth from your homelands, Allah does not forbid you to show them kindness (tabarru, in Arabic) and to behave towards them with full equity: for verily, Allah loves those who act equitably. Allah only forbids you to turn in friendship towards such as fight against you because of (your) faith, and drive you forth from your homelands, or aid (others) in driving you forth: and as for those (from among you) who turn towards them in friendship, it is they, they who are truly wrongdoers!”* (Qur'an 60:8-9)

2. *“Fight (qatilu, in Arabic) in the cause of Allah those who fight (yuqatilu) you, but do not transgress (or commit aggression), for Allah does not love the aggressors (or transgressors).” (Qur’an 2:190)*
3. *“And fight them back (qatilu hum) until there is no fitnah (oppression) and religion is for Allah, but if they cease, let there be no hostility except to those who practice oppression.” (Qur’an 2:193)*
4. *“And if they (your enemy) incline to peace, incline you also to it, and trust in Allah. (Qur’an 8:61)*
5. *“(Fight them) except those who join a people between whom and you there is a treaty or those who come to you because their hearts restrain them from fighting you or their own people. If Allah had willed, He would have given the unbelievers power over you, and they would have fought you. Therefore, if they withdraw from you and fight you not, and instead send you guarantees of peace, know that Allah has not given you a license (to fight them).” (Qur’an 4:90)*
6. *“If one amongst the (combatant) polytheists asks you for asylum, grant it to him so that he may hear the word of Allah; and then escort him to where he can be secure: that is because they are men without knowledge. How can there be a league before Allah and His apostle with the polytheists except those with whom you made a treaty near the sacred mosque? As long as these stand true to you, stand you true to them: For Allah doth love the righteous.” (Qur’an 9:6-7)*
7. *“When you meet [in war] those who are bent on denying the truth, smite their necks until you overcome them fully, and then tighten*

their bonds (i.e. take them prisoners); but thereafter (set them free,) either by an act of grace or against ransom, so that the burden of war may be lifted: thus [shall it be]..." (Qur'an 47:4)

8. *"There is no compulsion in religion: true guidance has become distinct from error, so whoever rejects false gods and believes in Allah has grasped the firmest hand-hold, one that will never break. Allah is all-hearing and all-knowing."* (Qur'an 2:256)
9. The Prophet (pbuh) instructed his companions to *"Leave the Abyssinians alone, as long as they leave you alone, and do not engage the Turks, as long as they do not engage you."* (Abu Dawud; An-Nasa'i)
10. The Prophet (pbuh) also said, *"Do not wish to meet the enemy (in battle), but when you meet (or face) the enemy, be patient and steadfast..."* (Bukhari; Muslim)

These explicit texts, and a host of others, should never be set aside or regarded as abrogated in any discussion on the subject of the Islamic law of war and peace. It is other less literally explicit texts which are more open to diverse interpretations that should be understood and interpreted in such a way as to avoid needless contradictions (*ta'arud*) and ensure harmony (*jam'*) with these texts and with the way the Prophet (pbuh) and his companions actually understood and implemented them in their lifetime. This conclusion is what we have tried to present in this humble work.

And Allah knows best!

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About the Book

The concept of *Jihad* is one of the most misunderstood topics in Islam by both Muslims and people of other faiths. This is partly due to its misuse and abuse by some, as well as misinformation and propaganda by others. However, no one understood the concept of *Jihad* in Islam better than the Prophet Muhammad (p), his great companions and the Rightly Guided Caliphs of Islam. In no single instance have we seen in any authentic historical record of the life (*seerah*) of the Prophet (p) and his companions, that the concept of Jihad is used to justify terrorism, violent extremism, wanton destruction of life and property, hostility and aggression towards peaceful Muslims or members of other faiths as we have seen among some contemporary extremist Muslim groups who claim to also follow the authentic traditional Islamic teachings related to the concept of *Jihad*.

This book, *The Use, Misuse and Abuse of Jihad* which is a combination of an earlier print in 2 parts, addresses the misconceptions regarding the concept of Jihad and the spread of Islam on the basis of Islamic textual analysis and historical evidence. It attempts to elucidate the broad meaning of *jihad* from the Qur'an, Sunnah and views of Muslim jurists; and tries to clarify commonly misinterpreted verses of the Qur'an and hadith that some non-Muslims and misinformed Muslims use to justify the spread of Islam by force. A brief background is also given of some of the major battles fought by the Prophet for a better understanding of their purpose in protecting the nascent Muslim community, and the preservation of life and faith. It also discusses the conditions for engagement, conduct and disengagement from warfare in Islam; as well as the Islamic principles for treatment of prisoners of war.

About the Author

The Da'wah Institute (DIN) is the research and public enlightenment department of the Islamic Education Trust (IET). It is an internationally recognized institute for its groundbreaking efforts in research, training, and development of resources materials. Stirred by the passion to mitigate the numerous challenges posed by contemporary society to Islam and Muslims, where many Muslims suffer from an acute intellectual inferiority complex about their faith, and lack the basic knowledge, guidance, and confidence to practice and share their faith with others; and where many people of other faiths have distorted beliefs about the tenets and teachings of Islam; the Da'wah Institute has over the last 5 decades dedicated resources into providing enlightenment for the populace – Muslim and others.



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