

# War and Peace in Islam

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## Introduction

Although the rules and principles pertaining to relations between Islamic and non-Islamic states date back to the early Madinan period, the Islamic classical doctrine of war and peace was developed by Muslim jurists (*fuqahā*) during the *Abbāsī* era. The tenets of the doctrine can be found either in general law corpora under headings such as *jihād*, peace treaties, *amān*, or in certain special studies such as *al Kharāj* (land tax), *al Siyar* (biography/history), etc. The work of the Muslim jurists consists mainly of rules and principles concerning the initiation and prosecution of war, rules and principles that have been predicated on a specific perception of the role and objectives of the Islamic state in respect to other states.

The purpose of this paper is twofold. On the one hand, the paper attempts to rebut the propositions of the classical doctrine of *jihād*, showing that these propositions were predicated on a set of legal rulings (*aḥkām sharīyyah*) pertaining to specific questions which arose under particular historical conditions, namely, the armed struggle between the Islamic state during the *Abbāsī* era, and the various European dynasties. The paper further attempts to demonstrate that classical jurists did not intend to develop a holistic theory with universal claims. The paper aspires, on the other hand, to introduce a more comprehensive perception of war and peace which takes into account the Qur'ānic and Prophetic statements in their totality. This new perception is then used to establish the fundamental objectives of war as well as the basic conditions of peace.

To address the forgoing concerns, two approaches have been used. One is legalistic, deductively based on the principles of Islamic jurisprudence (*uṣūl al fiqh*), comparable to that used by classical jurists. The other approach is historical, inductively concerned with examining the chronology of the

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armed *jihād* between the early Islamic state and the various political communities which it fought.

I will use, throughout this paper, the terms “war” or “fighting,” rather than *jihād*, which was exclusively used by classical jurists to indicate the use of armed forces; for though the Qur’an often uses the word *jihād* in reference to the act of war, it gives the term broader meaning. The term *jihād* was first introduced in the Makkan Qur’ānic—verses (29:6,69) and (25:52) — long before the Muslims were permitted to fight. In the Makkan period, the term *jihād* was used in reference to the peaceful struggle in the cause of Allah (SWT):

And those who make *jihād* in Our (cause), We will certainly guide them to Our paths . . . (29:69)

And whoever makes *jihād* he does so for his own soul . . . (29:6)

Therefore, listen not to the unbelievers, but make *jihād* against them with the utmost strenuousness, with (the Qur’an). (25:52)

These three verses direct the Muslims to patiently persevere in the face of Quraysh persecution and oppression, and to use propaganda and means of persuasion to reach out and expand the truth of Islam. It follows that fighting and using military tactics is only one of several avenues through which the duty of *jihād* can be discharged. The methodology of *jihād* includes, among other things, peaceful resistance and perseverance against oppression and tyranny, if the general conditions of the moment indicate that this approach is the most effective way to achieve the objectives of the Muslim community.

The classical doctrine of war and peace is founded on three essential propositions:<sup>1</sup>

1. The world is divided into two territories: *dār al Islam* (the territory of Islam), the area subject to Islamic law, and *dār al Harb* (the territory of war), the area not yet brought under Islamic rule. (al Shāfi’ī adds a third territory, *dār al ‘ahd* or the territory of covenant. His third category however is superfluous, for he stipulates that a non-Islamic state may enter into a peace treaty with the Islamic state only if it renders an annual tribute *jizyah*; this stipulation puts him therefore on the same footing with other classical writers).
2. The *dār al Islam* is under permanent *jihād* obligation until the *dār al Harb* is reduced to nonexistence. *Jihād* is, thus,

<sup>1</sup>Muhammad Talaat al Ghunaimi, *The Muslim conception of International Law and the Western Approach* (Netherlands: Martinus Nijhoff / The Hague, 1399/1978), p. 156; and Ibn Rushd, “Chapter on Jihād,” in *Bidāyah al Mujtahid wa Nihāyah al Muqtaṣid*; trans. Rudolph Peters in *Jihād in Mediaeval and Modern Islām* (Belgium: E. J. Brill, 1398/1977), p. 24.

the instrument of the Islamic state to propagandize Islam and expand the territory wherein Islamic law is enforced.

3. Peaceful coexistence between *dār al Islam* and *dār al Ḥarb* is possible only when the latter renders an annual tribute of *jizyah* (poll tax) to the former.

The classical doctrine of war and peace has persisted over the centuries with few minor and sporadic alterations. The tenets of this doctrine have been handed down unchallenged, despite several grave flaws in its development and despite its violation of some essential Islamic principles.<sup>2</sup> As will be argued later, this may, in part, be attributed to the political conditions existing at the time the doctrine was articulated and developed; conditions which prevailed throughout much of Muslim history.

According to the classical Muslim jurists, a permanent state of war exists between *dār al Islam* and *dār al Ḥarb*. War, however, is divided into two types. First, war of extermination against polytheists who have two options from which to choose: To either accept Islam or be extinguished. Second, war of reconciliation against the People of the Book who have three possibilities to face: To accept Islam and, thus, be left alone, to pay the *jizyah*, in which case they are entitled to retain their religion and enjoy Muslim protection, or to fight the Muslim army.<sup>3</sup> It is clear that war, according to the foregoing view, is the normal state of things, and that peaceful relations between the Islamic and non-Islamic states is contingent on the acceptance of Islam by the non-Islamic states or their payment of annual tributes to the Islamic state.

## War of Extermination

The classical position, in response to the principles of war and peace, has been primarily predicated on three Qur'ānic verses and on one *ḥadīth*:

And fight them on until there is no more *Fitnah* (tumult, oppression or persecution) and religion<sup>4</sup> should be only for Allah. (2:193)

But when the forbidden months are past, then fight and slay the polytheists wherever you find them, and seize them, beleaguer

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<sup>2</sup>The doctrine has been criticized by some contemporary Muslim writers, such as Muḥammad Abū Zahrah, Maḥmūd Shaltūt, and Muḥammad al Ghunaimī.

<sup>3</sup>Al Ghunaimī, pp. 138-39; and Ibn Rushd, pp. 24-25, and 61.

<sup>4</sup>Religion is the translation of the Arabic term *al dīn* which also connotes judgement, liability, compliance, and indebtedness.

them, and lie in wait for them in every stratagem (of war), but if they repent, and establish salah (regular prayer) and pay their due *Zakah*, then open the way to them, for Allah is Oft-forgiving, Most Merciful. (9:5)

Fight those who believe not in Allah nor the last day, nor forbid not what was forbidden by Allah and His Messenger, nor acknowledge the religion of Truth, (even if they are) of the People of the Book (earlier revelations, i.e., the Jews and the Christians) until they pay the *jizyah* with willing submission and feel subdued. (9:29)

I have been commanded to fight the people until they say: "There is no god but Allah." When they say that, then their lives and property are inviolable to me, except (in the case when) the (law of) Islam allows it (to take them). They will be answerable to Allah.<sup>5</sup>

The first verse, revealed in Madinah, has been construed by some Muslim jurists and commentators as obligating Muslims to fight non-Muslims until the latter embrace Islam in the case of the polytheists, or pay *jizyah*, in the case of the "People of the Book." In other words, the verse has been considered as a general rule (*ḥukm ām*)<sup>6</sup> which must be interpreted in association with the particular rules revealed in the verses (9:5) and (9:29). The verse has been interpreted, in practical terms, to mean that non-Muslims should be either forced to accept Islam or be dominated by the Islamic state. Yet the immediate and direct interpretation is that the Muslims should fight non-Muslims until the latter cease attacking or persecuting them.<sup>7</sup> The second interpretation is not only more plausible and coherent, but also the only possible explication (*ta'wīl*) of the verse when read in its context.

Fight in the cause of Allah those who fight you, but do not commit aggression, for Allah loves not aggressors. (2:190)

And slay them wherever ye catch them, and turn them out from where they have turned you out; for persecution is worse than slaughter . . . (2:191)

But if they cease, Allah is Oft-forgiving, Most Merciful. (2:192)

<sup>5</sup>Zakiyy al Dīn al Mundhirī, ed., *Mukhtaṣar Ṣaḥīḥ Muslim*, edited by Nāsir al Dīn al Albānī, 2nd ed. (Al Maktab al Islāmī wa Dār al 'Arabiyyah, 1392/1972), p. 8.

<sup>6</sup>Ibn Rushd, p. 24.

<sup>7</sup>Muḥammad ibn Jarīr al Ṭabarī, *Tafsīr al Ṭabarī* (Cairo: Dar al Ma'ārif, n.d.), vol. 3, pp. 572-74; and Fakhr al Dīn al Rāzī, *Al Tafsīr al Kabīr* (Cairo: 'Abd al Raḥīm Muḥammad, 1938), vol. 5, p. 145.

And fight them on until there is no *fitnah* and the religion is only for Allah, but if they cease, let there be no hostility except to those who practice oppression. (2:193)

The verses begin by commanding Muslims to fight those who initiate war against them, emphasizing that Muslims should never be the aggressive party. The term *ʿudwān*, translated here as “aggression,” is used in the Qur’an to indicate the instigation of hostility.<sup>8</sup> Some jurists claim that the verse, “fight in the cause of Allah who fight you . . .” is abrogated (*mansūkh*) by the verses of *Sūrah Barā’ah*, a claim rejected by other jurists and scholars, including Ibn ‘Abbās, ‘Umar ibn ‘Abd al ‘Azīz, Mujāhid, and others, who assert that it is firm (*muḥkam*).<sup>9</sup> Al Ṭabarī, who also holds that the verse is not abrogated, chooses the interpretation of ‘Umar ibn ‘Abd al ‘Azīz, who construed the verse to mean: “Do not fight those who do not fight you, meaning women, children, and monks.”<sup>10</sup> Although ‘Umar limits the application of this verse only to women, children, and monks, the verse itself provides a general rule which includes those who do not fight or show hostility against Muslims. As it will be argued later, the particularization (*takhṣīṣ*) made by ‘Umar, had not been induced by the statement<sup>11</sup> of the text (*ʿibārah al naṣṣ*), but rather by historical and practical considerations.

The next verse (2:191) posits the reason for which the Muslims had been instructed to declare war against the Pagan Arabs, i.e., to avenge the wrong inflicted by the latter who had fought the Muslims, driven them out of their homes, and persecuted them for professing Islam.

The final verse (2:193), prescribes the objective of war as the destruction of the oppressive forces which prevent people from choosing their belief and religion. It is clear from this verse that war should be carried out against the individuals and institutions that practice oppression and persecute people; not to force and coerce people into Islam. The same verse, therefore, instructs

<sup>8</sup>This meaning is demonstrable in verse (2:194): “. . . whoever then commits aggression against you, commit yet aggression against him accordingly . . .”

<sup>9</sup>Muhammad ibn Ahmad al Qurṭubī, *Jāmi’ Ahkām al Qur’ān* (Cairo: Maṭba’ah Dār al Kutub al Maṣriyyah, 1354/1935), vol. 2, p. 348.

<sup>10</sup>Ibid.

<sup>11</sup>According to Islamic jurisprudence, in the absence of other supportive evidence (*qarā’in*), the meaning rendered by the statement of the text (*ʿibārah al naṣṣ*) prevails over any other meaning extracted by indication (*ishārah*), implication (*dalālah*), or inference (*mugtaḍā*) of the text. The previous explication is therefore obscure and open to question, for it unjustifiably suppresses (*tu’atīl*) the direct meaning of the verse. See ‘Abd al Wahhāb Khallāf, *ʿIlm Usūl al Fiqh* (Al Dār al Kuwaytiyyah, 1388/1968), pp. 143-53; and ‘Abd al Mālik ibn ‘Abdullah al Juwaynī, *Al Burhān fi Uṣūl al Fiqh*, ed. ‘Abd al ‘Azīz al Dīb (Cairo: Dār al Ansār, A.H. 1400/1979), Vol. 1, p. 551.

the Muslims to terminate the fighting as soon as this goal has been achieved. In other words, the previous four verses prescribe fighting only against oppressors and tyrants who use force to prevent people from freely professing or practicing their religion.

Let us now examine the verses of *Sūrah Barā'ah*, which some Muslim jurists consider to be the final words of the Qur'ān concerning the principles governing the initiation of war vis-a-vis non-Muslims. Jurists are divided as to whether these verses abrogate other Qur'ānic verses that address the initiation of war. Those who claim that the verses abrogate other verses on the subject base their judgement on the grounds that these verses embody general rules which cancel any other preceding rules. The abrogation, thus, is not predicated on textual evidence (*naṣṣ*), but rather on reasoning and speculation. It follows that the question of abrogation is a matter of opinion and, as such, is subject to discussion and refutation. "If there exists a dispute among the Muslim scholars as to whether a specific rule is subject to abrogation," al Ṭabarī explains, "we cannot determine that the rule is abrogated unless evidence is presented."<sup>12</sup> Needless to say, al Ṭabarī means by evidence, a statement provided by the Qur'ān or the *Sunnah* in support of the claim of abrogation. Otherwise the evidence is but another scholar's opinion.

The verses of *Sūrah Barā'ah* explicitly declare that the Muslims are to fight the polytheists until they embrace Islam:

. . . slay the *mushrikīn* (polytheists) wherever you find them, and seize them, beleaguer them, and lie in wait for them in every stratagem (of war); but if they repent, and establish *Ṣalāh* and pay *Zakāh*, then open the way for them . . . (9:5)

The word *mushrikīn* (sing. *mushrik*) in this context indicates specifically the Pagan Arabs<sup>13</sup> as it can be inferred from the first verse which reads:

A declaration of disavowal from Allah and His Messenger to those of the *mushrikīn* with whom you contracted a Mutual alliance. (9:1)

The reason for this all-out war against the Pagan Arabs was their continuous fight and conspiracy against the Muslims to turn them out of

<sup>12</sup>Al Ṭabarī, *Tafsīr*, vol. 3, p. 285.

<sup>13</sup>Abū Ḥanīfah, al Shāfi'ī, and Mālik distinguish Arab Pagans from non-Arab polytheists, and consider that the verses of *Sūrah Barā'ah* are applicable only to the former. See 'Alī ibn Muhammad al Māwardī, *Al Aḥkām al Sultāniyyah* (Cairo: Dār al Fikr, 1404/1983), p. 124; Ibn Rushd, p. 24; and Muhammad ibn Idrīs al Shāfi'ī, *Al Risālah*, ed. Ahmad Shākir (n.p., A.H. 1309/1891), pp. 430-32.

Madīnah as they had been turned out of Makkah, and their infidelity to and disregard for the covenant they had made with the Muslims:

Will you not fight people who violated their oaths, plotted to expel the Messenger, and attacked you first . . . (9:13)

It could be said that what matters here is not the specific circumstances of the revelation, but the general implication of the text, as it is generally accepted in the principles of Islamic jurisprudence (*uṣūl al fiqh*). The response for this argument is that the particularity (*takhīṣ*) of the previous verse is determined not by the circumstance of its revelation, but by its intent (*ḥikmah al naṣṣ*) which is also generally acceptable for limiting the application of the text. "It should be noticed," 'Abd al Wahhāb Khallāf wrote,

that the intent of the text is to be distinguished from the circumstance of its revelation, for Muslim jurists are on consensus (*ijmā'*) that the intent of the text may be used for limiting its application, with no dissention by any of them, while the circumstance of its revelation is what they refer to when they say: "What matters is the general implication of the text, not the circumstance of its revelation."<sup>14</sup>

Therefore, the verses 1-14 of *Surah Bara'ah* can be applied only to Pagan Arabs who lived at the time of the Prophet (ṢAAS). The reason they had to be coerced into Islam was that they were hostile to Muslims and had disregarded their oaths and plotted against the Islamic state in Madīnah. This understanding is reinforced by the verse (9:4) exempting those who were faithful to their treaties with the Muslims:

(But the treaties are) not dissolved with those Pagans with whom you have entered into covenant and who have not subsequently failed you in aught; nor aided any one against you. So fulfill your engagements with them to the end of their term: For Allah loves the righteous. (9:4)

The previous argument can be also applied to the *ḥadīth*: "I have been commanded to fight people until they declare that there is no god but Allah." The word "people" here implies the Pagan Arabs only. For if the word is interpreted to be all-inclusive, the rule embodied in this *ḥadīth* should be also applied to the Byzantine Christians and the Persian Zoroastrians (*majūs*).

<sup>14</sup>Khallāf, p. 191.

But since this is not the case, the word “people” has an exclusive meaning and implicates only the Pagan Arabs. This explication is supported by another *ḥadīth* reported by ‘Abdullah ibn ‘Umar ibn al Khattāb, who narrated that the Prophet (ṢAAS) said:

I have been commanded to fight people until they declare that there is no god but Allah and that Muhammad is the Messenger of Allah, establish the *Salāh* (prayers), and pay the *zakāh*. If they did that, their lives and property are inviolable to me, except (in case when) the (law of) Islam allows it (to take them). They will be answerable to Allah.<sup>15</sup>

Clearly the word “people” here implies only the Pagan Arabs who, according to *Sūrah Barā’ah* are to be forced to accept Islam. For obviously the word cannot be considered to include all people, since that contradicts the Qur’anic directions, as well as the practice of the Prophet (ṢAAS), which permit the “People of the Book” to maintain their religion. Regarding the word “people” to be all-inclusive will, therefore, violate the provisions that have been given to the “People of the Book” by the Qur’an and *Sunnah*.

AbuḤanīfah and his pupil AbūYūsuf contend that only Pagan Arabs are to be coerced into Islam. In his book *Al-Kharāj*, AbūYūsuf relates that al Hasan ibn Muhammad said: “The Prophet (ṢAAS) consummated a peace treaty with the Zoroastrians of al Hajar on the terms that they pay *jizyah*, but did not permit (Muslims) to take their women in marriage or to eat their slaughtered animals.”<sup>16</sup> He also stated that *jizyah* may be collected from all polytheists, such as Zoroastrians (*Majūs*), Pagans, Fire and Stone Worshipers, Sabians (*Sabi’īyīn*), but not from apostates or Pagan Arabs, for the latter group are to be coerced into Islam.<sup>17</sup> Al Shāfi’ī and Mālik also contend that *jizyah* can be taken from polytheists.<sup>18</sup>

## War of Reconciliation

We have seen in the foregoing discussion that the war of extermination in which people are to be coerced into Islam did have a particular ruling (*ḥukm khāss*) limited to the Pagan Arabs, for their hostility and infidelity. Most leading jurists, including Abu-Ḥanīfah and his two renowned students AbūYūsuf and Muhammad ibn al Ḥasan, as well as al Shāfi’ī and Mālik,

<sup>15</sup>Al Mundhirī, p. 9.

<sup>16</sup>AbūYūsuf, *Kitāb al Kharāj* (Cairo: al Tibāḥ al Muniriyyah, 1397 AH/1976 AC), p. 9.

<sup>17</sup>Ibid., p. 139.

<sup>18</sup>Ibn Rushd, pp. 23-24.



advocate only the war of reconciliation, in which the “People of the Book” and non-Arab polytheists can enter into peaceful treaties with Muslims, provided they pay an annual tribute of *jizyah* to the Islamic state. The war of reconciliation is therefore considered by these jurists as a general rule applicable to all non-Muslims. Muslim jurists, thus, divide the world into two territories, *dār al Islam* and *dār al Ḥarb*, and declare that a permanent state of war exists between the two until *dār al Ḥarb* is annexed to *dār al Islam*. This understanding is founded on verse 29 of *Sūrah Barā’ah*.

Fight those who believe not in Allah nor the last day, nor forbid not what was forbidden by Allah and His Messenger, nor acknowledge the religion of Truth, (even if they are) of the “People of the Book,” until they pay the *jizyah* with willing submission and feel themselves subdued. (9:29)

The first outstanding remark about the verse is that it is not all-inclusive, and, thus, does not render a general rule. The verse posits four criteria for those who are to be fought among the “People of the Book”: Those who do not believe in Allah, do not believe in the last day, do not uphold that which is forbidden by Allah and his Messenger, and do not acknowledge the religion of truth. The verse, obviously, has not been phrased in a way that would implicate the “People of the Book” as a whole<sup>19</sup>, but in a way that sets aside a particular group of the “People of the Book.”

The general rule (*al ḥukm al ‘ām*) was derived by the Muslim jurists by *explication de texte* (*ta’wīl al naṣṣ*). Al Māwardī, for example, implicates the “People of the Book” by arguing:

As to the saying of Allah the Almighty (SWT) “those who believe not in Allah,” (the statement is inclusive of the “People of the Book”) because, though acknowledging the Oneness of Allah, their belief (in Allah) could be refuted by one of two explications: First, (by saying that) they do not believe in the Book of Allah, which is the Qur’ān. Second, (by saying that they do not believe in the prophethood of Muḥammad (ṢAAS), for acknowledging the

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<sup>19</sup>Such as: fight the “People of the Book” until they pay *jizyah* . . . , or any other statement which is phrased in a way that would include the “People of the Book” as a whole; i.e., the structure of the sentence would be “fight those who . . .” or “fight the “People of the Book” who . . .” rather than “fight those who . . . of the “People of the Book” . . .” For the article *min* which has been translated as “of” is usually employed, according to the usage of Arabic, for particularization and separating one group of things or people from another; see al-Juwaynī, Vol. 1, p. 191.

Prophets is part of the belief in Allah who commissioned them.<sup>20</sup>

It is clear that al Māwardī's reasoning stems from neither the letter of the text, nor from its spirit. Rather, the argument presented by al Māwardī's, as well as other classical jurists, has been influenced by the factual circumstances and practical conditions, a question discussed in some length below.

From the foregoing discussion we can conclude that the phraseology of the verse (9:29) provides a particular rule (*ḥukm khaṣṣ*); i.e., war in this verse is prescribed against a particular group of the "People of the Book" because of the four criteria cited above. We can also conclude that the extension of the application of these criteria to the "People of the Book" as a whole is not based on textual evidence (*naṣṣ*), but on reasoning and argumentations; and that the interpretation provided by classical jurists is debatable. Nevertheless, I will not attempt here to reinterpret the verse in consideration, nor will I go into a lengthy discussion as to whether the four criteria may implicate the "People of the Book" in general, because it will be shown later that the Prophet (ṢAAS), as well as the first generations of Muslims, did not extend these criteria to the "People of the Book" as a whole. Instead, I will elaborate on the condition which obligates the Muslims to terminate their offensive against the "People of the Book": "Until they pay *jizyah* with willing submission and feel themselves subdued."

*Jizyah* has not been levied on the "People of the Book" for the purpose of increasing the income of the Muslim state or promoting the wealth of the Muslim community. Nor is it levied to place financial burden on non-Muslim individuals and force them to accept Islam; for the amount of *jizyah* is very minimal and levied only on financially capable males, while exempting women, children, monks, or poor non-Muslims.<sup>21</sup> Rather, *jizyah* has a symbolic bearing only, and aims to subdue hostile states or oppressive regimes so as to assure Muslim individuals that they can propagate Islam in that community, and to assure non-Muslims that they can profess Islam without being persecuted or harassed. "The purpose of *jizyah*," al Sarkhaṣī proclaims,

is not the money, but rather the invitation for Islam in the best manner. Because by establishing a peace treaty (with non-Muslims) war ceases, and security is assured for the peaceful (non-Muslim), who, consequently, has the opportunity to live among the Muslims, experience first-hand the beauty of Islam, or receives admonition,

<sup>20</sup>Al Māwardī, p. 124.

<sup>21</sup>Ibid., pp. 125-26.

which could lead him to embrace Islam.<sup>22</sup>

In other words, *jizyah* is intended to assure freedom of expression for Muslims to propogate Islam in non-Muslim territories and freedom of belief to those who may choose to embrace Islam.

Because *jizyah* was aimed at turning hostile territories into friendly ones, the Muslims did not collect *jizyah* from those who expressed a friendly attitude toward them, or entered a mutual alliance with them, pledging thereby their military support. Al Ṭabarī, for example, reported in his treatise on history that Suayd ibn Muqrin entered into an agreement with a non-Muslim community which read in part: "Whoever of you provides services to us will get his reward rather than paying *jizyah*, and you are secured in your lives, property, and religion, and no one can change the provisions of this agreement."<sup>23</sup> Surāqah ibn 'Amr, likewise, signed a treaty with the Armenians in 22 AH/642 AC, in which the latter were exempted from paying *jizyah* for supporting the Muslims militarily.<sup>24</sup> Ḥabīb ibn Muslimah al Fahrī, the deputy of Abu'Ubaydah, also signed a treaty with the Antakians in which the latter were exempted from *jizyah* in return for services and help rendered to the Muslims.<sup>25</sup> It was also reported in *Futūḥ al Buldān* that,

Mu'āwiyah ibn Abī Sufyān signed a treaty with the Armenians in which the institution of religion, the political order, and the judicial system of the latter were left in tact, and the Armenians were further released from *jizyah* duties for three years; after that they could either pay an amount of *jizyah* as they may choose, or, if they did not wish to pay *jizyah*, prepare fifteen thousand warriors to help the Muslims and to protect the Armenian land. Mu'āwiyah pledged to provide logistical support, should they be attacked by the Byzantines.<sup>26</sup>

It is clear from the foregoing examples that the early Muslims regarded *jizyah* as a measure for neutralizing hostile political communities and opening their territories to Muslims, and not a measure for dominating them or placing financial burdens on them. The previous perception of the real intent of *jizyah* is demonstratable, in a yet clearer fashion, in the friendly relations between

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<sup>22</sup>Kāmil Salāmah al Duqs, *Al 'Ilāqāt al Dawliyyah fī al Islām* (Jeddah: Dār al Shuruq, 1396/1976), p. 302.

<sup>23</sup>Ibid., p. 302.

<sup>24</sup>Ibid. citing *Tārīkh al Ṭabarī*, vol. 3, p. 236.

<sup>25</sup>Al Daqs, p. 303, citing *Futūḥ al Buldān*, p. 166.

<sup>26</sup>Al Daqs, p. 308.

the Islamic state and Ethiopia during the early Islamic epochs.

## Peaceful Coexistence: Abyssinia and Islam

The relationship between Abyssinia and the early Islamic state is an excellent case study for rebutting the classical conception of the two territories (*dār al Islam* and *dār al ḥarb*) which calls for a permanent war against non-Muslim political communities until they accept Islam or pay *jizyah*. Mālik ibn Anas, the founder of the *Mālikī* school of law, advised that the Muslims should not conquer Abyssinia predicating his opinion on a *ḥadīth* of the Prophet Muhammad (ṢAAS): "Leave the Abyssinians in peace so long as they leave you in peace." He acknowledged that he was not sure of the authenticity of the statement, but said: "People still avoid attacking them."<sup>27</sup>

Abyssinia had maintained its Christian identity long after Islam was established in Arabia and North Africa. Few Muslim families could be found in the fourth *Hijri* century.<sup>28</sup> From the beginning Abyssinians showed their good will to the early Muslims who, escaping the persecution of Quraysh, had sought refuge in Abyssinia. The Muslim emigres were welcomed by the Abyssinians and were further protected from their persecutors who sent a delegation to bring the Muslim escapees back home. Good relations between Abyssinia and the Islamic state continued, the former being the only nation to acknowledge Islam at that time.<sup>29</sup>

The peaceful relationship between Abyssinia and the Islamic state is very significant for rebutting the concept of the two territorial division of the world, and its corollary conception of a permanent state of war which does not permit the recognition of any non-Muslim state as a sovereign entity and insists that the latter should always pay a tribute to the Islamic state. For although Abyssinia had never been a Muslim nation, it was recognized by the early Islamic state as an independent state that could be let alone without imposing any kind of tax on it or forcing it into the orbit of the Islamic state. Obviously, Abyssinia could not be considered a part of the territory of Islam

<sup>27</sup>Ibn Rushd, p. 11; Majīd Khadduri, *War and Peace in the Law of Islam* (N.Y.: AMS Press, 1400 AH/1979 AC), p. 256; and Faṭḥī al Ghayth, *Al Islām wal Ḥabashah Abra al Tārīkh* (Cairo: Maktabah al Nahdah al Maṣriyyah, n.d.), p. 57, citing *Al Sirah al Ḥalabiyah*; vol. 3, p. 294.

<sup>28</sup>T. W. Arnold, *The Preaching of Islam* (London: Constable and Company, 1332 AH/1913 AC), p. 113.

<sup>29</sup>Ibid., pp. 113-4; Muhammad Haykal, *The Life of Muhammad*, trans. Ismā'īl al Fārūqī (North American Trust Publications, 1397 AH/1976 AC), pp. 97-101; and Ibn Hishām, *Sīrat Ibn Hishām*, in *Mukhtaṣar Sīrah ibn Hishām*, ed. 'Abdal Sālām Hārūn (Beirut: al Majma' al 'Ilmī al 'Arabī al Islāmī, n.d.), pp. 81-87.

(*dār al Islam*), for Islamic rule had never been exacted therein<sup>30</sup>; nor would it be considered a part of the territory of war (*dār al Ḥarb*), since there had been no attempt to force it into the pale of Islam or to declare a permanent war against it. The only satisfactory explanation of the peculiar position of Abyssinia is that the doctrine of the two territories was founded on a fragile basis.

Some Muslim sources claim that al Najāshī, the king of Abyssinia during the time of the Prophet (ṢAAS), had embraced Islam after receiving the invitation of the Prophet (ṢAAS). Ibn al Athīr, for instance, wrote in this regard: "When al Najāshī received the letter of the Prophet (ṢAAS), he believed in him, following his (instructions), and embraced Islam in the presence of Ja'far ibn Abu-Ṭālib, then sent sixty Abyssinians to the Prophet (ṢAAS) headed by his son; the group had drowned however while sailing (to al Madīnan)."<sup>31</sup> The story about al Najāshī's accepting Islam did not affect the status of Abyssinia as a territory in which Islam did not rule, and, consequently, should be considered, according to the definition of classical writers, a territory of war.

## Islam and Peace

From its inception, the Qur'ān emphasized peace as an intrinsic Islamic value. In fact, the terms "Islam" and "peace" have the same root, *salaam*. Furthermore, Allah (SWT) has chosen the word peace (*salaam*) as the Muslim's greeting. Reviewing the early Muslim era and reflecting on the experience of the early Muslim generations, one can clearly see that peace was always

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<sup>30</sup>The classical definition of *dār al Islam*, which was formulated by early Muslim jurists, is the territories in which the Islamic law is enforced. See al Daqs, pp. 126-28, Khadduri, *War and Peace*, p. 62; and al Ghunaimī pp. 155-8. Some jurists, such as al Shawkānī, expand the definition of the territory of Islam to include any area where Muslims can safely reside "even if the territory is not under Muslim rule," quoted in al Ghunaimī, pp. 157-58.

<sup>31</sup>Ibn al Athīr, *Al Kāmil fī al Tārīkh* (Cairo: al Ṭibā'ah al Muniriyyah, 1349 AH/1930 AC), vol. 2, p. 145.

<sup>32</sup>Zāhir Riyād, *Al Islām fī Ethyūbiyā*. (Cairo: Dār al Ma'rifah, 1384 AH/1964 AC), p. 46

<sup>33</sup>The letter reads: In the name of Allah, the Merciful, the Compassionate. To Muhammad, the Apostle of Allah, peace be on you. May Allah shelter thee under His compassion, and give thee blessings in abundance. There is no god but Allah, who has brought me to Islam. Thy letter I have read. What thou hast said about Jesus is the right belief, for he hath said nothing more than that. I testify my belief in the King of heaven and of earth. Thine advice I have pondered over deeply . . . I Testify that thou art the Apostle of Allah, and I have sworn this in the presence of Ja'far, and have acknowledged Islam before him. I attach myself to the worship of the Lord of the worlds, O Prophet. I send my son as my envoy to the holiness of thy mission. I testify thy words are true. (Quoted in Khadduri, *War and Peace*, pp. 205-206).

the original position of Muslims, and that war was either a punitive measure to annihilate tyranny and oppression, or a defensive measure to stop aggression.

From the very beginning, Prophet Muhammad (ṢAAS) was instructed to use a friendly and polite approach to call people to Islam.

Invite to the way of your Lord with wisdom and beautiful preaching;  
and argue with them in ways that are best and most gracious.  
(16:125)

Despite the violent opposition of the Quraysh, the Prophet (ṢAAS) proceeded to summon people peacefully to Islam, and the Muslims were further commanded, for prudential reasons, not to respond to the violence of the Quraysh. As it will be discussed in more detail below, Muslim pacifism during the Makkan period was a political tool to influence change and to protect Muslims from mass destruction.

After the immigration to Madīnah, the Muslims were permitted to fight against those who declared war against them.

To those against whom war is made, permission is given (to fight), because they are wronged; and verily, Allah is most Powerful for their aid; (they are) those who have been expelled from their homes in defiance of right, for no cause except that they say, "our Lord is Allah." (22:45-46)

As a result, the Muslims fought a series of battles against the Quraysh, including the Battles of Badr and Uḥud. The war against the Islamic city-state of Madinah was further escalated when other Arab tribes joined with the Quraysh in the war against the infant Islamic state in an attempt to destroy it. The campaign to eliminate Muslims reached its climax in the Battle of *al Khandaq* (The Trench) when ten thousand fighters of the Quraysh and their allies surrounded Madīnah.<sup>34</sup> The Muslims, nonetheless, made several attempts to neutralize their foes by signing a peace treaty with the Quraysh and their allies at al Hdaybiyah.<sup>35</sup> Unfortunately, the Arab tribesmen of Quraysh and its allies, who had thrived historically on war and developed, consequently, a warlike culture, did not respect the treaty and violated its provisions. It became, thus, quite clear that the only way to neutralize these people was by annulling the cultural basis of their hostility and infidelity, which could be only done by coercing them into Islam.

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<sup>34</sup>Ibn Hishām, pp. 214-15; and Haykal, pp. 300-302.

<sup>35</sup>Ibn Hishām, pp. 256-60; and Haykal, pp. 346-54.

The original position of Muslims concerning the Jews of Madīnah was also based on the principle of peaceful coexistence. A few months after the Prophet (ṢAAS) arrived in Madīnah, he concluded a covenant of friendship, alliance, and cooperation between the Muhājirūn and the Ansār on one side and the Jews on the other.<sup>36</sup> The covenant not only recognized the freedom of religion of the Jews and assured their security, but also provided them with complete autonomy, bound with certain duties and obligations, mutually applicable on both Jews and Muslims, as the following excerpt of the document reads:

. . . As the Jews fight on the side of the Muslims, they shall spend of their wealth on equal par with the Muslims. The Jews have their religion and the Muslims theirs. Both enjoy the security of their own populace and clients except the unjust and the criminal among them. The unjust or the criminal destroys only himself and his family.<sup>37</sup>

The friendly relationship between the Jews of Madīnah and the Muslims continued until ‘Abdullah ibn Salām, a rabbi and a prominent Jewish leader, embraced Islam. This incident, evidently, sparked grave panic among Jewish leaders, who became apprehensive about the Muslim presence in Madīnah and feared that Islam would penetrate their ranks. It was at this stage that Jews began their campaign against Muslims; first through a war of words, aimed at refuting the Qur’ānic teaching and inducing a state of suspicion about the Prophet (ṢAAS) and his message, and later through conspiring with the enemies of Islam.<sup>38</sup>

The first confrontation between Jews and Muslims took place after the Battle of Badr when some Jews of *Banū Qaynuqā’* violated the right of a Muslim woman by forcefully exposing her nakedness. This incident developed into fighting between a Muslim passerby and the Jewish assailants in which a Jew and the passerby were killed. Consequently, general fighting between the clan of the murdered Muslim and *Banū Qaynuqā’* erupted. When the Prophet (ṢAAS) was informed of the confrontation, he sent word to *Banū Qaynuqā’*; asking them to stop the attacks and keep the covenant of mutual peace and security. *Banū Qaynuqā’* responded by ridiculing the Prophet’s request, leaving the Muslims no option but to fight.<sup>39</sup>

Likewise, the campaign against *Banū al Naḍīr* was triggered by their

<sup>36</sup>Ibn Hishām, p. 140; and Haykal, p. 180.

<sup>37</sup>Ibn Hishām, p. 142; and Haykal, p. 181.

<sup>38</sup>Haykal, pp. 191-93.

<sup>39</sup>Ibid., pp. 244-45; and Ibn Hishām, p. 175.

infidelity and misconduct, when they openly violated the provisions of their covenant with the Muslims by sending three of their leaders, Huyayy ibn Akhtab, Salām ibn Abū al Huqayq, and Kinānah ibn al Huqyaq, together with two leaders of the tribe of *Banū Wā'il*, to Makkah in order to instigate the Quraysh and their allies to attack the Muslims in Madīnah, and to pledge their support. Indeed, the Jewish delegation was able to mobilize the Pagan Arabs against the Muslims, and their counsel led to the campaign of *al Khandaq*, invoking the most horrible experience the Muslims had ever had in their struggle against the Quraysh and its allies.<sup>40</sup> In like manner, the fighting between the Islamic state and both Byzantium and Persia was commenced not because the Muslims wanted to extend the dominion of the Islamic state, or *dār al Islam*, using the classical terminology, but rather because both the Byzantines and the Persians either assailed Muslim individuals and caravans or prevented the peaceful spread of the Islamic message.

The campaign of *Dawmah al Jandal*, the first campaign against the northern Christian tribes which were Byzantine protectorates, was a punitive expedition to avenge the attacks on the Muslim caravans to *al Shām* (Syria) by some of these tribes, such as *Qaḍā'ah* and *Banū Kalb*.<sup>41</sup> Likewise, the campaign of *Mu'tah* was also a punitive expedition to avenge several grave violations against the Muslim messengers and missionaries whom Muhammad (ṢAAS) had sent north to call people to Islam and introduce the new faith to the northern regions. For example, the Prophet (ṢAAS) sent al Ḥārith ibn 'Umayr to the governor of Busrah. Upon reaching Mu'tah, al Ḥārith met with Sharhabīl Amir ibn al Ghassanī, who asked him"! "Are you a messenger of Muhammad? Al Ḥārith answered: Yes. Then Sharhabīl ordered his men to kill him, and he was executed."<sup>42</sup> The Prophet (ṢAAS) also sent "five men to Banū Sulaymān for the sole purpose of teaching them Islam, and he endured their cold-blooded murder by their hosts. Only their leader managed to escape, and he did so purely accidentally. He also sent fifteen men to Dhāt al Ṭalḥ on the outskirts of *al Shām* in order to call its people to Islam. Therefore, too, the messengers of Muhammad and the missionaries of faith were put to death in cold-blood."<sup>43</sup> It was also reported that the northern Christian tribes killed those among them who had professed Islam<sup>44</sup>, leaving the Muslims therefore no choice but to fight them for their aggression and tyranny. These incidents, and others, triggered the campaigns of Mu'tah and al Hdaybiah, and led eventually to the conquest of *al Shām* and *al 'Irāq*.

<sup>40</sup>Haykal, pp. 300-301; and Ibn Hishām, p. 214.

<sup>41</sup>Haykal, p. 284; and al-Daqs, p. 287.

<sup>42</sup>Al Daqs, p. 287.

<sup>43</sup>Haykal, p. 387.

<sup>44</sup>Al Duqs, pp. 287-88, citing Ibn Taymiyah "Risālah al Qitāl" *Majmū'ah al Rasā'il al Najdiyyah*, pp. 126-8.



Evidently, the doctrine of the two territorial divisions of the world, and its corollary concept of the permanent state of war, was influenced by the factual conditions that existed during the period when this conception was conceived, namely the hostile relations between the *ʿAbbāsī* caliphate and Byzantine empire. The jurists who devised the classical doctrine had, obviously, overlooked not only the peaceful coexistence between the early Islamic state and Abyssinia, but also the earlier hostility of Byzantium and its allies against the emerging Islamic state.<sup>45</sup> Muhammad Abū Zahrah wrote protesting the classical doctrine:

We object to including this division (i.e., *dār al Islam* and *dār al Ḥarb*) in the Muslim legal theory as one of its principles. As a matter of fact, this division under the *ʿAbbāsīs* corresponded to the factual relations between the Islamic state and non-Islamic state. Classical writers only intended to give a legal justification to that situation.<sup>46</sup>

## Respecting Individual Freedom of Belief

We concluded in the foregoing discussion that, contrary to the claims of the classical doctrine of the territorial division of the world, war is not the instrument of the Islamic state to propogate Islam and extend its territory. We turn now to examine a question that closely relates to the previous argumentation: Does Islam recognize individual freedom of conscience—i.e., are people free to accept or reject Islam? And if the answer is yes, how can we explain the fact that the Muslims fought the apostates (*al Murtaddun*) during the administration of AbūBakr?

The answer to the first question is an emphatic yes. The principle of the freedom of belief has been unequivocally established in two Qurʿanic verses:

If it had been your Lord's will, all those who are on earth would have believed; will you then compel mankind, against their will, to believe. (19:99)

Let there be no compulsion in religion: Truth stands out clear from error. (2:256)

The first verse was revealed in Makkah before *Hijrah*, while the second was

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<sup>45</sup>Al Daqs, pp. 129-128.

<sup>46</sup>Muhammad Abu Zahrah, *Al Ilāqāt al Dawliyah fi al Islām* (Cairo: 1384 AH/1964 AC), p. 51, quoted in al Ghunaimī, p. 202

revealed in Madīnah after *Hijrah*. As al Qurṭubī mentioned in his Qur'ānic commentary, *Al Jāmi' Li Aḥkām al Qur'ān*, some commentators claim that the second verse has been abrogated by the verses of *Sūrah Barālah* which permitted the Muslims to fight the "People of the Book", while others ascertain that it has not been abrogated. Al Qurṭubī quotes Abū Ja'far's interpretation of this verse: "The meaning of 'let there be no compulsion in religion' is that no one is to be forced to accept Islam. The *al* has been added to the world *dīn* so that their combination *al dīn* would indicate Islam."<sup>47</sup>

Nor can this principle be abrogated by the *ḥadīth*: "I have been commanded to fight people until they say: 'There is no god but Allah.'" For as it was indicated above, the *ḥadīth* embodies a particular rule (*ḥukm khāss*) which is applicable only to the Pagan Arabs. Even if we were to hypothetically treat the *ḥadīth* as a general rule, it could not be used to abrogate a Qur'ānic verse. For while the previous *ḥadīth* is an exclusively narrated *ḥadīth* (*ḥadīth āḥād*) and therefore uncertain (*ẓannī al dalālah*), the verse, like all other Qur'ānic verses, is extensively narrated (*mutawātir*) and, therefore, certain (*qat'i al dalālah*).<sup>48</sup>

The claim of abrogation is clearly flawed; for both verses embody firm rule (*muhkam*).<sup>49</sup> The first verse points out in unequivocal fashion that it had not been the will of Allah (SWT) that mankind should be forced to believe; and the second verse provides more explanation as to why people should not be compelled to accept Islam by indicating that "Truth stands out clear from error." Because the will of Allah (SWT) is not subject to change, and because truth stands always clear from error, the two verses are not, therefore, subject to abrogation.<sup>50</sup>

But if the general rule is that no one is to be forced to accept Islam, how should Muslims deal with the questions of apostasy (*riddah*)? The classical position concerning the apostates is that they should be killed. This position is predicated primarily on two pieces of evidence: The *jihad* of Muslims,

<sup>47</sup>Al Qurṭubī, vol. 5, pp. 407-12.

<sup>48</sup>When incongruence exists between a certain (*qat'i*) and uncertain (*ẓannī*) rule, the certain prevails. Many leading jurists, such as Al Shāfi'i and Ibn Taymiyah, contend that a Qur'ānic verse can only be abrogated by another Qur'ānic verse. See Al Shāfi'i, pp. 106-107; and Sālah ibn 'Abd al 'Aziz al Mansūr, *Usūl al Fiqh wa Ibn Taymiyyah*, (n.p., 1400 AH/1980 AC), vol. 1, p. 227, and vol. 2, p. 533.

<sup>49</sup>The firm rule (*muhkam*) is defined by Muslim jurists as a statement whose meaning is clear and unequivocal so that it cannot be considered as a subject of *explication de texte* (*Ta'wīl*), see Kallāf, p. 168.

<sup>50</sup>According to Islamic jurisprudence, a firm rule (*Muhkam*) is not subject of abrogation; see Kallāf, p. 168. Al Ghazzālī contends that only the verses that render legal or practical rules pertinent to Islamic law (*ḥukm shar'i*) are subject to abrogation, while verses which provide general facts (*ḥukm 'aqli*) are not. See Abū Hāmid al Ghazzālī, *Al Mustasfa fi Ilm al Uṣul* (Cairo: al Maṭba'ah al Amiriyyah 1322 AH/1804 AC)

under the leadership of AbūBakr, against the Arab apostates, and the *Ḥadīth*: “The blood of a Muslim may not be legally split other than in three instances: the married person who commits adultery; a life for a life; and one who forsakes his religion and abandons the community (*jamā’ah*).”<sup>51</sup>

We should distinguish, when dealing with the question of apostasy, between two different cases. First, when a collectivity of people revolt against Muslim authority and refuse to obey the law of Islam, as was the case of the apostates (*murtaddūn*) who refused to pay *zakāh* to AbūBakr and mobilized their forces to prevent him from collecting it. These apostates are to be fought, not because of their rejection of Islam, but because of their rebellion against and disobedience of the Islamic law. The war against them can, thus, be considered as a law-enforcement war. Second, when an individual refuses to fulfill one of his public obligations, such as a person who refuses to pay *zakāh* to the Muslim authority, he is to be compelled to pay it, according to the opinion of the majority of the Muslim jurists – not to be fought or killed. Only when he violently resists the Muslim authorities, and uses force of arms to prevent them from discharging their duties and exacting the law, can he be fought against.<sup>52</sup> The above cited *ḥadīth* vividly states that the individual apostate could be killed not merely because of his rejection of Islam, but because of his rebellion and revolt against the Muslim community. In other words, a quiet desertion of personal Islamic duties is not a sufficient reason for inflicting death on a person. Only when the individual’s desertion of Islam is used as a political tool for instigating a state of disorder, or revolting against the law of Islam, can the individual apostate then be put to death as a just punishment for his act of treason and betrayal of the Muslim community.

The war against the apostates is carried out not to force them to accept Islam, but to enforce the Islamic law and maintain order. Therefore, the individual apostasy which takes place quietly and without causing any public disorder should not be of concern to the Islamic authority. Only when the individual openly renounces Islam and violates Islamic law, should he be punished for breaking the law and challenging the norms and beliefs of the Muslim community; and only when a group of people revolt against the Muslim authority, and refuse to implement the Islamic law in the area it controls – by failing, for instance, to establish public prayers, or by abolishing the institution of *zakāh* – can the Islamic authority declare war against them. It follows that if a group of Muslims oppose certain views widely accepted by the general public or protest certain decisions made by the public authority, they are not to be fought as long as they do not violate the Islamic law or pose a

<sup>51</sup>Yahya ibn Sharaf al Dīn al Nawaī, *Forty Hadith*, trans. Ezzeddin Ibrahim and Denys Johnson (Beirut: Dār al Qur’ān al Karīm, 1386 AH/1976 AC), p. 59.

<sup>52</sup>Al-Māwardī, p. 192.

threat to the Islamic state—i.e., by initiating war against Muslims or allying themselves with their enemies. When the Kharijite (*Khawāraj*) opposed ‘Alī ibn Abū Ṭālib and refused to recognize his authority, confronting him with the slogan: “authority is only to Allah,” he did not declare war against them and stated that they could claim three rights: “Not to be prevented from attending Mosques, not to be preemptively attacked, and not to be denied their share of booty so long as they fight with us.”<sup>53</sup> “If an opposing group revolted against a just community,” al Māwardī wrote, “and controlled a region, making it their exclusive territory, the group can not be fought so long as they do not violate any rights or disobey the general law.”<sup>54</sup>

## The Objectives of War

We concluded, in the foregoing discussion, that the aim of war is not to propagate or spread Islam, nor is it to expand the territory of the Islamic state or dominate, politically or militarily, non-Muslim regions. Rather, the aim of war is to establish and assure justice, and to annihilate oppression and abolish tyranny. It is true that the spread of Islam and the expansion of the area wherein Islamic principles and laws prevail is the obligation of the Muslim *Ummah*, and one of the Islamic state’s objectives. But these obligations and objectives are to be fulfilled through peaceful means and in a friendly manner. The assurance of justice and destruction of tyranny are therefore the underlying objectives of war. However, since the terms “justice” and “tyranny” cover wide ground and permit broad interpretation, they need to be translated into more concrete forms. We can distinguish five situations where the violation of the principle of justice and the excessive misconduct of tyranny call the Islamic state to war and justify its use of violence against the political entity which is implicated in such practices.

### 1. *War against oppression*

It is incumbent upon Muslims to fight any political authority that either prevents the Muslims from introducing the teaching of Islam to its subjects, or prevents its subjects from freely professing or practicing Islam.

And fight them until there is no more persecution and religion is only for Allah . . . (2:193)

<sup>53</sup>Al-Māwardī, p. 53.

<sup>54</sup>Ibid., p. 53.

And why should ye not fight in the cause of Allah and of those who, being weak, are oppressed – men, women, and children, whose cry is: “Our Lord, rescue us from this town, whose people are oppressors; and raise for us from Thee one who will protect; and raise for us from Thee one who will help.” (4:75)

It should be made clear here that oppressiveness of a particular regime is not to be determined by comparing the values and conduct of that regime with Islamic norms and standards, but rather by its toleration of the Muslim interaction with its subjects and the communication of Islam to the general public. Corruption and mismanagement should not be considered, therefore, the criteria that classify a particular regime as oppressive, deserving, thus, to be fought, because, it may be recalled, Muslims are commanded to invite mankind to Islam through friendly means and effect social and political change using the peaceful methods of education and moral reformation. Only when their peaceful efforts are frustrated and met with violence, are they justified to use violence to subdue the aggressive party. As it was shown above, the Prophet (ṢAAS) did not resort to war against the Pagan Arabs until they persecuted the Muslims and violated their lives and properties; nor did he fight the Jews of Madīnah until they betrayed the Muslims and conspired with their enemies. Similarly, the Prophet (ṢAAS) declared war against Byzantium and its Arab allies only when they killed the messengers and missionaries who were sent to peacefully summon people to Islam and introduce to them the new revelation of Allah (SWT).

## *2. War in defense of Muslim individuals and property*

When wrong is inflicted on a muslim individual by a member, or members, of another political community, whether this wrong is done to his person, by assaulting or murdering him, or to his property by robbing or unjustly confiscating it, the Islamic state is obligated to make sure the individual, or his family, is compensated for his suffering, and that his rights are upheld. Because it is beyond the scope of this paper to discuss the legal procedure of this matter, it suffices to say that the Islamic state should ensure that justice has been done to the wronged Muslim, even if that take a declaration of war against the political community that tolerates such an aggression, provided that the authority of the political community has refused to amend the wrong inflicted on the Muslim individual after it has been formally notified and given reasonable time to respond.

. . . whoever then acts aggressively against you, inflict injury on him according to the injury he has inflicted on you and be careful

(of your duty) to Allah and know that Allah is with those who guard (against evil). (2:194)

### 3. *War against foreign aggression*

The clear-cut case of foreign aggression is a military attack on the Islamic state or its allies. The Muslims, however, are not obliged to wait until the enemies launch their attack, to respond. Rather, the Islamic state can initiate war and carry out a preemptive strike if the Muslim authorities become convinced beyond a shadow of a doubt that the enemy is mobilizing its forces and is about to carry out an offensive, or if a state of war already exists between the Islamic state and its adversaries.

If aggression is committed against another political entity with which the Islamic state has entered into mutual alliance, or has signed a treaty that stipulates military protection, the Islamic state is also obliged to fulfill its commitment to its ally and provide the military support needed. The conquest of Makkah was precipitated by Quraysh's attack on Khuzā'ah which was an ally of the Islamic city-state of Madīnah, violating thereby a provision of the Treaty of al Ḥudaybiyah which prohibited such an act.<sup>55</sup>

### 4. *War of law enforcement*

When a proportion of the population residing within the boundaries of the Islamic state violently oppose the application of the Islamic law, or threaten the territorial integrity of the Islamic state, the Muslim authorities are justified in using armed force to subdue the rebellion. It should be emphasized however, that what is at issue here is not just opposition to a particular public policy, but an insurrection that attempts to achieve its goals through military tactics, threatening thereby the lives and property of other members of the society. Three types of dissension, however, should be differentiated, two of which are merely causes of rebellion which can be forcefully subdued, while the third is a case of legitimate political opposition that should be dealt with in a peaceful manner.

a) *Apostasy*: When a group of Muslim individuals fortify themselves in an area of the Muslim territory and refuse to permit the application of certain fundamental Islamic principles or laws, such as the establishment of public prayer (*salāh al jamā'ah*), the payment of *zakāh*, and the like, it is a case of apostasy, for which, the group is to be fought until its members cease their rebellion with respect to the law. It should be clear that apostates are to be fought not because they refuse to profess or practice Islam, but

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<sup>55</sup>Haykal, p. 397; and Ibn Hishām, p. 277.

because they disobey the Islamic law. Therefore, nobody should be questioned or prosecuted for not fulfilling his personal duties toward Allah (SWT)—for he is answerable to Allah, not to the Muslim community, insofar as his personal duties are concerned—as long as he fulfills his public duty. For example, the individual whô privately neglects prayer is not subject to any punitive measures, so long as he does not publically denounce prayer. Nor can he be forced to attend public prayers because attending congregations is a voluntary duty and matter of personal choice. He can, however, be forced to pay *zakâh*, and can be punished for refusing to render his share to the Muslim authority because *zakâh* is not only a personal duty, but a public obligation as well.

b) *Insurrection*: When a group of Muslim individuals fortify themselves in area of the Muslim territory, refuse to implement a public policy formulated by just authority and through due procedure, and use the force of arms to prevent the authorities from taking custody and prosecuting those who do not comply with public policy, it is a case of insurrection which justifies the use of armed force by the Muslim authority to subdue the rebellion.

c) *Political opposition*: When a group of Muslim individuals peacefully opposes a public policy, uses a public forum to object to its application, and attempt to persuade the rest of the population to adopt their view regarding this policy, it is a case of political opposition which does not justify the use of force by the authority to circumscribe the influence of the opposition or to destroy it. The authority can, if it perceives that the opposition constitutes a threat to the general welfare, respond by initiating legal proceedings through the courts or by inducing sanctions through the institution of *al Shurâ* (consultation), or by using any other peaceful measures that the general law of the Islamic state permits.

## Peace and the State of War

Peace in Islam does not mean the absence of war, but the absence of oppression and tyranny. Islam considers that real peace can only be attained when justice prevails. Islam, therefore justifies war against regimes that prevent people from choosing their ideals and practicing their beliefs. It does not, however, justify war against non-Muslim entities that neither prevent the preaching of Islam nor inflict wrong upon Muslims. The Islamic state should thus maintain peace with those who show good will to Muslims. The Islamic state is justified, on the other hand, in declaring war against those who commit aggression against it or its mission. “This movement,” Sayyid Qutb wrote, “uses the methods of preaching and persuasion for reforming ideas and belief, and uses physical power and *jihâd* for abolishing the organizations and authorities of the *jâhili* system which prevents people from reforming their

ideas and beliefs. . .”<sup>56</sup>

The classical jurists, who devised the doctrine of two divisions, *dār al Islam* and *dār al Harb*, indiscriminately classify all non-Muslim communities under one category and advocate a permanent state of war against them, insisting that Muslims should not establish peaceful relations unless they are forced to.<sup>57</sup> Clearly, this doctrine, which reflects the factual relationship between the Islamic and non-Islamic states during the *‘Abbāsī* era, fails to take into account the total principles as well as the real objectives of the Islamic *Ummah*. As Ibn Taymiyah points out in his book *Al Syiāsah al Shar‘iyah*, fighting against non-Muslims is not the aim of the Islamic state, but fighting can be employed against those who deny Muslims the right to carry out their mission – the propagation of Islam.

Fighting has been permitted so that the object of making the religion only for Allah and making the word of Allah supreme can be advanced. It has been agreed that whoever prevents (the Muslims from carrying out) this (mission) is to be fought. But those who do not fight (against the Muslims), such as women, children, monks, elderly, the blind and the crippled, and the like, except when they fight by words or by actions, should not be killed, according to the majority of scholars. Some (scholars), however, argue that all (unbelievers) should be killed because of their blasphemy—except women and children, because they are Muslim property.<sup>58</sup> Only the first argument, however, is correct, because fighting is (permitted) against those who fight us to prevent us from calling (people) to the religion of Allah. As the Almighty

<sup>56</sup>Sayyid Qutb, *Milestones* (Cedar Rapids, Iowa: Unity Publishing Co., n.d.), p. 55.

<sup>57</sup>Majid Khadduri, *The Islamic Law of Nations: Shaybānī Siyar* (Baltimore, Maryland: The Johns Hopkins Press, 1386 AH/1966 AC), p. 154; and Ibn Rushd, p. 22.

<sup>58</sup>Referring to women and children as Muslim property does not reflect the pure Islamic perception of human dignity. It should be noted that although Islamic law did not abandon the practice of enslaving prisoners of war, which was a customary law among Arabs as well as other nations during the time of the Prophet (ṢAAS), it did not encourage it either. On the contrary, Islam upgraded the status of the slaves from a mere “property” to persons with certain human rights, and established several avenues through which the slave could be freed, such as *Mukātabah* (contracting one’s master for freedom) and *Kafārah* (act of atonement). The Qur’an established two measures for dealing with prisoners of war: they could be either ransomed or freed as a favor and a gesture of good will: “. . . when you have thoroughly subdued them, then take them as prisoners, and afterward either set them free as a favor or for compensation until the war terminates. . . .” (47:4) The practice of enslaving the prisoners of war should not be regarded, thus, as a Muslim obligation, but rather as a custom which has been tolerated by *Sharī‘ah*, and could be abandoned by Muslims if deemed harmful to the cause of Islam.



said: "And fight in the way of Allah those who fight you, but commit no aggression, for Allah does not love aggressors." (2:190) .

As Ibn Taymiyah states, because Allah has permitted taking the life only insofar as it is necessary to promote righteousness (and good behavior) ". . . Therefore, any (unbeliever) who does not prevent Muslims from practicing the Religion of Allah, he hurts by his disbelief no one but his own soul".<sup>59</sup>

The categorization of all non-Muslims under one category and declaring a permanent state of war against them all is unjustified and completely wrong. It is true that a state of war may exist between the Islamic state and a hostile power, but hostility should be evident first before the state of war is declared. The Muslims, therefore, should distinguish between the peaceful and the hostile and treat each accordingly. This distinction has been made by the Qur'an, and subsequently by Prophet Muhammad (SAAS) and his companions, long before the doctrine of the two territorial division was articulated. *Sūrah al Mumtaḥinah* (Āyat 8-9) make it quite clear that non-Muslims are not one category but two, and state that they should be dealt with differently.

Allah forbids you not, with regard to those who fight you not for (your) faith, nor drive you out of your homes, from dealing kindly and justly with them. For Allah loves those who are just. (60:8)

Allah only forbids you, with regard to those who fight you for (your) faith, and drive you out of your homes, and support (others) in driving you out, from turning to them (for friendship and protection). It is such as turn to them (in these circumstances) that do wrong. (60:9)

## Between the Principle and the Strategy

If war is justified in the situations described above, a question arises as to whether Muslims are obligated to fight in these situations, no matter what the circumstances are, or whether it is simply a matter of permissibility or choices, and hence up to the Muslim community to exercise its right to declare war in such situations? To answer this question we need to differentiate between the principle of *jihād* as a permanent obligation incumbent upon Muslims, and the method of *jihād* which is to be determined after assessing

<sup>59</sup>Ibn Taymiyah, *Al Siyāsah al Sharʿiyah* (Dār al Kātib al ʿArabī, n.d.), pp. 131-132.

the prevailing conditions of the moment, and selecting the most appropriate method of *jihād* to effectively deal with these conditions. In other words, while the Muslim *Ummah* is obliged to uphold the principle of *jihād* and satisfy its requirements, the method of honoring this principle is a question of strategy. Eliminating oppression and protecting human life, defending Muslim sovereignty and upholding the Islamic law, are objectives of the Islamic *Ummah*. The principle of *jihād* obligates the Muslims to maintain and achieve these objectives. The best way to achieve these objectives, and most appropriate method of upholding the principle of *jihād* is, however, a question of leadership and strategy.

Throughout the Makkan period, the Muslims maintained a pacifist approach in dealing with their adversaries, despite the physical abuse and mental anguishes inflicted upon them by Quraysh. For pacifism was then the best method to effectively achieve Muslim objectives.<sup>60</sup> Some might argue that Muslims did not resort to violence during the Makkan period because they were not permitted to fight at that time—an argument easily overturned when we realize that the absence of the principle of self-defense during the Makkan period was a temporary suspension of the principle's application, rather than its nullification or rejection. Certainly, the Qur'an unequivocally states that the principle of self-defense and military deference is an essential element of social life and a fundamental principle around which human civilization has evolved.

. . . and had it not been (the Will of) Allah that one set of people is repelled by another, certainly the earth would have been in a state of disorder. (2:251)

. . . and had it not been (the Will of) Allah that one set of people is repelled by another, certainly there would have been pulled down monasteries, churches, synagogues, and mosques, in which the name of Allah is commemorated in abundant measure. (22:40)

Thus, it is up to the Muslim leadership to assess the situation and weigh the circumstances as well as the capacity of the Muslim community before deciding the appropriate type of *jihād*. At one stage, Muslims may find that *jihād*, through persuasion or peaceful resistance, is the best and most effective method to achieve the objectives of the Muslim *Ummah*, as was the case during the Makkan period. At another stage, fortification and defensive tactics may be the best way to achieve these objectives, as was the case of the Battle of *al Khandaq*. At yet a third stage, the Muslim leadership may decide that all-out war is the most appropriate measure to fulfill the objectives of the

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<sup>60</sup>Qutb, pp. 65-67.

Islamic state, as was the case during the war against the Arab apostates.

The selection of the method of *jihād*, however, is not an arbitrary decision, but one that takes into account the general conditions of both the Muslim community and its adversaries, including the military balance between the Muslims and their enemies and the morale of the Muslim army. The Qur'ān circumscribed the Muslim ability to militarily confront its adversaries by two ratios (ten-to-one and two-to-one) that sets the upper and lower limits of the Muslim forces in terms of their manpower.

O Prophet, rouse the believers to the fight. If there are twenty amongst you, patient and persevering, they will vanquish two hundred: if a hundred, they will vanquish a thousand of the unbelievers: for these are people without understanding. (8:65)

For the present, Allah hath lightened your (task), for He knows that there is a weak spot in you: but (even though), if there are a hundred of you, patient and persevering, they will vanquish two hundred, and if a thousand, they will vanquish two thousand, with the leave of Allah: for Allah is with those who patiently persevere. (8:66)

These verses vividly state that given favorable conditions and high morale, Muslims could, by virtue of their faith, win against odds of ten to one. But when their organization and equipment are weak, and their morale falls short of the optimal situation, they are obligated to tackle no more than odds of two to one. The first situation was illustrated at the Battle of Badr where the Muslim army crushed a force threefold bigger, while the second situation is demonstratable in the Battle of *al Khandaq*, when Muslims, confronted with a force manifold stronger than their own, elected to fortify in their city by digging a ditch around Madīnah, and thus avoided military confrontation with their enemies.<sup>61</sup>

## Conclusion

Evidently, the classical doctrine of war and peace has not been predicated on a comprehensive theory. The doctrine describes the factual conditions that historically prevailed between the Islamic state during the 'Abbāsi and Byzantium, era, and thus, renders rules which respond to specific historical needs. The lack of a comprehensive theory of war and peace has led further to ma-

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<sup>61</sup>Haykal, p. 303; and Ibn Hishām, p. 215.

for errors in perceiving the role of war and the real objectives of the Islamic state vis-a-vis non-Muslim communities.

The classical doctrine mistakenly perceives war as the instrument of the Islamic state to expand the Muslim territories and dominate non-Muslim states. As it has shown in this paper, the aim of war is to assure justice and abolish oppression and tyranny. The expansion of Islam is to be achieved through persuasion and the use of peaceful means, not by force and compulsion. Only when the peaceful effort is frustrated, is the Islamic state justified in resorting to war. Yet peace in Islam does not mean the absence of war, because Islam considers that real peace can only be attained when justice prevails. Islam, therefore, justifies war against regimes that prevent people from choosing their ideas or practicing their beliefs.

Finally, although this discussion has been confined to the conception of war and peace and issues concerning the initiation of war, it can also be extended to questions concerning the prosecution of war and the conduct of peace — e.g., treaties, prisoners of war, spoils of war, and so forth. Many of the rules pertaining to these issues are predicated on customs, traditions, or conceptions peculiar to the historical period in which these rules were first articulated, and have thus a historically limited application.

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