

The Islamic Shari‘ah of Jihad

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Translator's Introduction

Jihād has become a hotly debated topic of discussion in recent times. To many Muslims, *jihād* is the answer to all their sufferings, but to non-Muslims it has perhaps become the primary reason to dread Muslims. For a world that is populated by over one billion Muslims, this issue thus assumes phenomenal importance.

In an effort to present the stance of Islam on *jihād* and to remove some grave misconceptions about it, Javed Ahmad Ghāmiḍī (b: 1951) a meritorious religious scholar has come up with a seminal research on this all important topic. Following are some important points that are discussed in his research and need the consideration of all those who want to academically understand this issue:

First and foremost, only the state has the authority to wage *jihād*. No independent group or organization has the right to launch an armed struggle in any way.

Secondly, after the departure of the Prophet (sws) and his Companions (rta), the only legitimate reason for an Islamic State to wage *jihād* is to curb oppression and persecution in another country – whether Muslim or non-Muslim.

Thirdly, *jihād* becomes compulsory for a state only if in the opinion of its rulers it has the moral grounds and the military might to curb the oppression and injustice of the country against which *jihād* is to be waged. What can be said on the basis of the Qur'ān is that Muslim to enemy ratio should be at least 1:2 in terms of relative military strength for the Muslims to expect victory.

Fourthly, *jihād* was or is never carried out for territorial aggrandizement or forcible conversion of people to Islam. People who erroneously justify either or both of these two bases draw their arguments from the *jihād* carried out by the Prophet (sws) and his Companions (rta). It needs to be appreciated that the *jihād*

carried out by Muhammad (sws) and his Companions (rta) after him was governed by a specific law meant only for the Messengers of Allah and their immediate addressees, and has little to do with later Muslims. A study of the Qur’ān reveals that the purpose of their *jihād* was to administer Divine punishment to people who had arrogantly denied the truth in spite of being convinced about it.

Fifthly, prisoners of war of an enemy with whom peace has been concluded must be treated generously and set free at all costs – whether after accepting ransom or as a favour. Those among the prisoners who are guilty of war crimes must be given a fair trial and may be given any punishment on the basis of a court verdict. Without any such sanction, a state has no authority even to punish them, let alone execute them.

For the benefit of the English reader, I have attempted to render Ghāmidī’s article into English from Urdu¹ so that readers may critically analyze and judge the arguments which have led him to the above mentioned conclusions. Also included in this booklet is an appendix that deals with some queries on *jihād*. I have attempted to answer them in the light of Ghāmidī’s research and keeping in view its basic emphasis and spirit.

Shehzad Saleem
Al-Mawrid, Lahore
2005

1. The article appears as a booklet ‘Qānūn-i-Jihād’, 1st ed., Al-Mawrid, Lahore, 2005

The Islamic *Shari'ah* of *Jihād*

Peace and freedom are two essential requirements of a society. Just as various penal measures help in protecting a society from the evils and excesses committed by an individual, resorting to armed offensives sometimes becomes essential to curb the evils perpetrated by countries and nations. As long as diplomatic relations and negotiations can be used to resolve matters, no one would endorse the use of force for settling affairs. However, if a nation threatens to disrupt the peace and freedom of the world and its arrogance and haughtiness exceed all bounds, a stage may come when the use of force and power becomes essential to keep it in check. In such cases, it is the inalienable right of humankind to forcibly stop its subversive activities until peace and freedom of the world are restored. The Qur'ān asserts that if the use of force had not been allowed in such cases, the disruption and disorder caused by insurgent nations would have reached the extent that the places of worship would have become deserted and forsaken, not to mention the disruption of the society itself:

(:)

And had it not been that Allah set aside one people with another, the monasteries and churches, the synagogues and the mosques, in which His praise is abundantly celebrated would be utterly destroyed. (22:40)

This use of force is called *jihād*,¹ and in the Qur'ān it can be

1. The literal meaning of *jihād* is to strive for a cause with full force. In the Qur'ān, it is used in this general sense as well as in the sense of an

classified in two distinct categories:

Firstly, against injustice and oppression.

Secondly, against the deniers of the Prophet (sws) after the truth of his message had become evident to them.

The first type of *jihād* is an eternal directive of the *sharī'ah*. As stated earlier, it is launched to curb oppression and injustice. The second type, however, is specific to people whom the Almighty selects for delivering the truth as an obligation. They are termed as witnesses to the truth; the implication being that they bear witness to the truth before other people in such a complete and ultimate manner that no one is left with an excuse to deny the truth. Bearing witness to the truth in such a manner is called *shahādah* (شهادة). In the history of mankind, for the very last time this status was conferred on the Prophet Muḥammad (sws) and his nation, the Banū Ismā'īl:

(:)

And similarly, We have made you an intermediate community² so that you bear witness [to this religion] before the nations, and the *rasūl* bear such a witness before you. (2:143)

Once the process of *shahādah* (شهادة) is complete, the truth is unveiled to a people in its ultimate form, and, if they now deny it in spite of being convinced about it, they are punished in this very world. At times, this punishment is through earthquakes, cyclones and other calamities and disasters, while, at others, it emanates from the swords of the believers. As a result, those who have denied the truth are totally vanquished in their land and the truth reigns supreme in it. In the case of Prophet Muhammad (sws), the Divine scourge took this very form. Consequently, just as his Companions (rta) were asked to wage war against oppression and injustice, they were also asked to

armed offensive in the way of Allah. Here, this second meaning is implied.

2. This means that the Banū Ismā'īl were the medium between Muhammad (sws) and the rest of the world of their times.

wage war to punish the rejecters of his truth once it had become totally manifest to his addressees. This was actually a Divine plan executed through human beings. They themselves were not authorized to even think of such an undertaking. It is to this very fact which the following words of the Qur’ān allude:

(:)

Fight them and God will punish them by your hands. (9:14)

In the following pages, this writer will attempt to explain the directives of the *sharī‘ah* regarding both these categories of *jihād*.³

I. The Permission for *Jihād*

(- :)

Permission to take up arms is hereby given to those who are attacked because they have been oppressed – Allah indeed has power to help them – those who have been unjustly driven from their homes, only because they said: ‘Our Lord is Allah’. (22:39-40)

This is the first verse of the Qur’ān in which the Companions (rta) of the Prophet (sws) who had migrated from Makkah (the Muhājirūn) were given permission to fight back if they were attacked. The Qur’ān says that these Companions (rta) were driven out of their homes because they believed that Allah was their Lord and as such were totally innocent. A little deliberation shows that this one sentence depicts the whole charge-sheet against the Quraysh. The reason for this is that no one is willing to leave his home unless he is oppressed for living there and thereby utterly compelled to migrate. The words ‘ , ’ (because they have been oppressed) refer to this very aspect, and

3. The verses on which these directives are primarily based are stated in bold.

it is because of this ruthless and unfounded oppression that the Qur’ān allowed the Muslims to resort to force against aggression.

The words ‘ (those who have been driven out of their homes) clearly show that the Muslims were not allowed to wage war before migration. The reason for this is that, without political authority, armed offensives become tantamount to spreading disorder and anarchy in the society. Therefore, no group of people is authorized to wage war unless it wields political authority in an independent piece of land. In Makkah, the Muslims were never able to attain this position but once they migrated to Maḍīnah and, as a result of the treaty of Maḍīnah, were invested with political authority, they were given permission to wage war. There is no doubt that the Almighty had all the power to help the Muslims in Makkah when they were subjected to grave oppression and torture, but, in spite of this, engaging in warfare was prohibited. So much so that after many years of persecution and oppression, they were forced to leave their homes. At that time, had they waged war against the enemy, even if outnumbered by 1:10, they would still have been victorious according to the principle of Divine Help stated in the Qur’ān (8:65-6). But the question arises: Why were they not allowed to wage war before migration? From whatever aspect this question is analyzed, the answer to it most surely is as pointed out above: they had no political authority. The whole history of the Prophets of Allah bears witness to the fact that they never took up arms unless they had political authority. It is known about the Prophet Moses (sws) that he never launched an armed offensive until he was able to bring forth the Israelites from Egypt and organize them in an independent piece of land. The Prophet Jesus (sws) was never able to acquire political authority. So, he never undertook any armed struggle. This was in spite of the fact that he himself claimed that he had not come to repeal the directives of the Torah but to fulfil them,⁴ and it is known that the directive of *jihād* is very clearly written in the Torah.⁵ The preaching missions of the Prophets Ṣāliḥ (sws), Hūd (sws), Shu‘ayb (sws), Lot (sws), Abraham (sws) and Noah (sws)

4. Matthew, 5:17-18

5. Deuteronomy, 20:1-20

also endorse this premise. For this very reason, the Makkan Sūrahs of the Qur’ān are devoid of any such directive. Had the Prophet Muḥammad (sws) not been able to acquire political authority, no verse of *jihād* would have been revealed in the Qur’ān as is the case with the Injīl (the New Testament).

Consequently, there is absolute certainty that, in their *individual* capacity, Muslims are not the addressees of the verses of *jihād*. Like the verses that mention punishments for criminals, the real addressees of these *jihād* verses are the Muslim rulers. No one other than a state has any authority to wage *jihād*. The word ‘أذن’ (permission is granted) in the above quoted verse of *Sūrah Ḥajj* also points to the fact that the very first question in an armed offensive is that of justification and permission. The Almighty permitted the Muslims of those times to fight back the Quraysh only when Muslims had political authority in spite of the tremendous oppression let loose upon them. Consequently, in these times also, this is an essential pre-requisite of war.⁶ The Prophet (sws) is reported to have said:

(أذن :)

A Muslim ruler is the shield [of his people]. An armed struggle can only be carried out under him and people should seek his shelter [in war]. (*Bukhārī*, No: 2797)

The jurists also hold this view:

6. In recent times, some people have refuted the requisite of state authority by citing the armed offensives launched by Abū Baṣīr against the Quraysh after the truce of Ḥudaybiyyah. This can only be termed as ignorance of the Qur’ān and established history. According to the Qur’ān (8:72), the Prophet (sws) and the Muslims of the state of Madīnah were not responsible for the actions and deeds of people who had not migrated to Madīnah. Moreover, we even find the following harsh remarks of the Prophet (sws) about Abū Baṣīr when he returned to Madīnah after killing one of his two custodians:

(أذن :)

His mother be cursed, if he finds some supporters, he is bound to ignite the flames of war. (*Bukhārī*, No: 2581)

:

The third category among collective obligations is that for which the existence of a ruler is necessary, for example, *jihād* and execution of punishments. Therefore, only a ruler has this prerogative. This is because no one else has the right to punish another person.⁷

II. The Directive of *Jihād*

(- :)

And fight in the way of Allah with those who fight against you and do not transgress bounds [in this fighting]. God does not like the transgressors. Kill them wherever you find them and drive them out [of the place] from which they drove you out and [remember] persecution is worse than carnage. But do not initiate war with them near the Holy Ka'bah unless they attack you there. But if they attack you, put them to the sword [without any hesitation]. Thus shall such disbelievers be rewarded. However, if they desist [from this disbelief], Allah is Forgiving and Merciful. Keep fighting against them, until persecution does not remain and [in the land of Arabia] Allah's religions reigns supreme. But if they mend their

7. Sayyid Sābiq, *Fiqh Al-Sunnah*, 2nd ed., vol. 3, (Beirut: Dār Al-Fikr, 1980), p. 30

ways, then [you should know that] an offensive is only allowed against the evil-doers. A sacred month for a sacred month; [similarly] other sacred things too are subject to retaliation. So if any one transgresses against you, you should also pay him back in the same coin. Have fear of Allah and [keep in mind that] Allah is with those who remain within the bounds [stipulated by religion]. (2:190-4)

Once the permission to wage *jihād* was revealed in the verses of *Sūrah Hajj* as stated earlier, a detailed directive regarding *jihād* was basically revealed in the above quoted verses of *Sūrah Baqarah*. All other ones which mention *jihād* actually elucidate and emphasize what is stated here as well as elaborate on the right course in certain issues⁸ that arose once the Muslims set about following this directive.

The context of the verses cited above is that the Muslims were told that it was their obligation to offer *hajj*. Since they were the true heirs of Abraham's religion, it was only their right to journey to the House of God to worship Him. The correct line of action was also spelled out to them in case they encountered resistance from the Quraysh regarding the fulfilment of this obligation. They were told that they should fight them to crush their resistance. This is what the context says; however, the directive does not end here, and the Qur'ān goes on to extend it by adding certain other details to it. It clarifies the nature of responsibility the Muslims have been entrusted with *viz-a-viz jihād*, the real reason from which they should derive their motivation in waging *jihād*, the moral and ethical limits of this undertaking, and, finally, the real objective of *jihād*. Through these details, the two categories of *jihād* referred to earlier in this article are clearly set forth.

These details will now be explained:

i. Nature of the Obligation

The first thing that is evident from these verses is that Muslims should not merely fight the Quraysh if they resist them in offering *hajj*, but, as the Qur'ān goes on to say, also continue to fight them until the persecution perpetrated by them is uprooted

8. One such example can be seen 2:244

and Islam prevails in the whole of Arabia. This, obviously, was a very big responsibility and could not have been imposed on an Islamic state without giving due consideration to its moral as well as military might. Consequently, the Qur'ān (8:65) explained that this aspect had been taken into account, and, as a result, the extent of responsibility would vary in different phases of the Prophet's struggle.

In the initial phase, when the Muslim ranks basically consisted of the pioneers among the Muhājirūn and the Anṣār and their faith and moral character were of an exemplary degree, they were required to fulfil this responsibility even if the enemy was ten times their might. The Qur'ān says:

(:)

Prophet! Rouse the believers to wage war. If there are twenty amongst you, patient and persevering, they will subdue two hundred: if a hundred, they will subdue a thousand of the disbelievers: for these are a people without insight.

While explaining the word 'insight,' Amīn Aḥsan Iṣlāḥī, writes:

It is this insight which is man's real quality. When a believer who is equipped with it sets foot in the battlefield, he finds within his solitary soul the power of a whole army. He experiences Divine help around him and death becomes dearer to him than life. The reason is that his insight illuminates before him the exalted destination in Paradise reserved for martyrs. It is this very insight which produces in him the perseverance and strength that make him equal in might to ten people who are devoid of it.⁹

This was the first phase. After it, many people entered the folds of Islam. Though the number of Muslims increased significantly

9. Amīn Aḥsan Iṣlāḥī, *Tadabbur-i-Qur'ān*, 2nd ed., vol. 3, (Lahore: Faran Foundation, 1986), pp. 506-7

as a result, yet the converts did not have the same insight as their forerunners before them. Consequently, the Almighty reduced the burden of this responsibility also:

(:)

[From] now, God has lightened your [task] for He knows that there is now weakness amongst you: But [ever so], if there are a hundred of you, patient and persevering, they will subdue two hundred, and if a thousand, they will subdue two thousand, with the permission of God and [in reality], God is with those who patiently persevere. (8:66)

A similar policy was adopted by the Almighty regarding the extent of requirement that arose in wars that the Muslims had to fight. In the battles of Badr, Uḥud and Tabūk, the responsibility was much more and each Muslim was required to present his services as a combatant. Those who tried to shirk this responsibility were severely reprimanded by the Almighty. They were told that if they hold their life, wealth and kin dearer than *jihād*, they should wait for the Almighty's decision against them. Who would punish them in the same manner as He had decided to punish those who deliberately rejected Muhammad (sws).¹⁰ However, in military campaigns in which it was not necessary that each Muslim offer his services, the Almighty informed the Muslims that though presenting one's self for *jihād* carried great reward – which by no means was ordinary –, it was not compulsory for each Muslim to participate in them:

(- :)

Not equal are those of the believers who sit [at home] without

10. 9:24

any [genuine] excuse and those who strive hard and fight in the cause of Allah with their wealth and their lives. Allah has given preference by a degree to those who strive hard and fight with their wealth and their lives above those who sit [at home]. [Truly], for each, Allah has made a good promise and [truly] Allah has preferred those who strive hard and fight above those who sit [at home] by a huge reward. Degrees of [higher] grades from Him and forgiveness and mercy. And Allah is Ever Forgiving, Most Merciful. (4:95-96)

At another place, the Qur'ān has unequivocally stated that showing cowardice and running away from the battlefield having stepped into it is not befitting for a believer. So great is this sin that the Almighty has promised the fateful doom of Hell fire for such cowardice:

(- :)

O you who believe! When you meet those who disbelieve in a battlefield, never turn your backs on them. And [you should know that] whoever turns his back to them on such a day – unless it be a stratagem of war, or to retreat to a part of his army, – he indeed has drawn upon himself wrath from Allah. And his abode is Hell, and worst indeed is that destination! (8:15-6)

While explaining these verses, Amīn Aḥsan Iṣlāḥī, writes:

Now the Muslims are being given directives regarding imminent wars. They are told that when they encounter the enemy army in formal warfare, they must never turn their backs. This directive has been given in the light of the background delineated earlier in which the Almighty had promised Divine help. It is an anathema for people who have the support of Allah and His angels to run away from the battlefield.

‘: in such a situation, those who desert the battlefield would invite the wrath of God and Hell shall be their abode. This shows that the crime is no less than that of apostasy and disbelief. Obviously, the severity of this sin hinges on the fact that, at times, a person who runs away from the battlefield poses a great threat to the whole army and sometimes to the whole Muslim collectivity.

‘: the implication is that only those measures are an exception which a soldier adopts as military tactics or, which as in some cases when its need arises, he has to adopt to vacate his front and join some other rank. In other words, what is forbidden is to show one’s back to the battlefield in order to flee from the fight. Showing one’s back as a war strategy is a different matter [and is not forbidden].¹¹

Three things are obvious from the stipulations that all these verses mention:

Firstly, even if the sole ground to wage *jihād* in these times – oppression and injustice in a country – exists in a particular case, *jihād* never becomes obligatory unless the military might of the Muslims is up to a certain level. In the times of the Prophet (sws), when large scale conversions took place in the later phase, the Almighty reduced the Muslim to enemy ratio to 1:2. It cannot be imagined that in later periods it can be more than this. Consequently, not only should the Muslims consolidate their moral character, but they should also build their military might if they want to wage *jihād* when the need arises. The *Qur’ān* gave a similar directive to Muslims of the Prophet’s times in the following words:

(:)

11. Amīn Aḥsan Iṣlāḥī, *Tadabbur-i-Qur’ān*, 2nd ed., vol. 3, (Lahore: Faran Foundation, 1986), pp. 450-1

Muster against them all the men and cavalry at your disposal so that you can strike terror into the enemies of Allah and of the believers and others beside them who may be unknown to you, [though] Allah knows them. And [remember] whatever you spend for the cause of Allah shall be repaid to you. You shall not be wronged. (8:60)

Secondly, abstaining from participating in *jihād* becomes a sin only when a Muslim sits at home in spite of the fact that an Islamic State has given a call to each and every Muslim to participate in *jihād*. In religious terminology, such an appeal is called *naḡfir ‘ām* (). In such instances, the sin is as grave as hypocrisy. In the absence of this situation, participating in *jihād*, no doubt, is a very desirable deed if the need arises; however, it is not obligatory and a person who does not undertake it cannot be called a sinner.

Thirdly, deserting the battlefield of *jihād* is totally forbidden. No believer should show such feebleness. It is tantamount to showing distrust in Allah, giving priority to this world over the next and trying to make life and death dependent upon one’s own strategy – all of which cannot exist with true faith.

ii. The Driving Force

The second thing which is evident from the above quoted verses (2:190-4) is that the ‘armed warfare’ () mentioned therein must neither be undertaken to gratify one’s whims nor to obtain wealth or riches. It must also not be undertaken to conquer territories and rule them or to acquire fame or to appease the emotions of communal support, partisanship and animosity. On the contrary, it should be undertaken only and only for the cause of Allah as is evident from the words ‘ (in the way of Allah) after the word ‘ (wage war). Consequently, at the very beginning, the Qur’ān has clarified that such a sacred undertaking has no relation with personal or selfish motives. This is the war of the Almighty that His servants undertake at His behest according to the guidelines provided by Him for His cause. They themselves act as mere agents and instruments of the will of God. They have no objective of their own before them in this undertaking; rather they have to fulfil the objectives of the Almighty. Consequently,

they cannot deviate in the least from this capacity:

The Qur’ān says:

(:)

Those who have professed faith, fight in the cause of Allah; and those who have rejected faith, fight in the cause of Satan. So fight you against the friends of Satan. Ever feeble indeed is the plot of Satan. (4:76)

The Prophet (sws), at various instances, also explained very forcefully this purport of the Qur’ān:

Abū Mūsā Ash‘arī (rta) narrates that once a person came to the Prophet (sws) and said that some people fight for the spoils of war, some for fame and some to show off their valour; he then asked the Prophet (sws): ‘Which one of them fights in the way of Allah?’. The Prophet (sws) replied: ‘Only that person fights in the way of Allah who sets foot in the battlefield to raise high the name of Allah’.¹²

Abū Imāmah Bāhilī (rta) narrates that a person came to the Prophet (sws) and asked: ‘What is your opinion about a person who fights for monetary benefits and fame’. The Prophet (sws) replied: ‘He will gain nothing’. The person repeated his question three times and each time the Prophet (sws) gave the same answer and then said: ‘The Almighty never accepts a deed until it is pure and done merely to please Him’.¹³

Abū Hurayrah (rta) narrates that once the Prophet (sws) said: ‘The fate of three types of people shall be decided first on the Day of Judgement: A person who was martyred while fighting. The Almighty will remind him of His favours. Once the person remembers them, the Almighty will ask: “What did you do for me?” He will reply: “I fought for you until I embraced martyrdom”. The Almighty will say: “You have told a lie; you fought so that people would acknowledge your bravery and that has [already] taken place”. The Almighty would then order for

12. *Bukhārī*, No: 2655

13. *Nasā’ī*, No: 3140

his punishment and he would be dragged by his face and thrown into Hell’.¹⁴

‘Ubādah Ibn Sāmit (rta) narrates from the Prophet (sws): ‘A person who fought in the way of Allah with the intention that he would gain a rope [from the war booty] to tie a camel in the battle will only get that rope and nothing else’.¹⁵

Mu‘ādh Ibn Jabal (rta) narrates that once the Prophet (sws) said: ‘Wars are of two types: a person who fought merely to please Allah, obeyed his ruler in the war, spent the best of his wealth, was affectionate with his fellow fighters and abstained from spreading disorder and evil, then all the time he spent in the war whether he was awake or was asleep – all shall earn reward for him. And a person who fought for fame and to earn the praises of the world and disobeyed his ruler during the war and thereby created disorder, he would not be spared’.¹⁶

It is this special status of *qitāl* (armed warfare) that makes it an act of great reward for the believers. The Almighty says:

(- :)

And do not consider those who are killed in the way of Allah as dead. Nay, they are alive with their Lord, and they are being provided for. They rejoice in what Allah has bestowed upon them of His bounty and rejoice for the sake of those who have not yet joined them, but are left behind [not yet martyred] that on them too no fear shall come, nor shall they grieve. They rejoice in a grace and a bounty from Allah, and that Allah will not waste the reward of the believers. (3:169-171)

Abū Hurayrah (rta) narrates from the Prophet (sws): ‘A person who wages *jihād* in the way of Allah – and Allah knows full well

14. *Nasā’i*, No: 3137

15. *Nasā’i*, No: 3139

16. *Nasā’i*, No: 3188

who wages *jihād* in His way – is like a person who fasts during the daytime and stands in prayer during the night, and for such a person [who fights in His way], Allah has taken upon Himself to take him to Paradise in case He ordains death for him, [and, if this is not the case,] He will reward him and send him back home safely with the spoils of war’.¹⁷

He also narrates that once a person came to the Prophet (sws) and asked: ‘Tell me of a deed whose reward is equivalent to that of *jihād*.’ The Prophet (sws) replied: ‘There is no such deed.’ The Prophet (sws) then asked that person: ‘Is it possible for you that once the Mujāhidīn (warriors) depart for *jihād*, you go to the mosque and keep standing in prayer without pausing and also keep fasting [simultaneously] without breaking the fast?’ The person replied: ‘How can anyone do this?’¹⁸

At another instance, Abū Hurayrah (rta) narrates from the Prophet: ‘There are hundred levels in Paradise which the Almighty has prepared for those who wage *jihād* in His way. Each of these levels is separated from one another with a distance equal to that between the earth and the sky’.¹⁹

Abū Hurayrah (rta) narrates from the Prophet (sws): ‘I swear by the Almighty that a person who is wounded in the way of Allah – and Allah knows full well who is actually wounded in His way – he shall be raised on the Day of Judgement such that his colour will be the colour of blood with the fragrance of musk around him’.²⁰

Ibn Jabr narrates from the Prophet (sws): ‘A person whose feet become dust ridden because of [striving] in the way of Allah will never be touched by the flames of Hell’.²¹

Sahal Ibn Sa‘d says that the Prophet (sws) once said: ‘To reside in a border area for a day to protect [people] against an enemy [invasion] is better than this world and everything it has’.²²

17. *Bukhārī*, No:2635

18. *Bukhārī*, No:2633

19. *Bukhārī*, No:2637

20. *Bukhārī*, No: 2649

21. *Bukhārī*, No: 2656

22. *Bukhārī*, No: 2735

iii. Ethical Limits

The third thing that becomes evident from these verses is that war cannot be waged in the way of Allah by disregarding ethical limits. Moral values have to be given priority over everything in all circumstances, and, even in circumstances of war, the Almighty has not given any person the permission to breach ethical principles. The verses assert that Muslims can fight the enemy and can displace them from the city from which they themselves were displaced and that they should be killed wherever found. Muslims were allowed to take this step because of the reign of oppression and injustice let loose by the enemy and because the truth of Muḥammad's (saws) message had been made manifest to them and they deliberately denied it. However, two things must still remain in their consideration:

Firstly, Muslims should not initiate proceedings to violate anything sacred. Consequently, war is permitted near the Baytullāh and in sacred months only if the enemy takes the initiative. Muslims can in no case commence such proceedings.

Secondly, any excess committed by the enemy can be answered by the Muslims by inflicting equal damage only. They have no right to go beyond this. They can wage war, but, in no case, are they allowed to exceed the limits and commit any excesses – for the Almighty is greatly displeased by such an attitude. He only helps those who never cross the limits set by Him in any circumstances.

In the verse under discussion, both these stipulations are discussed by the Qur'ān in its sublime style:

(:)

A sacred month for a sacred month; [similarly] other sacred things too are subject to retaliation. Therefore, if anyone transgresses against you, you should also pay back in equal terms. Have fear of Allah and [keep in mind that] Allah is with those who remain within the bounds [stipulated by religion]. (2:194)

While explaining this verse, Amīn Aḥsan Iṣlāhī, writes:

This verse implies that fighting in the forbidden months or fighting within the boundaries of the Ḥaram is a major sin. However, if the disbelievers disregard their sanctity, Muslims on account of *qīṣās* also have the right to strip them off the protection that these sacred entities afford them. The life of every person carries great sanctity in the eyes of the *sharī‘ah*. However, when a person violates this sanctity and kills someone, he himself shall be deprived of the right of sanctity for his own life to avenge his own deed. Similarly, the sanctity of the forbidden months and of the Ḥaram itself shall be upheld in all circumstances on the condition that the disbelievers also uphold it and do not oppress and tyrannize people in them. However, if they unsheathe their swords in the forbidden months and in the sacred land of Makkah, then on account of *qīṣās*, they themselves deserve to be divested of the protection these months and this land hold for them. The verse goes on to say that just as taking of *qīṣās* for the forbidden months is necessary, the *qīṣās* of other sacred entities must also be taken. In other words, if the disbelievers deprive Muslims of the right of protection that certain sacred things hold for them, Muslims too have the right as a result of *qīṣās* to pay them back in the same coin or measure. Consequently, whatever measures the disbelievers adopt in violation of the sanctity of the Ḥaram and the forbidden months, Muslim too can retaliate – but they must fear God and retaliate on equal footings: they should neither initiate such violations nor exceed the limits while retaliating against any aggression in this regard. Only those people become worthy of Divine Help who are fearful of the Almighty in all circumstances.²³

The most important directive that has been spelled out in the sphere of ethical limits is the fulfilment of promises. Breaking a promise is a great sin in the eyes of the Almighty. He has made it amply clear to the Muslims that in both forms of *qitāl* (armed

23. Amīn Aḥsan Iṣlāhī, *Tadabbur-i-Qur‘ān*, 2nd ed., vol. 3, (Lahore: Faran Foundation, 1986), pp. 479-80

warfare) – that is against injustice and oppression and against the rejecters of truth after the truth has become evident to them – Muslims must not break any treaty contracted with a nation. *Sūrah Tawbah* is the *sūrah* that announced punishment for those who deliberately rejected *Muḥammad* (sws) and his message. In this *sūrah*, the Prophet (sws) has been directed to declare null and void all pacts and treaties and embark upon a final assault against the disbelievers; however, it is explicitly stated in the *sūrah* (9:4) that all treaties that have been concluded with a time frame must continue till the time period is over. Similarly, in *Sūrah Anfāl*, Muslims are emphatically told that even if a nation, with which Muslims are under obligation of a contract, is guilty of oppressing the Muslims in matters of their religion, the Islamic state does not have the right to help these Muslims if this amounts to a breach of contract made with that nation:

(:)

And to those who accepted faith but did not migrate [to Maḍīnah], you owe no duty of protection to them until they migrate; but if they seek your help in religion, it is your duty to help them except against a people with whom you have a treaty of mutual alliance; and Allah sees what you do. (8:72)

On a number of occasions, the Prophet (sws) stressed how dreadful a sin breach of promise is:

Abū Sa‘īd (rta) narrates from the Prophet (sws): ‘On the Day of Judgement, to proclaim the traitorship of a traitor and the betrayal of a person who betrayed his words, a flag shall be hoisted which would be as high as [the extent of his] traitorship’, and [the Prophet (sws) also said]: ‘Remember that no traitor or betrayer of promises is greater than the traitor who is the leader and ruler of people’.²⁴

‘Abdullāh Ibn ‘Umar (rta) narrates that the Prophet (sws) [once] said: ‘A person who kills a *mu‘āhid* will not be able to

24. *Muslim*, No: 1738

smell [the fragrance] of Paradise, even though its fragrance can be smelt from a place as far off as forty years from it in distance’.²⁵

However, if Muslims fear any foul play and breach of contract from the opposite side, they, in the words of the Qur’ān, can also terminate the treaty and throw the promise on their faces on equal footings:

(:)

And if you fear any treachery from a people, throw back [their covenant] to them on equal terms. Certainly, Allah does not like the treacherous. (8:58)

While commenting on this verse, Amīn Aḥsan Iṣlāhī, writes:

The words ‘ (‘*alā sawā*) mean that Muslims are authorized to pay back their enemy in the same coin. This means that the retaliation from their side must not exceed the harm inflicted upon them. Some people have deduced from these words that the nullification of a treaty should necessarily be declared openly before the other party. I do not find this deduction to be very sound as these words do not support it; however, this much can be inferred that mere speculation should not impel a party to revoke it. This should only be done after some manifest proof of its violation from the other side. The use of the intensive verb ‘ (‘*takhāfanna*) in the verse lays credence to this claim. Moreover, the condition of ‘ (‘*alā sawā*) also highlights this aspect.²⁶

The Prophet (sws) is reported to have explained this aspect in the following words:

(:)

If a nation concludes a treaty with some other, it should not

25. *Bukhārī*, No: 2995

26. Amīn Aḥsan Iṣlāhī, *Tadabbur-i-Qur’ān*, 2nd ed., vol. 3, (Lahore: Faran Foundation, 1986), p. 499

change it in any sense until the time period of the treaty expires or if it fears some treachery from the other side. In these cases, it should throw the treaty before it by an open declaration on equal footings. (*Tirmadhī*, No: 1580)

Other directives which are mentioned in the Qur'ān and the *ḥadīth* in this regard are the following:

1. A display of pomp and pride should be avoided when an army sets out for a battle. In *Sūrah Anfāl*, where the Qur'ān has asked the Muslims to spend more time in the remembrance of God when a war is at hand, it has also asked them to abstain from show and pomposity – something that is the way of people who are inebriated with the pride of their number and the resources and the arsenal they have. Such vanity and conceit are not befitting for the believers. Whether in the battlefield or outside it, the humility of servitude to the Almighty should always be their hallmark. The reason for this is that their war is not mere war – it is serving and worshipping the Almighty, and, at all instances, this fundamental aspect should be taken into account by them:

(:)

And be not like those who came out of their homes boastfully and displaying their grandeur and those who stopped [people] from the way of Allah even though Allah fully encompasses what they do. (8:47)

2. People who want to remain neutral in war should be left alone and not be troubled in any way. In *Sūrah Nisā*, the behavior of certain Muslims is referred to who, because of their timidity and frailty, were neither willing to fight the Muslims by joining hands with their own nation nor ready to join the Muslims and fight their own nation. The Almighty bade the Muslims to abstain from any action against them:

(:)

Or those who approach you such that they neither have the courage to fight you nor their own people [and are such that] had Allah willed, indeed He would have given them power over you, and they would have fought you. So if they withdraw from you, and fight not against you, and offer you peace, then Allah does not give you permission to take any action against them. (4:90)

3. People who neither take part in a battle nor are able to take part in it – as per the dictates of custom as well as sense and reason – should not be killed. ‘Abdullāh Ibn ‘Umar (rta) reports from the Prophet (sws) that once in a battle when it became known that a woman had been killed, the Prophet (sws) emphatically forbade the killing of women and children.²⁷

4. People among the enemy should not be killed by setting them ablaze. Abū Hurayrah (rta) narrates that once when the Prophet (sws) bade the Muslims to set out for a battle he named two persons and directed the Muslims to burn them if they encountered them. However, when the Muslim army was about to set out, he said: ‘I had asked you to set two people ablaze; the truth of the matter is that it is only Allah Who can punish someone in this manner; so if you find these two, just kill them’.²⁸

5. Plundering and looting should be abstained from. ‘Abdullāh Ibn Yazīd (rta) narrates that the Prophet (sws) stopped the Muslims from snatching anything from the common people while the Muslim army marches into the enemy territory.²⁹ A person from the Anṣār narrates that once while traveling for a *jihād*, because of great compulsion, some people of the Muslim army snatched some goats to appease their hunger. When the Prophet (sws) came to know about this, he overturned all the utensils and remarked: ‘plundered [food] is no good than dead meat’.³⁰

27. *Bukhārī*, No: 2852

28. *Bukhārī*, No: 2853

29. *Bukhārī*, No: 2342

30. *Abū Dā‘ūd*, No: 2705

6. Dead bodies should not be mutilated. Barīdah narrates that among the directives the Prophet (sws) would give while sending a Muslim army would be an emphatic assertion to abstain from mutilating dead bodies and from disfiguring them.³¹

7. Setting up obstructions and robbing travelers is forbidden. Muā'adh Ibn Anas narrates that once when he and others in the company of the Prophet (sws) embarked upon a campaign of *jihād* it was observed that people had been obstructing the place where the army was to disembark and were busy robbing the passersby. When this complaint reached the Prophet (sws), he publicly announced at once that any person who obstructs the place of disembarkment and loots the passersby is in fact not doing *Jihād*.³²

iv. The Ultimate Goal

The fourth thing discussed in the verses (2:190-4) is the ultimate goal of *jihād*. It says that *jihād* should continue until two objectives are totally achieved:

Firstly, 'فِتْنَةٍ' (*fitnah*) is uprooted.

Secondly, in the Arabian peninsula only Islam reigns supreme.

For the first objective, the words used by the Qur'ān are 'فِتْنَةٍ' (until *fitnah* does not remain). *Sūrah Anfāl* (8:39) also mentions this objective in similar words. 'فِتْنَةٍ' (*fitnah*) is something which the Qur'ān regards as 'كَبِيرَةٍ' (a greater crime than murder). It means 'persecution' (to force a person to give up his religion). It is used in this meaning at a number of places in the Qur'ān. No doubt, it is a crime greater than murder. The Almighty has created this world to test man by giving him the right to freely choose his religion and ideology. Consequently, any person who forces someone to give up his religion is in fact rebelling against the scheme of the Almighty. So when an Islamic state was established in Madīnah, Muslims were directed to take up arms against people who were responsible for persecuting Muslims and to continue this aggression until persecution was uprooted from Arabia. The following verses forcefully depict this directive:

31. *Abū Dā'ūd*, No: 2613

32. *Abū Dā'ūd*, No:2629

(- :)

And what has come over you that you fight not in the cause of Allah, and for those weak, ill-treated and oppressed among men, women, and children whose cry is: 'Our Lord! Rescue us from this town of oppressors, and raise for us from You one who will protect, and raise for us from You one who will help. [You should know that] those who believe fight in the cause of Allah, and those who disbelieve, fight in the cause of Satan. So fight you against the friends of Satan. Ever feeble indeed is the plot of Satan. (4:75-6)

The directive of waging war against 'persecution' () is mentioned in certain other verses of the Qur'ān as well. No doubt, the age old tradition of forcing people to renounce their religion has almost been eliminated today; however, as long as human beings are human beings, they can always revert to it. Consequently, this is an eternal directive of the Qur'ān. If persecution surfaces at any place on this earth of God, it is imperative upon a Muslim state to root it out if it has the strength and power to do so and help the oppressed by waging war against it. This is an everlasting directive of the Qur'ān for the Muslims and no law of this world can repeal it.

A question arises here: Do other forms of injustice and oppression besides persecution also not entail a similar action? The answer to this question in the opinion of this writer is that all forms of oppression against the life and wealth as well as freedom of opinion and expression of Muslims – should be considered under it in various degrees. Consequently, if a group of Muslims commits unwarranted aggression against some of their brothers and does not desist from it even after all attempts of reconciliation, such a group according to the Qur'ān should

be fought with:

(- :)

And if two parties or groups among the believers start fighting, then make peace between them both. But if one of them outrages against the other, then fight you against the one which outrages until it complies with the command of Allah. Then if it complies, make reconciliation between them justly, and be equitable. Verily! Allah loves those who are the equitable. The believers are brothers to one another. So make reconciliation between your brothers, and fear Allah that you may receive mercy. (49:9-10)

The directives mentioned in this verse can be summarized thus:

1. If two groups among the Muslims are engaged in a fight with one another, other Muslims should not remain indifferent to this state of affairs and should not think that this matter does not concern them. Similarly, it is improper to support a group merely on the basis of familial or tribal bias. They must support the group who in their opinion is on the right, and, in no way, let such biases form the basis of their support. They must try to fully comprehend the situation, and, then, try to reconcile the two groups.
2. If one of the groups is not willing to reconcile, or, after reconciliation, again resorts to oppression and injustice, then it is the duty of the Muslims that, if they have the power, they should fight this group under the authority of some state. This aggression launched should continue until that group surrenders to the decision the arbitrators have put forth before the two groups. The Qur'ān has used the word ' ٱلْحَكَمَ ' (the decision of God) for the decision of the arbitrator. This means that if a person defies this decree, he is in fact defying the decree of God.
3. If the two groups show their willingness to reconcile, the Almighty has stressed that neither should any unwarranted lenience be shown to them nor should they be shown injustice in

any way. Justice should be the basis of the reconciliation and whatever loss a party has incurred, it should be compensated for it.

This directive obviously pertains to the existence of a Muslim state under which such a war can be waged. If Muslims do not have a state, then in such a situation, the Prophet Muhammad (sws) while answering a question raised by Ḥudhayfah (rta) directed the Muslims to dissociate themselves from such anarchy and disorder:

(:).

I asked: 'If there is no state or ruler of the Muslims?' He replied: 'In this situation, dissociate yourself from all groups, even if you have to chew the roots of a tree at the time of your death'. (*Bukhārī*, No: 6673)

For the second objective, the words used in *Sūrah Baqarah* and *Sūrah Anfāl* are ' ' (Allah's religion reigns supreme) and ' ' (all of Allah's religion reigns supreme) respectively. Prior to them, the word ' ' (fight them) directs the Muslims to wage war. The antecedent of the pronoun ' ' (them) in this word is the Idolaters of Arabia. Consequently, these expressions mean that in the land of Arabia the religion of Islam would reign supreme. This purpose could only have been achieved in two ways: either the followers of all other religions be put to death or they be subdued and subjugated completely. Consequently, after many phases interspersed with periods of both war and peace when the disbelievers were totally humiliated, both these ways were adopted. Muslims were directed to kill the Idolaters of Arabia if they did not accept faith and to let the Jews and Christians live on their own religions if they accepted to pay *jizyah* and live a life of total subjugation to the Islamic state established in Arabia. However, the active adversaries among them were put to death or exiled whenever it became possible.

It has been written at the very beginning of this article that the various measures adopted by the Prophet (sws) and his Companions (rta) including warfare were all Divinely ordained.

These measures do not belong to the common *sharī'ah* law of Islam. Rather they belong to a specific law that can be termed as the law of *itmām al-hujjah* (). This law can be summarized as: when the truth of a *rasūl*'s message is unveiled to a people in its ultimate form such that no one has any excuse to deny it, the rejecters of this truth are punished in this very world. The *Qur'ān* says that the decision for this punishment is made by the Almighty after various phases of the preaching mission of a *rasūl*. In this way, the court of justice that will be set up one day before the Almighty is set up in this very world, and the reward of punishment that will take place on the Day of Judgement is rehearsed in this very world. The history of this worldly Judgement as mentioned in the *Qur'ān* shows that the nature of the punishment meted out is generally of two forms:

In the first case, a *rasūl* has very few companions, and, also does not have a place to migrate. In the second one, he migrates with a considerable number of companions, and, before he even does so, the Almighty arranges for them a territory where they can migrate and live there as its sovereigns with freedom. In both these cases, the established practice of the Almighty regarding His *rusul* manifests itself – the practice which the *Qur'ān* describes in the following words:

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Indeed those who are opposing Allah and His Messenger are bound to be humiliated. The Almighty has ordained: 'I and My Messengers shall always prevail'. Indeed Allah is Mighty and Powerful. (58:20-1)

In the first case, this humiliation takes the form of Divine punishment that descends upon the adversaries of a *rasūl* in the form of raging storms, cyclones and other calamities, which completely destroy them. It is evident from the *Qur'ān* that the nations of Noah (sws), Lot (sws), Šāliḥ (sws) and Shu'ayb (sws) along with some other nations of *rusul* met with this dreadful fate. The only exception to this were the People of the Book (the Israelites) who were not destroyed because, being the People of

the Book, they were basically adherents to monotheism. Their humiliation took the form of constant subjugation to the followers of Jesus (sws) till the Day of Judgement.

In the second case, a *rasūl* and his companions subdue their nation by force, and execute them if they do not accept faith. In this case, his addressees are given some further respite. In this period, the *rasūl* does *itmām al-hujjah*³³ on the inhabitants of the land to which he had migrated. He morally purifies and reforms his followers and prepares them for a final onslaught with evil. He also consolidates his political power in the land so that he is able to root out the disbelievers and establish the supremacy of the believers through this political power.

It was this situation which had arisen in the case of the *rasūl* Muhammad (sws). After *itmām al-hujjah*, it was the Jews who were subdued first. They had been granted amnesty because of various pacts. Those among them who violated these pacts were given the punishment of denying a *rasūl* (Messenger) of God. The Prophet (sws) exiled the tribe of Banū Qaynuqa' to Khaybr and that of Banū Naḍir to Syria³⁴. The power they wielded at Khaybr was crushed by an attack at their strongholds.³⁵ Prior to this, Abū Rāfi' and Ka'b Ibn Ashraf were put to death in their houses.³⁶ The tribe of Banū Qurayẓah was guilty of treachery and disloyalty in the battle of Aḥzāb.³⁷ When the clouds of war dispersed and the chances of an external attack no longer remained, the Prophet (sws) laid siege around them. When no hope remained, they asked the Prophet (sws) to appoint Sa'd Ibn Mu'ādh (rta) as an arbitrator to decide their fate. Their request was accepted. Since, at that time, no specific punishment had been revealed in the Qur'ān about the fate of the Jews, Sa'd announced his verdict in accordance with the Torah. As per the

33. The unveiling of truth by a *rasūl* to his addressees to the extent that they have no excuse but stubbornness and enmity to deny it.

34. Ibn Hishām, *Al-Sīrah Al-Nabawiyyah*, 2nd ed., vol. 3, (Beirut: Dār Al-Khayr, 1995), pp. 40-2 / Ibid. vol. 3, pp. 151-60

35. Ibid., pp. 255-77

36. Ibid., pp. 43-8 / Ibn Sa'd, *Al-Ṭabaqāt Al-Kubrā*, vol. 2, (Beirut: Dār Ṣādir, 1960), p. 28

37. Ibn Hishām, *Al-Sīrah Al-Nabawiyyah*, 2nd ed., vol. 3, (Beirut: Dār Al-Khayr, 1995), pp. 180-82

Torah, the punishment for treason was that all men should be put to death; the women and children should be enslaved and the wealth of the whole nation should be distributed among the conquerors.³⁸ In accordance with this verdict pronounced, all men were executed.³⁹ No other incident worthy of note took place regarding the Jews until in *Sūrah Tawbah* the final judgement was declared against them:

(:)

Fight those who believe not in Allah or the Last Day, nor hold that forbidden which has been forbidden by Allah and His Messenger, nor acknowledge the Religion of Truth, from among the People of the Book, until they pay the *jizyah* with willing submission and are subdued. (9:29)

This directive related to both the Jews and the Christians. The punishment mentioned in these verses was in fact a show of great lenience to them because of the fact that they were originally adherents to monotheism. In reality, they had become worthy of death and destruction after deliberately denying Muhammad (sws). However, they did not benefit from this lenience because after the death of the Prophet (sws) they once again resorted to fraud and treachery.⁴⁰ Consequently, the Jews of Khaybar and the Christians of Najrān were exiled once and for all from the Arabian peninsula by the Caliph ‘Umar (rta). This exile in fact thus fulfilled the following declaration of the Qur’ān about them:

38. Deuteronomy, 20:10-14

39. Ibn Hishām, *Al-Sīrah Al-Nabawiyyah*, 2nd ed., vol. 3, (Beirut: Dār Al-Khayr, 1995), pp. 188-89

40. *Bukhārī*, No: 2580, Abū Yūsuf, *Kitāb Al-Khirāj, Faṣl fī Al-Fay wa Al-Khirāj*, (1302 AH), p. 42 / Bilādhurī, *Futūḥ Al-Buldān*, (Qumm: *Manshūrāt Al-Arummiyyah*, 1404 AH), p. 73 / Ibn Athīr, *Al-Kāmil fī Al-Tārīkh*, 1st ed., vol. 2, (Beirut: Dar Beirut, 1965), p. 112

(:)

And had it not been that Allah had decreed exile for them, He would certainly have punished them in this world; and in the Hereafter theirs shall be the torment of the Fire. (59:3)

When the Idolaters of Arabia had been similarly subdued, it was proclaimed in *Sūrah Tawbah* that in future no pact would be made with them. They would be given a final respite of four months and then they would be humiliated in retribution of their deeds and would in no way be able to escape from this punishment (the Qur'ān 9:1-2). Consequently, Makkah was conquered and just as some of the active adversaries among them had been executed when they were caught as prisoners in the battle of Badr and Uhūd, similarly at this occasion also such adversaries were put to death. Prior to this, the directive had been revealed about them that it should be proclaimed at the time of the *hajj-i-akbar* (9th Hijra) that once the forbidden months would be over, Muslims should slay the Idolaters wherever they find them except if they accept faith, establish the prayer and pay *zakāh*. However, those among them who were bound in time bar pacts with Muslims were an exception to this directive. Muslims were asked to honour these contracts until their stipulated time period if their adversaries abided by them. The implication was clear: once the time period expired, these adversaries would also meet the fate that had been ordained for all the Idolaters of Arabia. They were to be killed in case they did not accept faith. This declaration was made in the Qur'ān in the following words:

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And a declaration should be made from Allah and His Messenger to these people on the day of the great *hajj* that Allah is free from [all] obligations to these Idolaters and so is His Messenger. So if you [O Idolaters!] repent, it is better for you, but if you turn away, then know that you cannot escape from the grasp of Allah. And give tidings [O Muhammad (sws)!] of a painful torment to these disbelievers. Except those of these Idolaters with whom you have a treaty, and who have not shown treachery in it nor have supported anyone against you. So fulfil their treaty to the end of their term. Indeed, Allah loves those who abide by the limits. Then when the sacred months [after the *hajj*] have passed, kill these Idolaters wherever you find them, and capture them and besiege them, and lie in wait for them in each and every ambush. But if they repent and establish the prayer, and give *zakāh*, then leave them alone. Indeed, Allah is Ever Forgiving, Most Merciful. (9:3-5)

With these measures, the basic objective of war stated by the words: ‘ (all of Allah’s reigns supreme) was achieved in the ultimate sense. However, it is explained above that as per the law of *itmām al-ḥujjah*, all these measures were an obvious outcome of the fact that first the ‘ (bearing witness to the truth) was established through the Prophet (sws) on the Idolaters and the People of the Book of Arabia and second because of this worldly retribution that took place in Arabia, this *shahādah* was established on certain nations outside the Arabia. Consequently, it was as a result of this that after the truce of Ḥudaybiyyah, the Prophet (sws) himself, singled out these nations by writing letters to them. The territories of these nations were almost the same as those which in the Torah are called the inherited land of the progeny of Abraham. In all, they were written to the heads of eight countries.⁴¹ Consequently, after consolidating

41. The names of these heads of state are: 1. Negus of Abyssinia, 2. Maqawqas of Egypt, 3. Khusro Parvez of Persia, 4. Qaysar of Rome, 5.

their rule in the Arabian peninsula, the Companions (rta), in order to implement this judgement of the Almighty, launched attacks against these countries giving them two options if they wanted to remain alive: to accept faith or to accept a life of subjugation by paying *jizyah*. None of these nations was an adherent to polytheism in the real sense, otherwise they would have been treated in the same way as the Idolaters of Arabia.

It is evident from these details that all these armed campaigns and offensives were not merely *qitāl* (war), they were in reality a punishment of the Almighty. This punishment, which is meted out to those who deliberately deny the truth of a *rasūl*'s message, is an established practice of Allah. As a Divine scheme, it descended first upon the Idolaters and the People of the Book of Arabia and then to certain other nations outside it. Consequently, this is absolutely certain that fighting those who have deliberately rejected the truth and forcing the vanquished to lead a life of subjugation by imposing *jizyah* on them is no longer allowed. For Muslims, the sole ground of war is injustice and oppression. They cannot wage war on any other ground.

III. Divine Help

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O Prophet! Rouse the believers to war. If there are twenty amongst you, patient and persevering, they will subdue two hundred: if a hundred, they will subdue a thousand of the disbelievers: for these are a people without insight. Now, God has lightened your [task] for He knows that there is now weakness among you: But [ever so], if there are a hundred of you, patient and persevering, they will subdue two hundred,

Mundhar Ibn Sāwī of Bahrain, 6. Hūdḥah Ibn ‘Alī of Yamāmah, 7. Ḥārith Ibn Abī Shamr of Damascus, 8. Jayfar of Amman.

and if a thousand, they will subdue two thousand, with the permission of God and [truly] God is with those who patiently persevere [in His cause]. (8:65-6)

Just as these verses of *Sūrah Anfāl* indicate the extent of the obligation of *jihād*, they also highlight the principle on which Divine Help descends on believers in an armed struggle. They unequivocally state that Divine Help in this matter is governed by a specific law and is not subject to the whims and desires of people. The Almighty has fixed a principle according to which He helps people who set out for *jihād* and always abides by this principle. A reflection on these verses shows that Divine Help in a war is based on the following three statutes:

Firstly, the basic thing that entitles people to Divine Help is perseverance and resolution. No group of Muslims becomes entitled to it unless it has this quality in it. A battalion of Muslims devoid of this quality should not expect Divine Help when it faces the enemy. The words 'سَابِرُونَ' (*sābirūn*) and 'سَابِرًا' (*sābirah*) of the above quoted verses allude to this reality. Moreover, the words 'مَعَ الَّذِينَ يَبْتَغُونَ الْوَعْدَ مِنْ رَبِّهِمْ وَمَنْ يَتَذَكَّرْ إِلَىٰ آخِرِهِمْ حَتَّىٰ نُنْصِرَهُمْ' (God is with those who persevere) at the end of the verse also bear reference to this fact.

Secondly, an army must be equipped with proper military strength if it is to wage war. No doubt, whatever happens, happens because of God's will and one must fully repose one's trust in Him, but this is also a reality that the Almighty has created this world on certain laws. The scheme behind these laws dictates that whatever measures are adopted for doing good and virtuous deeds, they must have the backing of necessary resources. What are these means and resources? A ratio between Muslim and enemy forces has been put forth in these verses by the Almighty. If this has not been achieved, then efforts should be made by the Muslims to achieve it. If they wage *jihād* by ignoring this ratio by succumbing to emotions, they themselves would be responsible for such a rash step. Such a step would, of course, not be entitled to any Divine Help.

Thirdly, it is the force of faith that compensates for any lack of material force. The words 'يَعْلَمُ مَا فِي قُلُوبِهِمْ' (He knows that there is now weakness among you) and 'لَا يَهْدِيكُمْ فِي الْأَمْرِ شَيْءٌ' (for these are a people without insight) bear reference to this inference. The

word ' ' (*qā'f*) in Arabic is not only used for material and physical weakness but also for weakness in faith and belief. Similarly, the meaning of the words ' ' used in contrast to the strength of faith implies a weakness in faith and belief. The verse, consequently, says that since the disbelievers are devoid of true faith and belief while, on the other hand, the believers possess them, the believers would be the victors even if outnumbered by 1:10.

It is evident from the context of the *sūrah* that the ratio stated is of the period of the battle of Badr. After this battle, many people entered the folds of Islam – people who were not as strong in faith and resolve as those who had been the ' ' (the pioneer converts). Though Muslims greatly increased in numbers as a result of these conversions, yet the level and extent of faith decreased overall since the converts were nevertheless not as strong in their faith as the ' ' (the pioneer converts). Consequently, the Almighty Himself informed the Muslims that now this ratio had decreased to 1:2 from the original 1:10.

Finally, it needs to be appreciated that the ratios stated in these verses are about the Companions (rta) of the Prophet (sws) – who were a group of noble souls who waged *jihād* along side the Prophet (sws), and as a result of a direct command of the Almighty. In later times, it can be estimated whether this ratio has increased or decreased keeping in view the extent of faith Muslims have.

IV. Captives of War

(:)

So, when you meet [in the battlefield] those who disbelieve, strike off their heads. Then, when you have shed their blood fully, bind them [as captives]. Thereafter, free them as a favour or free them with ransom until war lays down its weapons. (47:4)

It is evident from the words of this verse that until its revelation wars with the disbelievers had not begun, though circumstances

had reached the extent that they could begin anytime. Muslims are told that if they encounter the disbelievers of Arabia, who had rejected the truth in spite of being convinced about it, in the battle field they must slay them. They deserve no lenience after such a blatant denial of the truth which had been unveiled to them by the Prophet (sws) in its ultimate form. Muslims must rout their power when they meet them in the battlefield and capture those who survive. They should know that the help of the Almighty is with them and the enemy would not be able to harm them. It is now up to them to either set free the captives as a favour to them or set them free after accepting some ransom. This is the attitude they should adopt until warfare with the disbelievers ends in Arabia.⁴²

Although this directive is stated in the *sūrah* with reference to the *mushrikūn*, nothing in it restricts its application to them only. Therefore, it will apply to other combatants – whether of those times or of later – as well.

The words that have been used to state this directive read as :
' (thereafter free them as a favour or free them with ransom). Those who have a flare for the language know that if the word ' ' (*fidā'an*) here means to set free a captive after accepting ransom, then since the word ' ' (*mannan*) is placed in contrast to it, ' ' (*mannan*) should convey the opposite meaning: that is to set them free without accepting any ransom as a favour. The word ' ' (*mannan*) here is a verbal noun of a suppressed verb and since it does not occur in contrast to ' ' (murder) and in contrast to ' ' (*fidā'an*), it can only and only mean the setting free of captives without accepting any ransom money. It is evident from this verse that Muslims had to set them free at all costs whether with ransom or without, and as per the Qur'ān could even benefit from them in their capacity of slaves as long as they remained in captivity. However, they could neither kill them nor keep them as slaves come what may.

Three types of captives, however, were an exception to this rule:

1. Brutal adversaries, according to the dictates of the law of

42. This has been stated because once warfare ends with them, the only option for them would be to either accept faith or face death.

*itmām al-ḥujjah*⁴³, were required to be slain wherever found. Examples of people who were killed as a result were ‘Uqbah Ibn Abī Mu‘īṭ, Naḍr Ibn Ḥārith⁴⁴ and Abū ‘Azzah⁴⁵ – the captives of the battles of Badr and Uḥud. Similarly, at the conquest of Makkah, certain others were also slain as an exception to the general amnesty granted because of their open enmity.⁴⁶

2. The captives of the Banū Qurayzah who met a fate decided by an arbitrator appointed by themselves: their men were slain and their women and children were sold as slaves.⁴⁷

3. Captives who were slaves prior to their capture and, on certain instances, were distributed among people as slaves.⁴⁸

It is obvious that these three cases were exceptions, and the directive stated in the above quoted verse never related to them. Consequently, if all the incidents of the Prophet’s times regarding prisoners of war are studied, it can be safely concluded that barring these three exceptions everything done was in conformity with the above quoted directive of Sūrah Muḥammad.

Following are the details:

1. As long as the prisoners remained in captivity of the state authorities, they were treated in a befitting manner. It is known that the prisoners of Badr were distributed among the Companions (rta) and the Prophet (sws) himself directed the Companions (rta) in the words: ‘ (treat these prisoners well).⁴⁹

One of the prisoners Abū ‘Azīz says that he was kept in a house of the Anṣār tribe. He goes on to say that his hosts fed him with chapāfi while they themselves just ate dates.⁵⁰ When Thumāmah Ibn Uthāl, a chief of Yamāmah, was taken into custody, he, at the behest of the Prophet (sws), was fed with good food and milk as

43. Unveiling truth to the extent that no one is left with any excuse to deny it.

44. Ibn Hishām, *Al-Sīrah Al-Nabawiyyah*, 2nd ed., vol. 2, (Beirut: Dār Al-Khayr, 1995), p. 215

45. Ibid., vol. 3, p. 83

46. Ibid., vol. 4, p. 41

47. Ibid., vol.3, pp. 188-89

48. Ibid., vol. 4, p. 105

49. Ibid., vol. 2, p. 217

50. Ibid.

long as he remained in captivity.⁵¹

2. Most prisoners of the battle of Badr were set free after accepting ransom from them. Those among them who could pay in cash were exacted a ransom that ranged from one thousand to four thousand Dinārs per prisoner, while those among them who were not in a position to pay this amount were set free if they taught ten children each from among the Anṣār to read and write. Abū Sufyan’s son, ‘Amr, was set free in exchange for Sa‘ad Ibn Nu‘mān whom he had imprisoned.⁵²

Among the captives of the battle of Banī Muṣṭaliq, Juwayriyyah was freed after her father, Ḥārith Ibn Abī Ḍarār paid the ransom money.⁵³ Once Abū Bakr (rta) was sent on a military campaign. Among the captives there was a beautiful lady. The Prophet (sws) sent her to Makkah and was able to win the freedom of many prisoners in lieu of her.⁵⁴ Similarly, a prisoner of the Banī ‘Aqīl was sent to Tā’if and in lieu of him, two prisoners in the custody of the Banū Thaḳīf were released.⁵⁵

3. Some captives were set free without any ransom. Among the captives of Badr, Abu’l-‘Āṣ, Maṭlab Ibn Ḥantab, Ṣayfī Ibn Abī Rafā‘ah and Abū ‘Azzah and among those of the battle against the Banū Qurayẓah, Zubayr Ibn Bāṭās were set free like this.⁵⁶ At the time of the truce of Ḥudaybiyyah, about 80 people from Makkah suddenly attacked the Muslims at night from the direction of Tan‘īm. All of them were caught and the Prophet (sws) set them free without any ransom money as well.⁵⁷ Thumāmah Ibn Uthāl, referred to earlier, was also set free on similar grounds.⁵⁸

51. Ibid., vol. 4, p. 215

52. Ibn Sa‘d, *Al-Ṭabaqāt Al-Kubrā*, vol. 2, (Beirut: Dār Ṣādir, 1960), p. 22 / Ibn Hishām, *Al-Sīrah Al-Nabawiyyah*, 2nd ed., vol. 2, (Beirut: Dār Al-Khayr, 1995), p. 221

53. Ibn Hishām, *Al-Sīrah Al-Nabawiyyah*, 2nd ed., vol. 3, (Beirut: Dār Al-Khayr, 1995), p. 232

54. *Ibn Mājah*, No: 2846

55. *Musnad Aḥmad*, No: 19892

56. Ibn Hishām, *Al-Sīrah Al-Nabawiyyah*, 2nd ed., vol. 2, (Beirut: Dār Al-Khayr, 1995), p. 228 / Ibid., vol. 3, p. 190

57. *Abū Dā‘ūd*: No:2688

58. Ibn Hishām, *Al-Sīrah Al-Nabawiyyah*, 2nd ed., vol. 4, (Beirut: Dār Al-Khayr, 1995), pp. 215-16

4. On some occasions, the prisoners were distributed among people so that they could directly deal with them or their relatives on the principle of ‘ (thereafter free them as a favour or free them with ransom), the prisoners of the battle against the Banī Muṣṭaliq, were distributed thus. However, once the Prophet (sws) married Jawayriyyah after she had been set free, all the Muslims set free the prisoners in their custody without any ransom saying that these prisoners had now become the relatives of the Prophet (sws). Prisoners from about one hundred families were released in this way.⁵⁹ The prisoners of the military campaign against the Hawāzin tribe were also similarly set free by the Prophet (sws) without taking any ransom from the people. Similar was the case of the prisoners of the Ḥunayn tribe.⁶⁰

When the tribe of Hawāzin came to buy the freedom of their prisoners, it came to their knowledge that all their prisoners had been distributed. At their request, the Prophet (sws) gathered all Muslims among whom these prisoners had been distributed. When all had assembled, the Prophet (sws) expressed his opinion that as these people who had come to fetch the prisoners had repented, everyone should release the prisoners they had in custody. He further said that whoever wanted to set them free without any ransom should do so, and others who wanted ransom would be granted the ransom by the state treasury. As a result of this request, 6000 prisoners were set free, and those among the Muslims who demanded ransom were paid by the state treasury.⁶¹

5. Widows and other helpless women among these prisoners who had been similarly distributed were generally set free by the respective owners and married to them on the basis of their free consent. On these very grounds, the marital knot was tied between Ṣafīyyah (rta) and the Prophet (sws).⁶²

59. Ibid., vol. 3, p. 231

60. Ibn Kathīr, *Al-Sīrah Al-Nabawiyyah*, 1st ed., vol. 3, (Beirut: Dār Al-Ma‘rifah, 1971), p. 453

61. Ibn Hishām, *Al-Sīrah Al-Nabawiyyah*, 2nd ed., vol. 4, (Beirut: Dār Al-Khayr, 1995), pp. 104-06

62. *Bukhārī*, No: 3965

V. Spoils of War

(:)

They ask you about the spoils of war. Say: The spoils belong to Allah and the Prophet. Therefore, if you are true believers, fear Allah and reform your personal relationships, and obey Allah and His Prophet. (8:1)

A look at the context of this verse and at the issues discussed in the *sūrah* of which it is a part shows that after the very first battle which the Muslims fought against the Idolaters of Makkah, the issue of the distribution of the spoils of war came to surface. There existed a difference of opinion about it among the Muslims. The Qur’ān admonished the Muslims on this attitude and gave its verdict in this matter. Muslims were told that they had no claim in the spoils because of the peculiar nature of these wars. They were informed that all these spoils belonged to Allah and His Prophet (sws) and as such they had discretionary powers as far as their disbursement was concerned. This writer has already delineated the reason for this: these wars were fought under a specific law of the Almighty, according to which He, through His Messengers, punishes people who deliberately deny the truth. These Messengers and their companions in this matter are no more than agents of the implementation of this Divine scheme. It is with the special help of the Almighty through His angels that these battles were actually won. It was for this very reason that Muslims did not have any share in the booty obtained from these wars. However, in spite of this, they are told later in the *sūrah* that only one-fifth of it will be used by the Almighty and His Prophet (sws) for collective needs. The rest of it will be distributed among the soldiers:

(:)

And you should know that a fifth of the spoils you get hold of

are for Allah and the Prophet and his near relatives and the orphans and the needy and the wayfarer. (8:41)

It is evident from this distribution that since the believers had also assisted in acquiring them by using their personal weapons, camels and horses as well as food, camps and various other items needed during these wars, it was necessary to give them their due from these spoils. Consequently, in military campaigns, where the services of Muslim soldiers and combatants were not used, they were told that all the booty obtained would be used for the collective purposes of the state and religion and for the poor and needy: none of it would be given to the soldiers:

(:)

Whatever the Almighty has bestowed on His Prophet from the people of the cities, it is reserved for Allah and His Prophet and the relatives of the Prophet⁶³ and the orphans and the needy and the wayfarers. (59:7)

The above quoted verse as well as the verses of *Sūrah Anfāl* quoted earlier explain the heads of the collective needs for which the war booty was reserved.

First and foremost, the share of the Almighty is stated. God Almighty is above all needs and does not need anything. His share is actually reserved for the requirements of His religion. Consequently, under this head, wealth will be expended to fulfil such needs as helping the cause of Islam at the state level as an obligation. This includes measures that protect and promote it.

The second share stated is that of the Prophet (sws). Besides carrying out his duties as a Messenger, he was also the head of the Islamic state and as such spent every moment of his life in discharging them. To earn a livelihood while discharging these duties was not possible for him. In these circumstances, it was necessary that he be granted a share in the spoils of war. Of

63. Since the Prophet (sws) had stopped his relatives from taking a share from the *ṣadaqāt*, a portion of this collective wealth was also reserved for them.

course, the nature of this share was such that it was not given to him in his personal capacity so that it may be distributed among his heirs after him. Consequently, after his death, this share was expended by the state on his behalf and in his prophetic capacity to fulfil the collective needs of the Muslims.

The third share stated is that of the near relatives. Obviously, by these are meant those relatives who were dependent on the Prophet (sws) for their livelihood and about the fulfillment of whose needs the Prophet (sws) considered himself to be morally responsible. He was a father to all Muslims. Consequently, this responsibility too, in accordance with the dictates of both the *sharī'ah* and social conventions, was transferred to the state after the Prophet (sws) and his kin remained the recipients of this share as long as they lived.

The fourth share is that of the poor, the orphans and the wayfarers. While stating this share, the particle ' ' (*lām*) is not repeated in this verse. This particle is appended to all the three shares stated before. This fourth category of shares is actually mentioned under the third stated share of the near relatives. The reason is to honour the recipients of this category as if they are also the near relatives of the Prophet (sws). This head needs no explanation. A society which is not sensitive to the requirements of these sections, and a society in which the orphans are subjected to misery and in which there is no one to take care of the wayfarers cannot in any way be given the noble name of an Islamic society.

It is evident from this discussion regarding the spoils of war that they are essentially reserved for the collective requirements of the Muslims. The combatants of the Muslim army have not been granted any fixed share in the spoils of war by the Almighty. In this regard, a state has discretionary powers which it can exercise keeping in view the circumstances.

Appendix

***Jihād: Some Important Questions*¹**

No *Jihād* without the State: View of the Jurists

Question: According to Ghāmidī's view, only a state has the right to wage war and no group or organization is allowed to do so. What is the opinion of other scholars in this matter?

Answer: There is a consensus among all authorities of Islam that only an Islamic State has the authority to wage *jihād*. This condition is so explicit and categorical that all the scholars of this *ummah* unanimously uphold it. Sayyid Sābiq, while referring to this consensus, writes:

:

Among collective obligations, there is a category for which the existence of a ruler is necessary e.g., *jihād* and administering punishments.²

‘Uthmānī, a Hanafite jurist writes:

,

: ...

1. Compiled by Shehzad Saleem on the basis of Ghāmidī's views.

2. Sayyid Sābiq, *Fiqh Al-Sunnah*, 2nd ed., vol. 3, (Beirut: Dar Al-Fikr, 1980), p. 30

It is obvious from the *Ḥadīth* narrated by Makḥūl³ that *jihād* becomes obligatory only in the presence of a ruler who is a Muslim and whose political authority has been established either through nomination by the previous ruler similar to how Abū Bakr transferred the reins [of his *Khilāfah* to 'Umar] or through pledging of allegiance by the ulema or a group of the elite ...in my opinion, if the oath of allegiance is pledged by ulema or by a group of the elite to a person who is not able to guard the frontiers or defend the honour [of the people] or organize armies or implement his directives by political force nor is he able to provide justice to the oppressed by exercising force and power, then such a person cannot be called 'Amīr' (leader) or 'Imām' (ruler). He, at best, is an arbitrator and the oath of allegiance is at best of the nature of arbitration and it is not at all proper to call him 'Amīr' (leader) or a 'Imām' (ruler) in any [official] documents nor should the people address him by these

3. The complete text of the *Ḥadīth* is:

(:)

Makḥūl narrates from Abū Hurayrah who narrates from the Prophet: *jihād* is obligatory on you only in the presence of a Muslim ruler whether he is pious or impious, and the prayer is obligatory upon you behind every Muslim whether he is pious or impious even if he is guilty of the major sins and the prayer is obligatory on every Muslim whether he is pious or impious even if he is guilty of the major sins. (*Abū Dā'ūd*, No: 2533)

designations. The reason for this is that the basis of leadership and rulership is power and authority and it does not hinge only on the fact that he gets famous by this name. It is not imperative for the citizens to pledge allegiance to him or obey his directives, and **no *Jihād* can be waged alongside him.**⁴

Ibn Qudāmah, a Hambalite jurist, writes:

The matter of *jihād* rests with the ruler [of a state] and his *ijtihād*. The opinion he forms in this regard must be obeyed by the citizens of his country.⁵

Māwardī, a Shafi'ite authority, while enumerating the obligations of a Muslim ruler says:

:

His sixth obligation is to conduct *jihād* against those who show hostility against Islam.⁶

In the words of Farāhī:

In one's own country, without migrating to an independent piece of land, *jihād* is not allowed. The tale of Abraham (sws) and other verses pertaining to migration testify to this. The Prophet's life (sws) also supports this view. The reason for this is that if *jihād* is not waged by a person who holds political authority, it amounts to anarchy and disorder.⁷

While commenting on the underlying reasons that form the

4. Zafar Ahmad 'Uthmānī, *Li'lā Al-Sunan*, 3rd ed., vol. 12, (Karachi: Idarāt Al-Qur'ān wa 'Ulūm Al-Islāmiyyah, 1415 AH), pp. 15-16

5. Ibn Qudāmah, *Al-Mughnī*, vol. 8, (Riyāḍ: Maktabah Al-Riyāḍ Al-Ḥadīthah, 1981), p. 352

6. Abu'l-Ḥasan 'Alī Māwardī, *Al-Aḥkām Al-Sulṭāniyyah*, 1st ed., (Beirut: Dār Al-Kitāb Al-'Arabī, 1990), p. 52

7. Farāhī, *Majmū'ah Tafāsīr-i-Farāhī*, 1st ed., (Lahore: Faran Foundation, 1991), p. 56

basis of state authority for *jihād*, Amīn Aḥsan Iṣlāḥī, writes:

The first reason [for this condition] is that God Almighty does not like the dissolution and disintegration of even an evil system until a strong probability exists that those who are out to disintegrate the system will provide people with an alternative and a righteous system. Anarchy and disorder are unnatural conditions. In fact, they are so contrary to human nature that even an unjust system is preferable to them....this confidence [that a group will be able to harmonize a disintegrated system and integrate it into a united whole] can be reposed in such a group only as has actually formed a political government and has such control and discipline within the confines of its authority that the group can be termed as *al-jamā'ah* [the State]. Until a group attains this position, it may strive [by religiously allowable means] to become *al-jamā'ah* – and that endeavour would be its *jihād* for that time – but it does not have the right to wage an 'armed' *jihād*.

The second reason is that the import of power that a group engaged in war acquires over the life and property of human beings is so great that the sanction to wield this power cannot be given to a group the control of whose leader over his followers is based merely on his spiritual and religious influence on them [rather than being based on legal authority]. When the control of a leader is based merely on his spiritual and religious influence, there is not sufficient guarantee that the leader will be able to stop his followers from *fasād fi al-arḍ* [creating disorder in the society]. Therefore, a religious leader does not have the right to allow his followers to take out their swords [that is to wage an armed struggle] merely on the basis of his spiritual influence over them, for once the sword is unsheathed there is great danger that it will not care for right and wrong and that those who drew it will end up doing all [the wrong which] they had sought to end. Such radical groups as desire revolution and the object of whom is nothing more than disruption of the existing system and deposition of the ruling party to seize power for themselves play such games – and they can, for in

their eyes disruption of a system is no calamity, nor is cruelty of any kind an evil. Everything is right to them [as long as it serves their purpose]. However, the leaders of a just and righteous party must see whether they are in a position to provide people with a system better than the one they seek to change and whether they will be able to stop their followers from doing such wrong as they themselves had sought to root out. If they are not in that position, they do not have the right to play games with the life and property of people on the basis of their confidence in mere chances and to create greater disorder than the one they had sought to end.⁸

Belligerence of Muslim Minorities

Question: I am living in the US for the last two decades. I want to know the rights and duties Islam imposes on me. What should I do if I am asked by the government to do something that is against Islam? Also am I not required by Islam to strive and wage *jihād*, if required, to establish an Islamic state wherever I live? I have been told that this is my religious obligation.

Answer: Muslims like you who have settled in non-Muslim countries are bound in a contract of citizenship. They must always honour this contract while living in such areas. They should respect the laws and live peacefully. They are bound by Islam to abide by the terms and conditions of any contract they make and they must never violate them in the slightest way. Such violations according to Islam are totally forbidden and, in fact, amount to a grave transgression. The Qur'ān says:

(:)

And keep [your] covenants; because indeed [on the Day of Judgement] you will be held accountable for them. (17:34)

Consequently, you must never break the laws of the country you live in and if a situation comes when, owing to some law, you are not able to follow a directive of your religion that seems

8. *Da'wat-i-Dīn awr us k̄a Tarīqah-i-kār* (Urdu, Faran Foundation, ch. 14, pp. 241-2) (Tr. Asif Iftikhar)

imperative to you, you should first of all bring the matter in the notice of the authorities. If it is not resolved, then instead of violating the law or creating nuisance you should migrate from the US.

As far as the question of striving to establish an Islamic state is concerned, let me tell you that you as a Muslim are not required by your religion to fulfil any such obligation. Some religious scholars do present the example of the Prophet Muhammad (sws) and say that since he had established an Islamic state in Arabia, Muslims, wherever they are, should follow his example. I am afraid that neither did the Prophet (sws) ever undertake the task of establishing an Islamic state nor was he ever directed by the Almighty to do so. The truth of the matter is that it is the Almighty Who according to His established practice regarding His Messengers took matters in His own hand in the time of the Prophet Muhammad (sws) and bestowed him and his nation the supremacy of Arabia.

Scholars who are of the opinion that Muhammad (sws) strove to establish an Islamic state in Arabia typically present the following verse in support of their view:

(:)

It is He Who has sent his Messenger [–Muhammad–] with Guidance and the Religion of Truth that he may proclaim it over all religions, even though the Idolaters may detest [this].
(61:9)

On the basis of the phrase ‘all religions’, it is understood that the followers of Islam must struggle for its dominance in their respective countries and territories.

An analysis of the context of this verse shows that it belongs to the class of directives that relate to the established practice of the Almighty regarding His Messengers (*rusul*) according to which a Messenger (*rasūl*) always triumphs over his nation:

(- :)

Indeed those who are opposing Allah and His Messenger are bound to be humiliated. The Almighty has ordained: 'I and My Messengers shall always prevail'. Indeed, Allah is Mighty and Powerful. (58:20-1)

Muhammad (sws) was also informed that he would triumph over his nation. He and his Companions (rta) were told that they would have to fight the Idolaters of Arabia until the supremacy of Islam was achieved therein and that these Idolaters should be informed that if they did not desist from their evil ways they too would meet a fate no different from those of the other nations who denied their Messengers:

(- :)

Say to the Disbelievers that if they now desist [from disbelief] their past would be forgiven; but if they persist, the punishment of those before them is already [a warning for them]. And fight against them until there is no more persecution and prevails there the religion of God. (8:38-40)

Consequently, it is to be noted that the word *al-mushrikūn* (the Idolaters) is used in 61:9 quoted above. The Qur'ān uses this word specifically for the Idolaters of Arabia of the Prophet's times. As a result, 'all the religions' in the conjugate clause can only mean all the religions of Arabia at that time. So, the verse has no bearing on Muslims after the times of the Prophet (sws).

Therefore, striving to achieve the political supremacy of Islam is not any religious obligation of a Muslim, let alone waging *jihād* to achieve this supremacy. The verses from which this obligation has been construed specifically relate to the Prophet Muhammad (sws).

Serving in the Army of a Non-Muslim Country

Question: I am serving in the British Armed Forces. Recently, I have become a practicing Muslim. My concern is about the

legality of my job from the Islamic point of view. Also, as a worst case scenario, I would like to know the duties Islam imposes on me in case Britain some day decides to attack a Muslim country. Would I be required to resign at that time? Conversely, if a Muslim country attacks Britain, what should I do?

Answer: In principle, you can serve in the army of any country whether Muslim or non-Muslim if you are freely able to practice your religion. Such a job is perfectly legal from the Islamic point of view.

In the extreme situation you have mentioned, the following points should help you in taking a decision:

1. If you are bound in a contract with your employer to perform certain duties in case of war, you must honour it to the best of your ability.

2. According to the Qur'ān, there is only one valid reason for a Muslim to wage *jihād* today under the command of some state: The objective of the whole campaign should be to curb oppression and injustice perpetrated by the enemy country. Injustice and oppression deserve to be uprooted whether they are perpetrated by Muslims or by non-Muslims. So if this is the case, you can participate in the war in whatever capacity you have been appointed.

3. If you think that Britain has some other objective in mind while attacking a country, then of course you are required by your religion not to take part in such a war – even if this implies that you have to suffer losses like penalties or even being dismissed from your job.

4. If a Muslim country attacks Britain, the parameter you have to analyze is identical. If it is undertaking this exercise because Britain is guilty of oppression and injustice, then you should not fight for Britain. If this is not the case and the warring Muslim country has some other objective to fulfil you can participate fully in defending the frontiers of Britain.

Suicide Bombers

Question: To what extent is suicide bombing allowed by Islam? Is not suicide, whatever the reason maybe, prohibited in Islam? Is killing people in market places including women, children and

old people through suicide permitted in Islam? If yes, then to what extent. We have recently seen such events in Kashmir and now very much in Palestine.

Answer: Individuals and groups who carry out this activity against innocent civilians, as seems to be the case in Kashmir and Palestine, are doing something which is totally prohibited. No individual or group has been given the right to take human life. Only a state has this authority. And a state too has this authority over the combatants of an enemy against which war has been openly declared. Clandestine suicidal attacks against a country with which a pact has been made amounts to a breach of law which is a severe crime in the eyes of Islam. Similarly, civilians and innocent citizens must be protected at all costs if a state has to undertake such an activity. Muslims who kill innocent civilians must know that they are violating the directives of Islam and committing a crime against humanity. The Qur'ān calls the killing of an individual in this manner as tantamount to killing the whole mankind:

(:)

He who killed a human being without the latter being guilty of killing another or being guilty of spreading disorder in the land should be looked upon as if he had killed all mankind. (5:32)

However, in very exceptional circumstances, a Muslim soldier during war may use suicide bombing against the enemy combatants to avoid some great disaster.

Weapons of Mass Destruction

Question: What does Islam say about nuclear and atomic warfare? I am asking this question because some Muslim countries have such weapons. Also can we keep such weapons as deterrents?

Answer: According to the war ethics that Islam upholds a Muslim state should wage war against the combatants among the enemy only. They have no right to target innocent civilians during a war. Consequently, weapons which cause mass destruction must never be used because they result in the death of civilians.

Keeping such weapons as deterrents should also be avoided because as part of wartime ethics, it should be a declared policy of Muslim states that come what may, they would never use weapons which kill civilians.

Is *Jihād* only for Self-Defence?

Question: There are some scholars who believe that all wars fought by the Prophet of Islam were defensive. Muhammad (sws) never carried out unprovoked attacks. Please comment.

Answer: There are indeed scholars who hold this view Sir Thomas Arnold is one prominent authority who holds this view. He writes:

There are no passages to be found in the Qur'ān that in any way enjoin forcible conversion, and many that on the contrary limit propagandist efforts to preaching and persuasion. It has further been maintained that no passage in the Qur'ān authorizes unprovoked attacks on unbelievers, and that, in accordance with such teaching, all the wars of Muhammad were defensive.¹¹

It seems that this view point has emerged because of a misunderstanding of certain verses of the Qur'ān. Following is a typical verse¹² that is quoted in support of this stance.¹³

11. Thomas Arnold, *The Preaching of Islam*, 4th ed., (Lahore: Ashraf Publications, 1979), p. 451.

12. Maulvi Chiragh Ali, *Jihad*, 1st ed., (Karachi: Karimsons), p. 17.

13. For a complete list of verses that are used by the advocates of this stance, see Maulvi Chiragh Ali, *Jihad*, 1st ed., (Karachi: Karimsons), pp. 225-7.

(:)

Fight in the way of Allah with those who fight against you and do not transgress bounds. (2:190)

The verse apparently says that Muslims should only fight their enemy when the enemy initiates the attack. However, if the context of the verse is kept in consideration, this seems to be an erroneous interpretation. The verse is not talking about war in general. It is talking about war in the vicinity of the Baytullāh and that too in the forbidden months. The succeeding verses read:

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But do not initiate war with them near the Baytullāh unless they attack you there. But if they attack you, put them to the sword [without any hesitation]. (2:192)

(:)

A sacred month for a sacred month; [similarly] other sacred things too are subject to retaliation. So if any one transgresses against you, you should also pay back in equal coins. Have fear of Allah and [keep in mind that] Allah is with those who remain within the bounds [stipulated by religion]. (2:194)

So, in other words, verses like 2:190 have a specific context and do not relate to *jihād* waged in general.

Moreover, the propounders of the view that *jihād* is only for self-defence must reflect on other verses of the Qur'ān which explicitly ask the Muslims to wage offensive war. Perhaps the most explicit of these verses are 4:75 and 9:29.

Is *Qitāl* a lesser *Jihād*?

Question: There is a persistent notion among many Muslims that fighting in the battlefield is something very inferior to fighting

against one's desires. While the former is termed as *jihād-i-asghar* (the lesser *jihād*), the latter is called the *jihād-i-akbar* (the greater *jihād*). Does this mean that we should be more anxious to take part in *jihād-i-akbar*?

Answer: It is generally understood that the terms *jihād-i-akbar* and *jihād-i-asghar* are supposedly attributed to the Prophet (sws). However, this attribution does not have a sound basis. The chain of narrators of this narrative is very weak. Authorities of *Ḥadīth* like Ibn Hajar, Ibn Taymiyyah and Al-Bānī have convincingly challenged the authenticity of this narrative¹⁴. So, one can safely conclude that there is no such thing as a greater *jihād* or a lesser one.

It needs to be appreciated that the word *jihād* is used in the Qur'ān to connote striving in the way of Allah. One particular form of such a struggle is that in which one might have to fight for Allah's cause. This is also termed as *qitāl*. In other words, striving in the way of Allah in whatever form one is able to in accordance with the needs that arise is what is required from a believer. Whether striving in His way in a particular form is more superior than some other one has not been indicated in any authentic source.

Jihād in the Bible

Question: What is the Biblical view on *jihād*. Did the Prophet Moses (sws) and the Prophet Jesus (sws) wage *jihād* in their times?

Answer: As far as the Bible is concerned, while the Old Testament contains explicit directives on *Jihād*, the New Testament is devoid of them. The reason is that while the Prophet Moses (sws) was bestowed with political authority by the Almighty, the Prophet Jesus (sws) was not.

14. For details see Ibn Hajar's *Takhrīj Al-Kashshāf* as annotation on Zamakhashrī's *Kashshāf*, 1st ed., vol. 3, (Dār Al-Turāth Al-'Arabī, 1997), pp. 174-5 / Ibn Taymiyyah, *Faṭāwā*, 2nd ed., vol. 11, (Riyāḍ: 1399 AH), p. 197 / Al-Bānī, *Silsilah Al-Aḥādīth Al-Ḍa'īfah wa Al-Mawḍū'ah*, 1st ed., vol. 5, (Riyāḍ: Maktabah Al-Ma'ārif, 1992), pp. 478-80.

However, since the Bible we have today has been tampered with and is not available in its pure and un-interpolated form, it is necessary to interpret the directives of *jihād* given in the Old Testament in the light of the Qur'ān. If interpreted thus, one finds a marked resemblance in these directives given by these two great scriptures.

We know from the Qur'ān that the Almighty punished certain nations in history because they were guilty of deliberately denying the truth¹⁵. One form of this punishment assumed the shape of waging *jihād* against them by their respective Messenger. This form of punishment was meted out by the Almighty in case of the Prophet Moses (sws). He waged *jihād* to punish people who were guilty of deliberately denying the truth. A study of the Old Testament shows that the *jihād* he waged was of two forms. One form of *jihād* was that nations who subscribed

15. While referring to this established practice of the Almighty, the Qur'ān says:

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Indeed those who are opposing Allah and His Messenger are bound to be humiliated. The Almighty has ordained: I and My Messengers shall always prevail. Indeed Allah is Mighty and Powerful. (58:20-1)

The Old Testament refers to this practice the following words:

If you ever forget the Lord your God and follow other gods and worship and bow down to them, I testify against you today that you will surely be destroyed. Like the nations the Lord destroyed before you, so you will be destroyed for not obeying the Lord your God. (Deuteronomy, 8:19-20)

The New Testament mentions this practice in the following words:

Now there were some present at that time who told Jesus about the Galileans whose blood Pilate had mixed with their sacrifices. Jesus answered: 'Do you think that these Galileans were worse sinners than all the other Galileans because they suffered this way? I tell you, no! But unless you repent, you too will all perish'. (Luke, 13:1-4)

to polytheism were to be put to death in all cases, while another form was that some nations were spared in case they agreed to remain subservient.

The following verses depict the first form of *Jihād*:

When the Lord your God brings you into the land you are entering to possess and drives out before you many nations – the Hittites, Girgashites, Amorites, Canaanites, Perizzites, Hivites and Jebusites, seven nations larger and stronger than you – and when the Lord your God has delivered them over to you and you have defeated them, then you must destroy them totally. Make no treaty with them, and show them no mercy. Do not give your daughters to their sons or take their daughters for your sons, for they will turn your sons away from following me to serve other gods, and the Lord's anger will burn against you and will quickly destroy you. This is what you are to do to them: Break down their altars, smash their sacred stones, cut down their Asherah poles and burn their idols in the fire. (Deuteronomy 7:1-5)

The following verses depict the second form of *jihād*:

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 God 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 plunder for yourselves. And you may use the plunder the Lord your God 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)

Quite similarly, we determine from the Qur'ān, on the basis of the *jihād* waged by the Prophet (sws), that while the polytheists were put to death, the monotheists among them (ie the People of the Book) were allowed to live if they submitted to Islamic rule. If the second form of *jihād* waged by Moses (rta) as stated in

(Deuteronomy, 7:1-5) is interpreted in the light of the Qur'ān, one can conclude that it must have been against those nations which basically subscribed to monotheism.

Consequently, the two books are very similar in this regard.

The comparison continues:

It is evident from the Qur'ān (2:143) that just as the Israelites after Moses (sws) were conferred the status of *shuhadā 'alā al-nās* (witnesses to the truth before other peoples), the Ishmaelites (nation of the Prophet Muhammad (sws)), were conferred this status. In the Old Testament, the areas of Canaan, on which the Israelites were to wage war after the Prophet Moses (sws) were Divinely demarcated:

The Lord said to Moses, 'Command the Israelites and say to them: When you enter Canaan, the land that will be allotted to you as an inheritance will have these boundaries: Your southern side will include some of the Desert of Zin along the border of Edom. On the east, your southern boundary will start from the end of the Salt Sea, cross south of Scorpion Pass, continue on to Zin and go south of Kadesh Barnea. Then it will go to Hazar Addar and over to Azmon, where it will turn, join the Wadi of Egypt and end at the Sea. Your western boundary will be the coast of the Great Sea. This will be your boundary on the west. For your northern boundary, run a line from the Great Sea to Mount Hor and from Mount Hor to Lebo Hamath. Then the boundary will go to Zedad, continue to Ziphron and end at Hazar Enan. This will be your boundary on the north. For your eastern boundary, run a line from Hazar Enan to Shepham. The boundary will go down from Shepham to Riblah on the east side of Ain and continue along the slopes east of the Sea of Kinnereth. Then the boundary will go down along the Jordan and end at the Salt Sea. This will be your land, with its boundaries on every side.' (Numbers, 34:1-12)

This area is almost the same as the one the Companions (rta) of Muhammad (sws) waged war in continuation of his mission and punished certain nations who were guilty of knowingly denying the truth. This area that came under this punishment was demarcated by the Prophet (sws) when he wrote letters to the

heads of state of certain territories in this area.

Spreading Islam by the Sword

Question: In the early period of Islam, we find that the Islamic rule was extended by the Companions (rta) of the Prophet (sws) to a large part of the world. They conquered Persia, Rome, Egypt and many other countries of their times. My question is that why did they impose Islam on these countries? Why were they not given the option of accepting Islam if they wanted to?

Answer: Indeed, it is generally held that the rise of Islam in the early period was due to a wave of 'Arab Imperialism' that shook the super powers of those times and forced them into submission. In an astounding series of conquests, country after country fell to the sword of Islam. It was not long before the Muslim empire stretched from the shores of the Mediterranean in the west to as far as Indonesia in the east.¹⁶

The fact that all these conquests took place is established history and hence cannot be denied in any way. However, the thesis that it was 'Arab Imperialism' that accounted for these conquests is something which cannot be condoned. While looking at the spread of Islam in the early period, one must resort to the basis which the *Qur'ān* itself offers for these conquests:

It has been explained by Ghāmiḍī¹⁷ that those who are Divinely invested with the status of *shuhadā* 'ala al-nās (witnesses to the truth before people) are 'used' and 'employed' by the Almighty to punish people who deny the truth in spite of being convinced about it. According to the *Qur'ān*, Muhammad (sws) and his nation were invested with this status.

Consequently, the conquest of the followers of the Prophet (sws) at that time were not basically aimed at spreading Islam as such. Their basic objective was to subjugate and punish people who had deliberately denied Muḥammad (sws). Moreover, Muḥammad (sws) himself initiated their task by writing letters to eight heads of state and thereby demarcated the areas where the Companions (rta)

16. For a detailed account of these conquests see: Bilādhuṛī, *Futūḥ Al-Bulḍān*, Qum, Manshūrāt Al-Arummiyyah, 1404 AH.

17. See the main article: The Islamic *Shari'ah* of *Jihād*

could go.

Summing up, it can be said that it is erroneous to conclude that Islam was spread by the sword. The whole exercise of the Companions (rta) was a continuation of the mission of Muḥammad (sws) and no independent endeavour. This mission is governed by a specific practice of the Almighty according to which He punishes people who deny the truth even though they are fully convinced about it.

Waging War against the Disbelievers

Question: The following *Ḥadīth* states that we should fight people (which I presume refers to disbelievers):

I have been directed to fight against these people until they testify to the oneness of God and to the prophethood of Muhammad, establish the prayer and pay *zakāh*. (*Muslim*, No:22)

So are we required to kill all disbelievers?

Answer: This inference is not correct. As explained by Ghāmidī, people who deliberately reject the Messengers of God are punished in this world for this denial. While the polytheists among them are put to death the monotheists among them are subjugated into a life of submission.

This *Ḥadīth* actually refers to the punishment that would be meted out to the polytheists of Arabia if they refuse to accept faith. In the usage of the Qur'ān these are called the *mushrikūn*. Consequently, another text of this *Ḥadīth* specifically mentions them by name:

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Anas Ibn Mālik reports from the Prophet: 'I have been

directed to fight against these Idolaters until they testify to the oneness of God and to the fact that Muhammad is his servant and messenger. If they testify to the oneness of God and to the fact that Muhammad is his servant and prophet, establish our prayer and face our Qiblah [while praying], and eat our slaughtered animals, their life and wealth we shall hold sacred except if they commit some violation. (*Nasā'ī*: No: 3966)

When does *Jihād* Become Obligatory for a Muslim?

Question: What are the circumstances that make *Jihād* obligatory on a Muslim citizen? What is the punishment for not taking part in *jihād* when it has become obligatory?

Answer: As far as an individual is concerned, *Jihād* becomes compulsory upon him if both the following conditions are fulfilled:

- i. The rulers give a call to each and every citizen of their country to participate in *Jihād*.¹⁸
- ii. The individual himself is convinced that his rulers are waging war on the only legitimate basis on which war can now be waged: to uproot injustice and oppression perpetrated by a country. If a person is convinced that his country has some other objective in mind, he can of course refuse their call.

Regarding the second part of your query:

A study of the Qur'ān shows that there is no worldly punishment for either a state or an individual if they do not undertake *jihād* when it becomes obligatory upon them. The reason for this is that the Qur'ān does not mention any such punishment. It seems that it is the Almighty Himself Who directly punishes such negligence in this world or in the Hereafter.

18. According to the Qur'ān (9:38-9), in the Prophet's times, such a call was given by the Islamic state to the each and every Muslim before the battle of Tabūk.