



WAR IN ISLAMIC LAW: JUSTIFICATIONS AND REGULATIONS

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ABSTRACT

This study examines the justifications and regulations for going to war in both international and domestic armed conflicts under Islamic law. It studies the various kinds of use of force by both state and non-state actors in order to determine the nature of the Islamic law of war, specifically, whether Islamic law sanctions “holy war”, offensive war or only defensive war. It discusses international armed conflicts, i.e., war against non-Muslims, in the first four chapters: Chapters One, Two and Three treat the justifications for war in the *Sīrah* (biographies of the Prophet) literature, *Tafsīr* (exegesis) literature, and classical and modern juridical literature respectively. Chapter Four treats the Islamic regulations for war in international armed conflicts. Chapter Five is devoted to the justifications and regulations for the use of force in internal armed conflicts. It investigates the permissibility under Islamic law of resorting to the use of force to overthrow the governing regime and discusses the Islamic treatment of terrorism and the punishment of terrorists and their accomplices. It also discusses the claim that contemporary acts of domestic and international terrorism perpetrated by Muslims are motivated and justified by jihād. This study is limited to the four Sunni schools of Islamic law and also refers in some cases to the extinct Zāhirī school. It studies the writings of classical and modern Muslim jurists and scholars and compares them with the Western literature on the subject.

This study finds that jihād, in the sense of international armed struggle, as the term is currently used, is a defensive war justified in cases of aggression on the Muslim nation and *fitnah*, i.e., the persecution of Muslims. It also finds that the core justification in Islamic law for the use of force in domestic armed conflicts, and which may give an indication to future conflicts in the Muslim world, is the violations of the rules of the sharī‘ah. The study concludes that the Islamic law of war as maintained by the majority of mainstream Muslims scholars has great potential for contributing to international peace and security in the modern world, particularly with regard to the humanization of armed conflicts and the peaceful resolution of internal conflicts.

DEDICATION

To my mother, my father, Hisham, Do'a' and Muhammad. Also dedicated to anyone interested in the subject.

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TRANSLITERATION TABLE

Consonants:

ا	'	د	d	ض	ḍ	ك	k
ب	b	ذ	dh	ط	t	ل	l
ت	t	ر	r	ظ	ẓ	م	m
ث	th	ز	z	ع	'	ن	n
ج	j	س	s	غ	gh	ه	h
ح	ḥ	ش	sh	ف	f	و	w
خ	kh	ص	ṣ	ق	q	ي	y

Short Vowels:

<i>fathah</i> (اَ)	a
<i>kasrah</i> (اِ)	i
<i>ḍammah</i> (اُ)	u

Long Vowels:

<i>ālif</i> (إِ)	ā
<i>yā'</i> (يِ)	ī
<i>wāw</i> (وِ)	ū

Diphthongs:

اَـ	aw
اِـ	ay

Hamzah (') is omitted at the beginning of a word.

Final *hā'* (ه) is transliterated (*h*).

INTRODUCTION

A few individuals create ideas, arguments, theories, ideologies, laws or a specific understanding or interpretation of an issue. Even when part of a religion is believed to be from the Divine, a few individuals still offer their own understanding of such divine material and attempt to infer the divine intention that lies behind it. The great majority of the rest of the human race and other creatures often become directly or indirectly influenced, or sometimes victimized, by either believing in or becoming the target of such ideas, arguments, theories, ideologies or interpretations based on divine material. Some ideas and theories become a driving force that dictates the course of human actions towards other humans and the rest of creation. They also regulate, no less importantly, how people deal with themselves – their own desires and physical needs.

Such ideas, arguments and theories, although they may be produced by an individual, sometimes develop into widely held strong beliefs, religions, truths and ways of life which constitute a core component of what divides humanity into different civilizations, cultures, faiths, ideologies and even nations. On the one hand, such ideas and theories become products that generate a sense of identity, including respect for and acceptance of others or hatred and animosity towards them. On the other, they also turn into a commodity which becomes widely accepted among certain people while totally rejected by others. Peace, genocide, the Holocaust, international and even civil wars are all examples of human actions usually motivated by specific ideas, arguments and beliefs about an “other”, and whether this “other” is viewed as belonging to a different ethnicity, religion, sect, ideology, civilization, etc.

In the arena of the study of ideas and theories, researchers – generation after generation – sometimes produce particular interpretations or even theories about the original ideas or theories they are studying. At a certain point, the true meaning and nature of the original theory or idea become disputed, confused and contested, depending on which and whose view, interpretation and literature the researchers are studying. But throughout its history, a theory or a law sometimes becomes like a living creature that develops and changes, first, according to the one who is creating it or writing about it and, second, according to the context in which it is applied.

Among the most important theories are those that shape relations towards the others because such theories become either a source of peaceful coexistence, setting the rules for just and equitable relations, or a source of hatred and demonization of others, which may lead to the use of violence. In a word, theories and ideas about others may sometimes become a sort of a weapon of mass destruction, as has been witnessed throughout the various stages of human history. Anti-Semitism and racism are prime examples.

This study examines one theory, or more precisely a law, namely, the Islamic law governing the use of force in both international and domestic conflicts. One of the most complex fields in the study of “others” is the study of their religion. This is because an outsider tends to interpret and judge the religion of others through the historical, religious and cultural experiences which have formed her/his own intellect. Furthermore, the complexity is doubled in case of the study of the law of war in the religion of others because outsiders may find themselves to be the enemy according to the law of war they are studying. Thus, the insider/outsider methodology, as explained below, can be a very useful approach in the study of religion, war, history and international relations.

1. Rationale

For the West, Islam has been for centuries a source of fear and suspicion. Orientalists have depicted the religion and culture of Islam as inferior to the religion and culture of the West.¹ But more importantly, for these and for other reasons, Islam has been a source of misunderstanding. According to the words of Reuven Firestone, “Islam is perhaps the most misunderstood religion to the West, and many stereotypes still hinder clarity about its tenets and practices. Western prejudice toward Islam is as old as Islam itself.”² This misunderstanding has created a yawning gap and even contradictory readings between insider/Islamic and outsider/Western scholarship in many areas of the study of Islam. But of the many areas of misunderstanding, as James Turner Johnson clearly puts it, “between Western and Islamic culture there is possibly no other single issue at the same time as divisive or as poorly understood as that of jihad.”³ Fortunately, however, one of the main reasons for the misunderstanding or lack of understanding of jihād among Western scholars has been recognized by some of them. According to Johnson, Western “Scholarship on Islamic normative tradition on war is considerably less well developed.”⁴ He adds that “there exist no general histories treating the understanding of normative tradition on religion, statecraft, and war in Islamic societies or in Islamic religious thought. Many significant subjects remain unexplored for lack of researchers with the necessary training and language skills.”⁵ Fred McGraw Donner describes the

¹ James Turner Johnson, *The Holy War Idea in Western and Islamic Traditions* (Pennsylvania: Pennsylvania State University Press, 1997), p. 21; Edward W. Said, *Orientalism*, reprinted with new afterword (London: Penguin, 2003); Edward W. Said, *Covering Islam: How the Media and the Experts Determine How We See the Rest of the World*, rev. ed. with a new introduction (London: Vintage, 1997).

² Reuven Firestone, *Jihād: The Origin of Holy War in Islam* (New York: Oxford University Press, 1999), p. 13.

³ Johnson, *The Holy War Idea*, p. 19.

⁴ *Ibid.*, p. 22.

⁵ *Ibid.*, p. 23.

problem in the current state of scholarship on jihād in the West as “a practical one”, suffering from the lack of “preliminary work on a vast subject.”⁶

However, despite this lack of “preliminary work” and the fact that many subjects related to the study of this complex topic are still admittedly unexplored in Western scholarship, jihād has generally been portrayed in Western literature as a holy war to convert non-Muslims. For centuries, Europe’s image of Islam has been associated with its spectacular spread and the wide expansion of its territories. Christian Europe was very much alarmed by this phenomenon, especially after the Muslim conquest of Spain, which remained under Muslim rule for eight centuries.⁷ Moreover, there has been a tendency in the West to conceive of Islam as an inherently violent religion. Richard C. Martin confirms that the modern media and many Westerners who attempt to characterize Islam and the Arabs have concluded that there is a consciously “discernible ethos of violence in Islamic society”.⁸ Yvonne Yazbeck Haddad states: “The association of Islam with holy war, and of Muslims with the propagation of violence, seems to be endemic to Western awareness of Muslim faith. This is deeply disturbing to Muslims.”⁹

⁶ Fred McGraw Donner, “The Sources of Islamic Conceptions of War”, in John Kelsay and James Turner Johnson, eds., *Just War and Jihad: Historical and Theoretical Perspectives on War and Peace in Western and Islamic Traditions* (Westport, Conn.: Greenwood Press, 1991), p. 57.

⁷ Firestone, *Jihād*, p. 13.

⁸ Richards C. Martin, “The Religious Foundations of War, Peace, and Statecraft in Islam”, in John Kelsay and James Turner Johnson, eds., *Just War and Jihad: Historical and Theoretical Perspectives on War and Peace in Western and Islamic Traditions* (Westport, Conn.: Greenwood Press, 1991), p. 108. See also Fred Halliday, *Islam and the Myth of Confrontation: Religion and Politics in the Middle East* (London: I.B. Tauris, reprinted 2003), p. 35.

⁹ Yvonne Yazbeck Haddad, “Operation Desert Shield/Desert Storm: The Islamist Perspective”, in Bhyllis Bennis and Michel Moushabeck, eds., *Beyond the Storm: A Gulf Crisis Reader* (New York: Olive Branch Press, 1991), p. 256. See also, for example, Jonas Otterbeck, “The Depiction of Islam in Sweden” *The Muslim World*, Vol. 92, Issue 1/2, Spring 2002, pp. 143-156. Margaret Pettygrove indicates that “The demonization and reduction of Islam in popular American culture, particularly with respect to suicide bombings and Political Islam, suggests that Islam is an inherently violent or extremist religion.” Margaret Pettygrove, “Conceptions of War in Islamic Legal Theory and Practice”, *Macalester Islam Journal*, Vol. 2, issue 3, 2007, p. 35. See also Muhammed Abu-Nimer, “A Framework for Nonviolence and Peacebuilding in Islam”, *Journal of Law and Religion*, Vol. 15, No. 1/2, 2000-2001, p. 221.

Furthermore, in 1993 Samuel P. Huntington hypothesized in his “The Clash of Civilizations?” that “a central focus of conflict for the immediate future will be between the West and several Islamic-Confucian states.”¹⁰ In fact, analysts have limited this conflict or clash to one between what is called “Islam” and “the West”, and the involvement of the so-called “Confucian states” in this anticipated conflict has been totally ignored. Moreover, a few years after Huntington presented his theory, the 9/11 terrorist attacks, the London and Madrid bombings, suicide bombings and hostage taking and beheadings in certain Muslim countries under occupation, brought new dimensions to the association of Islam with violence in Western literature. In the bulk of post-9/11 literature, the term jihād is used in the sense of terrorism. In other words, a line of thought in the West has related the causes of these terrorist acts to Islamic religious extremism, and particularly to jihād, rather than to specific regional conflicts and the occupation of particular Muslim countries, which are the causes stated by the terrorists themselves.

This research has therefore been driven by the two reasons referred to above, namely, first, the poor understanding, and the as yet unexplored subjects related to the study of jihād, which have led to the characterization of the current state of scholarship on it – particularly in Western literature – as “considerably less well developed”; and second, the claim that the law of war in Islam, the religion of one fifth of the world’s population, is the cause of acts of terrorism, which is a serious claim that requires scholarly investigation. For these reasons, the study of the law of war in Islam becomes not only a matter of timely relevance, but also, more significantly, a matter of strategic importance to the understanding, and political treatment, of both international and domestic conflicts and acts of terrorism in which

¹⁰ Samuel P. Huntington, “The Clash of Civilizations?”, *Foreign Affairs*, Summer 1993, Vol. 72, No. 3, p. 48. See also Samuel P. Huntington, *The Clash of Civilization and the Remaking of World Order* (New York: Simon & Schuster, 1996).

Muslims are involved, or, more precisely, in which the teachings of Islam play, or are thought to play, a role.

2. Aims of the Study

This study attempts to examine the nature of the Islamic law of war – the contested, misunderstood and inadequately explored jihād. Despite the vast literature written on jihād in both Islamic and Western literature, the results of achieving this target varies according to how and where it is pursued. This study argues that the best approach is to examine both the Islamic *jus ad bellum* (the justifications for resorting to war) and the Islamic *jus in bello* (the rules regulating the conduct of war) in both international and domestic armed conflicts. The examination of each of these contributes to the understanding of the other and hence ultimately indicates the nature of jihād. What is meant by the nature of jihād here is whether it is a “holy war”, either defensive or offensive, or a war of expansion for economic or other purposes. The term “holy war” is used here in the sense of a war waged either in order to convert a people to a certain religion by force, or solely because the opponents hold different beliefs. In other words, this study attempts to find out whether or not jihād is a just war. The meaning of a just war here is a war fought in self-defence that complies with the United Nations restrictions on the use of force.

Thus, the aim of this study is to examine the justifications for and the regulations of the use of force under Islamic law in both international and domestic armed conflicts. It examines all the varieties of the use of force, either by state or non-state actors, that are treated under Islamic law. In other words, it examines why and how Muslims resort to the use of force. The significance of studying the treatment of the use of force by non-state actors under Islamic law is fourfold. First,

it tests the claim that jihād is the cause of contemporary acts of terrorism perpetrated by Muslims. Second, in case of rebellion against the Islamic government, it discovers the degree of tolerance or intolerance Islamic law provides for the internal opponents of an Islamic government. Third, studying the regulations in Islamic law for the use of force in both international and domestic armed conflicts can provide pointers for possible measures for humanizing armed conflicts in which the followers of one fifth of the world's population may be involved. It also presents the Islamic positions on certain acts committed by a few Muslims, such as targeting non-combatants, beheadings, kidnapping journalists and humanitarian aid workers in specific Muslim countries, and acts of terrorism such as blowing up airplanes, trains and buses. Fourth, this study investigates the potential contribution the legal system of one of the world's largest religions may provide for the world's discussions on war and thus the impact it may have on the attainment of world peace and stability.

In the light of the findings of this examination, first, it can be decided whether Muslim calls for the recourse to jihād in international and domestic armed conflicts at the present time is justified or not, and second, and no less importantly, it can be judged whether or not these contemporary calls for jihād comply with the teachings of Islam on the use of force. In this way, the practices of Muslims can be judged according to their theory, i.e., the teachings of Islam, and thus the major error of confusing the practices of Muslims with the teachings of Islam can be avoided.

3. Research Questions

To achieve the above aims this study attempts to answer the following main questions:

- 1) What are the Islamic justifications for the use of force in international armed conflicts, namely, going to war against non-Muslims? (See Chapters One, Two and Three).
- 2) What are the justifications of both the Islamic state authorities and its citizens for the resort to war against each other? (See Chapter Five).
- 3) What are the main rules in Islamic law regulating the conduct of Muslims with regard to the lives and property of enemies during and after hostilities in international armed conflicts? (See Chapter Four).
- 4) What are the Islamic rules regulating the conduct of the Islamic state during and after hostilities in the various kinds of domestic armed conflicts, and what are the differences between the rules regulating these various domestic conflicts and the rules regulating the conduct of Muslims in international armed conflicts with non-Muslims? (See Chapter Five).
- 5) After examining the Islamic justifications and regulations for the use of force in both international and internal conflicts, this study investigates whether or not the classical Muslim jurists treat the issues of international and domestic terrorism? (See Chapter Five).
- 6) If the answer to the above question is in the affirmative, what then constitutes an act of terrorism and what is the punishment for terrorists and their accomplices under Islamic law? (See Chapter Five).

4. Scope and Limitations

This study is confined to the Sunni literature and does not include the Shi'ite literature on the subject. More specifically, it is limited to the four Sunni schools of Islamic law, i.e., the Ḥanafī, Mālikī, Shāfi'ī and Ḥanbalī schools. In some cases it

refers to the extinct Zāhirī school, namely, the opinions of Ibn Ḥazm (d. 456/1064). It includes the literature written in both Arabic and English. With a few exceptions, the study deals with mainstream Islamic and Western literature and does not focus on hate literature or the writings of extremists on either side. The Islamic literature surveyed includes the writings of both classical and modern Muslim jurists and scholars. The term “modern Muslim scholars” refers to the scholars who lived during the period extending from the last quarter of the nineteenth century up to the present, while the term “classical Muslim jurists/scholars” refers to those who lived during the period preceding that time.

This study examines the Islamic normative sources on the justifications and regulations for war and thus it is not a historical study. In other words, it does not follow the occasions when Muslims resorted to war, or their conduct in war throughout history, apart from the incidents of armed conflict that took place between the Muslims and their enemies during the lifetime of the Prophet. The reason of this exception is that the incidents of fighting that took place during the Prophet’s lifetime which are treated in the *Sīrah* (biographies of the Prophet) literature, along with the Qur’ān, are the bases for the formulation of the Islamic law of war, as explained below.

5. Literature Review

Despite the vast extent of the literature written on jihād since the first century of Islam in insider and, later, in outsider literatures, much disagreement and misunderstanding still exist about the subject, mainly regarding the Islamic justifications for going to war. This is partly attributed to the fact that classical Muslim jurists give scant attention to the justifications for going to war compared

with their extensive treatment of the rules regulating the conduct of Muslims during war. It is ironic that, contrary to the classical Muslim jurists, Western scholars have focused mainly on the justifications for jihād and almost disregarded the Islamic regulations for the conduct of war. Most probably the reason why classical jurists did not adequately address the justifications for going to war is that a state of hostility was already the norm in international relations in their times.

In fact, it took classical Muslim jurists about seven centuries until a manuscript devoted to the treatment of the justifications for war was written by the encyclopaedic Muslim scholar Ibn Taymiyyah (d. 728/1328). This manuscript, unfortunately not so far widely available, was edited and personally published in 2004 by the Saudi scholar ‘Abd al-‘Azīz ibn ‘Abd Allah ibn Ibrāhīm al-Zayd Āl Ḥamad under the title *Qā'idah Mukhtaṣarah fī Qitāl al-Kuffār wa Muhādanatihim wa Taḥrīm Qatlihim li-Mujarrad Kufrihim* (A Concise Rule for Fighting against Unbelievers and Making a Truce with Them and the Prohibition of Killing Them Solely because of their Unbelief).¹¹ Ibn Taymiyyah, as is clear from the title, first, discusses at some length and persuasively explains the evidences from the Qur’ān and the tradition of the Prophet supporting the position of the majority of his Muslim predecessors, the Ḥanafī, Mālikī and Ḥanbalī jurists, that jihād is permissible only in case of aggression by the enemy against Muslims. Second, he rejects the position maintained mainly by al-Shāfi‘ī (d. 204/820) and some Ḥanbalī jurists that unbelief in itself is a justification for jihād.

Another major contribution on the discussion of the subject came from Shaykh Muḥammad Abū Zahrah (1898-1974), another prolific author, who supports

¹¹ Aḥmad ibn ‘Abd al-Ḥalīm ibn Taymiyyah, *Qā'idah Mukhtaṣarah fī Qitāl al-Kuffār wa Muhādanatihim wa Taḥrīm Qatlihim li-Mujarrad Kufrihim: Qā'idah Tubayyn al-Qiyam al-Sāmiyah lil-Ḥaḍārah al-Islāmiyyah fī al-Ḥarb wa al-Qitāl*, ed. ‘Abd al-‘Azīz ibn ‘Abd Allah ibn Ibrāhīm al-Zayd Āl Ḥamad (Riyadh: N.p., 2004/1424).

the permissibility of jihād in cases of aggression against and religious persecution of Muslims and when an enemy prevents Muslims from preaching Islam.¹² Moreover, he shaped a new approach to the subject of international relations in Islam which is based on a number of Islamic principles including human dignity, justice, cooperation and friendship between all human beings.¹³

Ibn Taymiyyah and Abū Zahrah have had a great influence on mainstream modern Islamic writings on the subject. Wahbah al-Zuḥaylī, a leading Syrian world authority on Islamic law, provided a solid contribution on the subject in his PhD thesis submitted to the Faculty of Law, Cairo University, in 1963, first published in the same year under the title *Āthār al-Ḥarb fī al-Islām: Dirāsah Muqāranah* (The Effects of War in Islam: A Comparative Study). His main contribution is support for the defensive nature of jihād.¹⁴

The other main contribution is the encyclopaedic project on international relations in Islam sponsored and published in Arabic in fourteen volumes in 1996 by the USA-based International Institute of Islamic Thought (IIIT). Unlike other works on the subject, this project is conducted by a group of twenty-seven academic specialists, mostly of Cairo University, who, interestingly, are not traditionally trained in Islamic studies. In addition to defensive war, this project confirms that Muslims may also resort to war if they are prevented from preaching Islam.¹⁵

The latest contribution to the subject is the two-volume work by the renowned Shaykh Yūsuf al-Qaradāwī published in the second half of June 2009 under the title *Fiqh al-Jihād: Dirāsah Muqāranah li-Aḥkāmih wa Falsafatih fī Ḍaw'*

¹² Muḥammad Abū Zahrah, *Al-'Alāqāt al-Dawliyyah fī al-Islām* (Cairo: Al-Dār al-Qawmiyyah lil-Ṭibā'ah wa al-Nashr, 1964/1384), pp. 47-52, 89-94.

¹³ *Ibid.*, pp. 19-46.

¹⁴ Wahbah al-Zuḥaylī, *Āthār al-Ḥarb fī al-Islām: Dirāsah Muqāranah*, 3rd ed. (Damascus: Dār al-Fikr, 1998/1419), pp. 84, 106-136.

¹⁵ 'Abd al-'Azīz Ṣāqir, *'Al-'Alāqāt al-Dawliyyah fī al-Islām Waqt al-Ḥarb: Dirāsah lil-Qawā'id al-Munazzimah li-Sayr al-Qitāl*, Mashrū' al-'Alāqāt al-Dawliyyah fī al-Islām 6 (Cairo: Al-Ma'had al-'Ālamī lil-Fikr al-Islāmī, 1996), pp. 7-29.

al-Qur'ān wa al-Sunnah (Understanding Jihād: A Comparative Study of its Rules and Philosophy in the Light of the Qur'ān and Sunnah). This work will have a large influence in the future because of the scholarly weight and popularity of the author and its coverage of many issues related to the subject. The author follows the same line of thought as Ibn Taymiyyah and Abū Zahrah on the subject. He adds that at present there are three kinds of jihād: (1) the liberation of occupied Muslim countries; (2) peaceful attempts to change the current Muslim regimes that permit acts that are absolutely prohibited in Islam; and (3) preaching Islam to the rest of the world in their languages via the Internet, radio and satellite channels as well as written publications.¹⁶ Unlike the previously mentioned contributions, al-Qaradāwī also treats the important issue of how internal hostilities are dealt with in Islamic law.

Concerning the Western literature, it is quite noticeable that Majid Khadduri's (1909-2007) *War and Peace in the Law of Islam* and his translation of Al-Shaybānī's work under the title *The Islamic Law of Nations: Shaybānī's Siyar*¹⁷ remain the main sources for Western researchers on the subject. His ideas on jihād expressed in the former of these two works and his introduction to the latter have had a decisive influence on the current Western literature, despite the fact that he discusses mainly classical Muslim jurists and historians and even then not in a manner that fairly reflects the diversity of their opinions. It is quite easy sometimes to trace the influence of his ideas, and even his vocabulary, in current Western literature. Whether this influence is acknowledged or not, many writers have accepted without question some of his mistaken ideas and his hostile presentation of

¹⁶ Yūsuf al-Qaradāwī, *Fiqh al-Jihād: Dirāsah Muqāranah li-Aḥkāmih wa Falsafatih fī Daw' al-Qur'ān wa al-Sunnah* (Cairo: Maktabah Wahbah, 2009), Vol. 2, pp. 1183-1197.

¹⁷ To give an example of the role which translation of Islamic literature into European languages plays in shaping Western studies of Islam, David A. Westbrook writes "I concentrate on Shaybani because he has been translated into English, and so can be read as a primary source", David A. Westbrook, "Islamic International Law and Public International Law: Separate Expressions of World Order", *Virginia Journal of International Law*, Vol. 33, 1993, p. 828, footnote no. 15.

jihād in particular, and the classical theory of international relations, in general.¹⁸

AbuSulayman and Zawati criticize him for his hostile and stereotyped conclusions on jihād.¹⁹ Zawati also criticises Bernard Lewis for the same sort of scholarship.²⁰

The core of Khadduri's understanding of jihād can be found in the following words: "The jihād was therefore employed as an instrument for both the universalization of religion and the establishment of an imperial world state."²¹ He adds that "jihād may be regarded as Islam's instrument for carrying out its ultimate objective by turning all people into believers, if not in the prophethood of Muḥammad (as in the case of dhimmis), at least in the belief in God."²² However, he writes in another work that jihād was the instrument for "achiev[ing] Islam's ultimate objective, namely, the enforcement of God's law (the *Shari'a*) over the entire world."²³ In fact, Khadduri does not explain how and from where he deduced these

¹⁸ See, for example, Bernard Lewis, "Roots of Muslim Rage", *The Atlantic Monthly*, Vol. 266, No. 3 September 1990, pp. 47-60; Roda Mushkat, "Is War Ever Justifiable? A Comparative Study", *Loyola of Los Angeles International and Comparative Law Journal*, Vol. 9, No. 2, 1987, pp. 302 f.; Abdullahi Ahmed An-Na'im, "Islamic Law, International Relations, and Human Rights: Challenge and Responses", *Cornel International Law Journal*, Vol. 20, 1987, pp. 317-336; Christopher A. Ford, "Siyar-ization and its Discontents: International Law and Islam's Constitutional Crisis", *Texas International Law Journal*, Vol. 30, 1995, pp. 499-533; Johnson, *The Holy War Idea*, pp. 115-124; David Aron Schwartz, "International Terrorism and Islamic Law", *Columbia Journal of Transnational Law*, Vol. 29, 1991, pp. 629-652; Rachel Saloom, "Is Beheading Permissible Under Islamic Law? Comparing Terrorist Jihad and The Saudi Arabian Death Penalty", *UCLA Journal of International Law and Foreign Affairs*, Vol. 10, 2005, pp. 228, 230; Robert Spencer, "Majid Khadduri and George W. Bush", [article online]; available from <http://www.jihadwatch.org/archives/017169.php>; Internet; accessed 9 July 2007; Daniel Pipes, "Jihad and the Professors", [article online]; available from <http://www.campus-watch.org/article/id/301> Internet; accessed 9 July 2007.

¹⁹ See 'AbdulḤamid A. AbuSulayman, *Towards an Islamic Theory of International Relations: New Directions for Methodology and Thought*, 2nd & rev. ed. (Herndon, VA: International Institute of Islamic Thought, 1993/1414), pp. 20-24; Hilmi M. Zawati, *Is Jihad a Just War? War, Peace, and Human Rights under Islamic and Public International Law*, Studies in Religion and Society, Vol. 53 (Lewiston, NY: Edwin Mellen Press, 2001), pp. 13, 37, 39, 49 f., 72 f., 75 f., 80 f.

²⁰ Hilmi M. Zawati, "Just War, Peace and Human Rights under Islamic and International Law" (MA Thesis, McGill University, 1997), pp. 1 f.; Zawati, *Is Jihad a Just War?*, pp. 13, 15 f., 112.

²¹ Majid Khadduri, *War and Peace in the Law of Islam* (Baltimore, MD.: Johns Hopkins University Press, 1955), p. 51.

²² *Ibid.*, p. 64.

²³ Majid Khadduri, "Islam and the Modern Law of Nations", *American Journal of International Law*, Vol. 50, No. 2, Apr. 1956, p. 359. In his PhD thesis, Mohamed Mokbel Mahmud Elbakry also argues that jihād is the instrument of Islam for carrying out its ultimate objective of the application of the shari'ah. See Mohamed Mokbel Mahmud Elbakry, "The Legality of 'War' in Al-Shari'a Al-Islamiya

various interpretations of jihād. He seems sometimes to be mainly trying to give an interpretation for the objectives of what he calls “the expanding Muslim state” during the first century of the Islamic era rather than interpreting the jurists’ understandings of jihād. In other words, he sometimes confuses Muslim history with Islamic law and unfortunately does not adequately refer to the classical Islamic law books of the various schools. Perhaps the wide acceptance of his understanding of jihād in Western literature relates partly to the way he reduces such complex subject to such simple ideas.

Rudolph Peters, the Dutch expert in the field, disagrees with the earlier Western literature on the objective of jihād and argues that its aim was “the expansion – and also defence – of the Islamic state.”²⁴ Unlike Khadduri, Peters discusses extensively both the classical and modern Muslim literature on jihād and his study of the subject makes his work more reliable.²⁵ However, his study of jihād focus on international armed conflicts and thus does not treat domestic jihād.

Reuven Firestone’s *Jihād: The Origin of Holy War in Islam* attempts to study what he calls “the origins of the concept and application of warring that we now define as ‘holy war’ in the earliest period of Islamic history.”²⁶ In fact, studying the earliest occurrences of fighting between the Muslims and their enemies during the Prophet’s lifetime is essential for understanding the nature of the Islamic law of war,

(The Islamic Law) and Contemporary International Law: Comparative Study” (PhD thesis, University of Glasgow, 1987), pp. 230, 232, 259, 613-616.

²⁴ Rudolph Peters, trans. and ed., *Jihad in Mediaeval and Modern Islam: The Chapter on Jihad from Averroes’ Legal Handbook ‘Bidayat Al-Mudjtahid’ and The Treatise ‘Koran and Fighting’ by The Late Shaykh Al-Azhar, Mahmud Shaltūt* (Leiden: Brill, 1977), p. 3. See also Rudolph Peters, *Islam and Colonialism: The Doctrine of Jihad in Modern History* (The Hague: Mouton, 1979); Rudolph Peters, “Djihad: War of Aggression or Defense?”, in Albert Dietrich, ed., *Akten des VII. Kongresses Für Arabistik und Islamwissenschaft* (Göttingen, Aug. 1974) (Göttingen: Vandenhoeck & Ruprecht, 1976), pp. 282-289.

²⁵ This study disagrees with Peters’ opinion that Majid Khadduri’s *War and Peace in the Law of Islam* is “A reliable survey of the classical doctrine of jihad.” See Rudolph Peters, *Jihad in Classical and Modern Islam* (Princeton: Markus Wiener, 1996), p. 197.

²⁶ Firestone, *Jihād*, p. 5.

a task Firestone's book, though promised above, did not achieve. Based on his brief reading of the battle of Badr (Ramadhān 2/March 624), the first battle in Islam, he admits: "Because we have reached the point after Badr where, according to the tradition, warring in the path of God was now required virtually without restriction, the material following Badr will not occupy us."²⁷ However, had Firestone studied the occurrences of war in the period his book promises to study and found out who was the offensive and defensive party and what were the reasons for such incidents, the whole thesis of his book may have been different. He assumes that, because Badr is considered a war in the path of God, jihād in the period studied in his book automatically means "holy war". In fact, a justification for war couched in religious terms does not necessarily make it a holy war. In any case an investigation needed to decide, among other things, whether such a war is offensive or defensive. His own reading led him to the conclusion that the incidents of war were initiated by the Muslims and were initially "materialistic raids" which were transformed into holy war or what he calls "total declaration of war against all groups, whether kin or not, who did not accept the truth of the hegemony of Islam."²⁸

John Kelsay and James Turner Johnson approach the subject from a comparative perspective between Western and Islamic traditions. Although this approach is very helpful to researchers concerned about the similarities and dissimilarities between the Christian/Western and Islamic traditions, their dependence on secondary sources, mainly works in English in the case of Islam, has limited their conclusions and therefore their contribution to the subject. The influence of Khadduri's works surfaces in their writings particularly in case of international armed conflicts, while Khaled Abou El Fadl's influence emerges with

²⁷ Ibid., p. 114.

²⁸ Ibid., p. 134.

regard to domestic armed conflicts, namely, in cases of armed rebellion. The aims of jihād, according to Kelsay, are “extending Islamic hegemony... [and] defending an established Islamic polity”.²⁹ Had Kelsay and Johnson studied the primary sources in Islamic languages, their contributions to the subject would have been much greater.

A number of laudable contributions are made by Abou El Fadl, Sherman A. Jackson and Sohail H. Hashmi. Because of their training and knowledge of Islamic languages, they fulfil the rarely met need for scholars who are experts in both Western and Islamic scholarship in the subject. Abou El Fadl’s exhaustive study *Rebellion and Violence in Islamic Law* is the most in-depth treatment of its subject and thus provides a pioneering investigation of this kind of domestic war, i.e., armed rebellion. Jackson’s “Domestic Terrorism in the Islamic Legal Tradition” is the best treatment of its subject, while his “Jihad and the Modern World” is also a laudable contribution to the study of the classical and modern Islamic *jus ad bellum*. Jackson insightfully concludes “that a prevailing ‘state of war,’ rather than difference of religion, was the *raison d’être* of jihad and that this ‘state of war’ has given way in modern times to a global ‘state of peace’ that rejects the unwarranted violation of the territorial sovereignty of all nations.”³⁰ Hashmi’s “Saving and Taking Life in War: Three Modern Muslim Views” and “Islamic Ethics and Weapons of Mass Destruction: An Argument for Nonproliferation” provide insightful analysis into some aspects of Islamic international humanitarian law.

This brief survey of both insider and outsider literatures shows that each of the above works has its own approach to and focus on certain aspects of the study of the Islamic law of war. This study therefore attempts, as follows, to study the

²⁹ John Kelsay, *Islam and War: A Study in Comparative Ethics* (Louisville, KY: Westminster/John Knox, 1993), p. 53.

³⁰ Sherman A. Jackson, “Jihad and the Modern World”, *Journal of Islamic Law and Culture*, Vol. 7, No. 1, 2002, p. 25.

justifications and regulations for the use of force in both international and domestic armed conflicts in the insider and outsider literatures.

6. Methodology

This study is a library-based research and the material studied here is mainly books, articles and in some cases online material. The study utilizes an insider/outsider approach. The insider approach refers to what Muslims advocate about their specific understandings of the issues in question. The outsider approach in this study refers to the understandings of these issues in the Western literature that has been consulted. The terms Islamic/insider and Western/outsider literatures refer specifically to the works discussed in this study. Thus, the insider/outsider approach adopted in this study is simply a comparative method that aims at tracing and analysing when, how and why these two literatures agree or disagree on the same issues in question.

Indeed, this study argues the necessity of utilizing an insider approach when it comes to the study of religion and history of others, or in comparative studies, but only *as a first step* to fairly present and understand what is maintained by the insiders. Put differently, researchers should refer to the original sources, i.e., the insiders, to find out how the issues in question are described by the insiders rather than depending on secondary resources, i.e., the outsider, in the description of such issues. This does not mean that the conclusions of the insiders should be adopted, but rather that a fair, objective presentation of the insiders must be given on the basis of how they themselves maintain and advocate their own beliefs and views. This methodology also applies to different sects within the same religion, or different ethnicities, or any rival within the same entity. Then, only after this initial step, scholars can start objective studies and develop their own conclusions. If this process

is not followed, outsider scholars may slip into producing theories and conclusions which are later developed into widely circulated so-called facts in outsider literature that are simply based on misrepresentation, with the insider literature ignored. With the passage of time, two different readings of an “other” are created which may often be described as negative/outsider and positive/insider.

Therefore, objectivity remains a relative term that changes according to who and which literature (insider or outsider) is dealing with the issues in question. This is because researchers are influenced by their own religious, historical, cultural and personal experiences, which inevitably dictate how they analyse, study³¹ and judge others. W. Montgomery Watt (d. 2006) writes:

Normally a person can only reach important levels of religious experience through participating in the life of the community in which he has been brought up and basing his activity on its ideas. There are exceptions, but this is the normal case. It is not easy for a person brought up in a Christian environment to appreciate the religious ideas of Islam, far less to make them the basis of a satisfactory life. The same is true for the Muslim with Christian ideas. This means that it is Christian ideas which give the Christian the best chance of attaining a richer and deeper experience, and likewise Muslim ideas the Muslim.³²

In fact, Watt’s observation here about the appreciation of the ideas of religions different from one’s own also applies to any other set of ideas, whether political, social or otherwise, because human beings generally become products of certain ideas and thus tend to work, analyse and judge others accordingly.

³¹ See Jabal Muhammad Buaben, *Image of the Prophet Muḥammad in the West: A Study of Muir, Margoliouth and Watt* (Leicester: Islamic Foundation, 1996/1417), pp. 327, 329.

³² W. Montgomery Watt, *Bell’s Introduction to the Qur’ān*, Islamic Surveys 8 (Edinburgh: Edinburgh University Press, reprint 1997), p. 182.

All translations of the Qur'ānic texts and Ḥadīths are mine. An important note concerning transliteration: all Arabic words are transliterated according to their pausal forms. The point here is to help the non-Arabic speaking reader to know how the Arabic word is written. The conversion of Islamic dates to the Christian calendars follows G.S.P. Freeman-Grenville's *The Muslim and Christian Calendars*.³³

7. Structure of the Study

This study consists of an introduction, five chapters and a conclusion. The first four chapters treat international wars, while Chapter Five treats internal hostilities and terrorism in Islamic law. The study examines the Islamic justifications for war against non-Muslims, i.e., international war according to the classical Islamic state system, in the first three chapters. Chapter One studies the *Sīrah* literature to find out the justifications for the incidents of fighting between the Muslims and their enemies during the Prophet's lifetime. Chapter Two studies the interpretations of the Qur'ānic justifications for war in some of the most influential classical and modern Qur'ān *Tafsīr* (exegeses) literature. Chapter Three studies the justifications for war and Islamic attitudes towards non-Muslims in the classical Islamic juridical theory of international law and modern Islamic writings on the subject.

This specific order of these three chapters is very important because, first, the Qur'ānic texts on war address specific contexts so determining the contexts which these Qur'ānic texts address is essential before commencing any study of the Qur'ānic position on the subject, and, second, because it was on the basis of the incidents of fighting between the Muslims and their enemies (discussed in Chapter

³³ G.S.P. Freeman-Grenville, *The Muslim and Christian Calendars: Being Tables for the Conversion of Muslim and Christian Dates from the Hijra to the Year A.D. 2000*, 2nd ed. (London: Rex Collings Ltd, 1977). An easier way for date conversion from Islamic to Christian dates and vice versa is available from <http://www.islamicfinder.org/dateConversion.php> and <http://www.islamonline.net/calculator/english/hijrigregoriancalculator.asp>.

One), and the interpretations of the Qur'ānic texts addressing these incidents (discussed in Chapter Two) that Muslim jurists developed the Islamic law of war. Chapter Four discusses the regulations governing war in international armed conflicts under Islamic law and completes the treatment of international armed conflicts in this study.

Chapter Five is devoted to internal armed conflicts and terrorism in Islamic law. It studies the justifications and regulations for the use of force in internal armed conflicts. In particular, it discusses in some detail the law of fighting against *al-bughāh* (rebels, secessionists) and the law of fighting against *al-muḥāribūn/quṭṭā' al-tarīq* (bandits, highway robbers, pirates). Following the discussions of these two kinds of internal armed conflicts and, before that, the use of force in international armed conflicts, Chapter Five discusses the claim that the concept of jihād is the cause of acts of terrorism perpetrated by Muslims and addresses the questions of the treatment and punishment of terrorism under Islamic law. Chapter Five is longer than the other chapters, but this is necessary in order to cover the arguments regarding the treatment of terrorism and the punishment of terrorists under Islamic law, which are dealt with in the same chapter, following the consideration of the kinds of internal hostilities referred to above.

CHAPTER ONE

WAR DURING THE PROPHET'S LIFETIME

1.1 Introduction

Studies of war are greatly affected by whether the researchers concerned are insiders or outsiders. In cases when the participants in a war are followers of a particular religion or religions, researchers may be affected by their religious, historical, cultural or intellectual view of the religions concerned, even if they themselves do not belong to any of the parties to the conflict. This sometimes affects their degree of objectivity in deciding what is justified and what is not, as well as what might count as defensive and what might not. In the case of holy war, if it is agreed that holy war is fighting in the name of religion or fighting for religion, one of the questions to be raised is whether holy war includes fighting in self-defence against armed aggression or against the persecution of a particular religious group. This chapter uses the term “holy war” in the sense of an armed conflict between members of different religions, waged to propagate the combatants’ religion.

The study of the tradition of war in Islam must start by investigating relations between the earliest Muslims and their communities, including how non-Muslims reacted to the emergence of the religion of Islam and, more importantly, the occasions when fighting took place between the Muslims and their enemies during this period, i.e., during the lifetime of the Prophet. The significance of starting with the occurrences of fighting during this period is that it is on the basis of these incidents and the Qur’ānic texts addressing them that the classical Muslim jurists developed the Islamic law of war. Therefore, this chapter examines the wars that took place during the Prophet’s lifetime – specifically after the Prophet received the message of Islam – and which are referred to in the early *Sīrah* (biographies of the

Prophet) literature, with the goal of discovering the reasons and justifications for these wars, as well as their aims. It attempts to interpret these incidents in their historical, cultural and geographical context in order to offer an explanation of their aims and justifications and their nature. This analysis leads to an understanding of how far these conflicts correspond to the concept of “holy war” as defined above and, more importantly, to a definition of the nature and meaning of jihād in this period, i.e., the lifetime of the Prophet. It will therefore necessarily relate to the history, culture, religion, economy, language and even geography of those involved in the wars concerned. In particular, this chapter argues that studying the first thirteen years in the history of Islam, known as the Meccan period, is essential for understanding the nature of the conflict between the Muslims and their enemies in the later period known as the Medinan period.

1.2 Problems in the Study of *Sīrah*

The early biographers of the Prophet basically collected the available reports about the period of his life. The reliability of the biographers is judged on the basis of their scrutiny of the sources and on the completeness of the *isnād* (chain of narrators) for each report they collected, which would ideally go back to a narrator who witnessed the events. Many Western scholars doubt the reliability of the early biographies of the Prophet and some recognize only the Qur’ān as a reliable source of knowledge for the early period of Islam. This amounts to a rejection of authentic sources on the life of the Prophet, as W. Montgomery Watt (d. 2006) remarks, and the theories based on these sources. Watt, like Muslim scholars, recognizes the reliability of the

early biographical material, unless there are specific reasons why particular parts should be discredited.¹

The majority of Muslim scholars give much credence to the biography by Ibn Ishāq (d. 150/767-8).² His biography, edited by Ibn Hishām (d. 218/833), is one of the main sources for an account of the life of the Prophet. However, Ibn Ishāq's authority as a jurist writing on legal issues is discredited by Aḥmad ibn Ḥanbal (d. 241/855).³ Western scholars often rely on the work on the early period of Islam by al-Wāqidī (d. 207/822-3), entitled *Kitāb al-Maghāzī*.⁴ However, al-Wāqidī's authority is discredited by many Muslim scholars and he is even denounced as "kadhdhāb"⁵ (a liar) by Ibn Ḥanbal. However, his *Al-Maghāzī* is the main source used by Western scholarship with regard to the incidents of war in the period covered in this chapter. It is worth mentioning here that early Muslim scholars did not scrutinize reports on matters related to the biography of the Prophet and early Islamic history as much as they did reports on matters related to theology and jurisprudence.

Biographers generally refer to the incidents of fighting between Muslims and their enemies during the Prophet's lifetime as *al-ghazawāt* or *al-sarāyā*. *Ghazawāt*, (sing. *ghazwah*), which has the same meaning as *maghāzī*,⁶ means raids. Here it refers to any of the missionary and military campaigns, and in fact other trips, in

¹ See W. Montgomery Watt, *Muhammad at Medina* (Karachi: Oxford University Press, 1981), pp. 336-338; W. Montgomery Watt, *Muhammad: Prophet and Statesman* (Oxford: Oxford University Press, 1961), pp. 241 f.

² Muḥammad ibn Ishāq, *Al-Sīrah al-Nabawīyyah*, ed. 'Abd al-Malik ibn Hishām, annotated by Fu'ād ibn 'Alī Ḥāfiẓ (Beirut: Dār al-Kutub al-'Ilmiyyah, 2000).

³ See Ismā'īl ibn 'Umar ibn Kathīr, *Al-Sīrah al-Nabawīyyah* (Beirut: Dār al-Kitāb al-'Arabī, 1997), Vol. 1, p. 24.

⁴ Muḥammad ibn 'Umar al-Wāqidī, *Kitāb al-Maghāzī*, ed. Muḥammad 'Abd al-Qādir 'Aṭā (Beirut: Dār al-Kutub al-'Ilmiyyah, 2004/1424).

⁵ M. Hinds, "Maghāzī", *Encyclopaedia of Islam*, New ed., Vol. V, p. 1163. According to al-Ghunaimi, al-Wāqidī is considered one of "the most famous four, among the many, fabricators of ḥadīth", see Muḥammad Ṭalaat al-Ghunaimi, *Qānūn al-Salām fī al-Islām* (Alexandria, Egypt: Munsha'ah al-Ma'ārif, 2007), p. 150.

⁶ According to Lane, *maghāzī* means "The memorable deeds of... those who engage in warring, or warring and plundering, expeditions", see Edward William Lane, *An Arabic-English Lexicon* (Beirut: Librairie Du Liban, 1968), Vol. 6, p. 2257.

which the Prophet took part. *Sarāyā* (sing. *sariyah*) refers to expeditions allegedly sent by the Prophet but in which, unlike the *ghazawāt*, he did not take part.⁷

Martin Hinds remarks that the purpose of the study of *maghāzī* from the second half of the second/eighth century onwards requires further research.⁸ A meticulous study of this issue in the biographies of Ibn Ishāq, al-Wāqidī, Ibn Sa'd (d. 230/845) and al-Dhahabī (d. 748/1348) reveals that the aim of the biographers was to record all the accounts relevant to the life or the person of the Prophet. They merely aimed at transferring tens of thousands of reports and organizing them chronologically according to topic. They give different chronologies and in some cases details that could lead to different conclusions on the reasons for and objectives of some of these *ghazawāt* and *sarāyā*. They did not attempt to examine the various reports in order to inform the reader of what they considered to be the reasons or justifications for these incidents.

This attitude seems to be the result of the biographers' desire to avoid taking responsibility for adopting a particular account when conflicting reports existed. Adopting specific accounts would mean discrediting the authenticity of other reporters and their accounts. This job was left to another category of Islamic scholars, i.e., the *muḥaddithūn* (specialists in Ḥadīth), who invented a number of disciplines to evaluate the authenticity of reports. By simply recounting the various reports, the biographers put the responsibility on the shoulders of the narrators and it is left to the readers to decide about such incidents. Although this attitude is in some cases troubling and perplexing to the researchers who want to answer particular

⁷ Muḥammad Sayyid Ṭanṭāwī, *Al-Sarāyā al-Ḥarbiyyah fī al-'Ahd al-Nabawī* (Cairo: Al-Zahrā' lil-I'lām al-'Arabī, 1990/1410), p. 21; Ḥusayn Mujīb al-Maṣrī, *Ghazawat al-Rasūl Bayn Shu'arā' al-Shu'ūb al-Islāmiyyah: Dirasah fī al-Adab al-Islāmī al-Muqāran* (Cairo: Al-Dār al-Thaqāfiyyah lil-Nashr, 2000/1420), pp. 32 f.; Youssef H. Aboul-Enein and Sherifa Zuhur, "Islamic Rulings on Warfare", [article online]; available from <http://www.strategicstudiesinstitute.army.mil/pubs/display.cfm?pubID=588>; Internet; accessed 21 April 2009, p. 6.

⁸ Hinds, "Maghāzī", p. 1162.

questions about justifications for war in the period studied here, it prevents any biographer's personal inclination from influencing the acceptance of a particular version.

This means that contemporary researchers need to struggle through these thousands of reports to find out the justifications for going to war in this period. Furthermore, they sometimes even need to reconstruct the situation and find out which party to a conflict initiated the aggression. In the light of the diverse answers to these questions, various theories on the tradition of war in Islam have been formulated, as will be shown below. This explains the controversy among Muslims and non-Muslims alike about the Islamic justifications for war, as will be explained below. Inevitably, discrepancies appear in the *Sīrah* literature simply because earlier reporters were recounting only the part of the incident they witnessed or knew about. Moreover, a painstaking study of the *ghazawāt* and *sarāyā* reveals that the intention of the reporters, as well as the biographers, was not to address the incidents they were reporting or writing about for their own sake, but rather to record the life, character and example of the Prophet. Hence, slight differences exist in the presentation of some incidents as a result of the different perceptions or evaluations of the reporters or biographers. These differences have been kept to a minimum because the biographers have confined themselves throughout history to simply reporting the events. This explains the omission of any statement about the reasons for and objectives of some *ghazawāt* and *sarāyā* and the writers' satisfaction with merely describing the incidents. It is worth mentioning here that differing reasons for and accounts of the same incident are sometimes found.

1.3 The Meccan Period

One of the few books that studies the “origins” of the concept of jihād in the period studied here is Reuven Firestone’s *Jihād: The Origin of Holy War in Islam*. In his reading of the Meccan period, Firestone constructs a particular version in order to support his theory on war in Islam. He portrays the Muslims as determined to initiate aggression towards the Meccan idolaters, claiming that the Meccans “did not oppose him [the Prophet] until he began berating their gods and insulting their ancestors who died as unbelievers.”⁹ Moreover, he proposes that it was the Prophet, not the Meccans, who initiated the battles.¹⁰

As for the sources, he states that all the available literature is written by “the winning Muslims, whose very success was predicted by their willingness (or desire) to engage actively in war.”¹¹ Moreover, he confirms that some of the *Sīrah* was “forged” in order to fill the gaps in the Prophet’s life, to extol his miracles, or to give an appropriate context for particular Qur’ānic verses.¹² However, he also claims that Qur’ānic verses were provided to sanction a particular historical account.¹³

An examination of the sources Firestone uses gives exactly the opposite reading. It is interesting to note that these sources explain that the Prophet refrained from preaching the call for three years out of fear of the reaction of the Meccans, until he received the Qur’ānic revelations (15:94; 26:214-215) that commanded him to declare the message he received.¹⁴ In one incident, Abū Bakr is reported to have saved the Prophet from a group of men who encircled him; when he saw that one of

⁹ Reuven Firestone, *Jihād: The Origin of Holy War in Islam* (New York: Oxford University Press, 1999), p. 106.

¹⁰ *Ibid.*, p. 110.

¹¹ *Ibid.*, p. 107.

¹² *Ibid.*, p. 105.

¹³ *Ibid.*, p. 131.

¹⁴ Ibn Ishāq, *Al-Sīrah*, Vol. 1, p. 190; A. Guillaume, trans. *The Life of Muhammad: A Translation of Ishāq’s Sīrat Rasūl Allāh* (Oxford: Oxford University Press, 1955), p. 117.

them had seized the Prophet's robe, he "interposed himself weeping and saying, 'would you kill a man for saying Allah is my Lord?'"¹⁵

Sīrah literature describes the kinds of torture to which *al-mustad'afīn* (oppressed, socially weak Muslims) were subjected.¹⁶ Bilāl, a slave who performed the call to prayer, is described as having been severely tortured by his master to force him to abandon the new religion and worship the famous Quraysh idols al-Lāt and al-'Uzzā. Bilāl is reported as saying during his torture "*aḥad aḥad*" ("One, One", meaning that there is only one God).¹⁷ The whole family of Yāsir, including 'Ammār ibn Yāsir, his father and his mother Sumayyah the daughter of al-Khayyāt, are also reported to have been brutally tortured. The Prophet passed by them as they were being tortured and, being unable to save them, he said, "*Ṣabrā āl Yāsir! Maw'idukum al-jannah*"¹⁸ ("Patience, O family of Yāsir! Your meeting-place will be paradise").¹⁹ The mother, Sumayyah, known as the first female martyr in Islam, and her husband, Yāsir, were killed under torture because of their adamant refusal to abandon the religion of Islam.²⁰ It is worth mentioning here that these two phrases are very present in the Muslim mind and Muslims still use them. For example, they say "*Ṣabrā āl Yāsir! Maw'idukum al-jannah*" in situations when asking someone to be patient and to bear the injustice or difficulties of a situation in order to achieve something desirable.

¹⁵ Ibn Ishāq, *Al-Sīrah*, Vol. 1, p. 211; Guillaume, *The Life of Muhammad*, p. 131.

¹⁶ Sohail H. Hashmi, "Islam, Sunni", *Encyclopedia of Religion and War*, ed., Gabriel Palmer-Fernandez (New York: Routledge, 2004), p. 217. On the religious persecution and torture of the Muslims during the Meccan period see, Nādiyah Ḥusnī Ṣaqr, *Falsafah al-Ḥarb fī al-Islām* (Cairo: Supreme Council for Islamic Affairs, 1990/1410), pp. 9-21.

¹⁷ Ibn Ishāq, *Al-Sīrah*, Vol. 1, pp. 233 f.; Guillaume, *The Life of Muhammad*, p. 144.

¹⁸ Ibn Ishāq, *Al-Sīrah*, Vol. 1, p. 235; Muḥammad Rashīd Riḍā, *Tafsīr al-Qur'ān al-Ḥakīm: Al-Shahīr bi-Tafsīr al-Manār* (Cairo: Dār al-Manār, 1931-2/1350), Vol. 2, pp. 316 f.

¹⁹ Guillaume, *The Life of Muhammad*, p. 145.

²⁰ Adil Salahi, *Muhammad Man and Prophet: A Complete Study of the Life of the Prophet of Islam* (Leicestershire: Islamic Foundation, 2002/1423), p. 132; Riḍā, *Tafsīr al-Manār*, Vol. 2, p. 317; 'Abd al-Mun'im al-Ḥifnī, *Mawsū'ah al-Qur'ān al-'Azīm* (Cairo: Maktabah Madbūlī, 2004), Vol. 2, p. 1910.

Abū Jahl (d. 2/624), the influential Qurayshite leader,²¹ had various ways of fighting Islam. Whenever he discovered that a noble and well-connected person had embraced the new religion, he reprimanded, scorned and threatened to defame that person. When a merchant embraced Islam, Abū Jahl threatened to boycott and destroy his business. He also beat weak Muslims and incited others against them.²² Some Meccan idolaters were even determined to kill those who embraced Islam. For example, a group of men from al-Makhzūm clan agreed to kill some new converts to Islam, including al-Walīd ibn al-Walīd ibn al-Mughīrah. Being afraid of his violent temper, they could not tell Hishām ibn al-Walīd that they wanted to kill his brother. They told him that they sought to convince his brother to forsake the religion of Islam. Hishām agreed that they could admonish his brother but warned them that if they killed him, he would kill the noblest man among them. For this situation, Hishām recited the following verse, translated by A. Guillaume as:

“My brother ‘Uyays shall not be killed,
Otherwise there will be war between us forever”²³

The Meccan idolaters’ systematic collective torture of anyone who followed Islam is described as follows: “every clan which contained Muslims attacked them [the Muslims], imprisoning them, and beating them, allowing them no food or drink, and exposing them to the burning heat of Mecca, so as to seduce them from their religion. Some gave way under pressure of persecution, and others resisted them, being protected by God.”²⁴ Under all these kinds of torture and the threat of murder, some Muslims were forced to abandon the religion of Islam and to declare that their gods

²¹ See W. Montgomery Watt, *Muhammad at Mecca* (Oxford: Clarendon Press, reprint 1968), p. 134; W. Montgomery Watt, “Abū Ḍjahl”, *Encyclopaedia of Islam*, New ed., Vol. I, p. 115.

²² Ibn Ishāq, *Al-Sīrah*, Vol. 1, p. 236; Guillaume, *The Life of Muhammad*, p. 145. See also Bruce B. Lawrence, *The Qur’ān: A Biography* (London: Atlantic Books, 2006), p. 41.

²³ Guillaume, *The Life of Muhammad*, p. 145; Ibn Ishāq, *Al-Sīrah*, Vol. 1, pp. 236 f. Where direct quotations are taken from Guillaume’s translation, his translation is given in the references before Ibn Ishāq’s original text.

²⁴ Guillaume, *The Life of Muhammad*, p. 143; Ibn Ishāq, *Al-Sīrah*, Vol. 1, p. 233.

were the idols al-Lāt and al-‘Uzzā, and not God.²⁵ The Qur’ān (16:106) addressed this by affirming that such cases of apostasy under torture are excusable.

Facing all these tortures and persecution and with no hope of stopping this aggression, the Prophet asked some Muslims to flee to Abyssinia because its king, the Negus, was a righteous man who would not allow anyone to be oppressed in his territory. Thus, “being afraid of apostasy and fleeing to God with their religion”,²⁶ about eighty-three Muslims fled to Abyssinia, and can thus be described as the first asylum seekers in the history of Islam. This is known as the first *hijrah* (flight) in Islam. In fact, the Meccan idolaters were determined to get the emigrants back and sent ‘Abd Allah ibn Abū Rabī‘ah and ‘Amr ibn al-‘Ās ibn Wā’il, described as two determined men, with presents to the Negus in order to bring them back to Mecca. The justification these two men gave to the Negus was that the emigrants were a group of people who rejected idol-worship and did not accept his religion, i.e., Christianity but had invented a new religion, i.e., Islam. After the Negus heard from the emigrants, he refused to give them back and promised to continue to protect them.²⁷

The number of those who accepted Islam increased inside and outside Mecca, so the Quraysh decided to boycott the clans of Banū Hāshim and Banū al-Muṭṭalib. They issued a document and hung it up on the Ka’bah to the effect that members of the Quraysh should not inter-marry with these two clans, or sell to them or buy from them.²⁸ Persecution of the Prophet and the Muslims increased after the death of both the Prophet’s protector, his uncle Abū Ṭalib, and the Prophet’s wife Khadījah in

²⁵ Ibn Ishāq, *Al-Sīrah*, Vol. 1, p. 236; Guillaume, *The Life of Muhammad*, p. 145.

²⁶ Guillaume, *The Life of Muhammad*, p. 146; Ibn Ishāq, *Al-Sīrah*, Vol. 1, p. 237.

²⁷ Ibn Ishāq, *Al-Sīrah*, Vol. 1, pp. 247-251; Guillaume, *The Life of Muhammad*, pp. 150-153; Muḥammad Ḥusayn Haykal, *The Life of Muḥammad*, trans. from the 8th ed. by Isma‘īl Rāgī A. al-Fārūqī (n.p.: North American Trust Publication, 1976), pp. 98-100; ‘Abd al-Ḥalīm Maḥmūd, *Al-Jihād fī al-Islām*, 2nd ed. (Cairo: Dār al-Ma‘ārif, 1988), pp. 6-8.

²⁸ Ibn Ishāq, *Al-Sīrah*, Vol. 1, p. 260; Guillaume, *The Life of Muhammad*, pp. 159-161.

619.²⁹ The Prophet continued preaching Islam to the neighbouring tribes and those who came to the fairs at Mecca, calling them to God and asking them for their protection. Many rejected his call to Islam and humiliated him, but others believed and agreed to protect the Prophet from any aggression.³⁰

Support for Islam at this time came from *al-Anṣār* (lit. the helpers or supporters), the name given to the new Muslims from Yathrib (Medina), who hosted the Muslims from Mecca and the Prophet after they fled there (the second *hijrah*). Several new Muslim delegations also pledged to support Islam and to protect the Prophet and the Muslims.³¹ Thereupon, after finding a second secure place, the Prophet commanded the Muslims in Mecca to flee to Yathrib. They all did so with the exception of ‘Alī ibn Abī Ṭālib (d. 40/ 661) and Abū Bakr (d. 13/634) and those who had been imprisoned or forced to apostatize.³²

When the Meccan idolaters recognized that Islam had started to gain protectors outside Mecca, they assembled in order to stamp out the new religion and put an end to the issue. After listening to some suggestions on how to get rid of the Prophet, they unanimously agreed “that each clan should provide a young, powerful, well-born, aristocratic warrior; that each of these should be provided with a sharp sword; then each of them should strike a blow at him [the Prophet] and kill him.”³³ This plot appealed to all the conspirators because the Prophet’s clan would not be able to seek revenge from all of these warriors’ clans. While the warriors were waiting by the Prophet’s door to assassinate him during his sleep, the Prophet

²⁹ Ibn Ishāq, *Al-Sīrah*, Vol. 2, pp. 14 f.; Guillaume, *The Life of Muhammad*, pp. 191 f.; Muḥammad ibn Muḥammad ibn Muḥammad ibn Sayyid al-Nās, *‘Uyūn al-Athar fī Funūn al-Maghāzī wa al-Shamā’il wa al-Siyar*, ed. Muḥammad al-‘Īd al-Khatrāwī and Muḥyī al-Dīn Mito (Medina: Maktabah Dār al-Turāth; Damascus; Beirut: Dār ibn Kathīr, n.d.), Vol. 1, pp. 226-231; Watt, *Muhammad at Mecca*, p. 137; Firestone, *Jihād*, p. 109.

³⁰ Ibn Ishāq, *Al-Sīrah*, Vol. 2, pp. 17-30; Guillaume, *The Life of Muhammad*, pp. 192-199; Watt, *Muhammad at Mecca*, pp. 140 f.

³¹ Ibn Ishāq, *Al-Sīrah*, Vol. 2, pp. 24-53; Guillaume, *The Life of Muhammad*, pp. 197-213.

³² Ibn Ishāq, *Al-Sīrah*, Vol. 2, p. 64; Guillaume, *The Life of Muhammad*, p. 221.

³³ Guillaume, *The Life of Muhammad*, p. 222; Ibn Ishāq, *Al-Sīrah*, Vol. 2, pp. 64-65.

survived the plot by miraculously passing through the warriors without their being able to see him.³⁴ Then the Prophet received a divine command to flee to Yathrib. He ordered ‘Alī ibn Abī Ṭālib to stay in Mecca for three days to return all the valuable properties and goods the people at Mecca had deposited with the Prophet because of his honesty³⁵ and then, accompanied by his companion Abū Bakr, he left by the back door of the latter’s house and hid for three days in Thawr cave, on a mountain below Mecca. Their plot having been foiled, the Meccans offered a reward of one hundred female-camels for the return of the Prophet.

Studying this period indicates, on the one hand, that the Meccan idolaters initiated a state of war against the followers of the new religion. In the words of Watt, the influential “Abū Jahl was bent on crushing the new religious movement.”³⁶ One of the reasons for their aggression towards the Muslims was religious, because the Muslims had abandoned idolatry, the religion of the leaders of the Quraysh and their ancestors, so, in a sense, this state of aggression could be described as a holy war against the Muslims. Moreover, they saw in this new monotheistic religion a profound challenge to their religious, economic and political power³⁷ because Islam’s call to the worship of God necessitated the destruction of their businesses, which depended on the revenues from the pilgrims’ visits to the shrines, and this in turn would lead to the destruction of the honour in which the Meccans were held among the Arab tribes. According to T. W. Arnold (d. 1930), the spread of the new religion meant for the Meccans “the destruction of the national religion and the

³⁴ Ibn Ishāq, *Al-Sīrah*, Vol. 2, pp. 66-68; Guillaume, *The Life of Muhammad*, pp. 222 f. See Qur’ān (8:30; 36:1-9).

³⁵ Ibn Ishāq, Vol. 2, p. 69; Guillaume, *The Life of Muhammad*, p. 224.

³⁶ Watt, *Muhammad: Prophet and Statesman*, p. 74.

³⁷ Watt, *Muhammad at Mecca*, pp. 134-136.; John L. Esposito, *Unholy War: Terror in the Name of Islam* (Oxford: Oxford University Press, 2002), pp. 29 f.

national worship, and a loss of wealth and power to the guardians of the sacred Ka'bah".³⁸

On the other hand, there are many examples of how determined the Prophet and the Muslims were to live by their own beliefs: for example, Bilāl's "*aḥad aḥad*", Abū Bakr's plea to the Meccan idolaters to stop their assault on the Prophet: "would you kill a man for saying Allah is my Lord?", Sumayyah's murder because of her refusal to abandon Islam and worship the idols of the Quraysh and the first and second flights, when Muslims were forced to leave behind their houses, businesses and properties. This determination to live by Islam is clearly expressed in a poem written by 'Abd Allah ibn al-Ḥārith during his flight to Abyssinia in which he celebrates that the Muslim emigrants were safely settled and able to worship God without fear.³⁹

The importance of the Meccan period in the study of the tradition of war in Islam has not been given adequate attention in Western scholarship. Although no fighting took place in this period, in fact, a state of war already existed, and the enmity escalated, especially after the Muslims and the Prophet were forced to leave Mecca, with the consequent confiscation of their land and properties by the Meccans.⁴⁰ The failure of Western scholarship to recognize that the *hijrah* signifies a state of war seems to be the result of a cultural misunderstanding. According to Watt, who appears to be influenced in this idea by the Dutch Orientalist Snouck Hurgronje

³⁸ T.W. Arnold, *The Preaching of Islam: A History of the Propagation of the Muslim Faith*, 2nd ed. rev. & enl. (London: Constable & Company, 1913), p. 14. See also Watt, *Muhammad at Mecca*, pp. 134-136; M.J. Akbar, *The Shade of Swords: Jihad and the Conflict between Islam and Christianity* (London: Routledge, 2002), p. 1; David Dakake, "The Myth of a Militant Islam", in Aftab Ahmad Malik, ed., *The State We Are in: Identity, Terror and the Law of Jihad* (Bristol: Amal Press, 2006), p. 60.

³⁹ Ibn Ishāq, *Al-Sīrah*, Vol. 1, pp. 245-247; Guillaume, *The Life of Muhammad*, pp. 148-150.

⁴⁰ See Muḥammad Ḥammīdullāh, *The Battlefields of the Prophet Muhammad, with Maps, Illustrations and Sketches: A Continuation to Muslim Military History* (New Delhi: Kitab Bhavan, 2003), pp. 16, 27 f.; Abdulrahman Muhammad Alsumaih, "The Sunni Concept of Jihad in Classical Fiqh and Modern Islamic Thought" (PhD thesis, University of Newcastle Upon Tyne, 1998), pp. 191 f.

(d. 1936), *hijrah* means for Europeans “a change of location”, but the Arabs have thought of it “as a change of relationship to one’s tribe - to make the *hijrah* was to leave one’s tribe and attach oneself to the *ummah*.”⁴¹ But even Watt does not seem to recognize that this change of relationship meant a change in the stance towards one’s tribe. In other words, for the Prophet and the Muslims, being forced to leave their beloved Mecca, the holiest of all places, meant the initiation of war. Thus, H. Lammens clearly states: “In the old Arab law, the Hijra did not merely signify rupture with his [Prophet Muḥammad] native town, but was equivalent to a sort of declaration of war against it. The Me[cc]an guild were under no misapprehension [about this old Arab law].”⁴²

It should be added here that the political system in Arabia was characterized by tribal or clan affiliation.⁴³ The tribe or the clan were the sources of the individual’s security and sense of belonging. Thus, anyone expelled from a tribe was compelled to find another with which to ally himself.⁴⁴ “Each tribe or clan formed a separate and absolutely independent body.”⁴⁵ A state of war was the norm between all tribes unless there was a peace treaty.⁴⁶ This explains the pre-Islamic practice of

⁴¹ Watt, *Muhammad at Medina*, p. 242.

⁴² H. Lammens, *Islām: Beliefs and Institutions*, trans. from the French by Sir E. Denison Ross (London: Methuen & Co. Ltd, 1929), p. 27. See also Stephen Akpiok-bisa Agilinko, “A Comparative Study of the Just War and Islamic Jihad Traditions: An Analytical Approach” (M.A. diss., University of Lancaster, 2002), p. 54.

⁴³ See Afzal Iqbal, *Diplomacy in Early Islam*, 4th ed. (Lahore: Institute of Islamic Culture, 1988), pp. 42 f.

⁴⁴ Mahmūd Shākir, *Al-Tārīkh al-Islāmī: Qabl al-Ba’thah wa al-Sīrah*, 8th ed. (Beirut: Al-Maktab al-Islāmī, 2000), p. 91.

⁴⁵ Arnold, *The Preaching of Islam*, p. 31; see also W. Montgomery Watt, “Badw”, *Encyclopaedia of Islam*, New ed., Vol. I, pp. 889-892; Shākir, *Al-Tārīkh al-Islāmī*, p. 91; Majid Khadduri, *War and Peace in the Law of Islam* (Baltimore, MD.: Johns Hopkins University Press, 1955), p. 62.

⁴⁶ See Fred McGraw Donner, “The Sources of Islamic Conceptions of War”, in John Kelsay and James Turner Johnson, eds., *Just War and Jihad: Historical and Theoretical Perspectives on War and Peace in Western and Islamic Traditions* (Westport, Conn.: Greenwood Press, 1991), p. 34. According to Michael Bonner, “Islam arose in an environment where warfare – or at any rate, armed violence with some degree of organization and planning – was a characteristic of everyday life”, Michael Bonner, *Jihad in Islamic History: Doctrines and Practices* (Princeton: Princeton University Press, 2006), p. 7.

weaker tribes having to make payments to stronger tribes for their protection.⁴⁷ Thus, the fact that they had been persecuted and driven out of their homes and tribes solely because of their beliefs was the Qur’ānic justification for permitting the Muslims to fight in their own defence against their oppressors (Qur’ān 22:39-40), as will be shown in Chapter Two. The enmity here was between a group known as Muslims and their Meccan persecutors, called in the Islamic sources *al-mushrikūn* or *al-Kuffār* (polytheists, idolaters or unbelievers). All the relevant Qur’ānic texts should be read in this context.

1.4 The Medinan Period

The Prophet’s invitation to Yathrib (later known as Medina, lit. city) by a number of delegations, including a delegation of women, and their pledge of allegiance and support,⁴⁸ had both religious and political aspects, according to Watt. From the religious perspective, it meant accepting the new religion, while politically it meant accepting the Prophet as arbiter between the opposing factions of the then troubled Medina.⁴⁹ Justifying their invitation to the Prophet, they told him that they hoped that “God would unite them [the opposing factions at Medina] through you [the Prophet]”.⁵⁰ The point to be noted here is that the Muslims had fled from Mecca to another troubled place, which was inhabited by several Jewish clans, idolaters and a few people who became Muslims. There was no recognized form of judicial or political authority in the “hostile city”⁵¹ of Medina, as was the case throughout Arabia at that time. Each clan or tribe recognized only the authority of its leader.

⁴⁷ Watt, *Muhammad at Medina*, p. 246.

⁴⁸ Ibn Ishāq, *Al-Sīrah*, Vol. 2, pp. 24-53; Guillaume, *The Life of Muhammad*, pp. 198-212; Watt, *Muhammad at Mecca*, pp. 144-149.

⁴⁹ Watt, *Muhammad at Medina*, p. 1; Watt, *Muhammad at Mecca*, pp. 143 f.

⁵⁰ Ibn Ishāq, *Al-Sīrah*, Vol. 2, p. 25; Guillaume, *The Life of Muhammad*, p. 198.

⁵¹ Arnold, *The Preaching of Islam*, p. 47. See also Watt, *Muhammad at Mecca*, p. 143.

This is why the Muslim delegates hoped that the Prophet would bring about peace in Medina. It is important for researchers into the tradition of war in Islam to study how the Prophet organized the relationship between Muslims and non-Muslims in the newly established state system.

The Prophet began his stay at Medina by building a mosque. A reflection on the first two extant Friday sermons indicates that the Prophet addressed monotheism and piety and called upon the people to love one another.⁵² He mentions nothing about the nature of relations between the followers of different religions who were living in Medina. A document attributed to this period called *Ṣaḥīfah al-Madīnah* (translated in Western scholarship as the Constitution of Medina), is of paramount importance because it answers many questions about the nature of this newly established state system and its conception of nationhood, including war and peace.

There is general agreement on the authenticity of this document, although some Western scholars disagree about whether it was written before or after the battle of Badr (Ramadhān 2/March 624). Some suggest that it may consist of more than one document.⁵³ Concerning its dating, as the biographers place it, the document must necessarily pre-date the battle of Badr, i.e., it must date to the first few weeks after the Prophet's arrival in Medina.⁵⁴ Biographers agree that the Prophet's first achievements there were building a mosque, forming a brotherhood between the Meccan Emigrants (*muhājirūn*) and the Helpers (*al-Anṣār*) and

⁵² Ibn Ishāq, *Al-Sīrah*, Vol. 2, pp. 83 f.; Guillaume, *The Life of Muhammad*, pp. 230 f.

⁵³ See Watt, *Muhammad at Medina*, pp. 225-228; Frederick M. Denny, "Ummah in the Constitution of Medina", *Journal of Near Eastern Studies*, Vol. 36, No. 1, Jan., 1977, p. 39.

⁵⁴ See 'Abd al-Raḥman ibn Khaldūn, *Tārīkh Ibn Khaldūn: Al-Musammā Dīwān al-Mubtadā' wa al-Khabar fī Tārīkh al-'Arab wa al-Barbar wa man 'Āṣarahum min Dhawī al-Sha'n al-Akbar*, ed. Khalīl Shihādah (Beirut: Dār al-Fikr, 2000/1421), Vol. 2, pp. 422 f.; Ṣubḥī al-Ṣaliḥī *'Ulūm al-Ḥadīth wa Muṣṭalaḥuh: 'Arḍ wa Dirāsah*, 4th ed. (Beirut: Dār al-'Ilm lil-Malāyīn, 1999), p. 29; Uri Rubin, "The 'Constitution of Medina' Some Notes", *Studia Islamica*, No. 62, 1985, p. 18; Mohammad Hashim Kamali, *A Textbook of Hadīth Studies: Authenticity, Compilation, Classification and Criticism of Hadīth* (Leicestershire: Islamic Foundation), 2005, p. 26.

concluding a treaty of peace and rapprochement with the Jews.⁵⁵ Forming the brotherhood between the Muslims and concluding peace with the Jews are what the document precisely attempts to achieve. The fact that it addresses the relationship between the Emigrants and the Helpers in the first half and the Jews and the Muslims in the second may support the claim that it was originally two documents, especially since there is a reference to the Jews at the end of the first part, but this evidence is not conclusive, for the purpose may have been to address first the relationship between the Muslims and second the relationship between the Muslims and the Jews in one document. Moreover, the part addressing the relationship of the Muslims with the Jews seems to be a continuation of the preceding articles of the document. As a result, biographers of the Prophet and Muslim scholars seem never think of it as more than a single document.

Furthermore, a report in al-Wāqidī's *Maghāzī* confirms that this document was written before Badr. It states that the Prophet concluded a written peace treaty with all the Jewish clans upon his arrival in Medina and that the Jewish clan of Banū Qaynuqā' was the first clan to break this treaty in the twentieth month after the Prophet's arrival.⁵⁶ Despite the importance of such an authentic document, it has not been given due "prominence"⁵⁷ by "Muslim writers or Western orientalists",⁵⁸ particularly in the formulation of the tradition of war in Islam.

The first sentence of the document contains a reference to the past form of the term *jihād*. It reads: "This is a writing from Muḥammad the Prophet between the believers and Muslims from Quraysh and Yathrib [Medina] and those who followed them, joined them and *jāhad* with them that they are one *ummah* (community or

⁵⁵ See Ḥammīdullāh, *Battlefields*, pp. 16 f.

⁵⁶ Al-Wāqidī, *Al-Maghāzī*, Vol. 1, p. 165.

⁵⁷ See Watt, *Muhammad at Medina*, pp. 225-228.

⁵⁸ R.B. Serjeant, "The 'Constitution of Medina'", *The Islamic Quarterly*, Vol. VIII, No. 182, 1964/1384, p. 3.

nation) from among the people.”⁵⁹ Guillaume translates *jāhad* here as “laboured”,⁶⁰ R.B. Serjeant as “strive”,⁶¹ and Watt as “crusade”.⁶² At this point no fighting had taken place and the situation here involves Jews, since the document stipulates one nation formed from Jews and Muslims together. The whole context supports the meaning of the word *jāhad* as “strove” or “made an effort” to live peacefully together in this new *ummah* system.

The main points here are that the Constitution of Medina first stipulates a state system which makes the Prophet the head of state and, second, affirms that Medina is a *ḥaram* (a sanctuary) for all the parties to this document.⁶³ Significantly, this designation of Medina as a *ḥaram* means there is a total prohibition of violence or bloodshed in it. Thus, in the words of Uri Rubin, Medina “was made sacred, with strict rules against bloodshed, and its inhabitants were expected to protect and be devoted to it just as Quraysh were devoted to their own *ḥaram*.”⁶⁴ Moreover, it affirms that if any disagreement or serious dispute arises, it should be referred to God and the Prophet.⁶⁵ The first half of the document enumerates a number of clans from Medina and makes them one *ummah* along with the Muslim immigrants from Quraysh. The second half enumerates a number of Jewish clans and makes one *ummah* of them with the Muslims. The inclusion of the Jews in this new *ummah* state and the affirmation that “the Jews have [the right to practise] their religion and the

⁵⁹ Ibn Ishāq, *Al-Sīrah*, Vol. 2, p. 85; Guillaume, *The Life of Muhammad*, pp. 231 f.

⁶⁰ Guillaume, *The Life of Muhammad*, p. 232.

⁶¹ R.B. Serjeant, “The *Sunnah Jāmi’ah*, Pacts with the Yathrib Jews, and the *Taḥrīm* of Yathrib: Analysis and Translation of the Documents comprised in the So-Called ‘Constitution of Medina’”, in Uri Rubin, ed., *The Life of Muhammad*, The Formation of the Classical Islamic World, Vol. 4 (Aldershot: Ashgate, 1998), p. 168.

⁶² Watt, *Muhammad at Medina*, p. 221. See also Iqbal, *Diplomacy in Early Islam*, p. 36.

⁶³ Haykal, *The Life of Muhammad*, p. 182; Ḥammīdullāh, *Battlefields*, p. 17.

⁶⁴ Rubin, “The ‘Constitution of Medina’ Some Notes”, p. 11. See also Ḥammīdullāh, *Battlefields*, p. 18.

⁶⁵ On the articles of the Constitution of Medina that attempted to bring about peace and end “conflict that had been plaguing the region for generations”, see Yetkin Yıldırım, “Peace and Conflict Resolution in the Medina Charter”, *Peace Review*, Vol. 18, Issue 1, 2006, pp. 109-117.

Muslims have their own religion”⁶⁶ indicates that this *ummah* state, which emerged inside the tribal political system, “is no longer a purely religious community.”⁶⁷

Furthermore, the Constitution of Medina stipulates a collective defence agreement between the Jews and the Muslims in the case of an attack on either of them. Thus, the document makes Medina a *ḥaram* for all the parties mentioned in it and stipulates that none of the Jews should initiate a war without the permission of the Prophet unless it is in revenge. The document even calls for a form of mutual cooperation between Jews and Muslims by affirming that *wa inna baynahum al-nuṣṣah wa al-naṣīḥah* (indeed, mutual advice and consultation should exist between them, i.e., Muslims and Jews).⁶⁸ It also affirms the need for loyalty and for helping those who were wronged and confirms, as is argued above, that the state of relations between the Muslims and the Quraysh was a one of war following the persecution of the Muslims to the extent of forcing them to flee their home town twice. In one of its articles, the document stipulates that “no covenant of protection is given to the Quraysh or any of its helpers”.⁶⁹ It is worth recalling here that, by the time the document was written, no battles between the armies of the Muslims and the Quraysh had yet taken place.

1.5 The Prophet’s *Ghazawāt*

The harsh natural conditions of the Arabian Peninsula led to the pre-Islamic practice of *ghazw* (raiding), aimed at the acquisition of camels and other animals for their

⁶⁶ Ibn Ishāq, *Al-Sīrah*, Vol. 2, p. 86; Guillaume, *The Life of Muhammad*, p. 233.

⁶⁷ Watt, *Muhammad at Medina*, p. 241.

⁶⁸ This article is incorrectly translated by Serjeant as “There is good will and sincerity of intention between them”, see his “The Sunnah Jāmi’ah, Pacts with the Yathrib Jews”, p. 183; Firestone translates it as “There must be friendly counsel and mutual guidance between them”, see Firestone, *Jihād*, p. 122.

⁶⁹ Ibn Ishāq, *Al-Sīrah*, Vol. 2, p. 87; Guillaume, *The Life of Muhammad*, p. 233.

milk and meat.⁷⁰ Although it is difficult for the contemporary reader to conceive the exact culture of *ghazw*, especially because of the meaning its English translation carries, the whole practice of *ghazw* “was governed by elaborate protocol”.⁷¹ According to Watt, it was “a normal feature of Arab desert life. It was a kind of sport rather than war. The Arabs had their wars indeed”.⁷² Fred McGraw Donner also describes it as a “game” and states that this intertribal raiding at the time of the rise of Islam was “a frequent, almost routine part of life”⁷³ among the Northern Arabian tribes. Although it is beyond the scope of this study to give a satisfactory explanation of this pre-Islamic Arabian custom, it is believed that “in practice it [*ghazw*] operated as a fairly effective means of redistributing economic resources in a region where the balance could easily be upset by natural calamities”.⁷⁴

Speaking about “war and peace” in his *The Political Language of Islam*, Bernard Lewis gives the “Oxford English Dictionary” definition of the word *razzia*, English for *ghazw*, as “a hostile incursion, foray or raid, for purpose of conquest, plunder, capture of slaves, etc., as practiced by the Mohammedan peoples in Africa”. He adds that the word *ghazw* “dates back to pre-Islamic Arabic, when it was used with much the same meaning”.⁷⁵ Giving this definition in the context of his discussion of fighting in *jihād* and the terms given to those whom he describes as its “frontiersmen, the march warriors who defended the far-flung frontiers of Islam and

⁷⁰ See Watt, “Badw”, pp. 889-892.

⁷¹ T.M. Johnstone, “Ghazw”, *Encyclopaedia of Islam*, New ed., Vol. II, p. 1055.

⁷² Watt, *Muhammad: Prophet and Statesman*, p. 105; see also his *What is Islam?* (London: Longmans, 1968), pp. 108 f. On wars in pre-Islamic Arabia see, Zāfir al-Qāsimī, *Al-Jihād wa al-Huqūq al-Dawliyyah al-‘Āmmah fī al-Islām* (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1982), pp. 116-122. See also on pre-Islamic Mecca, Mahmood Ibrahim, “Social and Economic Conditions in Pre-Islamic Mecca”, *International Journal of Middle East Studies*, Vol. 14, No. 3, August 1982, pp. 343-358.

⁷³ Donner, “The Sources of Islamic Conception of War”, p. 34.

⁷⁴ Johnstone, “Ghazw”, p. 1055; Watt, *What is Islam?*, p. 108; Karen Armstrong, *Muhammad: A Biography of the Prophet*, paperback ed. (London: Phoenix, 2001), p. 169.

⁷⁵ Bernard Lewis, *The Political Language of Islam* (Chicago: University of Chicago Press, 1988), p. 74.

carried the war, by invasion or by raiding parties, into the territory of the enemy”,⁷⁶ is misleading and distorts the entire tradition of war in Islam. The discussion of Lewis here leads to the conclusion that the meaning of jihād is included in this “Oxford English Dictionary” definition of the word *razzia*, mentioned above.

In fact, biographers used the words *ghazwah* and *sariyah* to describe many crucial events in the period of the Prophet’s life at Medina, which are, however, not defined. This results in a considerable degree of misunderstanding as embodied in the definition quoted by Lewis above. Biographers used the word *ghazwah* to denote all the Prophet’s travels as well as many of his encounters with non-Muslims and give different figures for the total number of these *ghazawāt*, such as 18, 19, 26, and 27. Different names are also given to the same incident, referring either to the name of the clan or tribe involved or to the locality in which it took place. It is common for the biographers to give different chronologies.⁷⁷ They even differed on what constitutes a *ghazwah*, in the sense that, if the Prophet left Medina and encountered two tribes before returning to Medina, some considered this one *ghazwah*, while others considered it two. They almost all agree that the Prophet was engaged in nine incidents of fighting.

A meticulous study of the Prophet’s *ghazawāt* reveals that the meaning of the word has been confused with its pre-Islamic meaning. Biographers used the word *ghazwah* to refer to all the Prophet’s journeys from Medina, whether to make peace-treaties and preach Islam to the tribes, to go on *‘umrah*, to pursue enemies who attacked Medina, or to engage in the nine battles. It is worth recalling here that the

⁷⁶ Ibid.

⁷⁷ See J.M.B. Jones, “The Chronology of the Maghāzī-A Textual Survey”, in Uri Rubin, ed., *The Life of Muhammad*, The Formation of the Classical Islamic World, Vol. 4 (Aldershot: Ashgate, 1998), pp. 193-228.

main concern of the biographers was merely to collect accounts about the life of the Prophet, not to study the tradition of war for its own sake.

Guillaume noticed that Ibn Ishāq included the *'umrah* performed by the Prophet in 7/629 among the Prophet's 27 *ghazawāt*. Guillaume remarked in his translation that the number of *ghazawāt* is 26 and writes in a footnote that Ibn Ishāq "has counted the Pilgrimage [*'umrah*] as a raid".⁷⁸ Indeed, Ibn Ishāq was not mistaken here because this was one meaning of the word *ghazwah* at the time when he was writing. Moreover, al-Wāqidī also called it *ghazwah al-Qadiyyah*⁷⁹ (i.e., the fulfilled *'umrah ghazwah*), referring to the *'umrah* the Prophet performed the year after he was prevented from entering Mecca, because, according to the treaty of al-Ḥudaybiyah (6/628), the Prophet was permitted to enter Mecca only the following year. In this case, the Prophet's journey for *'umrah* is called a *ghazwah*. Thus, the word *ghazwah* can mean a journey and does not necessarily mean a raid or a *razzia*. To conclude: in this context, this meaning of the word *ghazwah* is one of the meanings the biographers had in mind when they attempted to describe every single instance of the Prophet's travels or encounters with non-Muslims. But this meaning is not found in Lane's Lexicon or any standard Arabic lexicon.

The nature of *ghazawāt* may be classified into the following two main categories:

1.5.1 Preaching and Making Peace Treaties

Nine of the Prophet's 27 *ghazawāt* discussed in what follows were expeditions to preach Islam and make peace treaties with the tribes, which were successful in two cases. In *ghazwah al-Abwā* (1), the Prophet made a written peace treaty with the clan

⁷⁸ Guillaume, *The Life of Muhammad*, p. 659.

⁷⁹ Al-Wāqidī, *Al-Maghāzī*, Vol. 2, pp. 185-192. See also Ibn Sayyid al-Nās, *'Uyūn al-Athar*, Vol. 2, p. 203.

of Banū Damarah⁸⁰ and in *ghazwah* al-‘Ushayr (3) he made peace treaties with the clan of Banū Mudlaj. Watt notes that “Some small clans or tribes made alliances with Muḥammad in the course of his expeditions [*ghazawāt*], probably pacts of non-aggression.”⁸¹ However, Firestone portrays the early *ghazawāt* of the Prophet as marauding attacks against the Quraysh and quotes a sentence from Ibn Ishāq which leads to this misinformation. He quotes: “[Muḥammad] then went out to raid⁸² in [the month of] Ṣafar, the beginning of the twelfth month from his arrival in Medina.”⁸³ However, one sentence later the source he quotes reads: “The B. Ḍamra there made peace with him through their leader Makhshī b. ‘Amr al-Ḍamrī.”⁸⁴ This example shows that using the word “raid” to translate *ghazwah* in the context of the incidents studied in this chapter is sometimes inaccurate and indeed misleading.

In six of these nine *ghazawāt*, the Prophet did not meet the clans or tribes who were his targets. No explanation is given and this might mislead readers about the nature and objectives of these *ghazawāt*. The reason contemporary readers are left to conclude from the geography of the region and culture of these tribes is that they were mobile nomads, so when the Prophet knew that they would be at a certain place, usually where their animals could find water, he went there to meet them, but, by the time the Prophet reached these places, they had already moved on. The Prophet did not make contact with the clans in any of the following *ghazawāt*: Buwāt (2), Banū Sulaym in al-Kudr (8), Dhū Amarr, also called Ghaṭafān (9), al-Furū’ of Buḥrān (10), Dhāt al-Riqā’ (14) and Dūmah al-Jandal (16). In Dhāt al-Riqā’, as the Prophet was travelling to meet three clans, he met one on his way, but the two parties

⁸⁰ For a translation of this treaty see Watt, *Muhammad at Medina*, p. 354.

⁸¹ Watt, *Muḥammad: Prophet and Statesman*, p. 104; see also Watt, *Muhammad at Medina*, pp. 3 f.

⁸² The exact words of Guillaume’s translation are “went forth raiding”, see Guillaume, *The Life of Muhammad*, p. 281.

⁸³ Firestone, *Jihād*, p. 131. See Guillaume, *The Life of Muhammad*, p. 281.

⁸⁴ Guillaume, *The Life of Muhammad*, p. 281; Ibn Ishāq, *Al-Sīrah*, Vol. 2, p. 166.

were fearful of each other. They made no contact and the Prophet prayed with the Muslims “the prayer of fear”. In some of these *ghazawāt*, biographers add that the Prophet stayed at these places for a period of a few days, a month or even two months. The Prophet’s stay for a period of up to two months might suggest that he was involved in preaching.

Although Muslims study the accounts of the life of the Prophet to learn from his example and way of life, early biographers confined themselves to merely describing events. Modern biographers, however, give very brief explanations for these incidents. Mahmūd Shākir indicates that the aim of such early *ghazawāt* was to learn about each new place and preach Islam to the surrounding tribes, and to ensure that the tribes would not support the Quraysh if a war took place between the Quraysh and the Muslims.⁸⁵ In his encyclopaedic two-volume *Sīrah Khātam al-Nabiyyīn* (Biography of the Seal of the Prophets), Shaykh Abū Zahrah (1898-1974) writes only one sentence affirming that the Prophet’s expeditions were aimed at introducing Islam to the tribes: “calling [such expeditions] *ghazawāt* or the like does not mean war but preaching the call [i.e., the religion of Islam]”.⁸⁶ The reason that biographers do not give adequate explanatory information about these incidents is that they are addressed to Muslims, who could be expected to be aware of the relevant background.

1.5.2 Attacks on the Muslims and Series of Incidents

In the first *ghazwah* of Badr (4), “Kurz ibn Jābir al-Fihrī raided the pasturing camels of Medina.”⁸⁷ The Prophet, along with thirteen of the emigrants, searched for him

⁸⁵ Shākir, *Al-Tārīkh al-Islāmī*, p. 164.

⁸⁶ Muḥammad Abū Zahrah, *Sīrah Khātam al-Nabiyyīn* (Beirut: al-Maktabah al-‘Aṣriyyah, n.d.), p. 807.

⁸⁷ Guillaume, *The Life of Muhammad*, p. 286; Ibn Ishāq, *Al-Sīrah*, Vol. 1, p. 176.

until they reached the neighbourhood of Badr, but in vain; they then returned to Medina. This incident is counted as one of the Prophet's *ghazawāt* simply because the Prophet took part in a search for the attacker, even though no encounter at all took place.

The state of war that had existed in Mecca between the Quraysh and the Muslims culminated in a series of attacks on the Muslims in Medina. The alleged intention of the Muslims to take the property of a Quraysh caravan in compensation for the property they had been forced to leave in Mecca was met by Abū Jahl's determination to prove the unchallengeable power of the Quraysh over Arabia. The reason for his determination to fight the Prophet (quoted below) is very important in understanding the nature of the conflict at this period. The leader of the caravan sent a messenger to the Quraysh to inform them that the caravan had passed Medina and was returning safely to Mecca. Hence, "two clans, Zuhrah and 'Adī, withdrew completely"⁸⁸ from the march to Medina once they were sure that the caravan was safe. Abū Jahl, however, "forced Quraysh to advance" to Badr.⁸⁹ In his words, Abū Jahl wanted "the Arabs to hear about the Quraysh's march and huge gathering [army] so that they [the Arabs] would always be in awe of us [Quraysh] forever after".⁹⁰ Watt, however, argues that Abū Jahl "was presumably hoping to get rid of Muḥammad once for all."⁹¹ However, the defeat of the Quraysh at the hands of a tiny group of Muslims was humiliating and catastrophic. For the Quraysh, the death of seventy men, including some of their leaders such as Abū Jahl, "was a disaster of the first magnitude".⁹² Therefore, the Quraysh launched a series of attacks on the

⁸⁸ Watt, *Muhammad at Medina*, p. 11; Armstrong, *Muhammad: A Biography of the Prophet*, p. 174.

⁸⁹ Watt, *Muhammad at Medina*, p. 11.

⁹⁰ Ibn Ishāq, *Al-Sīrah*, Vol. 2, p. 192; Guillaume, *The Life of Muhammad*, p. 296; Ibn Khaldūn, *Tārīkh Ibn Khaldūn*, Vol. 2, p. 428.

⁹¹ Watt, *Muhammad at Medina*, p. 11.

⁹² *Ibid.*, p. 14.

Muslims at Medina following their defeat in this battle known as *ghazwah Badr al-kubrā* (the great battle of Badr, (Ramadān 2/March 624) (5).

In al-Sawīq (7), Abū Sufyān, accompanied by two hundred (or, in some versions, four hundred) riders from the Quraysh, murdered two farmers and burnt some palm trees and houses on the outskirts of Medina. The Prophet went out after them but they had already returned to Mecca.⁹³ Some months later, to avenge the death of their distinguished relatives who had been killed in the great battle of Badr referred to above, a group from the Quraysh collected money from the revenues of the caravan after it had returned safely; this was the one for which they had gone to war at Badr (Ramadān 2/March 624). They prepared an army of three thousand men and marched to Medina in Shawwāl 3/March 625, where they defeated the Muslims at *ghazwah Uḥud* (11).⁹⁴ The next day, the Prophet went out with the Muslims in pursuit of the enemy until they reached a place called Ḥamrā' al-Asad. They stayed there for three days and then returned to Medina without meeting the Quraysh. This incident is called *ghazwah Ḥamrā' al-Asad* (12). The aim of this incident, according to Ibn Ishāq, was to let the Quraysh know that the Muslims had not been weakened by their defeat.⁹⁵ It is worth noting here that, despite the enmity which was emerging between the Muslims and the Jews in Medina, a wealthy Jewish Rabbi called Mukhayriq fought and died with the Muslims in the battle against the Quraysh at Uḥud. He is even reported as asking other Jews to support the Prophet against the Quraysh attack.⁹⁶

⁹³ Ibn Ishāq, *Al-Sīrah*, Vol. 3, pp. 23 f.; Guillaume, *The Life of Muhammad*, pp. 361 f.

⁹⁴ Ibn Ishāq, *Al-Sīrah*, Vol. 3, pp. 33-35; Guillaume, *The Life of Muhammad*, pp. 370-372.

⁹⁵ Ibn Ishāq, *Al-Sīrah*, Vol. 3, pp. 60-63; Guillaume, *The Life of Muhammad*, pp. 389-391.

⁹⁶ Ibn Ishāq, *Al-Sīrah*, Vol. 2, p. 101; Guillaume, *The Life of Muhammad*, p. 241; also Muḥammad ibn Jarīr al-Ṭabarī, *Tārīkh al-Ṭabarī: Tārīkh al-Umam wa al-Mulūk* (Bierut: Dār al-Kutub al-‘Ilmiyyah, 2001), p. 73.

At the battle of Uḥud, Abū Sufyān vowed to fight the Muslims again at the fair of Badr the following year. Thus, in what is known as the last *ghazwah* of Badr (15) the Prophet and Muslims attended the fair while Abū Sufyān and the men accompanying him turned back before reaching Badr.⁹⁷ Calling such an incident a *ghazwah* of the Prophet, even though the parties did not see each other, thus confirms that the word *ghazwah* was used to refer to any trip or expedition the Prophet made and does not necessarily mean a “raid” or “fighting”.

In *ghazwah* Banū Liḥyān (19), the Prophet went out against the clan of Banū Liḥyān, who had assassinated the Muslim preachers at al-Rajīʿ. When the Prophet did not manage to meet them, he returned to Medina.⁹⁸ In *ghazwah* Dhū Qarad (20), ‘Uyaynah ibn Ḥiṣn from the clan of Fazārah “with the cavalry of Ghaṭafān raided the apostle’s milch-camels in al-Ghāba [on the outskirts of Medina].”⁹⁹ They killed the man who was in charge of them and captured his wife. The Prophet with some Muslims followed them and freed the woman and some of the camels. Two Muslims were killed, with one of the raiders.

The emerging *ummah* state system in Medina, which included Jews along with the Muslims, was a new form of affiliation that replaced the clan or tribal affiliation system. This *ummah* system required abiding by the political, economic and judicial system stipulated in the Constitution of Medina. While this Constitution makes every clan responsible for its financial obligations,¹⁰⁰ it made the Prophet the political and judicial authority of the community of Medina.

According to Ibn Ishāq and Ibn Sa’d, the Jewish clan of Banū Qaynuqā’ broke the treaty with the Prophet and fought against him between Badr and Uḥud.

⁹⁷ Ibn Ishāq, *Al-Sīrah*, Vol. 3, pp. 121-123; Guillaume, *The Life of Muhammad*, pp. 447-449.

⁹⁸ Ibn Ishāq, *Al-Sīrah*, Vol. 3, pp. 195 f.; Guillaume, *The Life of Muhammad*, pp. 485 f.

⁹⁹ Guillaume, *The Life of Muhammad*, p. 486; Ibn Ishāq, *Al-Sīrah*, Vol. 3, p. 160.

¹⁰⁰ For a discussion of the financial aspects addressed by the Constitution see Watt, *Muhammad at Medina*, pp. 250-260.

According to a report in al-Wāqidī and al-Dhahabī, fighting broke out in the market and a Jew and a Muslim were killed in this incident because a Jew “stealthily pinned [a Muslim woman’s] skirt to the back of her upper garments so that when she stood up she exposed herself.”¹⁰¹ The Prophet therefore besieged this clan in what is called *ghazwah* Banū Qaynuqā’ (6), until they were deported from Medina without fighting, “in accordance with Arab custom”.¹⁰²

In another incident, ‘Amr ibn Umayyah al-Damarī from the Jewish clan of Banū al-Nadīr, killed two men from the clan of Banū ‘Āmir. The Prophet therefore went to the man’s clan asking them to pay the blood-money for the two men, in accordance with the pact between the two clans. After the Banū al-Nadīr plotted “to assassinate”¹⁰³ the Prophet, he sent them an order to evacuate Medina “because of their perfidy and violation of the”¹⁰⁴ Constitution of Medina. They “refused to comply and announced hostility. Upon this the Prophet marched and besieged”¹⁰⁵ them until they were deported from Medina without fighting after a siege that lasted for six nights in what is called *ghazwah* Banū al-Nadīr (13).¹⁰⁶ Medina has a long history of internecine struggles. “It is noteworthy that, before Islam, the Medinan

¹⁰¹ Armstrong, *Muhammad: A Biography of the Prophet*, p. 184. See also Wāqidī, *Al-Maghāzī*, Vol. 1, pp. 176-180; Muḥammad ibn Sa’d, *Al-Ṭabaqāt al-Kubrā*, ed. Muḥammad ‘Abd al-Qādir ‘Aṭā, 2nd ed. (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1997/1418), Vol. 2, pp. 21 f.; Tawfiq Wahbah, *Al-Ḥarb fī al-Islām wa fī al-Mujtama’ al-Dawlī al-Mu’āṣir*, Kutub Islāmiyyah, Issue 145 (Cairo: Supreme Council for Islamic Affairs, 1973/1393), pp. 57 f.; Alsumaih, “The Sunni Concept of Jihad”, pp. 186 f.

¹⁰² Karen Armstrong, *Islam: A Short History* (London: Phoenix Press, 2000), p. 18; Armstrong, *Muhammad: A Biography of the Prophet*, p. 185.

¹⁰³ Armstrong, *Islam: A Short History*, p. 18; Armstrong, *Muhammad: A Biography of the Prophet*, p. 194. See Ibn Ishāq, *Al-Sīrah*, Vol. 3, pp. 109 f.; Guillaume, *The Life of Muhammad*, p. 437; Aḥmad ibn Yahyā ibn Jābir al-Balādhūrī, *The Origins of the Islamic State: Being a Translation from the Arabic Accompanied with Annotations Geographic and Historic Notes of the Kitāb Futūḥ al-Buldān of al-Imām Abū-l ‘Abbās Aḥmad Ibn Jābir al-Balādhuri*, Columbia University Studies in the Social Sciences, No. 163, trans. Philip Khūri Hitti (New York: AMS Press, 1968), Vol. I, p. 34; Aḥmad Ghunaym, *Al-Jihād al-Islāmī: Dirāsah ‘Ilmiyyah fī Nuṣūṣ al-Qur’ān wa Ṣiḥāḥ al-Ḥadīth wa Wathā’iq al-Tārīkh* (Cairo: Dār al-Ḥammamī, 1975/1394), p. 28; Alsumaih, “The Sunni Concept of Jihad”, p. 187.

¹⁰⁴ Al-Balādhūrī, *The Origins of the Islamic State*, Vol. I, p. 34.

¹⁰⁵ Ibid.

¹⁰⁶ See Ibn Ishāq, *Al-Sīrah*, Vol. 3, pp. 109-117; Guillaume, *The Life of Muhammad*, pp. 437-445.

Leader ‘Amr ibn Annu‘man seriously thought of deporting a[']-Naḍir and Qurayzah because of their hostility to the other Arabs of Medina.”¹⁰⁷

Because of their deportation from Medina to Khaybar, a group from the Banū al-Naḍīr went to the Quraysh and urged them to join in war against the Prophet. After receiving four thousand men from Quraysh in support, this group invited the clans of Ghaṭafān, Banū Sulaym, Banū Fazarah, Ashja‘, Banū Asad and Banū Murrah, who together formed an army of ten thousand men. Because of this gathering of clans, this attack is called *ghazwah* al-Aḥzāb (the parties). It is also called the *ghazwah* of the Ditch (17) because the Muslims “dug a trench around Medina”¹⁰⁸ which prevented their being massacred since they numbered less than one third of their attackers. This coalition of clans besieged Medina for about a fortnight.¹⁰⁹

Because of their support for the attackers at the battle of the Ditch, the Prophet besieged the clan of Banū Qurayzah in their fortresses for more than two weeks. Eventually they agreed to put an end to this issue by choosing¹¹⁰ Sa‘d ibn Mu‘ādh, who was their ally, to arbitrate in this dispute. Ibn Mu‘ādh, who was suffering from an arrow wound received at the *ghazwah* of the Ditch and died shortly afterwards, was called on for arbitration. He decreed that all the *muqātilah* (the men who were able to fight) should be put to death. The sources give various numbers for the men who were executed as a consequence of this decree, putting it at two hundred,¹¹¹ four hundred, six hundred, seven hundred, eight hundred or nine

¹⁰⁷ Muḥammad Ṭalaat al-Ghunaimi, *The Muslim Conception of International Law and the Western Approach* (The Hague: Martinus Nijhoff, 1968), note 2, p. 39.

¹⁰⁸ Ibn Ishāq, *Al-Sīrah*, Vol. 3, p. 124; Guillaume, *The Life of Muhammad*, p. 450.

¹⁰⁹ Ibn Ishāq, *Al-Sīrah*, Vol. 3, pp. 123-134; Guillaume, *The Life of Muhammad*, pp. 450-460.

¹¹⁰ ‘Alī ibn Muḥammad ibn Ḥabīb al-Māwardī, *Al-Hāwī al-Kabīr: Fī Fiqh Madhhab al-Imām al-Shāfi‘ī Raḍī Allah ‘anh wa huwa Sharḥ Mukhtaṣar al-Muznī*, ed. ‘Alī Muḥammad Mu‘awwad and ‘Ādil Aḥmad ‘Abd al-Mawjūd (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1999), Vol. 14, p. 280.

¹¹¹ Aḥmad ibn ‘Abd al-Ḥalīm ibn Taymiyyah, *Qā‘idah Mukhtaṣarah fī Qitāl al-Kuffār wa Muhādānatihim wa Taḥrīm Qatlihim li-Mujarrad Kufrihim: Qā‘idah Tubayyn al-Qiyam al-Sāmiyah*

hundred.¹¹² One woman was also put to death because she killed Khallād ibn Suwayd.¹¹³ Strangely enough, there is no indication in the sources that there was any resistance to this sentence.¹¹⁴ This incident is known as *ghazwah* Banū Qurayzah (18).¹¹⁵ It is pointed out that this sentence was given according to the rules of Banū Qurayzah’s own religion, specifically the Book of Deuteronomy (20:10-15).¹¹⁶

The Prophet marched to Khaybar because they had joined in the attack at the battle of the Ditch.¹¹⁷ In *ghazwah* Khaybar (23), biographers mainly confine themselves to describing the incident, rather than explaining the reasons for it. According to one report, while the Prophet was preaching at Khaybar, one among a group of fighters declaimed some verses of poetry about himself, calling for a warrior to fight him.¹¹⁸ According to a report in *Al-Ṭabaqāt*, the Prophet told ‘Alī ibn Abī Ṭālib to fight against Khaybar until they believed that there is no god but God and that Muḥammad is a Messenger of God. While this report suggests fighting for

lil-Haḍārah al-Islāmiyyah fī al-Ḥarb wa al-Qitāl, ed. ‘Abd al-‘Azīz ibn ‘Abd Allah ibn Ibrāhīm al-Zayd Āl Ḥamad (Riyadh: N.p., 2004/1424), p. 103.

¹¹² See, for example, Maḥdī Rizq Allah Aḥmad, *Al-Sīrah al-Nabawiyyah fī Ḍaw’ al-Maṣādir al-Aṣliyyah: Dirāsah Taḥlīliyyah* (Riyadh: Markaz al-Malik Faīṣal lil-Biḥūth wa al-Dirāsāt al-Islāmiyyah, 1992/1412), pp. 459-464; ‘Abd al-Ḥamīd Shākīr, *Ghazawāt al-Rasūl* (Tripoli, Lebanon: Jarrūs Press, 1996/1416), pp. 80-82.

¹¹³ Aḥmad, *Al-Sīrah al-Nabawiyyah fī Ḍaw’ al-Maṣādir al-Aṣliyyah*, p. 462; Muḥammad ibn al-Ḥasan al-Shaybānī, *Al-Siyar al-Kabīr*, ed. Ṣalāḥ al-Dīn al-Munjid (Cairo: Ma’had al-Makḥṭūṭāt, n.d.), Vol. 4, p. 1420. See also Shākīr, *Ghazawāt al-Rasūl*, p. 82.

¹¹⁴ See Armstrong, *Muhammad: A Biography of the Prophet*, pp. 203-209.

¹¹⁵ Ibn Ishāq, *Al-Sīrah*, Vol. 3, pp. 134-145; Guillaume, *The Life of Muhammad*, pp. 461-469.

¹¹⁶ See Muḥammad Ḥammīdullāh, *Muslim Conduct of State: Being a Treatise on Siyar, That is Islamic Notion of Public International Law, Consisting of the Laws of Peace, War and Neutrality, Together with Precedents from Orthodox Practice and Preceded by a Historical and General Introduction*, rev. & enl. 5th ed. (Lahore: Sh. Muhammad Ashraf, 1968), pp. 241 f.; Ḥammīdullāh, *Battlefields*, p. 3, footnote no. 1; Ahmed Zaki Yamani, “Humanitarian International Law in Islam: A General Outlook”, *Michigan Yearbook of International Legal Studies*, Vol. 7, 1985, p. 203; Marcel A. Boisard, *Jihad: A Commitment to Universal Peace* (Indianapolis, Ind.: American Trust Publications, 1988), p. 38; Martin Lings, *Muhammad: His Life Based on the Earliest Sources* (Cambridge: Islamic Texts Society, 1991), p. 232; P.J. Stewart, *Unfolding Islam*, 2nd ed. (Reading, Berkshire: Garnet Publishing, 2008), p. 85.

¹¹⁷ Shākīr, *Al-Tārīkh al-Islāmī*, p. 286.

¹¹⁸ Shams al-Dīn Muḥammad ibn Aḥmad ibn ‘Uthmān al-Dhahabī, *Tārīkh al-Islām wa Wafayāt al-Mashāhīr wa al-A’lām: Al-Māghazī*, ed. ‘Umar ‘Abd al-Salām Tadmūrī, 2nd ed. (Beirut: Dār al-Kitāb al-‘Arabī, 1990/1410), p. 415.

religion until the people of Khaybar became Muslims, this incident, in fact, resulted in an agreement that stipulated that they were to pay half the produce of the land.¹¹⁹

As for *ghazwah* Banū al-Muṣṭaliq (21), the Prophet received news that al-Ḥārith ibn Abī Dīrār was gathering the clan of al-Muṣṭaliq to fight against him. The Prophet sent Buraydah ibn al-Ḥuṣayb al-Aslamī to verify this news. When Buraydah confirmed that al-Ḥārith was preparing for war, the Prophet went out against him. Fighting occurred and one Muslim is said to have been killed. Al-Wāqidī states that ten from al-Muṣṭaliq were killed, but according to Ibn ‘Abd al-Bar not one of them was killed.¹²⁰

In *ghazwah* al-Ḥudaybiyah (22), the Prophet set out for Mecca to perform ‘*umrah* in (6/628). He put on the *iḥrām* garb so that the Quraysh would not think that he had come to wage war.¹²¹ At al-Ḥudaybiyah, eight miles from Mecca, negotiations were held between the Prophet and the Quraysh and they concluded a written pact.¹²² According to it, the Prophet was not permitted to enter Mecca for ‘*umrah* that year, but could go for three days the following year. Significantly, they justified this refusal by their fear that the Arabs might think that the Prophet had forced his way into Mecca.¹²³ This reflects the same way of thinking shown by Abū Jahl in his justification for forcing the Quraysh to advance to Badr, mentioned above. That is to say, the Quraysh wanted to show that they had unchallengeable power over Arabia.

¹¹⁹ Ibn Ishāq, *Al-Sīrah*, Vol. 3, pp. 189-208; Guillaume, *The Life of Muhammad*, pp. 510-526.

¹²⁰ Al-Wāqidī, *Al-Maghāzī*, Vol. 1, pp. 341-345. Ibn Ishāq, *Al-Sīrah*, Vol. 3, pp. 165-169; Guillaume, *The Life of Muhammad*, pp. 490-493; Alsumaih, “The Sunni Concept of Jihad”, pp. 41 f.

¹²¹ Ibn Ishāq, *Al-Sīrah*, Vol. 3, p. 177; Guillaume, *the Life of Muhammad*, pp. 499 f.; Akram Dīyā’ al-‘Umarī, *Madīnan Society at the Time of the Prophet: The Jihād against the Mushrikūn*, Vol. II, Issues in Islamic Thought (3): II, trans. Hudā Khaṭṭāb (Herndon, Virginia: International Institute of Islamic Thought, 1991), p. 107.

¹²² For a translation of the contents of the treaty see, Iqbal, *Diplomacy in Early Islam*, pp. 54 f.

¹²³ Ibn Ishāq, *Al-Sīrah*, Vol. 3, p. 182; Guillaume, *the Life of Muhammad*, p. 504. See Muhammad Abdel Haleem, *The ‘Sword Verse’ Myth* (London: School of Oriental and African Studies, 2007), p. 3.

The Prophet stipulated that there should be an armistice for ten years and added that anyone who wanted to form an alliance with him or with the Quraysh might do so. Thereupon, the clan of Khuzā'ah formed an alliance with the Prophet while the clan of Banū Bakr formed an alliance with the Quraysh. After two years (in 8/630), the Quraysh broke this armistice by arming and fighting with the clan of Banū Bakr against Banū Khuzā'ah in the vendetta between these two clans, so the Prophet marched in *ghazwah fath Makkah* (24)¹²⁴ to take control of Mecca.

Chapter 48 of the Qur'ān, significantly entitled “*al-Fath*” (the victory) considers this armistice secured at al-Ḥudaybiyah “*fathā mubīnā*” (lit. a great opening, i.e., a great victory) for Islam.¹²⁵ It is worth adding here that, two years after this ceasefire, the number of Arabs who had embraced Islam outnumbered those who embraced Islam over the period of the first nineteen years, i.e., since the advent of Islam.¹²⁶ So while the Muslims accompanying the Prophet at al-Ḥudaybiyah (6/628), nineteen years after the advent of Islam, numbered one thousand four hundred, within two years the men accompanying him in the march to Mecca (8/630) numbered ten or twelve thousand. Ibn Ishāq states: “No previous victory in Islam was greater than this. There was nothing but battle when men met; but when there was an armistice and war was abolished and men met in safety and consulted

¹²⁴ Ibn Sa'd calls it *ghazwah 'Ām al-fath* (lit. *ghazwah* of the year of the opening).

¹²⁵ See, for example, al-Wāqidi, *Al-Maghāzī*, Vol. 2, p. 95; al-Quṭb Muḥammad al-Quṭb Ṭabliyyah, *Al-Islām wa Ḥuqūq al-Insān: Al-Jihād* ([Cairo]: Dār al-Fikr al-'Arabī; al-Nahḍah al-Miṣriyyah; al-Mujallad al-'Arabī, al-Ṣaḥwah, 1989/1409), p. 85; Armstrong, *Muhammad: A Biography of the Prophet*, p. 223; Iqbal, *Diplomacy in Early Islam*, p. 59; 'Alī Muḥyī al-Dīn al-Qarah Dāghī, “Al-Usus wa al-Mabādi' al-Islāmiyyah lil-'Alāqāt al-Dawliyyah”, *Scientific Review of the European Council for Fatwa and Research*, May 2007, Issues 10-11, Part 1, p. 165; Yūsuf al-Qaradāwī, *Fiqh al-Jihād: Dirāsah Muqāranah li-Aḥkāmih wa Falsafatih fī Daw' al-Qur'ān wa al-Sunnah* (Cairo: Maktabah Wahbah, 2009), Vol. 1, pp. 416 f.

¹²⁶ Al-Wāqidi, *Al-Maghāzī*, Vol. 2, p. 95; al-Māwardī, *Al-Hāwī*, Vol. 14, p. 51; Aḥmad Shalabī extends this period to twenty years. See Aḥmad Shalabī, *Al-Jihād wa al-Nuḍum al-'Askariyyah fī al-Taḥkīm al-Islāmī*, Mawsū'ah al-Nuḍum wa al-Ḥadārah al-Islāmiyyah 6, 2nd ed. (Cairo: Maktabah al-Nahḍah al-Miṣriyyah, 1974), p. 38.

together none talked about Islam intelligently without entering it.”¹²⁷ Thus, Karen Armstrong considers the treaty of al-Ḥudaybiyah a turning-point that made “conversion to Islam even more of an irreversible trend”.¹²⁸ The reason, as explained by Ibn Ishāq above, is that the armistice put an end to war, the normal state of relations between clans in Arabia, and gave people the chance to know about the religion of Islam.¹²⁹ However, Donner interprets this truce as a turning point in the Prophet’s life that brought about political “power and prestige”.¹³⁰

After the Prophet entered Mecca in 8/630, Mālik ibn ‘Awf al-Anṣārī gathered the clan of Hawāzin to fight the Prophet and “assembled to him also all Thaqīf and all Naṣr and Jusham; and Sa’d b. Bakr, and a few men from B. Hilāl.”¹³¹ According to another account in al-Ṭabarī, these groups had already gathered to fight against the Prophet when he left Medina for Mecca. They assumed that he was coming out against them. But when they knew that he had settled in Mecca, they marched to fight him at Ḥunayn, three miles from Mecca. When the Prophet heard about their march, he sent ‘Abd Allah ibn Abī Ḥadrat al-Aslamī to confirm the news. After confirmation that they had marched to fight, the Prophet borrowed weapons from Ṣafwān ibn Umayyah, a Meccan idolater. It is worth mentioning here that eighty idolaters, including Ṣafwān, fought on the Prophet’s side in this battle.¹³² In the

¹²⁷ Guillaume, *The Life of Muhammad*, p. 507; Ibn Ishāq, *Al-Sīrah*, Vol. 3, p. 186. See also al-Wāqidī, *Al-Maghāzī*, Vol. 2, pp. 95, 106; Ibn Khaldūn, *Tārīkh Ibn Khaldūn*, Vol. 2, p. 448; Arnold, *The Preaching of Islam*, p. 37.

¹²⁸ Armstrong, *Islam: A Short History*, p. 20.

¹²⁹ See Ibn Ishāq, *Al-Sīrah*, Vol. 3, p. 186; Guillaume, *The Life of Muhammad*, p. 507, al-Wāqidī, *Al-Maghāzī*, Vol. 2, p. 106; Abū Zahrah, *Sīrah Khātam al-Nabiyyīn*, pp. 1022-1025.

¹³⁰ Fred McGraw Donner, “Muḥammad’s Political Consolidation in Arabia up to the Conquest of Mecca”, *The Muslim World*, Vol. LXIX, No. 2, 1979, p. 230.

¹³¹ Guillaume, *The Life of Muhammad*, p. 566; Ibn Ishāq, *Al-Sīrah*, Vol. 4, p. 50. See also Ṣaqr, *Falsafah al-Ḥarb*, pp. 49 f.; al-Qaradāwī, *Fiqh al-Jihād*, Vol. 1, pp. 349 f.

¹³² Aḥmad ‘Umar Hāshim, “Ma’sāh al-Ghazw al-‘Irāqī wa Wājib al-‘Arab wa al-Muslimīn”, *The Islamic Fiqh Council Journal*, Issue No. 5, [1991/1411], p. 113; Muḥammad Ra’fat ‘Uthmān, “I’tidā’ Ṣaddām ‘alā al-Kuwayt Munkar Yajib Izālatih ma’a Ṣiḥḥah al-Isti’ānah bi-Quwwāt min ghayr al-Muslimīn”, *The Islamic Fiqh Council Journal*, Issue No. 5, [1991/1411], p. 181; Mohamed Mokbel Mahmud Elbakry, “The Legality of ‘War’ in Al-Shari’a Al-Islamiya (The Islamic Law) and

words of Watt, the Prophet “had no hesitation about accepting non-Muslims as allies. Moreover, apart from the pagan Meccans [who fought] at Ḥunayn, there are several instances of men fighting under Muḥammad before they became Muslims.”¹³³ At *ghazwah* Ḥunayn (25), the Muslims defeated Thaqīf who then retreated to their fortresses at al-Ṭā’if. The Muslims besieged them for some days in what is called *ghazwah* al-Ṭā’if (26). Twelve Muslims were shot dead by arrows and hot iron and fighting stopped soon afterwards.¹³⁴

In *ghazwah* Tabūk (27), the Prophet marched to Tabūk to confront the Byzantines, Lakhm, Judhām, Ghassān and ‘Āmilah, who were gathering to attack him. The Syrian traders who brought this news told the Muslims that this army had reached al-Balqā’ and was camping there.¹³⁵ It is probable that the story of this gathering was only a rumour, as al-Wāqidī remarks,¹³⁶ because there is no indication of any confrontation or preparation for war. Moreover, Ibn Ishāq adds: “When the apostle reached Tabūk Yuḥanna b. Rū’ba governor of Ayla came and made a treaty with him and paid him the poll tax. The people of Jarba and Adhruḥ also came and paid the poll tax.”¹³⁷

Contemporary International Law: Comparative Study” (PhD thesis, University of Glasgow, 1987), p. 308.

¹³³ Watt, *Muhammad at Medina*, p. 246.

¹³⁴ See, for example, Ibn Ishāq, *Al-Sīrah*, Vol. 4, pp. 74-77; Guillaume, *The Life of Muhammad*, p. 587-591; al-Wāqidī, *Al-Maghāzī*, Vol. 2, pp. 332, 240; Haykal, *The Life of Muḥammad*, pp. 421-424; Salahi, *Muhammad Man and Prophet*, p. 659; Ṣaqr, *Falsafah al-Ḥarb*, pp. 56-63.

¹³⁵ Al-Wāqidī, *Al-Maghāzī*, Vol. 2, p. 379; Aḥmad ibn Yahyā ibn Jābir al-Balādhūrī, *Futūḥ al-Buldān*, ed. ‘Abd al-Qādir Muḥammad ‘Alī (Beirut: Dār al-Kutub al-‘Ilmiyyah), 2000, p. 43; Muḥammad ‘Izzat Darwazah, *Al-Jihād fī Sabīl Allah fī al-Qur’ān wa al-Ḥadīth*, 2nd ed. (Beirut: Al-Nāshir, 1990), pp. 58-60; Abdel Haleem, *The ‘Sword Verse’ Myth*, p. 4; ‘Abd Allah ibn Zayd Āl Maḥmūd, *Al-Jihād al-Mashrū’ fī al-Islām: Wa Talīhā Risalah “Qā’idah fī Qitāl al-Kuffār” li-Shaykh al-Islām Ibn Taymiyyah* (Doha: Maṭābi’ ‘Alī bin ‘Alī, n.d.), p. 41.

¹³⁶ Al-Wāqidī, *Al-Maghāzī*, Vol. 2, p. 379.

¹³⁷ Guillaume, *The Life of Muhammad*, p. 607; Ibn Ishāq, *Al-Sīrah*, Vol. 4, p. 98.

1.6 The *Sarāyā*

The word *sariyah* refers to expeditions allegedly sent by the Prophet for several objectives, such as to preach Islam, get news of what the Quraysh were planning, return stolen property, fight against those who were preparing to attack Medina, kill an individual for the same reason, fight those who killed one of the Prophet's messengers and, in five instances, to destroy Quraysh idols after the taking of Mecca. In most instances, biographers give their account in the form of a narration of the incidents, without explaining the background and objectives of these expeditions, and they give different totals for these incidents, such as 35, 38, 47, and 56. These differences indicate that each biographer arrived at his own conception of what constituted a *sariyah*. For example, Ibn Sa'd at the beginning of his book, following his teacher al-Wāqidī, states that the number of *sarāyā* sent by the Prophet was forty-seven, while the present study finds that he ends up referring to fifty-six *sarāyā*. Some biographers used the word *ghazwah* to refer to incidents others called *sariyah*, while some used the word *ba'th* (delegation) in the same context. In many incidents, no encounter at all occurred with the clans. A number of incidents involved fighting and in some cases the number of victims is not given. According to the numbers that are given, eighty Muslims were killed, including sixty-nine preachers who were assassinated in one incident, while sixty-five non-Muslims were also killed. These accounts of *sarāyā* are a much less credible source than those of the *ghazawāt*, not only because of the lack of clarity and details about the reasons for and objectives of such minor incidents, but also because the narrations are not scrutinized and in some cases are unconvincing as stories.

Three of these *sarāyā* are briefly discussed below. One gives an example of the difficulties facing researchers on war in Islam, while two shed some light on the

situation in Medina. In *sariyah* ‘Abd Allah ibn Jaḥsh, the Prophet sent eight Muslims to Nakhlah,¹³⁸ a place between Mecca and al-Ṭā’if. The point to be addressed here is the objective of this *sariyah*. Ibn Ishāq’s wording of the phrase expressing the objective of this *sariyah*: *ārṣud bihā Qurayshā, ḥattā ātīh minhum bi-khabar*¹³⁹ is translated by Guillaume as “Lie in wait there [at Nakhlah] for the Quraysh and find out for us what they are doing.”¹⁴⁰ But Watt and many Western researchers base their study of this incident on al-Wāqidī’s wording of the phrase expressing the aim of this *sariyah* as *fatarāṣṣaḍ bihā ‘aīr Quraysh*.¹⁴¹ They incorrectly understand this phrase to mean “ambush a Meccan caravan.”¹⁴² It is worth adding here that all the biographical sources use the former phrase and even al-Wāqidī, the source of the second phrase, mentions a narration which confirms the first report. Because of these linguistic and contextual difficulties for researchers in their study of such incidents, Watt, in his attempt to construct an account of what happened in this one, admits that “among the probabilities and uncertainties through which we have been wading there is a little firm ground.”¹⁴³ Unfortunately, many Western theories on the tradition of war in Islam have been constructed upon these admittedly flimsy “probabilities and uncertainties”, as explained below.

¹³⁸ Al-Wāqidī remarks that it is said that the number was twelve or thirteen, but he affirms the number was eight. See al-Wāqidī, *Al-Maghāzī*, Vol. 1, p. 32.

¹³⁹ Ibn Ishāq, *Al-Sīrah*, Vol. 2, p. 177. See also, for example, Ibn Khaldūn, *Tārīkh Ibn Khaldūn*, Vol. 2, p. 426; al-Māwardī, *Al-Ḥāwī*, Vol. 14, p. 25; Ibn Sayyid al-Nās, *Uyūn al-Athar*, Vol. 1, p. 359; al-‘Umarī, *Madīnan Society at the Time of the Prophet*, p. 20; Haykal, *The Life of Muḥammad*, p. 208; Salahi, *Muḥammad Man and Prophet*, p. 246; al-Ṭabarī, *Tārīkh al-Ṭabarī*, Vol. 2, p. 348; Ismā‘īl ibn ‘Umar ibn Kathīr, *Tafsīr al-Qur’ān al-‘Aẓīm* (Beirut: Dār al-Fikr, 1980-1/1401), Vol. 1, p. 254; Muḥammad ibn Aḥmad al-Anṣārī al-Qurṭubī, *Al-Jāmi’ li-Aḥkām al-Qur’ān* (Cairo: Dār al-Sha’b, n.d.), Vol. 3, p. 41; Riḍā, *Tafsīr al-Manār*, Vol. 2, p. 313; Ṭanṭāwī, *Al-Sarāyā al-Ḥarbiyyah*, p. 43; al-Ḥifnī, *Mawsū‘ah al-Qur’ān*, Vol. 2, p. 1910; Alsumaih, “The Sunni Concept of Jihad”, p. 123. The objective of this incident was, according to Bruce B. Lawrence, “to spy on a caravan to the south.” See Lawrence, *The Qur’ān*, p. 42.

¹⁴⁰ Guillaume, *The Life of Muḥammad*, p. 287. The group of eight Muslims sent by the Prophet in this *sariyah* under the command of ‘Abd Allah ibn Jaḥsh is described by al-Mubarak as: “a reconnaissance division whose aim was to reconnoitre Quraysh’s information and movement.” See Malik Abdulazeez al-Mubarak, “Warfare in Early Islam” (PhD thesis, University of Glasgow, 1997), p. 84.

¹⁴¹ Al-Wāqidī, *Al-Maghāzī*, Vol. 1, p. 28.

¹⁴² Watt, *Muḥammad at Medina*, p. 5.

¹⁴³ *Ibid.*, p. 9.

The point here is that biographers were not primarily concerned with describing what happened but rather with reporting what was said about what happened, and contradictory or inaccurate reports are unreliable sources for constructing theories on the tradition of war in Islam. In dealing with such narrations, researchers use their imagination to determine what actually happened so that they can construct their theories. These imaginative approaches to interpreting, and then assessing, these incidents are the origin of the many polemical theories on the tradition of war in Islam, which are determined, to a great extent, by whether the researchers interpret and assess these incidents within their contexts and according to the norms, culture and mentality of the people involved in the incidents, or whether they approach them with the mindset of the 21st century.

The following incidents give some insights into the culture in which Islam emerged. In *sariyah* Bi'r Ma'unah,¹⁴⁴ 'Amir ibn Mālik ibn Ja'far asked the Prophet to send some Muslims to preach Islam to his people in Najd. After receiving confirmation that they would be protected, the Prophet sent forty (or according to Ibn Kathīr seventy) *qurrā'* (Muslim preachers who had memorized the Qur'ān).¹⁴⁵ When they reached a place called Bi'r Ma'unah, all the Muslims were assassinated except for Ka'b ibn Zayd, who was left for dead.

In a similar incident, called *ghazwah* al-Rajī',¹⁴⁶ the Prophet sent six (or ten) preachers at the request of a group from the clans of 'Aḍal and al-Qārah to teach Islam to their peoples. On their way, they were betrayed to the clan of Banū Liḥyān, who told the Muslims that they would not be killed but would be handed over to the

¹⁴⁴ Ibn Sa'd calls this incident "Sariyah al-Mundhir ibn 'Amr", see Ibn Sa'd, *Al-Ṭabaqāt*, Vol. 2, pp. 39-42. See Ibn Ishāq, *Al-Sīrah*, Vol. 3, pp. 106-109; Guillaume, *The Life of Muhammad*, pp. 433-436; al-Dhahabī, *Al-Māghazī*, pp. 235-241; Abū Zahrah, *Sīrah Khātam al-Nabiyyīn*, pp. 885-887.

¹⁴⁵ Ibn Kathīr, *Al-Sīrah*, Vol. 1, p. 136.

¹⁴⁶ Ibn Sa'd calls this incident "Sariyah Marthad ibn Abī Marthad", see Ibn Sa'd, *Al-Ṭabaqāt*, Vol. 2, pp. 42 f. See Ibn Ishāq, *Al-Sīrah*, Vol. 3, pp. 98-105; Guillaume, *The Life of Muhammad*, pp. 426-433; al-Dhahabī, *Al-Māghazī*, pp. 230-235.

Quraysh as part of an exchange. Four of these Muslims were killed and, in return for two captives, two were given to people from the Quraysh whose relatives had been killed at Badr. When these two Muslims refused to recant,¹⁴⁷ they were brutally murdered.¹⁴⁸ Thus, this incident gives a picture of the vendetta situation in Arabia and how it contributed to the series of hostile actions discussed above.

1.7 Building a Theory of the Prophet's Wars

Muslim and non-Muslim scholars have developed various theories about the nature of the hostilities referred to above that took place between the Muslims and their enemies during the Prophet's lifetime. Despite the difficulties facing modern scholars of this period, it is of paramount importance to study the incidents that led to the wars and to analyse the objectives of the people involved in them. This is why the above discussion of the so-called *ghazawāt* and *sarāyā* focuses on the circumstances that led to these incidents rather than on the theories developed by later generations of researchers.

The reports about the life of the Prophet are a very rich source and have been used to construct various theories and assumptions, depending on the researchers' own interpretations and their use or abuse of the sources. The challenge facing the researchers here is to distinguish between the authentic reports and the dubious and fabricated ones. Unlike their Western counterparts, Muslim scholars have developed complex and specialized methodologies for this purpose. One of the major differences between Western and Muslim scholarship on the study of Islam is their approach to the nature of the Qur'ān and the acts of the Prophet. Furthermore, based on the diverse interpretations of the hostile incidents discussed above, a

¹⁴⁷ Watt, *Muhammad at Medina*, p. 33.

¹⁴⁸ Armstrong, *Muhammad: A Biography of the Prophet*, pp. 192 f.

number of contradictory theories on the tradition of war in Islam have been developed in outsider literature, as will be shown below.

For example, in an “interpretive approach” to building a theory about the occurrences of hostilities in early Islam discussed above, Firestone explains that the emigrants had to resort to the old, pre-Islamic custom of tribal raids in order to improve their difficult economic situation. He affirms that these wars were not “holy wars” but “mundane wars”, apart from the fact that those engaged in them considered themselves to be acting in accordance with God’s design.¹⁴⁹ In his attempt to read the mind of the emigrants, Firestone imagines that their immediate problem was “whom should they raid?”¹⁵⁰ No indication is given of how he reaches this reading, but he replies to the question by saying that the “natural prey”¹⁵¹ for the emigrants was their own kin, the tribe of Quraysh because, first, the emigrants saw that the Meccans’ caravans were lucrative targets and second, and more importantly, he adds, contradicting his earlier portrayal of the Muslims as initiators of aggression, that the emigrants sought revenge because “they had been treated so abusively by their own Meccan kith and kin.”¹⁵² He also admits that Muslims “avoided physical aggression at almost any cost and suffered physical and emotional abuse as a consequence.”¹⁵³ Otherwise, he imagines, the emigrants “could have decided to raid unrelated tribes, or that other schemes could have been attempted.”¹⁵⁴ To complete this portrayal, Firestone claims that justifications were needed for these raids

¹⁴⁹ Firestone, *Jihād*, p. 130.

¹⁵⁰ *Ibid.*, p. 131.

¹⁵¹ *Ibid.*

¹⁵² *Ibid.*

¹⁵³ *Ibid.*, p. 129. Firestone reaffirms that Muslims “remained a weak community and suffered both verbal and physical humiliation at the hands of their enemies in Mecca. They were powerless to defend themselves. Finally, they were expelled from their Meccan home and found refuge in the settlements of Medina.” See Reuven Firestone, “Jihād”, in Andrew Rippin, ed., *The Blackwell Companion to the Qur’ān* (Oxford: Blackwell, 2006), p. 316.

¹⁵⁴ Firestone, *Jihād*, p. 131.

“perhaps”¹⁵⁵ in order to justify the violation of the prohibition of attacking one’s kin or “perhaps, because transcendent sanction was felt needed to engage in organized violent acts of any kind.”¹⁵⁶

Firestone starts his discussion of the battle of Badr by remarking that it was a “victorious expedition [that] brought Muḥammad and his followers great distinction and success in the acquisition of spoils and prestige.”¹⁵⁷ Here, he adds that the Prophet is “depicted in the *Sīrā* as inciting his warriors with the promise that martyrs slain in battle will enter paradise.”¹⁵⁸ Firestone concludes that, after Badr, “according to the tradition, warring in the path of God was now required virtually without restriction, [for this reason Firestone admits that] the material following Badr will not occupy us.”¹⁵⁹ To give some logic to this theory, he argues that this swift transition from what he calls mundane war to holy war “occurred neither linearly nor smoothly.”¹⁶⁰ He explains that the *munāfiqūn* (hypocrites), which term he wrongly translates as “dissenters”, were condemned for not engaging in the fighting at Uḥud and in other instances.¹⁶¹ In other words, his point of departure is that not all the Muslims were willing to engage in war.¹⁶²

He concludes his theory as well as his book with the following: “[these wars developed into] the total declaration of war against all groups, whether kin or not, who did not accept the truth of the hegemony of Islam.”¹⁶³ However, he gives another interpretation of these wars earlier in his book, asserting that the pre-Islamic responsibility to go to war in order to protect the viability and honour of one’s

¹⁵⁵ Ibid.

¹⁵⁶ Ibid.

¹⁵⁷ Ibid., p. 112.

¹⁵⁸ Ibid., p. 114.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid., p. 134.

¹⁶¹ Ibid., pp. 78-83

¹⁶² Firestone, “Jihād”, p. 318.

¹⁶³ Firestone, *Jihād*, p. 134.

kinship group was replaced by the new Islamic responsibility to go to war in order to “protect the viability or honour of the new community of believers by fighting in the path of God.”¹⁶⁴ He even sketches a third theory of what he calls holy war, and claims that these wars developed eventually to include “anyone who opposed Muḥammad and his divinely guided following”.¹⁶⁵

Firestone’s theory is reviewed in a number of Western academic journals. It is interesting to note that he avoids direct reference to the Prophet in the development of war in Islam and seems not to link the Prophet directly to what he portrays as marauding attacks on the Meccans, unless he meant to include the Prophet among the emigrants. Nonetheless, all the sources make it clear, as Firestone himself notes, that the Prophet was the judicial and political leader of the whole community of Muslims and Jews in Medina.¹⁶⁶

Firestone’s serious mistake, which is commonly found in many outsider studies, is that he constructs his theories on the early wars in Islam without studying those wars. In other words, he does not substantiate his theory by referring to specific hostile incidents, explaining why and where they took place and who initiated them, and constructing his theory on that basis. In his chapter “The Sīra”, he discusses only the *sariyah* of ‘Abd Allah ibn Jaḥsh and the battle of Badr. It is, indeed, disappointing that Firestone bases his theory on a biased presentation of only one battle in Islam and admits that he disregards all the other material. While the way he distorts the incidents during the Meccan period and the battle of Badr may be understandable, he ends his book without explaining his concluding idea of a declaration of total war against all mankind.

¹⁶⁴ Ibid., p. 74.

¹⁶⁵ Ibid., p. 132.

¹⁶⁶ See Ibid., p. 120.

Thus, Firestone bases his whole theory on the incorrect idea that the Prophet launched marauding attacks against the Quraysh, while in fact it was Quraysh who launched a series of attacks against the Muslims in Medina, as explained above. Although no fighting took place between the Muslims and their oppressors in Mecca, Emmanuel Sivan also claims that the Prophet fought “for dominance in Arabia against the pagans, first against the city of Mecca (622-28) and then against the nomadic Arabian tribes (628-32)... in the struggle over limited resources (above all water and grazing ground), and transformed it and the warrior ethos it produced into an integral part of its creed”.¹⁶⁷

Firestone’s idea that the *munāfiqūn* were not willing to engage in what he portrays as offensive action is misinformation. His theory on *munāfiqūn* seems to be an overdevelopment of Watt’s discussion of what he calls “the Muslim opposition”.¹⁶⁸ Firestone gives no explanation to substantiate the idea that their refusal to engage in fighting was based on a rejection of the new ethos of war. In putting forward this idea, he expresses his distrust of the sources, but still argues that “we must remain content to note that, for whatever reason, a large and powerful enough segment of the Muslim community refused, at least for an important period, to engage in fighting.”¹⁶⁹

Strangely enough, he admits that “the exact identity and motivations of these dissenting groups cannot be reconstructed, but their existence is clear.”¹⁷⁰ Ironically, some of the verses he uses to construct his theory (Qur’ān 48:11, 16) speak of the *munāfiqūn* who refused to join the Prophet in his journey to perform ‘*umrah* in 6/628. Al-Wāqidī points out that their refusal to join the Prophet was not because

¹⁶⁷ Emmanuel Sivan, “The Holy War Tradition in Islam”, *Orbis*, Vol. 42, Issue 2, Spring 1998, p. 172.

¹⁶⁸ Watt, *Muhammad at Medina*, pp. 180-191.

¹⁶⁹ Firestone, *Jihād*, p. 79.

¹⁷⁰ *Ibid.*, p. 83.

they were busy, as they claimed, but because of their criticism of the Prophet for going to the Quraysh unarmed.¹⁷¹ It was because of such behaviour, in addition to their occasional treason, that they were called hypocrites. As for those who were criticized for not fighting at Uḥud, it is clear that they were obliged to defend their city against the attack of the Quraysh, as stipulated in the Constitution of Medina.

In the Qur’ān, Chapter 63, *Al-Munāfiqūn* (The Hypocrites) and many other verses speak about this issue. Ibn Ishāq devotes a considerable part of his book to the issue of the *munāfiqūn* in the early period in Medina.¹⁷² He lists many names from various clans who hypocritically claimed to be Muslims, with a subtitle; “The Rabbis who accepted Islam hypocritically”.¹⁷³ Ibn Ishāq states that in one incident some of these hypocrites were ejected from the mosque.¹⁷⁴ It is worth adding here that the first few months after the Prophet’s arrival in Medina witnessed theological confrontations between Jews and Muslims. Ibn Ishāq indicates that the first hundred verses of Chapter Two of the Qur’ān, “The Cow”, were revealed “in reference to these Jewish rabbis and the hypocrites of Aus and Khazraj”.¹⁷⁵ In 9 A.H. the Prophet ordered the destruction of a new mosque built by twelve of the *munāfiqūn*.¹⁷⁶ So Firestone’s point of departure for constructing his theory that the *munāfiqūn* were Muslims who rejected fighting because of the new ethos of offensive or holy war, is a false assumption. These wars were waged by the Quraysh on Medina and all of those labelled *munāfiqūn* were condemned because they failed to meet their obligation to defend the city as stipulated by the Constitution of Medina.

¹⁷¹ Al-Wāqidī, *Al-Maghāzī*, Vol. 2, p. 72.

¹⁷² See Ibn Ishāq, *Al-Sīrah*, Vol. 2, pp. 97-174; Guillaume, *The Life of Muhammad*, pp. 239- 279.

¹⁷³ Guillaume, *The Life of Muhammad*, p. 246; Ibn Ishāq, *Al-Sīrah*, Vol. 2, p. 110.

¹⁷⁴ Ibn Ishāq, *Al-Sīrah*, Vol. 2, p. 111, Guillaume, *The Life of Muhammad*, pp. 246 f.

¹⁷⁵ Guillaume, *The Life of Muhammad*, pp. 247-297; Ibn Ishāq, *Al-Sīrah*, Vol. 2, pp. 112-164.

¹⁷⁶ See Qur’ān 9:107-108

Rudolph Peters points out that Firestone, specifically in his treatment of Qur'ānic texts, “uncritically” applies a method used by Morton Smith in his 1957 PhD thesis on the Old Testament. Peters explains that “the differences in textual history between the Hebrew Bible and the Qur'ān make it difficult to transfer methods developed in one field to another...The interpretation of the Qur'ān as a historical source therefore requires a totally different approach.”¹⁷⁷ This indicates that there is a line of thought in Western scholarship that approaches Islam with a tendency to study and interpret it through the historical and religious experiences of Judaism and Christianity. This approach has necessarily led to distorted judgements and even to the creation of readings of the history and texts of Islam that are totally different from those of the Muslims’.

Muslim and Western scholarship agree that a state of war was the normal state of relations between the various tribes in Arabia at the time of the advent of Islam. Outbreaks of war in Medina during the Prophet's lifetime have been a rich source for constructing various, and sometimes contradictory, theories on the nature and objectives of war in Islam. Watt's *Muhammad at Mecca* and *Muhammad at Medina* and their abridgement in his *Muhammad: Prophet and Statesman* are laudable efforts in the study of the life of the Prophet,¹⁷⁸ because Watt bases his study of hostile incidents during the Prophet's time on the biographical material. Many Western scholars are influenced by some of Watt's ideas and some of his ideas have been further developed or reinterpreted.

¹⁷⁷ Rudolph Peters, review of *Jihād: The Origin of Holy War in Islam*, by Reuven Firestone, *International Journal of Middle East Studies*, Vol. 34, No. 4, Nov. 2002, p. 740.

¹⁷⁸ In the words of Bonner, “Half a century ago, William Montgomery Watt wrote a two volume biography of Muhammad that has since withstood the test of time.” See Bonner, *Jihad in Islamic History*, p. 43. See also Jabal Muhammad Buaben, *Image of the Prophet Muhammad in the West: A Study of Muir, Margoliouth and Watt* (Leicester: Islamic Foundation, 1996/1417), pp. 318-320.

Although Watt’s three-volume study on the life of the Prophet contains many insightful ideas, this study disagrees with some of his interpretations of the incidents, such as his idea that the Prophet’s seven early expeditions “were directed against Meccan caravans.”¹⁷⁹ It is worth adding that he explains that these expeditions “are of slight importance, in that nothing seemed to happen”.¹⁸⁰ He even recognizes that two of these expeditions resulted in peace treaties.¹⁸¹ Watt formed this opinion about the seven early expeditions by accepting the phrase in a report mentioned above in al-Wāqidī’s *Al-Maghāzī* which he understands to mean that the objective of the *sariyah* of Ibn Jaḥsh was “to ambush a Meccan caravan”. The present study argues that al-Wāqidī’s wording here was not intended to give the meaning understood by Watt. Al-Wāqidī in fact gives another report which explains that the objective of this *sariyah* was to bring news of what the Quraysh was planning.¹⁸² As explained above, these early expeditions aimed at introducing Islam to the tribes and making peace treaties with them, thus ensuring that they would not support the Quraysh in any attack on the Muslims.¹⁸³ A dozen or two of the three hundred Muslim men at Medina went on reconnoitring missions to find out whether the Quraysh were preparing for any attack. The number of the Muslims who went into these missions (in one mission they numbered only eight) proves that such *ghazawāt* and *sarāyā* were reconnoitring missions and obviously not raids as commonly assumed.¹⁸⁴ Hence, Shākir titles his discussion of these early expeditions *al-ghazawāt wa al-sarāyah al-istitlā’iyyah* (reconnaissance *ghazawāt* and *sarāyā*).¹⁸⁵

¹⁷⁹ Watt, *Muhammad at Medina*, p. 2.

¹⁸⁰ *Ibid.*

¹⁸¹ *Ibid.*, pp. 3 f.

¹⁸² Al-Wāqidī, *Al-Maghāzī*, Vol. 1, p. 30.

¹⁸³ See Aḥmad, *Al-Sīrah al-Nabawiyyah fī Daw’ al-Maṣādir al-Aṣliyyah*, pp. 326 f.

¹⁸⁴ Ghunaym, *Al-Jihād al-Islāmī*, pp. 24 f.; Ṣaqr, *Falsafah al-Ḥarb*, p. 73. See also Hashmi, “Islam, Sunni”, p. 217.

¹⁸⁵ Shākir, *Al-Tārīkh al-Islāmī*, pp. 164-172.

Watt's mistaken idea of presenting these expeditions as offensive attacks has, unfortunately, been expanded upon by some theorists. Firestone develops this idea to speak of what he calls "mundane attacks" on the Quraysh and then transforms this into a theory of Muslim holy war against all mankind.¹⁸⁶ Armstrong accepts the idea that the Muslims resorted to the then "national sport" of *ghazw* against the caravans of the Meccans because the Meccans persecuted and expelled them from their homes. Nonetheless, concerning the spread of Islam, she explains that all the Arab tribes had either converted to Islam or joined the Muslim *ummah* as confederates, especially after the treaty of al-Ḥudaybiyah. In fact, the ninth year of the *hijrah* is called the "year of the delegations" because delegations from all over Arabia came to the Prophet declaring their acceptance of Islam.¹⁸⁷ This meant the collapse of the religion of the Meccans and thus the destruction of their economy and prestige position among all the Arabs. It is this, Ibn Ishāq explains, that was the reason for which the Quraysh waged aggression against the Prophet.¹⁸⁸ Thus, Armstrong concludes her succinct balanced reading of the Prophet's lifetime by saying that, before the Prophet's death, "the ghastly cycle of tribal warfare, of vendetta and counter-vendetta, had ended. Single-handedly, Muhammad had brought peace into war-torn Arabia."¹⁸⁹ This shows the extent of the contradictions between the readings of these wars in Western scholarship. While Firestone portrays them as all-out holy wars against all mankind, Armstrong maintains that the Prophet brought peace to the already "war-torn Arabia".

¹⁸⁶ See also Sivan, "The Holy War Tradition in Islam", p. 172.

¹⁸⁷ Ibn Ishāq, *Al-Sīrah*, Vol. 4, p. 120; Guillaume, *The Life of Muhammad*, p. 627; Ibn Khaldūn, *Tārīkh Ibn Khaldūn*, Vol. 2, pp. 470-479; Ibn Sayyid al-Nās, *'Uyūn al-Athar*, Vol. 2, pp. 312-344; Haykal, *The Life of Muhammad*, pp. 456-460; Yūsuf ibn 'Abd al-Barr, *Al-Durar fī Ikhtisār al-Maghāzī wa al-Siyar*, ed. Shawqī Dīf, 2nd ed. (Cairo: Dār al-Ma'ārif, 1983), p. 153; Stewart, *Unfolding Islam*, p. 90.

¹⁸⁸ Ibn Ishāq, *Al-Sīrah*, Vol. 4, p. 121; Guillaume, *The Life of Muhammad*, p. 628; Ibn Khaldūn, *Tārīkh Ibn Khaldūn*, Vol. 2, p. 470.

¹⁸⁹ Armstrong, *Islam: A Short History*, p. 20.

In his chapter “Foundations of Conquest”, Donner relates the rise of the Islamic state in Medina to the Prophet’s “highly successful pursuit of political power”.¹⁹⁰ He explains that the Prophet used many methods to establish his power in Medina and argues that the incidents that took place in Medina were the result of the Prophet’s determination to achieve political power. He believes that the Prophet set himself up as a ruler against the opposition of the three Jewish clans of Qaynuqā’, al-Nadīr, and Qurayzah and “struggle[d] to humble the Quraysh in his native city, Mecca”.¹⁹¹

However, Donner bases his theory here on two unfounded assumptions. First, the idea that the Prophet established his leadership against the opposition of the three Jewish clans is based on the reactions, rather than the actions which led to these reactions. In other words, if the Qaynuqā’ had not fought against the Prophet and if al-Nadīr had not attempted to assassinate the Prophet, they would not have been sent into exile. And if the Qurayzah had not supported the Quraysh in the battle of the Ditch, its male members would not have been sentenced to death by Sa’d ibn Mu’ādh. Moreover, the Prophet, from his arrival in Medina, had already become the leader of the whole community of Muslims and Jews in the city, as stipulated in the Constitution of Medina. Second, the idea that the Prophet “struggled to humble Quraysh” seems also to be a development of Watt’s mistaken understanding of the seven early expeditions. The biographical material proves that the Quraysh launched attacks on the Muslims in Medina. Moreover, the treaty of al-Ḥudaybiyah substantiates the fact that the Prophet accepted the inferior position stipulated by the Quraysh negotiators in this treaty. It is worth adding that the Prophet accepted the

¹⁹⁰ Fred McGraw Donner, *The Early Islamic Conquests* (Princeton: Princeton University Press, 1981), p. 62.

¹⁹¹ Ibid.

unfair and arbitrary articles of the treaty, despite the disagreement of his Companions.

Thus, there are two main, unfounded, contradictory, speculative interpretations¹⁹² of the outbreaks of hostilities in this period: while Firestone gives a holy-war-like interpretation of the Prophet's wars, Donner advocates a secular interpretation, portraying the Prophet as a "genius politician and strategist"¹⁹³ who was ambitious for political power. Nonetheless, Bruce B. Lawrence maintains: "The war Muhammad waged against Mecca was not a struggle for prestige or wealth, but for the survival of God's Word and his own person."¹⁹⁴

But the present study argues that the following important questions should be addressed in any attempt to theorize on the tradition of war in Islam: would there have been any outbreaks of hostility in early Islam if the Prophet and the Muslims had not been persecuted and had been permitted to practise their new religion freely in Mecca? And would there have been any war in Medina if Abū Jahl had not forced the Quraysh to go to war at Badr, or if the three Jewish clans had abided by the Constitution of Medina and not attempted to assassinate the Prophet or supported the Quraysh in the battle of the Ditch? Thus, Watt remarks here that "it is interesting to speculate on what would have happened had the Jews come to terms with Muḥammad instead of opposing him."¹⁹⁵ This study argues that, as concluded by Ibn Taymiyyah (d. 728/1328), the hostile actions referred to above were not initiated by

¹⁹² To show the highly speculative nature of the interpretations of these period, Donner concludes his "Muḥammad's Political Consolidation" with the following: "The interpretations proposed here cannot be considered decisively proven, of course, and in view of the state of our sources they may remain forever beyond decisive proof or disproof." See *Ibid.*, p. 247.

¹⁹³ Donner, *The Early Islamic Conquests*, p. 69; Donner, "Muḥammad's Political Consolidation", pp. 229-247.

¹⁹⁴ Lawrence, *The Qur'ān*, p. 42.

¹⁹⁵ Watt, *Muhammad at Medina*, p. 219.

the Prophet or motivated by Islamic teachings to engage in offensive attacks against non-Muslims because of their unbelief in Islam.¹⁹⁶

1.8 Conclusion

This study finds that the attempts of the early biographers to refer to all the Prophet's travels and engagements with others as *ghazawāt* or *maghāzī* and expeditions sent by him as *siyar*, without differentiating between the preaching and fighting missions, have caused considerable misunderstanding about the tradition of war in Islam, although they agree that fighting took place in nine of the Prophet's twenty-seven *ghazawāt*, namely, Badr, Uḥud, The Ditch, Qurayzah, al-Muṣṭaliq, Khaybar, fath Mecca, Ḥunayn, and al-Ṭā'if.

As pointed out above, Badr, Uḥud, and the Ditch were defensive engagements against offensive attacks on the Muslims in Badr and Medina by the Quraysh and a number of other clans who joined in the attack at the battle of the Ditch. The exiled Jews of Naḍīr were behind the mobilization of several other clans in this attack and offered as an inducement "half the date harvest of Khaybar ... to B. Ghaṭafān if they would join in the attack."¹⁹⁷ Qurayzah should not be considered an act of war as it was the implementation of the arbitration against the traitors at the battle of the Ditch. Al-Muṣṭaliq was a response to an attack already in progress. As for Khaybar, it is significant that, first, Khaybar numbered ten thousand while the Muslims numbered about three thousand. Second, it ended in an agreement that Khaybar were to pay half the produce of their lands. Watt explains that the reason for this incident was Khaybar's "use of their wealth to induce the neighbouring Arabs

¹⁹⁶ See Ibn Taymiyyah, *Qā'idah Mukhtaṣarah fī Qitāl al-Kuffār*, pp. 96, 134.

¹⁹⁷ Watt, *Muhammad at Medina*, p. 36; see also Darwazah, *Al-Jihād fī Sabīl Allah*, p. 242; Stewart, *Unfolding Islam*, p. 84.

and especially the strong tribe of Ghatafān to join them against the Muslims.”¹⁹⁸ Hence, the aim of the Prophet’s march to Khaybar was to put an end to their hostility after they had violated the Constitution of Medina. Accepting Islam or making this payment signifies peaceful coexistence and recognition of the authority of the state system stipulated in the Constitution of Medina. As for Faṭḥ Mecca, as stated above, the Prophet’s march to Mecca with at least ten thousand men from the Arab tribes, was a successful, popular, bloodless attempt to take control of his home city of Mecca after eight years in exile. The Prophet confirmed to the huge crowd accompanying him that their march was a peaceful one and no fighting was to take place and no fighting did in fact ensue between the two parties, although Khālīd ibn al-Walīd fought in self-defence when arrows were shot at him as he was destroying an idol. Ḥunayn and al-Ṭā’if are two incidents of fighting with the clans of Hawāzin and Thaḳīf that took place when they marched to Ḥunayn to fight the Prophet after he took control in Mecca.

This study thus finds that the Muslims’ engagements in all these hostilities during the Prophet’s lifetime were defensive.¹⁹⁹ Their occurrence was the result of

¹⁹⁸ Watt, *Muhammad at Medina*, pp. 217 f.

¹⁹⁹ See, for example, Ibn Taymiyyah, *Qā’idah Mukhtaṣarah fī Qitāl al-Kuffār*, pp. 96, 134; Muḥammad ibn Abī Bakr ibn Qayyim al-Jawziyyah, *Hidayah al-Ḥayārā fī Ajwibah al-Yahūd wa al-Naṣārā*, 4th ed., ed. Aḥmad Ḥijāzī al-Saqqā (Cairo: Al-Maktabah al-Qayyimah, 1986-7/1407), pp. 137 f.; Aḥmad Muṣṭafā al-Marāghī, *Tafsīr al-Marāghī* (Cairo: Muṣṭafā al-Bābī al-Ḥalabī, 1946/1365), Vol. 10, p. 92; Sobhi Mahmassani, *Al-Qānūn wa al-’Alāqāt al-Dawliyyah fī al-Islām* (Beirut: Dār al-’Ilm lil-Malāyīn, 1972/1392), p. 177; Wahbah al-Zuhaylī, “Majālāt al-’Alāqāt al-Dawliyyah fī al-Islām”, in Fārūq Ḥamādah, ed., *Al-Tashrī’ al-Dawlī fī al-Islām*, Nadawāt wa Munāzarāt, No. 70 (Rabat: Kulliyah al-Ādāb wa al-’Ulūm al-Insāniyyah, 1997), p. 199; al-Sayyid Sābiq, *Fiqh al-Sunnah* (Cairo: Al-Faṭḥ lil-’Ilām al-’Arabī, n.d.), Vol. 3, pp. 18 f.; Muḥammad al-Ṣādiq ‘Afīfī, *Al-Mujtama’ al-Islāmī wa al-’Alāqāt al-Dawliyyah* (Cairo: Mu’assasah al-Khānjī, 1980), p. 148; al-Ghunaimi, *Qānūn al-Salām fī al-Islām*, p. 59; Ghunaym, *Al-Jihād al-Islāmī*, pp. 32 f.; Ṭabliyyah, *Al-Islām wa Ḥuqūq al-Insān*, p. 72; ‘Umar Aḥmad al-Firjānī, *Uṣūl al-’Alāqāt al-Dawliyyah fī al-Islām*, 2nd ed. (Tripoli, Libya: Dār Iqra’, 1988/1397), pp. 77, 82 f.; al-Shaykh al-Rikābī, *Al-Jihād fī al-Islām: Dirāsah Mawḍū’iyah Tahliyyah Tabḥath bi-al-Dalīl al-’Ilmī al-Fiqhī ‘an al-Jihād wa ‘Anāshirih fī al-Tanzīl wa al-Sunnah* (Damascus: Dār al-Fikr, 1997/1418), pp. 125 f.; ‘Uthmān al-Amīn al-Amīn, “Mawqif al-Islām min Zāhirah al-Irhāb”, *Islam and the 21st Century*, Researches and Facts, the Tenth General Conference of the Supreme Council for Islamic Affairs (Cairo: Supreme Council for Islamic Affairs, 1999/1420), p. 311; C.G. Weeramantry, *Islamic Jurisprudence: An International Perspective* (Basingstoke: Macmillan, 1988), p. 147; Stewart, *Unfolding Islam*, p. 92; Alsumaih, “The Sunni Concept of Jihad”, pp. 41, 271, 276. Rudolph Peters indicates that modern Muslim writers “show that

normal developments of events arising from the political and cultural systems in place in the war-torn Arabia of the time. Shaykh Alī Jum‘ah, the current Muftī of Egypt (2003-present), adds that all these incidents occurred between the Prophet and his relatives, namely, the various tribes of the clan of Muḍar, and the Jewish clans who allied with Quraysh.²⁰⁰ He suggests that, as was natural for the Arabs of the time, Muḍar fought these battles because of the leadership and authority the Prophet was gaining at the time. In fact, the spread of Islam and the growth of the Prophet’s leadership were undermining their religion and thus their economy, power and prestige in Arabia. This explains Abū Jahl’s motive, quoted above, for forcing the Meccans to fight the Prophet in the first battle in Islam, the battle of Badr, and therefore supports Watt’s reading that Abū Jahl wanted to eliminate the Prophet for ever. Their defeat at Badr necessitated revenge to restore their leadership, and the subsequent occurrences of fighting that ensued as a result. It was for the same reason – to strengthen the Meccans’ leadership - that the Meccans dictated arbitrary articles in the negotiations of the armistice of al-Ḥudaybiyah intended to show the inferior position of the Prophet and requiring him to return to Medina without entering Mecca to perform ‘*umrah* that year.

Moreover, the cases of the Jews of Banū Qaynuqā’ who fought alongside the Prophet after Badr,²⁰¹ the Jewish Rabbi who fought and called upon his fellow Jews to fight alongside the Prophet against the attack by the Quraysh at the battle of Uḥud,

all military campaigns, raids and expeditions of Mohammed and the first Caliphs were purely defensive”. See Rudolph Peters, “Djihad: War of Aggression or Defense?”, in Albert Dietrich, ed., *Akten des VII. Kongresses Für Arabistik und Islamwissenschaft* (Göttingen, Aug. 1974) (Göttingen: Vandenhoeck & Ruprecht, 1976), p. 286; al-Qaradāwī, *Fiqh al-Jihād*, Vol. 1, pp. 339-364, 380.

²⁰⁰ Alī Jum‘ah, “Al-Jihād fī al-Islām: Dirāsah Tahliliyyah”, *The Truth about Islam in a Changing World*, Researches and Proceedings, the Fourteenth General Conference of the Supreme Council for Islamic Affairs (Cairo: Supreme Council for Islamic Affairs, 2004/1425), pp. 710-716.

²⁰¹ See, for example, Muḥammad ibn Idrīs al-Shāfi‘ī, *Al-Umm*, 2nd ed. (Beirut: Dār al-Ma‘rifah, [1973]/1393), Vol. 4, p. 261; Muḥyī al-Dīn ibn Sharaf al-Nawawī, *Al-Majmū’: Sharḥ al-Muhadhdhab*, ed. Maḥmūd Matrajī (Beirut: Dār al-Fikr, 2000), Vol. 21, p. 37; al-Māwardī, *Al-Ḥāwī*, Vol. 14, p. 130; al-Ḥifnī, *Mawsū‘ah al-Qur‘ān*, Vol. 2, p. 1905.

the group of Jews who fought with the Prophet and received a share of the war spoils,²⁰² and the many idolaters who fought with the Prophet at Ḥunayn and al-Ṭā'if, are all examples that mitigate against the idea that these were wars fought for the spread of a certain religion. On the basis of these incidents, most of the classical Muslim jurists advocated that it was permissible for polytheists to fight alongside the Muslims against the *dār al-ḥarb*.²⁰³ Furthermore, on the basis of the above incidents and the jurists' consequent agreement on the permissibility of non-Muslims' fighting alongside a Muslim army, contemporary Muslim scholars have strongly advocated the Islamic permissibility of seeking the support of the non-Muslim forces for the liberation of Kuwait from the Iraqi *ghazw* (invasion) of August 1990-February 1991.²⁰⁴ *The Islamic Fiqh Council Journal*, affiliated to the Saudi-based Muslim

²⁰² See, for example, Muḥammad ibn 'Abd al-Wāḥid ibn Aḥmad, *Al-Aḥādīth al-Mukhtārah*, ed. 'Abd al-Malik ibn 'Abd Allah ibn Duhaysh (Mecca: Maktabah al-Nahḍah al-Ḥadīthah, 1990/1410), Vol. 7, p. 189; Muḥammad ibn Yūsuf al-Sāliḥī, *Subul al-Hudā wa al-Rashād fī Sīrah Khayr al-'Ibād*, ed. 'Ādil Aḥmad 'Abd al-Mawjūd and 'Alī Muḥammad Mu'awwad (Beirut: Dār al-Kutub al-'Ilmiyyah, 1993-4/1414), Vol. 9, p. 121; Sa'īd ibn Manṣūr, *Sunan Sa'īd Ibn Manṣūr*, ed. Ḥabīb al-Raḥman al-A'zamī (India: Al-Dār al-Salafiyyah, 1982/1403), Vol. 2, p. 331; Ibrāhīm ibn Muḥammad ibn 'Abd Allah ibn Mufliḥ, *Al-Mubdi' fī Sharḥ al-Muqni'* (Beirut: Al-Maktab al-Islāmī, 1979-80/1400), Vol. 3, p. 336; Muḥammad ibn 'Alī ibn Muḥammad al-Shawkānī, *Nayl al-Awtār: Min Aḥādīth Sayyid al-Khyār Sharḥ Muntaqā al-Akḥbār* (Beirut: Dār al-Jīl, 1973), Vol. 8, pp. 43 f. See also, for Jews and idolaters fighting alongside the Prophet against the Muslims' enemies, Muwaffaq al-Dīn 'Abd Allah ibn Aḥmad ibn Qudāmāh, *Al-Mughnī: Fī Fiqh al-Imām Aḥmad Ibn Ḥanbal al-Shaybānī* (Beirut: Dār al-Fikr, 1984-5/1405), Vol. 9, p. 207; Muḥammad al-Ghazālī, *Al-Wajīz fī Fiqh al-Imām al-Shāfi'ī*, ed. 'Alī Mu'awwad and 'Ādil 'Abd al-Mawjūd (Beirut: Dār al-Arḥam ibn Abī al-Arḥam, 1997/1418), Vol. 2, p. 190; Muḥammad al-Ghazālī, *Al-Waṣīf fī al-Madḥhab*, ed. Aḥmad Maḥmūd Ibrāhīm and Muḥammad Muḥammad Tāmir (Cairo: Dār al-Salām, 1997/1417), Vol. 7, p. 16; 'Uthmān, "I'tidā' Ṣaddām 'alā al-Kuwayt Munkar", p. 183; Mannā' al-Qaṭṭān, "Al-Isti'ānah bi-ghayr al-Muslimīn", *The Islamic Fiqh Council Journal*, Issue No. 5, [1991/1411], p. 201.

²⁰³ See, for example, Muḥammad ibn al-Ḥasan al-Shaybānī, *Al-Siyar*, ed. Majid Khadduri (Beirut: Al-Dār al-Muttaḥidah, 1975), p. 249; Muḥyī al-Dīn ibn Sharaf al-Nawawī, *Al-Majmū': Sharḥ al-Muḥadḥhab*, ed. Maḥmūd Maṭrajī (Beirut: Dār al-Fikr, 2000), Vol. 21, pp. 37 f.; Muḥyī al-Dīn ibn Sharaf al-Nawawī, *Rawḍah al-Ṭālibīn wa 'Umdah al-Muftīn*, 2nd ed. (Beirut: Al-Maktab al-Islāmī, 1984-5/1405), Vol. 10, p. 239; Ibn Qudāmāh, *Al-Mughnī*, Vol. 9, p. 207; al-Shawkānī, *Nayl al-Awtār*, Vol. 8, pp. 42-45; Muḥammad Amīn ibn 'Umar ibn 'Ābidīn, *Hāshiyah Radd al-Muḥtār 'alā al-Durr al-Mukhtār: Sharḥ Tanwīr al-Abṣār Fiqh Abū Ḥanīfah* (Beirut: Dār al-Fikr, 2000/1421), Vol. 4, p. 148; Muḥammad ibn Yūsuf ibn Abī al-Qāsim al-'Abdarī, *Al-Tāj wa al-Iklīl: Sharḥ Mukhtaṣar Khalīl*, 2nd ed. (Beirut: Dār al-Fikr, 1977-8/1398), Vol. 3, p. 353; 'Abd al-Laṭīf 'Āmir, *Aḥkām al-Asrā wa al-Sabāyā fī al-Ḥurūb al-Islāmiyyah* (Cairo: Dār al-Kitāb al-Miṣrī; Beirut: Dār al-Kitāb al-Lubnānī, 1986/1406), pp. 57-59; Yūsuf al-Qaraḍāwī, *Al-Ḥalāl wa al-Ḥarām fī al-Islām*, 22nd ed. (Cairo: Maktabah Wahbah, 1997/1418), pp. 295 f.; 'Abbās Shūmān, *Al-'Alāqāt al-Dawliyyah fī al-Sharī'ah al-Islāmiyyah*, Silsilah al-Dirāsāt al-Fiqhīyyah, 1 (Cairo: Al-Dār al-Thaqāfiyyah lil-Nashr, 1999/1419), pp. 57 f.; al-Qaraḍāwī, *Fiqh al-Jihād*, Vol. 1, pp. 703-711.

²⁰⁴ See Muḥammad Sayyid Ṭantāwī, "Al-Ḥukm al-Shar'ī fī Aḥdāth al-Khalīj", *The Islamic Fiqh Council Journal*, Issue No. 5, [1991/1411], pp. 76-83; Hāshim, "Ma'sāh al-Ghazw al-'Irāqī", pp. 110-

World League, devoted its fifth issue to the discussion of this question and, more importantly, to justifying the Islamic permissibility of hosting American forces in Saudi Arabia and other Gulf countries.²⁰⁵ This fifth issue also includes statements to this effect from important Islamic institutions such as al-Azhar al-Sharīf and Dār al-Iftā' of Egypt, as well as the Committee of the Senior Saudi Scholars. Interestingly, these Muslim scholars are advocating here the permissibility of military support from non-Muslim forces in a war against another Muslim country.

Thus, none of the incidents of war studied in this chapter could be described as “holy war” in the sense of a war waged to propagate a religion or because the opponents held different beliefs. However, the confusion about the tradition of war in Islam arises from the fact that the decision to join in these defensive just wars was given religious justification. In the next chapter, this confusion in the exegetes' interpretations of the Qur'ānic justifications for engaging in fighting in the incidents discussed here will become obvious. It is worth recalling here that the whole struggle between the Meccans and the Muslims arose after the Muslim minority were persecuted and forced to flee Mecca because of their new religion.

Concerning the extent of the use of force in the wars studied here, according to Muḥammad 'Imārah, the number of fatalities in all these incidents totals 384 (181 Muslims and 203 among their enemies),²⁰⁶ while according to Ahmed Shalabī it

115; 'Uthmān, “I'tidā' Ṣaddām 'alā al-Kuwayt Munkar”, p. 181; al-Qaṭṭān, “Al-Isti'ānah bi-ghayr al-Muslimīn”, pp. 195-203; Muḥammad ibn 'Abd Allah al-Sabīl, “Ḥukm al-Isti'ānah bi-ghayr al-Muslimīn fī al-Jihād”, *The Islamic Fiqh Council Journal*, Issue No. 5, [1991/1411], pp. 205-223; al-Qaradāwī, *Fiqh al-Jihād*, Vol. 1, pp. 712-721.

²⁰⁵ See, for example, Ṭanṭāwī, “Al-Ḥukm al-Shar'ī fī Aḥdāth al-Khalīj”, pp. 76-83; Hāshim, “Ma'sāh al-Ghazw al-'Irāqī”, pp. 110-115; al-Qaṭṭān, “Al-Isti'ānah bi-ghayr al-Muslimīn”, pp. 198, 202. See also Esposito, *Unholy War*, p. 34; Yvonne Yazbeck Haddad, “Operation Desert Shield/ Desert Storm: The Islamist Perspective”, in Bhyllis Bennis and Michel Moushabeck, eds., *Beyond the Storm: A Gulf Crisis Reader* (New York: Olive Branch Press, 1991), pp. 251-253.

²⁰⁶ Muḥammad 'Imārah, *Al-Islām wa al-Ākhar: man Ya'tarif biman? Wa man Yunkir man?*, 3rd ed. (Cairo: Maktabah al-Shurūq al-Dawliyyah, 2002), p. 65. 'Imārah depends on Ibn 'Abd al-Barr's *Al-Durar*.

totals 251 (139 Muslims and 112 among their enemies).²⁰⁷ However, the differing numbers of fatalities given in the biographical material discussed in this study estimate that the total number in all the incidents is between a minimum of 367 (170 Muslims and 197 among their enemies) and a maximum of 514 (222 Muslims and 292 among their enemies). In fact, there is no way to ascertain the accuracy of these numbers, so researchers have to choose one of the biographers' accounts. However, 'Abd al-Ṣabūr Marzūq, the Secretary General of the Supreme Council for Islamic Affairs in Egypt, affirms that the number of fatalities, including both Muslims and their enemies, is less than four hundred.²⁰⁸ These figures indicate the degree of force used in these incidents and the insignificance of the disagreement over the numbers caused by referring to different biographical material. Those executed in *ghazwah* Banū Qurayzah are not included in these figures because they were sentenced by Sa'd ibn Mu'adh for their treason and are therefore not counted among the war dead.

The Prophet's expeditions, accompanied by Muslims, to the nomadic tribes in such an insecure region, whether to preach Islam or to make pacts of non-aggression with the tribes or to engage in defensive actions, were efforts that they hoped would be rewarded by God and can all be considered as *one* form of the Islamic concept of jihād. Muslim deaths in these activities are considered by Muslims as acts of martyrdom.

The Qur'ānic texts and the sayings of the Prophet calling upon Muslims to join in these defensive wars and extolling the reward for those who took part in them have been misrepresented by some as Islamic textual justifications for holy war to be initiated against non-Muslims. Unfortunately, the study of jihād in outsider literature

²⁰⁷ Ahmed Shalabī, *Al-Islām wa al-Qitāl* (Cairo: Al-Hay'ah al-'Āmmah lil-Kitāb), p. 12, quoted in Jum'ah, "Al-Jihād fī al-Islām", p. 716.

²⁰⁸ 'Abd al-Ṣabūr Marzūq, "Al-Islām wa al-Jihād", *Tolerance in the Islamic Civilization*, Researches and Facts, the Sixteenth General Conference of the Supreme Council for Islamic Affairs (Cairo: Supreme Council for Islamic Affairs, 2004/1425), p. 799.

has been limited to this distorted reading of such texts, which creates a totally different impression according to which Muslims are transformed from fighters in a just and defensive war into initiators of offensive holy war. In other words, these texts have been introduced as the Islamic justification for the initiation of the wars that took place during the Prophet's lifetime, and the tradition of war in Islam in general, and not with a view to clarifying the diverse reasons for these incidents, as detailed above. Any study of these Qur'ānic texts and prophetic sayings on jihād that does not take into account whether they address a defensive or offensive, or a just or unjust war, will reach erroneous conclusions on the tradition of war in Islam.

CHAPTER TWO

THE JUSTIFICATIONS OF WAR IN THE QUR'ĀN

2.1 Introduction

A number of Qur'ānic verses address the relationship between the Muslims and their enemies during both the Meccan and Medinan periods discussed in Chapter One. In the Meccan period, over one-hundred-and-fourteen verses command Muslims to forgive their persecutors and be patient in the face of the religious oppression and execution of some of their fellows. In the Medinan period, however, certain verses give the Muslims permission to defend themselves in the face of aggression from the Meccans. In several of the Medinan chapters of the Qur'ān, many verses address the Muslims' struggle with their enemies and some of these verses command the Muslims to fight the enemy.

This chapter considers the Qur'ānic texts that address the issue of war. It discusses the interpretations of these texts in some of the most influential classical and modern Qur'ān exegeses, specifically the exegeses of al-Ṭabarī (d. 310/923), al-Qurṭubī (d. 671/1272), Rashīd Riḍā (1863-1935) and Sayyid Quṭb (1906-1966). The exegetes' interpretations reflect their understanding of the nature of the conflict between the Muslims and their enemies. More importantly, these interpretations provide the basis of the *jus ad bellum* (the justifications for resort to war) in the tradition of war formulated by the Muslim jurists, as shown in Chapter Three. Therefore, the aim of the present chapter is to discover the ways in which the Qur'ān justifies warfare and to investigate whether the Qur'ān sanctions offensive war in order to propagate Islam.

Muslim scholars have developed a number of exegetical disciplines for the study of the Qur'ān, some of which have crucially shaped Muslim understandings of

the Qur'ānic position on war. Using these exegetical disciplines and in the light of their diverse understandings of the Qur'ānic position, Muslim scholars, specifically the jurists, have formed the Islamic laws regulating the relationship of Muslims with others.

However, Fred McGraw Donner concludes that “We [Western scholars] are not in a position to catalog unequivocally *the main elements contributing to the way* [emphasis added] Muslims thought about war and its limitations...The reason for this is mainly a practical one: too little preliminary work on a vast subject.”¹ Moreover, Andrew Rippin notes that the science of Qur'ān exegesis “still remains a vast, virtually untapped field of investigation [in Western scholarship... because unfortunately] Orientalists continue to gloss over its importance as a historical record of the Muslim community, as revealed in comments that declare the material to be ‘dull and pettifogging’ and the like.”² These statements succinctly diagnose some of the problems that arise in the study of the Islamic tradition of war in outsider literature. Despite the importance of the subject and the vast literature on it, many areas and methodologies that contributed to the development of the Islamic law of war still remain largely under-explored. That is to say, quoting certain Qur'ānic phrases or verses or even an exegete's interpretation of such phrases or verses, or worse – simply depending on translations of the Qur'ān, to explicate the Qur'ānic position on war, merely adds to the confusion in the area. But to find out both classical and contemporary Muslim understandings of the Qur'ānic position on war,

¹ Fred McGraw Donner, “The Sources of Islamic Conceptions of War”, in John Kelsay and James Turner Johnson, eds., *Just War and Jihad: Historical and Theoretical Perspectives on War and Peace in Western and Islamic Traditions* (Westport, Conn.: Greenwood Press, 1991), pp. 56 f.

² Andrew Rippin, ed., *Approaches to the History of the Interpretation of the Qur'ān* (Oxford: Clarendon, 1988), Acknowledgements, p. V. Referring generally to the study of the Qur'ān, W. Montgomery Watt concludes that “The Qur'ān has been studied and meditated on for about fourteen centuries, and much has been achieved. Yet... there is need for still further study of the Qur'ān and study along new lines; and this must be undertaken by both Muslims and non-Muslims.” W. Montgomery Watt, *Bell's Introduction to the Qur'ān*, Islamic Surveys 8 (Edinburgh: Edinburgh University Press, reprint 1997), p. 186.

the best approach is to examine the exegetical disciplines that the exegetes themselves apply.

It is important to note here that it is generally characteristic of Islamic scholarship that Muslim scholars, whether exegetes, jurists or otherwise, were all individual researchers who worked independently without any formal relationship with state authorities, except when scholars accepted the position of *qāḍī* (judge). Moreover, as H.A.R. Gibb notes, they “were hesitant or unwilling to become involved in the practical affairs of government.”³ Their works present their individual intellectual efforts to conceive an Islamic framework for relating to others in times of peace and war. Their frameworks derive from their readings of the injunctions found in the Qur’ān and the Sunnah (tradition) of the Prophet. It is undeniable, however, that these scholars were influenced, throughout Islamic history, by the socio-political conditions of their times.⁴

2.2 The Text and Context of the Qur’ān

It goes without saying that the Qur’ānic verses on the issue of war must be read in their socio-political and linguistic contexts. More importantly, they must be understood in the context of the specific incidents they address.⁵ As Mustansir Mir rightly points out, “a study of the Qur’anic view of war will have to take into account both the Qur’anic text and Muhammad’s conduct of war.”⁶ It is therefore a major error to study these Qur’ānic verses without, or, equally misleadingly – as this study

³ H.A.R. Gibb, “Religion and Politics in Christianity and Islam”, in J. Harris Proctor, ed., *Islam and International Relations* (London: Pall Mall Press, 1965), p. 10.

⁴ Abdulaziz A. Sachedina, “The Development of *Jihad* in Islamic Revelation and History”, in James Turner Johnson and John Kelsay, eds., *Cross, Crescent, and Sword: The Justification and Limitation of War in Western and Islamic Tradition* (New York: Greenwood Press, 1990), pp. 35 f.

⁵ Asma Afsaruddin, “Views of *Jihad* throughout History”, *Religion Compass*, Vol. 1, Issue 1, 2007, p. 165.

⁶ Mustansir Mir, “Islam, Qur’anic”, *Encyclopedia of Religion and War*, ed., Gabriel Palmer-Fernandez (New York: Routledge, 2004), p. 207.

argues – *before*, determining their context. Studying the Qur’ānic verses on war requires, first, deciphering the rules of Qur’ānic textual discourse by defining the meaning of the words describing the warring parties, i.e., Muslims versus their enemies, the Meccan *mushrikūn/kuffār* (Meccan polytheists/unbelievers), *munāfiqūn* (the hypocrites, the Medinans who outwardly claimed to be Muslims while actively supporting the Muslims’ enemies) and *ahl al-kitāb* (lit. family of the scripture, generally translated as People of the Book) and, second, reconstructing the situation in which the parties involved went to war, including deciding the reasons and justifications for the initiation of a particular act of war and also who initiated it.

A problem of war studies is that any disagreement in reconstructing the situation in which war arises leads to totally different descriptions of the same incidents. For example, what some see as an offensive action may be seen by others as a defensive action, the aggressor in the eyes of some may be the victim in the view of others, and diverse judgements on what is justifiable will arise. However, if agreement is reached on the reconstruction of the situation, it should be possible, at least theoretically, to negotiate or disagree on what is just and what is not or who was the aggressor and who was not. The current state of the study of war explored in the present research is full of contradictory readings of the context of the incidents of war in the insider/Islamic and the outsider literatures. Consequently, there are widely differing readings of the same Qur’ānic texts addressing these incidents.

On the one hand, the previous chapter shows that the battles of Badr, Uḥud, the Ditch, Khaybar, Ḥunayn and al-Ṭā’if were defensive and just wars. The first three, one of which, the Ditch, involved a number of Jewish tribes, were launched by the Meccans on the Muslims in Medina. The march to Khaybar was intended to put an end to its inhabitants’ hostility after they had fought in the battle of the Ditch. The

Ḥunayn and al-Ṭāʾif incidents were initiated by the Hawāzin and Thaqīf tribes. With regard to the Tabūk incident, although no encounter took place, the Muslims marched as a result of a rumour circulated by Syrian traders about a Byzantine army camping in Tabūk on its way to make war upon the Muslims in Medina. Reading the context in this way, Muslims throughout history have seen the Muslims involved in these incidents as the victims of their enemies' aggression.

On the other hand, these incidents are generally portrayed in outsider literature either as holy wars launched by the Prophet against non-Muslims, or as military and strategic operations to “master”, “dominate”, or “conquer” the Ḥijāz.⁷ Some even argue that the Prophet was acting according to the dictates of an apocalyptic interpretation which made him attempt to “stamp out *kufṛ* [unbelief]...wherever it appeared”.⁸ In these readings, researchers speak of the Prophet as the only one responsible for these events. David Cook, for example, thinks that the Prophet launched campaigns during the last nine years of his life in order to conquer territories. He concludes that the aim in the battles of Badr, Uḥud, the Ditch, Mecca, and Ḥunayn was to dominate Medina, Mecca and al-Ṭāʾif.⁹ This interpretation is an example of the construction of a context for these incidents wholly different from that traditionally accepted by Muslims, though, strangely enough, Cook does not discuss these “campaigns” per se. Furthermore, Cook here even constructs a contrary geographical context for these incidents, because the first three so-called “campaigns” were in fact offensive attacks launched against the Muslims in and around Medina, their town. He omits to mention that, after his arrival in Medina, the Prophet was made the leader of the community in Medina by the

⁷ See David Cook, *Understanding Jihad* (Los Angeles: University of California Press, 2005), p. 6; Reuven Firestone, “Disparity and Resolution in the Qurʾānic Teachings on War: A Reevaluation of a Traditional Problem”, *Journal of Near Eastern Studies*, Vol. 56, No. 1, Jan. 1997, p. 19.

⁸ Donner, “The Sources of Islamic Conception of War”, pp. 47 f.

⁹ Cook, *Understanding Jihad*, p. 6.

Constitution of Medina. Given this context, it is inconceivable that the Prophet could have “conquered” Medina.

Another example of creating a different context is Firestone’s designation of the Muslims’ enemies as the Muslims’ “detractors”¹⁰ or “nonbelievers”.¹¹ The use of the words “detractors” and “nonbelievers” here indicates that the Muslims went to war against those who were merely critical of Islam, thus implying that Muslims launched holy wars against those who did not accept Islam. In fact these enemies were physically hostile and aggressive as shown above.

2.2.1 Speech-Act Theory

In his article “Understanding the Qur’ān in Text and Context”, Richard C. Martin discusses a new approach to the study of the Qur’ān, one aspect of which is the “speech-act theory”. As explained by Mary Louise Pratt, a speech-act can consist of two or three things. First, a *locutionary act* is the act of making a recognizable utterance. Second, an *illocutionary act* is the message conveyed in the *locutionary act* such as “ordering”, “promising”, “rewarding”, “warning”, etc. Third, a *perlocutionary act* refers to the result which may be effected on the addressee by the *illocutionary act*. For example, as a result of “ordering”, the addressee may obey, or by “warning”, the addressee may be frightened and so on.¹²

It appears that this theory has not been applied to the study of the Qur’ānic verses on war, though it could be helpful to look for the *perlocutionary acts* of these Qur’ānic verses on their addressees in the period limited to this study. Specifically, it

¹⁰ Reuven Firestone, *Jihād: The Origin of Holy War in Islam* (New York: Oxford University Press, 1999), pp. 53, 67, 69; Firestone, “Disparity and Resolution in the Qur’ānic Teachings on War”, pp. 2, 6, 18, 19.

¹¹ Reuven Firestone, “Jihād”, in Andrew Rippin, ed., *The Blackwell Companion to the Qur’ān* (Oxford: Blackwell, 2006), p. 318.

¹² Mary Louise Pratt, *Toward a Speech Act Theory of Literary Discourse* (Bloomington: Indiana University Press, 1977), pp. 81 f.; Richard C. Martin, “Understanding the Qur’ān in Text and Context”, *History of Religions*, Vol. 21, No. 4, May 1982, p. 365.

could be helpful for understanding the Islamic position on war, particularly if a war were launched by the Muslim addressees as the *perlocutionary act* of a certain Qur'ānic text. An attempt is made below to apply this theory whenever possible, with the aim of better understanding the Qur'ānic verses studied in this chapter.

2.2.2 Others in the Eyes of Muslims

The word “Islam” means submission and obedience to God, as well as peace. The word “Muslim” denotes a follower of and a believer in the religion of Islam. Thus Muslim identity is characterized by a religious belief. To become a Muslim, a person needs to utter the formula of belief in Islam: “There is no God but God and Muḥammad is the messenger of God.”¹³ Thus, a Muslim is one who submits to, and obeys, God. In this sense, earlier prophets, such as Abraham, Ishmael, Isaac, Jacob, Moses and Jesus, are also referred to in the Qur'ān as Muslims.¹⁴ Thus, Jews, Christians, Sabaeans and Zoroastrians share with Muslims at least their belief in, and submission to, God. They are referred to in Islamic discourse as *ahl al-kitāb*, People of the Book. Therefore, contrary to what Martin claims,¹⁵ Islam treats specifically Judaism and Christianity “not as ‘other religions’ but as itself”. Ismail R. al-Faruqi confirms this.¹⁶

The Qur'ān addresses Muslims as *al-muslimūn* (“Muslims”, “those who submit”) or *al-mu'minūn* (“believers”) and refers to their enemies throughout the

¹³ See 'Abd al-Karīm Zīdān, *Aḥkām al-Dhimmiyyin wa al-Musta'minīn fī Dār al-Islām* (Beirut: Mu'assasah al-Risālah; Baghdad: Maktabah al-Quds, 1982/1402), p. 10.

¹⁴ Qur'ān 2:128-140. See Naṣr Farīd Wāṣil, “Al-Islām Dīn Salām: Mafhūm al-Ḥarb wa al-Salām fī al-Islām”, *Islam and the 21st Century*, Researches and Facts, the Tenth General Conference of the Supreme Council for Islamic Affairs (Cairo: Supreme Council for Islamic Affairs, 1999/1420), pp. 267-269.

¹⁵ Richard C. Martin, “The Religious Foundations of War, Peace, and Statecraft in Islam”, in John Kelsay and James Turner Johnson, eds., *Just War and Jihad: Historical and Theoretical Perspectives on War and Peace in Western and Islamic Traditions* (Westport, Conn.: Greenwood Press, 1991), p. 98.

¹⁶ Ismail R. al-Faruqi, “Islam and Other Faiths: The World's Need for Humane Universalism”, in Altaf Gauhar, ed., *The Challenge of Islam* (London: Islamic Council of Europe, 1978), p. 108.

period of the revelation of the Qur'ān as *mushrikūn* (“polytheists”), *kuffār* (“unbelievers”), *munāfiqūn* (“hypocrites”), and *ahl al-kitāb* (“People of the Book”),¹⁷ all of which terms have religious connotations. Reading the Qur'ānic texts that discuss fighting against these religious groups without deciphering the contextual meanings of these classifications leads to the misjudgement of the nature of the conflicts the texts refer to. In other words, the Qur'ānic justifications for fighting against the Muslims' enemies who were given these various religious descriptions can be mistakenly understood to be based on their religious identity alone, as is in fact assumed by many researchers.

The context of these Qur'ānic verses, as discussed in the biographical literature on the life of the Prophet, indicates that Islam was born in a culture of inter-tribal conflicts. The hostility that existed between the Muslims and their enemies during the period of the Qur'ānic revelations was a normal product of the socio-political culture of the time. The fact that the Muslims emerged as a group identified by their religious beliefs generated the Meccans' hostility towards them to the extent that they were twice forced to flee from Mecca, first to Abyssinia and later to Medina. Throughout the thirteen years of the Muslims' stay in Mecca, the Qur'ān instructs them to forgive their enemies and to be patient. In brief, the battles that were fought after the flight to Medina were mainly the result of the culture of vendetta, after the Meccans' defeat at Badr and the participation of certain Jewish tribes in the battle of the Ditch.

¹⁷ For the meaning of the term *kufr* (unbelief in God) and its derivatives in the Qur'ān see Marilyn Robinson Waldman, “The Development of the Concept of Kufr in the Qur'ān”, *Journal of the American Oriental Society*, Vol. 88, No. 3, Jul.- Sep., 1968, pp. 442-455; and on the word *kuffār* see, Mbaye Lo, “Seeking the Roots of Terrorism: An Islamic Traditional Perspective”, *Journal of Religion and Popular Culture*, Vol. 10, 2005, available from <http://www.usask.ca/relst/jrpc/art10-rootsfterrorism-print.html>, Internet; accessed 9 June 2007.

Thus, although it is true that the warring parties in these incidents did usually, though not always, belong to different religions, it was not the difference in religion that was the cause of the conflict. A state of war between the Muslims and, in Qur'ānic terms, the idolaters/unbelievers/polytheists of Mecca was the norm until 6/628, when the armistice of al-Ḥudaybiyah was concluded. The reasons for this enmity were hostility, persecution and aggression, not the holding of different beliefs and the religious definitions that identified the enemy combatants were not a justification for acts of war.

Shaltūt, Sachedina and Sherman A. Jackson have reached the same conclusion. Writing in 1940, Shaltūt explains that the word “unbelievers” in the Qur'ān refers to “those hostile polytheists who fight the Moslems, commit aggression against them, expel them from their homes and their property and practise persecution for the sake of religion”.¹⁸ Referring to the Qur'ānic justification for the use of force against the unbelievers, Sachedina states: “It is not unbelievers as such who are the object of force, but unbelievers who demonstrate their hostility to Islam by, for example, persecution of the Muslims.”¹⁹ Moreover, there is not a single instance of fighting between Muslims and non-Muslims arising from a Qur'ānic revelation. The fact that the Qur'ānic phrases calling upon Muslims to fight “the polytheists” have not been read in this context has led to the common, erroneous conclusion found in outsider literature and in the writings of certain classical Muslim scholars that these verses call upon Muslims to wage an offensive war against non-

¹⁸ Rudolph Peters, trans. and ed., *Jihad in Mediaeval and Modern Islam: The Chapter on Jihad from Averroes' Legal Handbook 'Bidayat Al-Mudjtahid' and The Treatise 'Koran and Fighting' by The Late Shaykh Al-Azhar, Mahmud Shaltūt* (Leiden: Brill, 1977), note by Shaltūt, p. 50.

¹⁹ Sachedina, “The Development of *Jihad* in Islamic Revelation and History”, p. 43. Elsewhere, Sachedina reaffirms: “It is not all unbelievers who are the target of force, but unbelievers who demonstrate their hostility to Islam by persecution of the Muslims.” See his, *The Islamic Roots of Democratic Pluralism* (Oxford: Oxford University Press, 2001), p. 115; see also Sherman A. Jackson, “Jihad and the Modern World”, *Journal of Islamic Law and Culture*, Vol. 7, No. 1, 2002, pp. 14 f.; Margaret Pettygrove, “Conceptions of War in Islamic Legal Theory and Practice”, *Macalester Islam Journal*, Vol. 2, Issue 3, 2007, p. 37.

Muslims if they refuse to accept Islam or pay the *jizyah* (tax levied to exempt eligible males from conscription).²⁰

2.2.3 The Order of the Qur'ān

Approaching the Qur'ān to study its position on war is highly problematic for any researcher who is not trained in a number of Qur'ānic studies disciplines. The first obstacle arises because the Qur'ān is not arranged chronologically or according to subject. Thus, Martin concludes: “literary criticism and traditional exegesis... have not brought us [Western scholars] much closer to understanding or even appreciating the Qur'ān as a speech act formed within the present order of *suras* and *ayas*.”²¹ But for Muslims, at least those who are familiar with the Qur'ān and its context, Martin adds that the Qur'ān “has identifiable contextual circumstances within which Muslims render and interpret meaning. The Qur'ān does not ‘mean’ something outside of socio-cultural contexts”.²²

Muslim scholars agree that the order of the text of the Qur'ān was determined by the Prophet. The Angel Gabriel directed the Prophet about the order of each verse and chapter throughout the Qur'ān and the Prophet instructed the *kuttāb al-wahī* (scribes of the revelation) accordingly. This means that the order of the Qur'ān is

²⁰ *Jizyah*, according to T.W. Arnold, “released [non-Muslims] from the compulsory military service that was incumbent on their Muslim fellow-subjects”. See T.W. Arnold, *The Preaching of Islam: A History of the Propagation of the Muslim Faith*, 2nd ed. rev. & enl. (London: Constable & Company, 1913), p. 59; see also Niaz A. Shah, *Self-Defense in Islamic and International Law: Assessing Al-Qaeda and the Invasion of Iraq* (New York: Palgrave Macmillan, 2008), pp. 19 f.; George W. Gawrych, “Jihad, War, and Terrorism”, available from <http://smallwarsjournal.com/documents/gawrych.pdf>; Internet; accessed 21 March 2009, p. 5. On the rules of *jizyah* in Islamic law, see, for example, Muḥammad ibn Abī Bakr ibn Qayyim al-Jawziyyah, *Aḥkām ahl al-Dhimmah*, ed. Abī Barā' Yūsuf ibn Aḥmad al-Bakrī and Abī Aḥmad Shākir ibn Tawfīq al-ʿArūrī (Al-Dammam: Ramādī lil-Nashr, 1997/1418), Vo. 1, pp. 79-111, 119-245. See also Andrew G. Bostom, ed., *The Legacy of Jihad: Islamic Holy War and the Fate of Non-Muslims* (New York: Prometheus Books, 2008), pp. 29-37.

²¹ Martin, “Understanding the Qur'ān in Text and Context”, pp. 374 f. See also Michael Bonner, *Jihad in Islamic History: Doctrines and Practices* (Princeton: Princeton University Press, 2006), pp. 23 f.

²² Martin, “Understanding the Qur'ān in Text and Context”, pp. 367, 374.

tawqīfī, i.e., arranged according to divine ordinance.²³ Gabriel used to revise the Qur’ān with the Prophet once a year, and twice in the year of the Prophet’s demise. Moreover, several ḥadīths refer to the same order of some verses in the Qur’ān as obtains today.²⁴

Although Kamali says that “no particular order can be ascertained in the sequence of its text”,²⁵ it is obvious that, in general, the short chapters have one subject, while long chapters have more than one. Each chapter is named after its main subject. For this reason, a few chapters have more than one name.²⁶ The Qur’ān was revealed piecemeal²⁷ since many Qur’ānic verses were revealed in response to particular incidents or questions directed to the Prophet. Some of the Qur’ānic verses on peace and war were addressed to the Prophet and the Muslims, to tell them directly what to do with their enemy throughout the twenty-three-year period of the revelation of the Qur’ān.

It is a characteristic of the Qur’ān that several chapters throughout the Qur’ān contain references, narrations or injunctions related to many subjects, with references to the same subject sometimes being found in several different places in the same chapter. References to “war”, “fighting”, “jihād”, and “murder” exist in thirty-four chapters throughout the Qur’ān. While some of these references address the struggle between the Muslims and their enemies, many address stories about prophets and nations prior to Islam, as well as murder and the pre-Islamic custom of female infanticide.

²³ Zāfir al-Qāsimī, *Al-Jihād wa al-Ḥuqūq al-Dawliyyah al-‘Āmmah fī al-Islām* (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1982), pp. 14, 53-55.

²⁴ See Muhammad Hashim Kamali, *Principles of Islamic Jurisprudence*, 3rd rev. & enl. ed. (Cambridge: Islamic Texts Society, 2003), p. 17; ‘Abd al-Badī’ Abū Hāshim Muḥammad, “Al-Suwar al-Qur’āniyyah”, in ‘Alī Jum’ah, ed., *Al-Mawsū‘ah al-Qur’āniyyah al-Mutakhaṣṣah* (Cairo: Supreme Council for Islamic Affairs, 2003/1423), pp. 232 f.

²⁵ Kamali, *Principles*, p. 18.

²⁶ Watt, *Bell’s Introduction to the Qur’ān*, p. 59.

²⁷ Qur’ān 17:106.

One of the challenges facing researchers on the Qur'ānic position on war is determining the chronological order of these scattered references to the Muslims' struggle with their enemies. A rough chronology of some of these incidents could be determined in the light of the known sequence of the incidents, as well as in cases of agreement among reporters about the context and timing of a certain revelation. Otherwise, the only way to determine the chronology of the rest of the verses is by speculation. This means it is impossible to determine a definite chronology and the context of a few verses that would pinpoint the Qur'ānic position on war is therefore also uncertain.²⁸ This leads to diverse interpretations of such verses and hence different theories on the Qur'ānic position on war.

2.2.4 Meccan and Medinan Revelations

Muslim scholars divide the Qur'ān into Meccan and Medinan revelations, i.e., verses and chapters. However, they adopt three different approaches to identifying each genre. The first is to identify as “Meccan revelations” those verses revealed in Mecca and its surroundings before the *hijrah* (flight) to Medina, while the “Medinan revelations” are the verses revealed after the *hijrah*, even if they were revealed in Mecca. The second is to call the verses revealed in Mecca and its surroundings both before and after the *hijrah* “Meccan revelations”, while the “Medinan revelations” are only the verses revealed in Medina. The third, is to regard as “Meccan revelations” the verses addressing the people of Mecca, while the “Medinan revelations” are the verses addressing the people in Medina. Scholars agree on identifying eighty-two Meccan and twenty Medinan chapters, but differ on the

²⁸ See Sayyid Qutb, *Fī Zilāl al-Qur'ān* (Beirut: Dār al-Shurūq, 1982), Vol. 3, p. 1429.

remaining twelve chapters.²⁹ The significance for the study of war of identifying the Meccan and Medinan revelations is that it helps researchers to follow the Qur'ānic positions vis-à-vis the Muslims' enemies through these two stages.

Researchers into the issue of war in the Qur'ān should consider all the relevant verses and interpret each verse in its own context. Moreover, all the verses should be read in the light of the general message of the Qur'ān concerning the Islamic worldview and the relationship of Muslims towards others. Muslim scholars affirm that the Qur'ān is an "indivisible whole" so that "any attempts to follow some parts of the Qur'ān and abandon others will be totally invalid".³⁰ For this reason, Muslim scholars advocate that the best tool for the interpretation of the Qur'ān is the Qur'ān itself,³¹ so, in order to reach a conclusion on the Islamic position on a particular subject it is a prerequisite to study all the relevant Qur'ānic verses and the disciplines invented by Muslim jurists and exegetes, which will now be discussed.

2.3 Qur'ānic Disciplines

In order to derive rulings based on the Qur'ān, Muslim jurists classified the texts of the Qur'ān into the following disciplines:

a) *Al-'Āmm wa al-Khāṣ* (the general and the specific): a text that is *'āmm* refers to a general category of people,³² while a text that is *khāṣ* refers to a particular individual or category of people.

b) *Al-Muḥkam wa al-Mutashābih* (definite and obscure): a text that is *muḥkam* is a definite; clearly understood text, while a text that is *mutashābih* is obscure or liable

²⁹ Muḥammad Bakr Ismā'īl, "Al-Makkī wa al-Madanī", in 'Alī Jum'ah, ed., *Al-Mawsū'ah al-Qur'āniyyah al-Mutakhaṣṣah* (Cairo: Supreme Council for Islamic Affairs, 2003/1423), pp. 588-593.

³⁰ Kamali, *Principles*, p. 18.

³¹ 'Abdur Raḥmān I. Doi, *Sharī'ah: The Islamic Law* (London: Ta Ha, 1984/1404), p. 7; Jamal Badawi, "Muslim/Non-Muslim Relations: Reflections on some Qur'ānic Texts", *Scientific Review of the European Council for Fatwa and Research*, No. 6, January 2005/Dhū al-Ḥijjah 1425, p. 281.

³² For example Qur'ān 2:82; 7:158; 34:28; 46:17-18; 55:26.

to various interpretations. Some scholars hold, however, that *muḥkam* refers to abrogating texts, while *mutashābih* refers to abrogated texts.

c) *Asbāb al-Nuzūl* (reasons of revelation, occasions of revelation): since many verses were revealed in response to particular incidents or questions directed to the Prophet, knowing the occasion or reason of revelation of these verses helps clarify their meanings and, more importantly, is essential in deriving juridical rulings from these verses, as explained in the following discipline.

d) *'Umūm al-Lafẓ wa Khusūṣ al-Sabab*: texts that have *asbāb al-nuzūl* are divided into three forms: (1) *'umūm al-lafẓ wa 'umūm al-sabab*: those that refer to a general category of people in a general context;³³ rulings included in this category of texts are applicable in law; (2) *khusūṣ al-lafẓ wa khusūṣ al-sabab*: those that refer to particular individuals and/or a specific incident;³⁴ rulings included in this category of texts are applicable only to the addressee(s) and the particular incident referred to. (3) *'Umūm al-lafẓ wa khusus al-sabab*: those that refer to people in general but in relation to a specific circumstance.³⁵ Jurists disagree about how rulings included in this category of texts should be applied. The majority argue that the application should extend to everyone in the same situation as the original addressees and not restricted to those for whom the text was originally revealed unless the text itself indicates otherwise. A minority of jurists argue the opposite: that rulings included in this category of texts were only meant to be applied to those for whom the text was originally revealed. The jurists who argue the first position differ on whether the

³³ For example Qur'ān 2:220.

³⁴ For example Qur'ān Chapter 111.

³⁵ For example Qur'ān 24:6-9.

extension of the application of such a ruling should be strictly on the basis of the text itself or by drawing an analogy from the text.³⁶

e) *Al-Nāsikh wa al-Mansūkh* (abrogating and abrogated): The theory of *naskh* (abrogation) of some of the Qur'ānic texts is the most important of all the Qur'ānic disciplines for determining juridical rulings in many issues. It crucially developed a position in the classical theory of war in Islam, as explained in the next chapter. The jurists' approach to this theory determines the framework for discerning the Qur'ānic position on war. However, this is a most controversial theory. Although jurists differ on the nuances of its definition, abrogation may be defined as the termination of a *ḥukm shar'ī* (legal ruling) and its replacement by another. It occurs in legal rulings, i.e., commands, prohibitions, and injunctions regarding recommended, reprehensible and permissible acts. It cannot occur in texts that narrate past events or discuss beliefs and moral questions.³⁷

In fact, Muslims disagree over the very existence of abrogation in the Qur'ān. Those who say that it exists quote two verses (2:106; 16:101) to support their view that God abrogates some *ayāt* (verses) by others. Those who deny its existence argue that these verses mean that the Qur'ān abrogates earlier revelations.³⁸ Another controversy over abrogation relates to the meaning of the term, and thus to the nature

³⁶ Muḥammad al-Sayyid Jibrīl, “‘Umūm al-Lafz wa Khuṣūṣ al-Sabab”, in ‘Alī Jum‘ah, ed., *Al-Mawsū‘ah al-Qur‘āniyyah al-Mutakhassiṣah* (Cairo: Supreme Council for Islamic Affairs, 2003/1423), pp. 51-57.

³⁷ See Kamali, *Principles*, p. 202; ‘Alī ibn Aḥmad ibn Sa‘īd ibn Ḥazm, *Al-Nāsikh wa al-Mansūkh fī al-Qur‘ān al-Karīm*, ed. ‘Abd al-Ghaffār Sulaymān al-Bindārī (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1986/1406), p.8; ‘Alī ibn Muḥammad al-Āmidī, *Al-Iḥkām fī Uṣūl al-Aḥkām*, ed. Sayyid al-Jimīlī (Beirut: Dār al-Kitāb al-‘Arabī, 1983-4/1404), Vol. 3, pp. 111-199; ‘Abbās Ḥusnī Muḥammad, *Al-Fiqh al-Islāmī: Āfāquh wa Taṭawwuruh*, Da‘wah al-Ḥaq, Issue 10, October/November 1981/Muḥarram 1402, 2nd ed. (Mecca: Muslim World League, 1993-4/1414), p.105; Richard Bonney, *Jihād: From Qur‘ān to bin Laden* (Basingstoke: Palgrave Macmillan, 2004), pp. 24 f.; Muḥammad Ṭalaat al-Ghunaimi, *Qānūn al-Salām fī al-Islām* (Alexandria, Egypt: Munsha‘ah al-Ma‘ārif, 2007), pp. 129-141; Muḥammad Abdel Haleem, *The ‘Sword Verse’ Myth* (London: School of Oriental and African Studies, 2007), p. 26; Yūsuf al-Qaraḏāwī, *Fiqh al-Jihād: Dirāsah Muqāranah li-Aḥkāmih wa Falsafatih fī Daw‘ al-Qur‘ān wa al-Sunnah* (Cairo: Maktabah Wahbah, 2009), Vol. 1, pp. 271 f.

³⁸ Muḥammad Ṭalaat al-Ghunaimi, *The Muslim Conception of International Law and the Western Approach* (The Hague: Martinus Nijhoff, 1968), p. 111; al-Ghunaimi, *Qānūn al-Salām fī al-Islām*, pp. 131-141; al-Qaraḏāwī, *Fiqh al-Jihād*, Vol. 1, pp. 275-284.

of abrogation itself. For some scholars, abrogation is the gradual development of Islamic legislation, which had to take into consideration the reality of changes in circumstances throughout the period of Qur'ānic revelation. The aim of abrogation was, therefore, to ensure the interests of the community by adapting the law to the different circumstances.³⁹ Abrogation also exemplifies the Islamic philosophy of gradually adapting people to the laws, as in the case of the gradual prohibition of wine.

For other scholars, abrogation is a new ruling that God introduced in order to abrogate a previous one. When they find a Qur'ānic verse, or even a phrase in a verse, that they consider gives a different ruling, instruction or guidance from that in another verse(s), they attempt to reconcile them by arguing that the later verse(s) abrogate the earlier one(s).

However, John Burton gives a conspiratorial explanation of the theory of abrogation in Islam. He maintains that the idea of “conflicting statements” in the Qur'ān and the Sunnah “spurred the [Muslim] scholar to discover a way of removing embarrassment and problem at one and the same time. The concept of *naskh* was the Muslim's ingenious response to the stimulus of embarrassment.”⁴⁰ However, he refers elsewhere to the verse 4:82, which states that the Qur'ān “cannot contain contradictions”.⁴¹

Muslim scholars advocating the existence of abrogation in the Qur'ān differ sharply in identifying instances of it. The determining factor in deciding which verse abrogates another/others is that the most recently revealed abrogates that revealed

³⁹ Muḥammad Bakr Ismā'īl, “Al-Naskh fī al-Qur'ān”, in 'Alī Jum'ah, ed., *Al-Mawsū'ah al-Qur'āniyyah al-Mutakhaṣṣah* (Cairo: Supreme Council for Islamic Affairs, 2003/1423), pp. 649 f. See also Kamali, *Principles*, p. 203.

⁴⁰ John Burton, *The Sources of Islamic Law: Islamic Theories of Abrogation* (Edinburgh: Edinburgh University Press, 1990), p. 4.

⁴¹ John Burton, “Naskh”, *Encyclopaedia of Islam*, New ed., Vol. VII, p. 64.

earlier. It is worth noting here that deciding an instance of abrogation in the Qur’ān and determining which verse or phrase abrogates the other/s if a chronological order cannot be determined is left to the discretion of each individual scholar. Since it is impossible to determine an accurate chronology of all the Qur’ānic verses, the theory of abrogation has been applied unwarrantedly to too many Qur’ānic texts.⁴² It is applied even to consecutive verses. For example, two instances of abrogation allegedly occur in four consecutive verses on fighting. Chapter Two, verse 191 allegedly abrogates verse 190 and verse 193 abrogates verse 192.⁴³ Commenting on this allegation, al-Rāzī (d. 606/1209) remarks: “It is improbable that the Wise One [God] brings some verses together in pairs of which one verse abrogates the other.”⁴⁴

Moreover, a phrase may be alleged to abrogate a preceding phrase in the same verse. For example, Ibn al-Bārīzī (d. 738/1338) maintains that the phrase of the so-called “sword verse” (9:5): “but if they repent and perform prayer and give the poor-due, then leave them their way”, abrogates the immediately preceding phrase in the same verse: “When the Sacred Months have passed, kill the polytheists wherever you find them and capture them and besiege them and await for them in every place of ambush.” Strangely enough, he even maintains that part of the ruling included in this verse is abrogated by the verse that follows it (9:6), though he maintains that 9:5 abrogates one hundred and fourteen texts in fifty-two chapters in the Qur’ān.⁴⁵

Scholars give considerably different numbers for the occurrences of abrogation in the Qur’ān, ranging from 5 to 21, 66, 213, 214, 247, and even 500.⁴⁶

⁴² See al-Qaraḍāwī, *Fiqh al-Jihād*, Vol. 1, pp. 272, 305-310.

⁴³ Peters, trans. and ed., *Jihad in Mediaeval and Modern Islam*, p. 53.

⁴⁴ Quoted in *Ibid.*, p. 54.

⁴⁵ Hibah Allah ibn ‘Abd al-Rahīm ibn al-Bārīzī, *Nāsikh al-Qur’ān al-‘Azīz wa Mansūkhīh*, ed. Hātim Ṣāliḥ al-Dāmin, 4th ed. (Beirut: Mu’assasah al-Risālah, 1988/1408), p. 22.

⁴⁶ According to Kamali, these numbers are given respectively by Shāh Wālī Allāh, al-Suyūfī, ‘Abd al-Qādir al-Baghdādī, Wahbatullāh ibn Salamah, Ibn Ḥazm, Jamāl al-Dīn ibn al-Jawzī and the Mu’tazilah. See Kamali, *Principles*, p. 220. See also Abdel Haleem, *The ‘Sword Verse’ Myth*, pp. 27 f.

Ibn al-Jawzī (d. 597/1200) points out that what prompted him to write his *Nawāsikh al-Qur’ān* (The Abrogated [texts] of the Qur’ān) was the confusion and errors committed by scholars in identifying the incidents of abrogation.⁴⁷

In fact, some scholars point out that the reason for the unwarranted use of abrogation, apart from the fact that determining its occurrence is left to the discretion of each scholar, is that scholars confused it with the disciplines of *al-’āmm wa al-khāṣ*. In other words, they alleged that one text abrogates other/s when it actually specifies a general text.⁴⁸

Some contemporary scholars criticize the classical approach to abrogation and tend to see its occurrence as limited. They view abrogation as a historical and circumstantial phenomenon, or part of a gradual process of legislation, which must be read in context and in the light of the general message of the Qur’ān. It should not have been turned “into a juridical doctrine of permanent validity”,⁴⁹ as happened at the hands of early scholars. They argue that “This classical concept of permanent abrogation is oblivious of the space-time element which, if taken into account, would have restricted the application of *naskh* to those circumstances alone.”⁵⁰

2.4 Approaching the Qur’ān

This chapter identifies three approaches to, or levels of readings of, the Qur’ān, discussed below. Muslim scholars enumerate fifteen disciplines which an individual must master to be qualified as an exegete of the Qur’ān, and seven of these are

⁴⁷ ‘Abd al-Raḥman ibn ‘Alī ibn Muḥammad ibn al-Jawzī, *Nawāsikh al-Qur’ān* (Beirut: Dār al-Kutub al-‘Ilmiyyah, n. d.), pp. 12 f.

⁴⁸ See Ismā‘īl, “Al-Naskh fī al-Qur’ān”, p. 649; Kamali, *Principles*, p. 221; al-Ghunaimi, *The Muslim Conception*, p. 111; Badawi, “Muslim/Non-Muslim Relations”, p. 279; al-Qaradāwī, *Fiqh al-Jihād*, Vol. 1, p. 272.

⁴⁹ Kamali, *Principles*, p. 223; al-Qaradāwī, *Fiqh al-Jihād*, Vol. 1, pp. 269-310.

⁵⁰ Kamali, *Principles*, p. 223.

Arabic language disciplines.⁵¹ The contemporary, average, educated native speaker of Arabic cannot understand the meaning of several Qur'ānic texts without reference to exegetical works. That is to say that it is no easy task to understand the Qur'ānic position on war and, indeed, it largely depends on the researchers' approaches to the text. Their conclusions vary according to their own understanding of the texts and their context, and whether they apply any exegetical disciplines in their research or merely base their conclusion on a superficial understanding of the texts. In addition, their conclusions vary according to the intermediary they refer to in studying the Qur'ān, i.e., the exegetes' interpretations of the Qur'ān or the jurists' rulings on the verses in question. Furthermore, conveying the contextual meanings of some of the Qur'ānic texts in translation is impossible, leaving aside the fact that many Qur'ānic words are variously understood.

In the light of the above discussion of text and context with regard to the Qur'ān and its disciplines, it can be said that there are the following three approaches to studying the Qur'ān and its position on war.

2.4.1 Superficial Approach

In his post 9/11 *War, Terror and Peace in the Qur'ān and in Islam: Insights for Military and Government Leaders*, Schwartz-Barcott “offers dozens of suggestions about how [US] leaders in government and military can use our [Schwartz-Barcott's] growing knowledge of the Qur'ān and its proponents to help sustain peace, defuse terrorism, and if necessary, wage war in effective and just ways.”⁵² He presents more than a hundred passages from the Qur'ān which he sometimes mistakenly claims to concern war and peace and refers to more than 230 wars and battles from the first

⁵¹ Muḥammad, “Al-Suwar al-Qur'āniyyah”, pp. 252 f.

⁵² T.P. Schwartz-Barcott, *War, Terror and Peace in the Qur'ān and in Islam: Insights for Military and Government Leaders* (Carlisle, PA: Army War College Foundation Press, 2004), p. xxiv.

battle in Islam, the battle of Badr (Ramadān 2/March 624), up to the US invasions of Afghanistan in 2001 and Iraq in 2003.⁵³

Using a concordance, he selects Qur'ānic texts on war and peace from Pickthall's translation of the Qur'ān and his reading of these texts leads him to believe that the Qur'ān does not call for peace with non-Muslims. Peace in the Qur'ān, for him, is an inner spiritual state in the Muslim individual and seen more as a state "of non-hostility between two or more Muslim individuals or Muslim groups than as an esteemed condition of non-belligerence between a Muslim and a non-Muslim nation."⁵⁴ In his study of the "causes of war" in the Qur'ān, Schwartz-Barcott quotes four verses, among others, which are in no way related to war (7:30, 34, 38, 40).⁵⁵ These are among a number of verses in which God tells the children of Adam not to follow "the Satan" who seduced their parents. Thus humankind is enjoined in these verses to observe justice and refrain from "wrongful oppression".

He confuses verses giving accounts about events prior to Islam with those referring to incidents that took place during the Prophet's lifetime. For example, he quotes two verses from the chapter "Children of Israel" (17:16-17) in which God, speaking in the first person plural, narrates the destruction of "a township" pre-dating Islam. It seems that because of the title of the chapter and the pronoun "We", the author believes that these verses contain a Qur'ānic admission that "Muslims under Muhammad annihilated entire communities of Jews because 'they commit abomination.'"⁵⁶

His reading of a pre-Islamic incident mentioned in chapter 105⁵⁷ leads him to express his hope that this chapter "will not be used in order to promote biological,

⁵³ Ibid.

⁵⁴ Ibid., p. 46.

⁵⁵ Ibid., pp. 47 f.

⁵⁶ Ibid., p. 67.

⁵⁷ Qur'ān 105:1-5.

chemical, or nuclear warfare.”⁵⁸ Although he remarks that this observation “might seem to be too speculative, morbid, and even a little paranoid”,⁵⁹ he suggests that, in the light of his reading of the Qur’ān and the Prophet’s behaviour as a warrior, these fears are worthy of consideration,⁶⁰ but Schwartz-Barcott bases his knowledge of the life of the Prophet solely on Maxime Rodinson’s *Muḥammad*, a biography of the Prophet written from the sociological viewpoint of a Communist author.⁶¹

Although Schwartz-Barcott’s work does not represent mainstream Western scholarship, it shows how the Qur’ān can be bizarrely distorted, and he also imposes his military background as a former member of the US Marine Corps on some areas of his book.⁶² Schwartz-Barcott’s work is put forward here merely as an example of the superficial approach in order to show the necessity for researchers who attempt to study the Qur’ānic position on war to refer to the Qur’ānic exegetical literature and disciplines.

2.4.2 Selective-Intermediary Approach

The second approach is by studying the Qur’ān through intermediaries, i.e., the exegetes’ interpretations of the Qur’ān. Because of the diverse interpretations of many of the Qur’ānic texts by the exegetes, researchers should specify the exegetes whose work they are studying, in order to take account of their methodologies for

⁵⁸ Schwartz-Barcott, *War, Terror and Peace in the Qur’ān and in Islam*, p. 82.

⁵⁹ *Ibid.*, p. 82.

⁶⁰ *Ibid.*

⁶¹ Maxime Rodinson, *Muḥammad*, trans. Anne Carter, 2nd English ed. (London: Penguin, 1996). For a critique of Rodinson’s *Muḥammad* see, Muḥammad Muḥammad Abū Laylah, *Muḥammad bayn al-Ḥaqīqah wa al-Iftrā’: Fī al-Radd ‘alā al-Kātib al-Yahūdī al-Firinsī Maxime Rodinson* (Cairo: Dār al-Nashr lil-Jāmi’āt, 1999/1420).

⁶² It is worth adding here that this book is prefaced by General Anthony C. Zinni, former Commander in Chief, United States Central Command. General Zinni writes in his preface: “a remarkable work that analyzes the cultural, religious, and historical aspects that influence decisions and actions taken by the enemy we face today. It is an insightful tool in helping us understand the nature of this current conflict and in interpreting and predicting actions of the enemy. For decision makers in this conflict, this is a vital guide to analyzing these challenges”. p. xvii.

interpreting the texts and the socio-political factors affecting their interpretations of the Qur'ānic position on war throughout Islamic history. Verses may be quoted out of context and the interpretations of exegetes may be selectively presented if the researcher wishes to support a particular view on the Qur'ānic attitude to war. This is one of the major problems in the study of Islam, i.e., the problem of the representation of Islam: who represents Islam?

2.4.3 Discipline-Based Approach

What is meant here by a discipline-based approach is that scholars use the Qur'ānic exegetical disciplines mentioned above, or they may use others, in order to present the position of the Qur'ān on war, and then use their own *ijtihād* (exertion of intellectual efforts) to arrive at their own understanding of the position of the Qur'ān. Here scholars also support their positions by referring to other exegetes or jurists to support their understanding of the Qur'ānic position. The main difference between this approach and the selective-intermediary approach is that in this approach scholars depend on their own understanding of the Qur'ānic position, while in the selective-intermediary approach they depend on the understanding of their intermediaries. These intermediaries are usually the earliest exegetes of the Qur'ān, who in turn depend for their interpretations on other intermediaries, i.e., the opinions of the Companions of the Prophet or their successive generations. Exegetes sometimes mention a variety of opinions given by these earliest Muslims about the reasons of revelation and the meaning of particular Qur'ānic texts. They may merely mention these different opinions or advocate a “preferred opinion”, or what is called in Islamic scholarship “the majority opinion”, and they always end by adding the phrase *wa Allah a'lam* (God is the knower [of the truth]). This process of interpreting

the Qur'ān exemplifies the independence of Muslim scholars and the absence of institutionalized interpretation of the Qur'ān in Islam.

2.5 Qur'ānic Texts on War

The three words (with their derivatives) used in the Qur'ān context of war are: *qitāl* (fighting, murder, killing, infanticide), *jihād* (struggle, striving, war) and *ḥarb* (war). Sixty-nine derivatives of *qitāl* occur altogether one-hundred-and-seventy times in the Qur'ān – ninety-five times in Medinan texts addressing the context of the relationship between Muslims and non-Muslims, and seventy-five times in the contexts of accounts about nations prior to Islam, or retaliation for murder, or the pre-Islamic custom of female infanticide.

Seventeen derivatives of *jihād* occur altogether forty-one times in eleven Meccan texts and thirty Medinan ones, with the following five meanings: striving because of religious belief (21),⁶³ war (12),⁶⁴ non-Muslim parents exerting pressure, i.e., *jihād*, to make their children abandon Islam (2),⁶⁵ solemn oaths (5)⁶⁶ and physical strength (1).⁶⁷

Three derivatives of the word *ḥarb* occur altogether six times, all in Medinan texts, with the following four meanings: war with non-Muslims (3),⁶⁸ banditry as war against society (1),⁶⁹ figurative punishment by God in the Hereafter or by the

⁶³ Qur'ān 2:218; 5:35-54; 8:72-74-75; 9:19-20-73; 16:110; 22:78-78; 25:52-52; 29:6-6- 69; 47:31; 49:15; 60:1; 66:9.

⁶⁴ Qur'ān 3:142; 4:95-95-95; 9:16-24-41-44-81-85-88; 61:11.

⁶⁵ Qur'ān 29:8; 31:15.

⁶⁶ Qur'ān 5:53; 6:109; 16:38; 24:53; 35:42.

⁶⁷ Qur'ān 9:79.

⁶⁸ Qur'ān 8:57; 9:107; 47:4.

⁶⁹ Qur'ān 5:33. See Chapter Five.

Prophet in this world for dealing by usury (1)⁷⁰ and war in a pre-Islamic context (1).⁷¹

Firestone maintains that when the phrase *fī sabīl Allah* (in the path of God) qualifies the word *jihād*, it identifies *jihād* as “furthering or promoting God’s kingdom on earth.”⁷² He does not, however, give a reference or example to illustrate this meaning, although the phrase *fī sabīl Allah* occurs sixty-eight times in the Qur’ān. In fact, none of the texts where the word *jihād* occurs in the Qur’ān in conjunction with the phrase *fī sabīl Allah* gives this meaning of “furthering or promoting God’s kingdom on earth.” There are also three occurrences of the word *sabīlī* (My way, i.e., God’s way), eleven occurrences of the word *sabīlih* (His way, i.e., God’s way) and one occurrence of the word *subulinā* (Our ways, i.e., God’s ways). They occur in eleven Meccan and fifteen Medinan chapters in the following five senses in the Qur’ān: debarring people from God’s religion or violating God’s religion or referring to God’s religion in general (35),⁷³ warring or fighting in God’s cause (20),⁷⁴ fleeing persecution for following God’s religion or struggling for God’s religion (17),⁷⁵ giving money for God’s cause, either for preparing the army or as charity to the poor (10)⁷⁶ and preaching the religion of God (1).⁷⁷ Some of these senses, such as fighting in God’s cause and debarring people from following God’s religion, address pre-Islamic contexts.⁷⁸

⁷⁰ Qur’ān 2:279.

⁷¹ Qur’ān 5:64.

⁷² Firestone, *Jihād*, p. 17.

⁷³ Qur’ān 2:217; 3:99-195; 4:160-167; 6:116-117-153; 7:45-86; 8:36-47; 9:9-34; 11:19; 12:108; 14:3-30; 16:88-94-125; 22:9-25; 29:69; 31:6; 38:26-26; 39:8; 47:1-32-34; 53:30; 58:16; 63:2; 68:7.

⁷⁴ Qur’ān 2:154-190-244; 3:13-146-157-167-169; 4:74-74-75-76-94-95; 9:24-111; 47:4; 73:20; 60:1; 61:4.

⁷⁵ Qur’ān 2:218; 4:89-100; 5:35-54; 8:72-74; 9:19-20-38-41-81-120; 22:58; 24:22; 49:15; 61:11.

⁷⁶ Qur’ān 2:195-261-262-273; 4:84; 8:60; 9:34-60; 47:38; 57:10.

⁷⁷ Qur’ān 16:125.

⁷⁸ Qur’ān 3:146; 7:86; 38:26-26.

The phrase *fī sabīl Allah* therefore indicates an act done for, or because of the religion of, God. In other words, as Muhammad Abdel Haleem explains, the phrase *fī sabīl Allah* in the Qur’ān indicates “the way of truth and justice, including all the teachings it gives on the justifications and the conditions for the conduct of war and peace”.⁷⁹ Thus when people flee their homes, support their army, tolerate persecution, preach the religion of God, or give charity to the poor, they have in mind that they are doing all these acts for the protection/defence and spread of religion and/or the reward of God. While it has been maintained “that religion as a *casus belli* leads inevitably to total war”,⁸⁰ it is obvious that any war to defend religion, or in modern terms, for freedom of religion, is a just war. The crucial point in the study of the tradition of war in Islam is deciding whether jihād or fighting *fī sabīl Allah* is a “holy war” or a “just war” in the Western sense. This necessitates finding out whether jihād or fighting in Islam is permitted only in self-defence against persecution of, or aggression on, Muslims or whether it is permitted to initiate offensive wars on non-Muslims for the sake of spreading Islam.

In Islamic discourse, at least theoretically or for some of the Muslims, the lives of Muslims are centred around God, since the word “Islam” indicates submission and obedience to God, and everything is viewed in terms of what is *ḥalāl* (permitted) and what is *ḥarām* (prohibited) by God. In other words, everything that is done or avoided is done or avoided with the intention of pleasing God or avoiding His displeasure. Thus, everything that Muslims do is done in the way of God, or according to the way of God, or at least not against the ordinances of God, so that

⁷⁹ Muhammad Abdel Haleem, *Understanding the Qur’ān: Themes and Style* (London: Tauris, 1999), p. 62; see also al-Qāsīmī, *Al-Jihād wa al-Ḥuqūq al-Dawliyyah*, pp. 107-109. See also on the concept of *jihād fī sabīl Allah*, Abdulrahman Muhammad Alsumaih, “The Sunni Concept of Jihad in Classical Fiqh and Modern Islamic Thought” (PhD thesis, University of Newcastle Upon Tyne, 1998), pp. 35-47.

⁸⁰ John Kelsay, *Islam and War: A Study in Comparative Ethics* (Louisville, KY: Westminster/John Knox, 1993), p. 55.

being good to one's neighbours, smiling on seeing someone's face, giving charity to the poor, loving one's friends *fī Allah* (in God), being good to one's spouse, having sexual relation with one's spouse and avoiding sexual relations outside marriage, working to support one's dependents, seeking knowledge, etc., are all acts done "in God" or "in God's way".⁸¹ According to ḥadīth, a woman's well-performed pilgrimage is *jihād fī sabīl Allah*⁸² and travelling in pursuit of knowledge is considered an act *fī sabīl Allah* until one returns.⁸³ If they lack understanding of this Muslim mindset, outsiders may conclude that *jihād fī sabīl Allah* is the Islamic equivalent of the Western concept of holy war.

Another characteristic of Islam that is often misunderstood by contemporary researchers is that, in Islam morality, legality, and even etiquette are intertwined.⁸⁴ Thus it is disturbing to the Western mind to find that justifications of war in Islam are religiously based. However, these Islamic justifications need to be investigated to find out whether they correspond with Western "holy war" or "the just war" theories, irrespective of whether or not they are religiously motivated.

2.6 The Qur'ānic *Causus Belli*

The Qur'ānic justifications for war can be examined in the following texts: 2:190-194, 216-217; 4:75-76; 8:38-39, 61; 9:5, 29; 22:39-40; 60:8-9, all of which are

⁸¹ See Muḥammad Ḥammīdullāh, *Muslim Conduct of State: Being a Treatise on Siyar, That is Islamic Notion of Public International Law, Consisting of the Laws of Peace, War and Neutrality, Together with Precedents from Orthodox Practice and Preceded by a Historical and General Introduction*, rev. & enl. 5th ed. (Lahore: Sh. Muhammad Ashraf, 1968), p. 98.

⁸² See ḥadīths numbers 2720 and 2721 in Muḥammad ibn Ismā'īl al-Bukhārī, *Al-Jāmi' al-Ṣaḥīḥ al-Mukhtaṣar*, ed. Muṣṭafā Dīb al-Baghā, 3rd ed. (Damascus; Beirut: Dār ibn Kathīr, 1987/1407), Vol. 3, p. 1054.

⁸³ See ḥadīth number 20870 in Jalāl al-Dīn al-Suyūfī, *Jāmi' al-Aḥādīth: Al-Jāmi' al-Ṣaḥīḥ wa Zawā'iduh wa al-Jāmi' al-Kabīr* (N.p.: n.d.), Vol. 7, p. 61; ḥadīth number 2647 in Muḥammad ibn 'Isā al-Tirmidhī, *Al-Jāmi' al-Ṣaḥīḥ Sunan al-Tirmidhī*, ed. Aḥmad Muḥammad Shākīr et al. (Beirut: Dār Iḥyā' al-Turāth al-'Arabī, n.d.), Vol. 5, p. 29.

⁸⁴ See Sobhi Mahmassani, "The Principles of International Law in the Light of Islamic Doctrine", *Recueil des Cours*, Vol. 117, 1966, pp. 228, 319.

Medinan revelations. The first Qur'ānic revelation permitting recourse to war in Islam⁸⁵ explains the *casus belli* as follows:

“Permission to [engage in fighting] is given to those against whom war is waged because they have been wronged; verily God is able to give them victory. Those who have been expelled from their homes unjustly and only for saying: God is our Lord; had not God permitted people to defend themselves against [the aggression of] others, monasteries, churches, synagogues and mosques, wherein the name of God is oft-mentioned, would be pulled down; certainly God will support those who support Him; indeed God is All-Strong, All-Mighty.” (Qur’ān 22:39-40)

This text explains that the Islamic *casus belli* is defence against aggression. It adds that Muslims were expelled from their homes unjustly only because of their belief in God.⁸⁶ That is to say that the Islamic *casus belli* here, as John Kelsay puts it, is “a

⁸⁵ See, for example, Ismā‘īl ibn ‘Umar ibn Kathīr, *Tafsīr al-Qur’ān al-‘Azīm* (Beirut: Dār al-Fikr, 1980-1/1401), Vol. 3, p. 226; Muḥammad ibn Aḥmad al-Anṣārī al-Qurṭubī, *Al-Jāmi’ li-Aḥkām al-Qur’ān* (Cairo: Dār al-Sha‘b, n.d.), Vol. 12, p. 68; ‘Abd al-Rāziq ibn Hammām al-Ṣana‘ānī, *Tafsīr al-Qur’ān*, ed. Muṣṭafā Muslim Muḥammad (Riyadh: Maktabah al-Rushd, 1980-1/1401), Vol. 3, p. 39; Jalāl al-Dīn al-Suyūṭī, *Al-Durr al-Manthūr* (Beirut: Dār al-Fikr, 1993), Vol. 6, pp. 57 f.; Muḥammad ibn Muslim ibn ‘Ubayd Allah ibn Shihāb al-Zuhrī, *Al-Maghāzī al-Nabawiyyah*, ed. Suhayl Zakkār (Damascus: Dār al-Fikr, 1981), p. 105; Maḥmūd Shaltūt, *Al-Islām wa al-‘Alāqāt al-Dawliyyah: Fī al-Silm wa al-Ḥarb* ([Cairo]: Maktab Shaykh al-Jāmi’ al-Azhar lil-Shu‘ūn al-‘Āmmah, n.d.), p. 29; Nādiyāh Ḥusnī Ṣaqr, *Falsafah al-Ḥarb fī al-Islām* (Cairo: Supreme Council for Islamic Affairs, 1990/1410), p. 71; Muḥammad ibn Muḥammad ibn Muḥammad ibn Sayyid al-Nās, *‘Uyūn al-Athar fī Funūn al-Maghāzī wa al-Shamā’il wa al-Siyar*, ed. Muḥammad al-‘Id al-Khaṭrāwī and Muḥyī al-Dīn Mīto (Medina: Maktabah Dār al-Turāth; Damascus; Beirut: Dār ibn Kathīr, n.d.), Vol. 1, p. 352; ‘Abd al-‘Azīz Zahrān, *Al-Silm wa al-Ḥarb fī al-Islām*, Kutub Islāmiyyah, Issue no. 164 (Cairo: Supreme Council for Islamic Affairs, 1974/1394), p. 35; Muḥammad al-Ṣādiq Afīfī, *Al-Mujtama’ al-Islāmī wa al-‘Alāqāt al-Dawliyyah* (Cairo: Mu’assasah al-Khānjī, 1980), p. 128; Muḥammad ‘Izzat Darwazah, *Al-Jihād fī Sabīl Allah fī al-Qur’ān wa al-Ḥadīth*, 2nd ed. (Beirut: Al-Nāshir, 1990), p. 45; Aḥmad Ghunaīm, *Al-Jihād al-Islāmī: Dirāsah ‘Ilmiyyah fī Nuṣūṣ al-Qur’ān wa Ṣiḥāh al-Ḥadīth wa Wathā’iq al-Tārīkh* (Cairo: Dār al-Ḥammamī, 1975/1394), pp. 17-19; Muṣṭafā al-Sibā‘ī, *Al-Sīrah al-Nabawiyyah: Durūs wa ‘Ibar* (Beirut: Al-Maktab al-Islāmī, n.d.), pp. 113 f.; al-Quṭb Muḥammad al-Quṭb Ṭabliyyah, *Al-Islām wa Ḥuqūq al-Insān: Al-Jihād* ([Cairo]: Dār al-Fikr al-‘Arabī; al-Nahḍah al-Miṣriyyah; al-Mujallad al-‘Arabī, al-Ṣaḥwah, 1989/1409), p. 22; Muḥammad Sayyid Ṭanṭāwī, “Al-Ḥukm al-Shar‘ī fī Aḥdāth al-Khalīj”, *The Islamic Fiqh Council Journal*, Issue No. 5, [1991/1411], pp. 57 f.; Doi, *Sharī‘ah: The Islamic Law*, p. 438; Bernard K. Freamon, “Martyrdom, Suicide, and the Islamic Law of War: A Short Legal History”, *Fordham International Law Journal*, Vol. 27, 2003, p. 314; Badawī, “Muslim/Non-Muslim Relations”, p. 270; al-Qaradāwī, *Fiqh al-Jihād*, Vol. 1, pp. 229-231.

⁸⁶ See, for example, Muḥammad ibn Jarīr al-Ṭabarī, *Jāmi’ al-Bayān ‘an Ta’wīl Āy al-Qur’ān* (Beirut: Dār al-Fikr, 1984-5/1405), Vol. 17, p. 174; Ibn Kathīr, *Tafsīr*, Vol. 3, p. 226; al-Qurṭubī, *Al-Jāmi’*,

defense of human rights”.⁸⁷ In other words, this verse supports the protection of religious freedom⁸⁸ in general since the protection of monasteries, churches, synagogues and mosques is given as a justification for defensive war.⁸⁹

A few years after the flight from Mecca, the persecution of *al-mustad'afīn* (the oppressed socially weak Muslims who were unable to flee Mecca) is advocated as a *casus belli*:

“Would not you fight in the way of God for *al-mustad'afīn* (the oppressed socially weak Muslims) from men, women and children who pray: Our Lord! Take us from this city of the oppressive people and appoint for us from Your side a guardian and appoint for us from Your side a protector. Those who have believed fight in the way of God and those who disbelieve fight in the way of Satan, so fight the allies of Satan; surely the plot of Satan is weak.”

(Qur'ān 4:75-76)

This text is not connected with any specific incident of war, but justifies having recourse to war in order to stop the religious persecution of the Muslim minority in Mecca at that time.⁹⁰ Here, fighting to stop the religious persecution of Muslims is

Vol. 12, p. 69; Muḥammad ibn 'Alī ibn Muḥammad al-Shawkānī, *Fath al-Qadīr: Al-Jāmi' bayn Fannay al-Riwāyah wa al-Dirāyah min 'Ilm al-Tafsīr* (Beirut: Dār al-Fikr, n.d.), Vol. 3, p. 457; al-Sibā'ī, *Al-Sīrah*, p. 114; Ghunaym, *Al-Jihād al-Islāmī*, p. 19; Ṭabliyyah, *Al-Islām wa Ḥuqūq al-Insān*, p. 43; Doi, *Sharī'ah: The Islamic Law*, p. 439.

⁸⁷ Kelsay, *Islam and War*, p. 54. See also Zayd ibn 'Abd al-Karīm al-Zayd, *Muqaddimah fī al-Qānūn al-Dawlī al-Insānī fī al-Islām* (N.p.: Comité International Genève, ICRC, 2004), p. 12.

⁸⁸ Al-Zayd, *Al-Qānūn al-Dawlī al-Insānī*, p. 12; Maḥmūd Fayyād, “Al-Siyāsah al-Khārijīyah lil-Islām”, *Majalah al-Azhar*, December 1951/Rabī' al-Awwal 1371, p. 204; al-Qaradāwī, *Fiqh al-Jihād*, Vol. 1, p. 232.

⁸⁹ See, for example, al-Ṭabarī, *Jāmi' al-Bayān*, Vol. 17, pp. 174-178; Ibn Kathīr, *Tafsīr*, Vol. 3, p. 227; al-Qurṭubī, *Al-Jāmi'*, Vol. 12, pp. 70-72; al-Suyūṭī, *Al-Durr al-Manthūr*, Vol. 6, pp. 59 f.; al-Shawkānī, *Fath al-Qadīr*, Vol. 3, p. 457; 'Abd al-Mun'im al-Hifnī, *Mawsū'ah al-Qur'ān al-'Azīm* (Cairo: Maktabah Madbūlī, Vol. 2, 2004), Vol. 2, pp. 1868, 1872; C.G. Weeramantry, *Islamic Jurisprudence: An International Perspective* (Basingstoke: Macmillan, 1988), p. 162; A. Rashied Omar, “Conflict and Violence”, in Richard C. Martin, ed., *Encyclopedia of Islam and the Muslim World* (New York: Macmillan Preference USA, 2004), Vol. 1, p. 157; al-Sibā'ī, *Al-Sīrah*, pp. 115 f.; al-Qaradāwī, *Fiqh al-Jihād*, Vol. 1, p. 231

⁹⁰ On the recourse to war for the protection of nationals abroad, by some states since 1945, under the justification of self-defence in international law, see Derek W. Bowett, “The Use of Force for the

given as another reason for fighting *fī sabīl Allah*. Riḍā states that fighting in the way of God was permitted to stop the persecution of Muslims who were prevented from fleeing Mecca to follow Islam.⁹¹ Thus, according to the words of Riḍā and al-Marāghī, war in Islam was permitted in order to protect *ḥurriyyah al-dīn* (freedom of religion).⁹² In addition to stopping the religious persecution of Muslim minorities and liberating Muslim and *dhimmi* prisoners of war, al-Qaraḍāwī adds in the light of this text that the Islamic state should also go to war to rescue non-Muslim minorities if they require its help and if it is able to rescue them.⁹³

Some exegetes consider that it is not Qur’ān 22:39-40 that is the first revelation permitting war in Islam, but Qur’ān 2:190-194, although the majority maintain that these verses were revealed in connection with the incident of al-Ḥudaybiyah (6/628), discussed in the previous chapter.⁹⁴ The text reads as follows:

“And fight in the way of God those who fight against you but *lā ta’tadūā* (do not transgress); indeed God does not like transgressors. (190) And fight them wherever you find them and expel them from wherever they expelled you, and *fitnah* [persecution] is more grievous than killing, and do not fight them at the Sacred Mosque until they fight you therein; but if they fight you, then kill them; such is the recompense of the unbelievers. (191) But if they *intahaūā* (cease) then, indeed, God is Most Forgiving, Most Merciful. (192) And fight them so that/until there is no *fitnah* [persecution] and religion [without *fitnah*] is for God, but if they *intahaūā* (cease), then there is no

Protection of Nationals Abroad”, in A. Cassese, ed., *The Current Legal Regulation of the Use of Force* (Dordrecht: Martinus Nijhoff Publishers, 1986), pp. 39-55.

⁹¹ Muḥammad Rashīd Riḍā, *Tafsīr al-Qur’ān al-Ḥakīm: Al-Shahīr bi-Tafsīr al-Manār* (Cairo: Dār al-Manār, 1910/1328), Vol. 5, pp. 259 f. See also al-Shawkānī, *Fath al-Qadīr*, Vol. 1, pp. 487 f.; al-Ṭabarī, *Jāmi’ al-Bayān*, Vol. 5, pp. 167-169.

⁹² Riḍā, *Tafsīr al-Manār*, Vol. 5, p. 260. See also Aḥmad Muṣṭafā al-Marāghī, *Tafsīr al-Marāghī* (Cairo: Muṣṭafā al-Bābī al-Ḥalabī, 1946/1365), Vol. 2, p. 92, Vol. 9, pp. 207 f.

⁹³ Al-Qaraḍāwī, *Fiqh al-Jihād*, Vol. 1, pp. 241 f., 435 f., Vol. 2, pp. 865-871.

⁹⁴ See, for example, Ibn Kathīr, *Tafsīr*, Vol. 1, p. 227; al-Qurṭubī, *Al-Jāmi’*, Vol. 2, p. 347.

fighting/hostility except against the persecutors. (193) [Fighting in] The Sacred Month is for [fighting against you] in The Sacred Month and [violation] of the prohibitions [subject to the law of] retaliation; therefore whoso commits aggression against you, then respond within the same degree of aggression waged against you; and fear God and know that God is with those who fear Him.” (194)

The *locutionary act* in this text: “fight in the way of God” is clarified by four conditions.

(1) “Those who fight against you”. This indicates permission to fight in the way of God against those who initiate aggression against Muslims. Thus, if this text was revealed in relation to the incident of al-Ḥudaybiyah, it gave its addressees permission to defend themselves if the Meccans attacked them, while if it is intended for wider application, it permits Muslims to defend themselves against any aggression in general.

(2) “*Lā ta’tadūā*” is understood by some to mean a prohibition against the initiation of aggression,⁹⁵ while most exegetes interpret this phrase as the Islamic *jus in bello* (rules regulating the conduct during war). They explain that this phrase indicates the prohibition of targeting non-combatants,⁹⁶ such as women, children, the aged and the clergy, or those with whom Muslims have a peace agreement, and also that it amounts to the prohibition of mutilation, unnecessary burning and destruction, cutting down trees, killing animals except for food, surprising the enemy with an act of war without a declaration of war, and fighting for personal gain or glory.⁹⁷

⁹⁵ Riḍā, *Tafsīr al-Manār*, Vol. 2, p. 208.

⁹⁶ Al-Ṭabarī, *Jāmi’ al-Bayān*, Vol. 2, pp. 189 f.; al-Qurṭubī, *Al-Jāmi’*, Vol. 2, p. 350; Riḍā, *Tafsīr al-Manār*, Vol. 2, p. 208; Quṭb, *Zilāl*, Vol. 1, p. 188.

⁹⁷ See, for example, al-Ṭabarī, *Jāmi’ al-Bayān*, Vol. 2, p. 190; Ibn Kathīr, *Tafsīr*, Vol. 1, pp. 227 f.; al-Qurṭubī, *Al-Jāmi’*, Vol. 2, pp. 348-350; Quṭb, *Zilāl*, Vol. 1, pp. 188-190; Maḥmūd ibn ‘Umar al-Zamakhsharī, *Al-Kashshāf ‘an Ḥaqā’iq Ghawāmiḍ al-Tanzīl wa ‘Uyūn al-Aqāwī fī Wujūh al-Ta’wīl*,

This *jus in bello* concept is reinforced in the phrase *faman i'tadā 'alaykum* (whoso commits aggression against you), *fā'tadūā 'alayh bi-mithl mā i'tadā 'alaykum* (then respond within the same degree of aggression waged against you). (3) Prohibition of fighting at the Sacred Mosque, unless they are attacked therein. (4) Cessation of fighting if the enemy *intahūā* (desist). Most exegetes interpret this word to mean that cessation of fighting is conditional upon the enemy ending their aggression against, and religious persecution of, Muslims and ceasing their unbelief in God.⁹⁸ Al-Qurtūbī interprets it to mean ending their unbelief in God, if they were pagans, or paying the *jizyah* if they were People of the Book.⁹⁹ So it is apparent that some exegetes did not distinguish between ending aggression against Muslims and ending unbelief in God as the condition for the cessation of fighting, and this could significantly confuse what this text stipulates as the justification for the recourse to fighting. That is to say that it is not clear here whether Muslims are permitted to fight their enemies either until they stop their aggression or until they end their unbelief in God. Quṭb clarifies this by stating that Muslims are to have peaceful relations with their enemies if they stop their aggression on, and persecution of, Muslims, but the forgiveness and mercy of God is conditional upon their ending their unbelief.¹⁰⁰

The meaning of the term *fitnah* in the *locutionary act*, “*fitnah* is more grievous than killing”, is very significant for understanding the Qur’ānic justifications for war in this text. While exegetes sometimes refer to *fitnah* as unbelief in God, they interpret this *locutionary act* to mean that abandoning Islam

ed. Muḥammad ‘Abd al-Salām Shāhīn (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1995), Vol. 2, p. 230; ‘Abd Allah ibn Aḥmad ibn Maḥmūd al-Nasafī, *Tafsīr al-Nasafī*, ed. Yūsuf ‘Alī Bedīwī (Beirut: Dār ibn Kathīr, 1998/1419), Vol. 1, p. 165; al-Ḥifnī, *Mawsū‘ah al-Qur’ān*, Vol. 2, p. 1866.

⁹⁸ Al-Ṭabarī, *Jāmi’ al-Bayān*, Vol. 2, p. 193.

⁹⁹ Al-Qurtūbī, *Al-Jāmi’*, Vol. 2, p. 354.

¹⁰⁰ Quṭb, *Zilāl*, Vol. 1, p. 190.

under torture is worse for a Muslim than being put to death under torture.¹⁰¹ This refers to Bilāl ibn Rabāḥ, the Companion of the Prophet, who was tortured to make him recant, and Sumayyah and her husband Yāsir, who were killed under torture because of their refusal to abjure Islam.¹⁰² Other exegetes interpret it to mean that the Meccans' unbelief is worse than the incident of the killing of 'Amr ibn al-Ḥaḍramī, who was killed by Wāqid ibn 'Abd Allah al-Tamīmī.¹⁰³ In this context, al-Zamakhsharī and al-Nasafī refer to situations in which a person suffers to the extent of preferring to die rather than tolerating the persecution or its consequences; for example, it was considered preferable to die rather than suffering the persecution of being expelled from one's home.¹⁰⁴

This concept of *fitnah*¹⁰⁵ in the sense of religious persecution and torture to make Muslims abjure Islam is reinforced again in Qur'ān 2:216-217:

“Fighting has been enjoined on you though it is hateful to you; but you may hate a thing while it is good for you and you may like a thing while it is bad for you; and God knows and you do not know. (216) They ask you about

¹⁰¹ Al-Ṭabarī, *Jāmi' al-Bayān*, Vol. 2, p. 191; al-Qurṭubī, *Al-Jāmi'*, Vol. 2, p. 351; al-Marāghī, *Tafsīr al-Marāghī*, 2, pp. 89 f.; Muḥammad Abū Zahrah, *Zahrah al-Tafāsīr* (Cairo: Dār al-Fikr al-'Arabī, 1987?), Vol. 1, p. 580; Muḥammad ibn Ismā'īl al-Ṣana'ānī, “Baḥṭh fī Qitāl al-Kufār”, in Yūsuf al-Qaradāwī, *Fiqh al-Jihād: Dirāsah Muqāranah li-Aḥkāmih wa Falsafatih fī Ḍaw' al-Qur'ān wa al-Sunnah* (Cairo: Maktabah Wahbah, 2009), Vol. 2, pp. 1204 f.

¹⁰² Ridā, *Tafsīr al-Manār*, Vol. 2, pp. 316 f.; Muḥammad ibn Ishāq, *Al-Sīrah al-Nabawīyyah*, ed. 'Abd al-Malik ibn Hishām, annotated by Fu'ād ibn 'Alī Ḥāfiẓ (Beirut: Dār al-Kutub al-'Ilmiyyah, 2000), Vol. 1, p. 235; A. Guillaume, trans. *The Life of Muhammad: A Translation of Ishāq's Sīrat Rasūl Allāh* (Oxford: Oxford University Press, 1955), p. 145; Adil Salāhi, *Muhammad Man and Prophet: A Complete Study of the Life of the Prophet of Islam* (Leicestershire: Islamic Foundation, 2002/1423), p. 132. Muhammad Hashim Kamali also notes that *fitnah* here refers to the persecution of the Muslims in Mecca to prevent them “from observing their faith”, see Muhammad Hashim Kamali, *Freedom of Expression in Islam*, rev. ed. (Cambridge: Islamic Texts Society 1997), p. 192.

¹⁰³ See al-Qurṭubī, *Al-Jāmi'*, Vol. 2, p. 351; Abū Zahrah, *Zahrah al-Tafāsīr*, Vol. 1, p. 580.

¹⁰⁴ Al-Zamakhsharī, *Al-Kashshāf*, Vol. 1, p. 234; al-Nasafī, *Tafsīr al-Nasafī*, Vol. 1, p. 165.

¹⁰⁵ Oliver Leaman does not refer to *fitnah* in the sense of persecution and religious oppression mentioned in these texts. He refers to it only in the sense of “trial and discord”. He states that *fitnah* “means that matters become confused, mistakes increase, and minds and intellects begin to waver”. See Oliver Leaman, ed., “Fitna”, *The Qur'ān: an Encyclopedia* (London: Routledge, 2006), pp. 209 f. On the meanings and types of *fitnah*, see, Kamali, *Freedom of Expression in Islam*, pp. 190-212. For a discussion of the concept of *fitnah* in al-Ṭabarī's exegesis, see Abdulkader Tayob, “An Analytical Survey of al-Ṭabarī's Exegesis of the Cultural Symbolic Construct of *Fitna*”, in G.R. Hawting and Abdul-Kader A. Shareef, eds., *Approaches to the Qur'ān* (London: Routledge, 1993), pp. 157- 172.

fighting in the Sacred Month: say fighting therein is [a] grave [sin], and/but¹⁰⁶ debarring from God's way and unbelief in Him and the Sacred Mosque and expelling its people from it are/is graver [sin] in the sight of God; and *fitnah* is graver than killing; and they will continue to fight you until they turn you into renegades from your religion, if they can; whoever of you reneges from his religion and dies as a unbeliever, such are those whose actions become in vain in this world and the Hereafter, and they are the inmates of Fire; therein they eternally abide." (217)

The phrase "fighting has been enjoined on you" indicates the lifting of the prohibition of any militant response to the Meccans' aggression, which was in place during the Meccan period. But more importantly, the phrase "*fitnah* is graver than killing; and they will continue to fight you until they turn you into renegades from your religion" shows that the term *fitnah* indicates the religious persecution and torture of the Meccans, still a minority, who embraced the religion of Islam.¹⁰⁷ It adds that the Meccans were determined to continue their aggression against the Muslims until they recant their belief in Islam, even after their flight from Mecca.

In the chapter of the Qur'ān entitled "The Spoils of War", revealed after the battle of Badr (Ramaḍān 2/March 624), defensive war to liberate Muslims from the persecution of the unbelievers is reinforced as a *casus belli*. The text of Qur'ān 8:38-39 (below) indicates that the cessation of fighting is conditional upon the unbelievers' ending their persecution. However, some exegetes interpret it to mean that the cessation of fighting is conditional upon their ending their unbelief.

"Say to those unbelievers: if they *intahaūā* (cease), their past will be forgiven; but if they return (to fighting you) then there are already precedents

¹⁰⁶ Exegetes have different readings of this phrase; while some add it to the previous phrase, others consider it the beginning of a new locution.

¹⁰⁷ See Riḍā, *Tafsīr al-Manār*, Vol. 2, pp. 317 f.; Quṭb, *Zilāl*, Vol. 1, pp. 226 f.

of earlier nations. (38) And fight them until there is no *fitnah* (persecution) and *yakūn al-dīn kulluh lillah* (religion is wholly for God); and if they *intahaūā* (cease), then indeed God is aware of what they are doing.” (39)

The main point here is the explanations given to justify the command to fight the unbelievers “until there is no *fitnah* and *yakūn al-dīn kulluh lillah*”. If *fitnah* means unbelief (in God), the Muslim addressees of this text are required to fight the unbelievers until unbelief is eradicated from Mecca and its surroundings, as interpreted by al-Rāzī, or from the rest of the world.¹⁰⁸ This means that jihād, according to this interpretation of *fitnah*, is an offensive war waged against non-Muslims because of their refusal to believe in Islam. But if *fitnah* is interpreted to mean the persecution of Muslims until they recant, Muslims are required to fight their persecutors until they enjoy complete freedom to worship God without fear or the need to hide their beliefs.¹⁰⁹ According to this interpretation, jihād is a defensive war justified as being necessary to protect Muslims from the religious persecution of their non-Muslim enemies.

During war, if the enemy decides to make peace, then the Qur’ān commands that peace be made. It reads: “And if they incline to peace, then incline to it; and put your trust in God, it is He who is the All-Hearing, the All-Knowing” (Qur’ān 8:61). Furthermore, a later revelation (Qur’ān 60:8-9) states clearly that God specifically forbids Muslims from entering into friendly relations or alliances with those who fight against Muslims because of their religious beliefs and expel them from their homes:

¹⁰⁸ Muḥammad ibn ‘Umar al-Rāzī, *Al-Tafsīr al-Kabīr aw Mafātīḥ al-Ghayb* (Beirut: Dār al-Kutub al-‘Ilmiyyah, 2000/1421), Vol. 15, p. 131. See al-Qaradāwī, *Fiqh al-Jihād*, Vol. 1, pp. 257, 259-263.

¹⁰⁹ Al-Ṭabarī, *Jāmi’ al-Bayān*, Vol. 9, pp. 248-250; al-Shawkānī, *Fath al-Qadīr*, Vol. 2, p. 308; Ridā, *Tafsīr al-Manār*, Vol. 9, pp. 665-667; al-Marāghī, *Tafsīr al-Marāghī*, Vol. 9, pp. 207 f.; Abū Zahrah, *Zahrah al-Tafāsīr*, Vol. 6, pp. 3057, 3127 f.; Muhammad Hashim Kamali, “Issues in the Understanding of *Jihād* and *Ijtihād*”, *Islamic Studies*, Vol. 41, No. 4, 2002/1423, p. 621.

“God does not forbid you from dealing kindly and justly towards those who did not fight you because of your religion and did not expel you from your homes; verily God loves the just. (8) But God forbids you from allying with those who fought you because of your religion and expelled you from your homes and aided in your expulsion; and whoso allies with them, those are the wrongdoers.” (9)

However, exegetes give several interpretations of who is indicated in the phrase “those who did not fight you because of your religion”. Some exegetes maintain that it refers to particular tribes with whom the Prophet had secured non-aggression pacts, such as the tribes of Khuzā’ah and Banū al-Ḥārith, or a group from the tribe of Banū Hāshim. Others maintain that this verse refers to women and children, while yet others argue that it was revealed in relation to the mother of Asmā’, daughter of Abū Bakr or that it refers to the relatives of the Muslims in Mecca. It is also contended that it refers to non-combatants and the Meccans who did not oppress the Muslims and it is even believed by some that it refers to the Muslims who did not flee from Mecca. Al-Ṭabarī reports most of the above opinions and prefers the view that this phrase refers to all enemy non-combatants no matter what their religion or belief. He adds that it is not prohibited to enter into friendly relations with non-combatants from the enemy side, unless it is to the detriment of Muslims or strengthens the enemy combatants.¹¹⁰

These numerous interpretations exemplify the variety of ways in which the Qur’ān can be interpreted. Most of the exegetes simply refer to some of these diverse interpretations, while others advocate one of them in particular. However, the most

¹¹⁰ See al-Ṭabarī, *Jāmi’ al-Bayān*, Vol. 28, pp. 65 f.; al-Qurṭubī, *Al-Jāmi’*, Vol. 18, p. 59; al-Rāzī, *Al-Tafsīr al-Kabīr*, Vol. 29, p. 263; al-Zamakhsharī, *Al-Kashshāf*, Vol. 4, p. 503; Ibn Kathīr, *Tafsīr*, Vol. 4, p. 350; al-Marāghī, *Tafsīr al-Marāghī*, Vol. 28, pp. 69 f. On al-Ṭabarī’s interpretation of verse 60: 8, see David Dakake, “The Myth of a Militant Islam”, in Aftab Ahmad Malik, ed., *The State We Are in: Identity, Terror and the Law of Jihad* (Bristol: Amal Press, 2006), pp. 62 f.

obvious difficulty in identifying the Qur'ānic justification for the recourse to war in the texts discussed above is the disagreement among the exegetes over the meaning of the term *fitnah*. The two interpretations of the term *fitnah* referred to above, i.e., the persecution of the Muslims to make them abandon Islam, or the unbelief of the pagans, give contradictory rulings on the justification for the recourse to war in the Qur'ān: if *fitnah* means the persecution of Muslims to make them abandon their belief in the religion of Islam, the Qur'ān justifies a defensive war to protect freedom of religion, but if *fitnah* means unbelief, the Qur'ān justifies offensive war against the Meccan unbelievers referred to in the above texts. Indeed, these different interpretations of the texts might lead to the formulation of different Islamic theories of war, depending on the way these verses are interpreted. It is worth adding here that the above texts have been considered in roughly chronological order, though any other ordering of the texts would not particularly change the Qur'ānic justifications for war.

In fact, the revelations that crucially formulated a position in the classical theory of war in Islam are Qur'ān 9:5 and 9:29, because these texts, dated to the year 9/631, are believed to be the last of the revelations regarding war and so, in accordance with the theory of abrogation, they contain the last divine statement on war in Islam.¹¹¹ Verse 9:5 addresses the relationship with the Meccan idolaters and 9:29 addresses the relationship with the People of the Book in relation to the incident of Tabūk.

The first twenty-eight verses of the same chapter address the relationship with the Meccan idolaters. The context of this revelation is that the Prophet did not perform the pilgrimage in that year because the Meccan idolaters used to

¹¹¹ See Bonner, *Jihad in Islamic History*, p. 26.

circumambulate the Ka'bah naked. The Prophet therefore sent the first thirty or forty verses of this chapter to be proclaimed in the 9th day of the month of Dhū al-Ḥijjah/roughly 18 March 631, during the pilgrimage. These verses gave those Meccans who had no agreement with the Muslims four months, and those who had peace agreements with the Muslims, and had not broken their terms or supported others in attacks against the Muslims, until the end of the term of their agreement. Then the text reads:

“When the Sacred Months have passed, kill the polytheists wherever you find them and capture them and besiege them and wait for them in every place of ambush; but if they repent and perform prayer and give the poor-due, then leave them their way; surely God is Oft-Forgiving, Oft-Merciful.” (Qur’ān 9:5)

Exegetes differ on the meaning of the sacred months referred to in this verse: while some argue that it refers to the four established sacred months of the lunar calendar, others argue that it refers to a four-month period starting from the day of the proclamation of this text.¹¹² Although the preceding verse commands that the peace agreement with the idolaters be observed until the end of its term, and the same command is reinforced in a following verse (9:7), some exegetes hold that this verse refers to all the idolaters, while others maintain that it refers only to the Arab idolaters who have no peace agreements with the Muslims.¹¹³ Still others hold that it

¹¹² See, for example, al-Ṭabarī, *Jāmi' al-Bayān*, Vol. 10, p. 78; Ibn Kathīr, *Tafsīr*, Vol. 2, pp. 336 f.; al-Suyūṭī, *Al-Durr al-Manthūr*, Vol. 4, p. 131; al-Qurṭubī, *Al-Jāmi'*, Vol. 8, p. 72; al-Shawkānī, *Faṭḥ al-Qadīr*, Vol. 2, p. 337; Riḍā, *Tafsīr al-Manār*, Vol. 10, pp. 197 f.; Abū Zahrah, *Zahrah al-Tafāsīr*, Vol. 6, p. 3231; Abdel Haleem, *The 'Sword Verse' Myth*, pp. 7 f.

¹¹³ Riḍā, *Tafsīr al-Manār*, Vol. 10, pp. 200 f.; Aḥmad Maḥmūd Krīmah, *Al-Jihād fī al-Islām: Dirāsah Fiqhiyyah Muqāranah* (Cairo: Al-Dār al-Handasiyyah, 2003/1424), pp. 29-33. See also Rudolph Peters, “Djihad: War of Aggression or Defense?”, in Albert Dietrich, ed., *Akten des VII. Kongresses Für Arabistik und Islamwissenschaft* (Göttingen, Aug. 1974) (Göttingen: Vandenhoeck & Ruprecht, 1976), pp. 286 f.; al-Qaraḍāwī, *Fiqh al-Jihād*, Vol. 1, pp. 287 f.

refers only to the Meccan idolaters who violated the armistice of al-Ḥudaybiyah by killing some from the tribe of Khuzā'ah inside the Sacred Mosque.¹¹⁴

This text indicates that there should be a cessation of fighting if the idolaters “repent” and perform two Islamic obligations – performing the prayer and giving the poor-due. In contrast with the preceding texts, most exegetes interpret the word “repent” here to mean abandoning their unbelief, not ending their persecution of the Muslims.¹¹⁵ While this interpretation indicates that the justification for fighting here is the unbelief, verse 9:12 makes fighting conditional upon the enemy’s breaking of their agreement with the Muslims.¹¹⁶ Riḍā points out that it is their unbelief that arouses their aggression against the Muslims.¹¹⁷ He believes that the fighting after the passing of the sacred months referred to in this verse has resumed because the relationship between the Muslims and the idolaters has returned to the state of war that existed prior to the cessation of hostilities.¹¹⁸

Verse 9:7 denies the possibility of securing a peace agreement that would be honoured by the idolaters, except those with whom the Muslims concluded a peace agreement at the Sacred Mosque. Exegetes interpret this verse as a reference to the various tribes, such as Kenānah, Ḍamarah, Bakr, Quraysh, Juzaymah, Mudlaj and Khuzaymah¹¹⁹ because they did not break their agreement with the Muslims. Muslims are therefore to fulfil their agreement with them as long as they abide by it,

¹¹⁴ Al-Ḥifnī, *Mawsū'ah al-Qur'ān*, Vol. 2, p. 1876; al-Qaradāwī, *Fiqh al-Jihād*, Vol. 1, p. 244.

¹¹⁵ See, for example, al-Suyūfī, *Al-Durr al-Manthūr*, Vol. 4, p. 132; al-Qurṭubī, *Al-Jāmi'*, Vol. 8, p. 74; Naṣr ibn Muḥammad ibn Aḥmad Abū al-Layth al-Samarqandī, *Tafsīr al-Samarqandī al-Musammā Bahr al-'Ulūm*, ed. Maḥmūd Maṭrajī (Beirut: Dār al-Fikr, n.d.), Vol. 2, p. 40; al-Shawkānī, *Fath al-Qadīr*, Vol. 2, pp. 337, 340.

¹¹⁶ See Zahrān, *Al-Silm wa al-Ḥarb*, p. 42; Ṭabliyyah, *Al-Islām wa Huqūq al-Insān*, p. 54; Troy S. Thomas, “Jihad’s Captives: Prisoners of War in Islam”, *U.S. Air Force Academy Journal of Legal Studies*, Vol. 12, 2003, pp. 90 f.

¹¹⁷ Riḍā, *Tafsīr al-Manār*, Vol. 10, p. 201. See also al-Marāghī, *Tafsīr al-Marāghī*, Vol. 10, p. 58.

¹¹⁸ Riḍā, *Tafsīr al-Manār*, Vol. 10, p. 198. See also al-Marāghī, *Tafsīr al-Marāghī*, Vol. 10, p. 58, 61.

¹¹⁹ See al-Suyūfī, *Al-Durr al-Manthūr*, Vol. 4, p. 134; al-Qurṭubī, *Al-Jāmi'*, Vol. 8, p. 78; al-Samarqandī, *Bahr al-'Ulūm*, Vol. 2, p. 40; al-Shawkānī, *Fath al-Qadīr*, Vol. 2, pp. 337-339; al-Marāghī, *Tafsīr al-Marāghī*, Vol. 10, p. 62; Abū Zahrah, *Zahrah al-Tafāsīr*, Vol. 6, pp. 3234 f.

though these tribes did not all become Muslims. However, it is argued that this so-called “sword verse” abrogates all the Qur’ānic revelations that prescribe any other form of relationship with idolaters.¹²⁰ It is worth adding here that scholars differ in identifying this “sword verse”: most hold that it is 9:5, while others maintain that it is 9:29, 9:36 or 9:41.¹²¹ In addition, exegetes differ concerning the number of texts that are abrogated by this verse, suggesting that the number of verses might be 70, 114, 124, 140, 145 or 200.¹²² Those who consider that this verse abrogates all the other Qur’ānic injunctions on this issue have partly developed their theory of war in Islam on the basis of this view. Nevertheless, it is worth adding here that al-Ḍaḥḥāk, ‘Aṭā’ and al-Suddī argue that this verse is abrogated by verse 47:4, which commands the Muslims, after the cessation of fighting with the unbelievers, to “set them free either graciously or by ransom”.¹²³ According to this position, the final Qur’ānic injunction concerning enemy idolaters is that they should be freed or exchanged for Muslim captives.

The verse addressing the campaign against Tabūk (9:29) formulates the classical theory of war with respect to the People of the Book. The exegetes’ approach to this verse differs from the historians’ approach to the incident to which it refers: while the biographers document the accounts of the event, most exegetes interpret the meaning of the text and the ordinances included in it without discussing the facts leading to this incident. This may lead to the misconception that the campaign against Tabūk was a *perlocutionary act* of this verse; though the historical

¹²⁰ David S. Powers, “The Exegetical Genre *Nāsikh al-Qur’ān wa Mansūkhuhu*”, in Andrew Rippin, ed., *Approaches to the History of the Interpretation of the Qur’ān* (Oxford: Clarendon, 1988), pp. 130 f. For an excellent discussion of verse 9:5, see Abdel Haleem, *The ‘Sword Verse’ Myth*, pp. 1-34.

¹²¹ Al-Qaraḏāwī, *Fiqh al-Jihād*, Vol. 1, pp. 268 f., 284-300.

¹²² See, for example, al-Samarqandī, *Baḥr al-‘Ulūm*, Vol. 2, p. 39; Ibn al-Bārīzī, *Nāsikh al-Qur’ān*, p. 22; Hibah Allah ibn Salāmah ibn Naṣr al-Maqrī, *Al-Nāsikh wa al-Mansūkh*, ed. Zuhayr al-Shāwīsh and Muḥammad Kan’ān (Beirut: Al-Maktab al-Islāmī, 1983-4/1404), p. 98; Abdel Haleem, *The ‘Sword Verse’ Myth*, p. 28; al-Qaraḏāwī, *Fiqh al-Jihād*, Vol. 1, pp. 267 f.

¹²³ See al-Ṭabarī, *Jāmi’ al-Bayān*, Vol. 10, pp. 80 f.; al-Qurṭubī, *Al-Jāmi’*, Vol. 8, p. 73.

reports maintained that the Muslim army marched to Tabūk to face the Byzantine army on its way to attack Medina, as indicated in the previous chapter. This verse thus addresses the context of a particular would be confrontation and the enemy are described in the verse. The enemy of the Muslims in this incident was not all the People of the Book, but a hostile group of them. Al-Qaradāwī adds that there is no justification for going to war against those, whether unbelievers or People of the Book, who are not hostile to Muslims.¹²⁴

These two different approaches certainly affect the Islamic theory of war. While the historical reports explain this incident as a defensive act to stop the Byzantine advance from reaching Medina, the exegetical account could be misunderstood as a Qur’ānic injunction to launch a war against People of the Book, who are described as follows:

“Fight those who do not believe in God, nor the Last Day, nor prohibit what God and His messenger prohibited, nor follow the religion of the truth, from among those who were given the scripture until they pay the *jizyah ‘an yad* (willingly) and they are *ṣāghirūn* (submissive to the Islamic rule).” (Qur’ān 9:29)

According to a classical Islamic theory described by Firestone as “the classical evolutionary theory of war”, the Qur’ānic legislation on war developed in four stages: the first stage, “nonconfrontation”, is based on revelations 15:94-95 and 16:125; the second stage, “defensive fighting”, is based on revelations 22:39-40 and 2:190; the third stage, “initiating attacks allowed but within the ancient strictures”, is

¹²⁴ Al-Qaradāwī, *Fiqh al-Jihād*, Vol. 1, pp. 296 f.

based on revelations 2:217 and 2:191; and the fourth stage, “unconditional command to fight all unbelievers”, is based on revelations 2:216, 9:5 and 9:29.¹²⁵

In fact, the texts attributed to the first stage do not relate to the issue of war: while verses 15:94-95 command the Prophet to preach the message he received and disregard the harassment of the Meccans, verse 16:125 describes the manner of preaching the religion. The formulation of this theory on the basis of these verses has no logical or even chronological basis in the Qur’ān and shows how texts can be quoted selectively to formulate theories on the Qur’ānic perception of war. The fact that two consecutive pairs of verses from the same chapter are selected to explain three stages of this so-called evolutionary theory indicates that these texts are invoked to support a theory rather than to illustrate the Qur’ānic position on war. It is irrational that verse 2:190 (stage two), supports defensive fighting and verse 2:191 (stage three), supports initiating limited attacks. Moreover, it is even more irrational that verse 2:216 (stage four), supports an unconditional command to fight all unbelievers, while verse 2:217 (third stage) supports limited attacks.

While this theory was developed two or three centuries after the emergence of Islam, jihād during the period covered in this study meant defence against religious persecution and aggression against Muslims. Over the last three centuries, jihād has meant the liberation of almost all the Muslim world from European occupation. The repercussions of the Western colonization of the Muslim world on contemporary Islamic thought and the political situation in the Muslim world are totally ignored in Western scholarship. This crucial period of Islamic history witnessed the Anglo-French “fragmentation” of the Muslim world and the creation of Muslim countries under new names. In this context, Abū al-A’lā al-Mawdūdī (1903-

¹²⁵ See Firestone, *Jihād*, pp. 50-65; Firestone, “Disparity and Resolution in the Qur’ānic Teachings on War”, pp. 4-17. See also Freamon, “Martyrdom, Suicide, and the Islamic Law of War”, pp. 314 f.

1979) introduced a new conception of jihād as a revolutionary struggle aimed at implementing the Islamic principles of fairness and justice in place of unjust systems.¹²⁶

Although Quṭb states that jihād is only permitted to defend the religion of Islam and protect its laws,¹²⁷ he adopts al-Mawdūdī's conception of jihād and advocates that it is not only defensive.¹²⁸ It aims to abolish the “oppressive political systems under which people are prevented from expressing their freedom to choose whatever beliefs they want, and after that it gives the complete freedom to decide whether to accept Islam or not”.¹²⁹ However, this conception of jihād as “a permanent revolution”¹³⁰ is often mistakenly attributed to Quṭb rather than to its originator, al-Mawdūdī.

2.7 Conclusion

The Qur'ānic texts on war indicate that the Qur'ānic justification for war is the defence or protection of freedom of religion. The aggressors or oppressors of Muslims are identified in the Qur'ān by their religious beliefs, i.e., the *kuffār*, *mushrikūn* and *ahl al-kitāb*. This identification of the warring parties according to their religious beliefs, let alone the persecution of the Muslims because of their new religious beliefs and their flight from Mecca, may lead to the misconception that the warring parties were fighting holy wars in the sense that each was fighting for the

¹²⁶ See Quṭb, *Zilāl*, Vol. 3, pp. 1446 f.

¹²⁷ *Ibid.*, Vol. 1, p. 187.

¹²⁸ *Ibid.*, Vol. 3, pp. 1432 f. On Mawdūdī's influence on modern Islamic thinking in the Arab world see, Fathi Osman, “Mawdūdī's Contribution to the Development of Modern Islamic Thinking in the Arabic-Speaking world”, *The Muslim World*, Vol. 93, No. 3 & 4, July/October 2003, pp. 465-485.

¹²⁹ Sayyid Quṭb, *Milestones*, rev. trans. with a foreword by Ahmed Zaki Hammad (Indianapolis: American Trust Publication, 1993), p. 46.

¹³⁰ See, for example, Fawaz A. Gerges, *The Far Enemy: Why Jihad Went Global* (Cambridge: Cambridge University Press, 2005), p. 4.

propagation of their religion. However, the Meccan idolaters' hostility was initially motivated by economic and political causes, as well as by religion.

Reading the Qur'ānic texts on war in their contexts requires facing the problem of reconstructing the details of the warring incidents addressed in these texts, which are needed if the nature of this particular conflict is to be identified. That is to say, identifying the nature of wars between the Muslims and their enemies during the Prophet's lifetime necessitates studying both the incidents themselves and the relevant Qur'ānic texts. The various interpretations of the Qur'ānic texts and the use of the exegetical disciplines for the study of the Qur'ān can produce different conclusions on the Islamic position on war. Thus, Donner points out that determining whether the Qur'ān sanctions only defensive war or offensive war too "is really left to the judgement of the exegete".¹³¹

The diverse interpretations show that there is a lack of clarity between aggression and *kufr/shirk* (unbelief/polytheism) as the Qur'ānic *casus belli*. While the Meccan oppression of the Muslims was a corollary of the Meccan idolaters' unbelief, it is crucial to find out exactly what were the Qur'ānic justifications for war against oppressive polytheists. Examination of the incidents of war that took place between the Muslims and their enemies during the lifetime of the Prophet, i.e., the period of the revelation of the Qur'ān, shows that no act of hostility was initiated by the Muslims against an enemy simply because of the latter's religious beliefs. However, exegetes, as explained above, give a variety of interpretations of the Qur'ānic justification for war. For example, while the concept of *fitnah* in the locutionary act "fight them until there is no *fitnah*" is interpreted by some as referring to oppression and persecution of Muslims because of their beliefs, others

¹³¹ Donner, "The Sources of Islamic Conception of War", p. 47.

interpret it to mean unbelief, and still others consider that the oppression is a result of the enemy's unbelief.

These divergent interpretations produce widely differing understandings of the Islamic *casus belli* and indeed have given rise to diverse positions on the Islamic attitudes towards peace and war with others. More importantly, of the Qur'ānic disciplines discussed above, the theory of abrogation, by which it is claimed that verses 9:5 and 9:29 abrogated all the earlier Qur'ānic texts on relations with the idolaters and the People of the Book, also shaped a position in the Islamic classical juridical theory of war.

Contemporary Muslim scholars clarify the distinction between unbelief and aggression as *casus belli*. Regarding religious beliefs, they emphasise the Qur'ānic principle that “there is no compulsion in religion”.¹³² Shaltūt states that there is not a single verse in the Qur'ān that justifies war to bring about conversion to Islam, otherwise *jizyah* would not have been accepted from non-Muslims.¹³³ He explains that the Islamic *casus belli* are the prevention of aggression and religious persecution, and so fighting must cease once religious freedom is secured, and the mission to preach Islam is protected.¹³⁴ Shaltūt reiterates the same three *casus belli*

¹³² Qur'ān 2:256. See, for example, Ṭanṭāwī, “Al-Ḥukm al-Shar'ī fī Aḥdāth al-Khalīj”, pp. 65 f.; 'Abd al-'Azīz ibn 'Abd Allah ibn Muḥammad Āl al-Shaykh, “Al-Irhāb: Asbābuh wa Wasā'il al-'Ilāj”, *The Islamic Fiqh Council Journal*, Issue No. 17, 2004/1425, pp. 43 f.; Dakake, “The Myth of a Militant Islam”, pp. 69-72; Gawrych, “Jihad, War, and Terrorism”, p. 4; Adam L. Silverman, “Just War, Jihad, and Terrorism: A Comparison of Western and Islamic Norms for the Use of Political Violence”, *Journal of Church and State*, Vol. 44, 2002, p. 79.

¹³³ Shaltūt, *Al-Islām wa al-'Alāqāt al-Dawliyyah*, p. 37; Peters, trans. and ed., *Jihad in Mediaeval and Modern Islam*, pp. 49 f.; see also Abdel Haleem, *Understanding the Qur'ān*, p. 61; Badawi, “Muslim/Non-Muslim Relations”, p. 271; al-Qaraḍāwī, *Fiqh al-Jihād*, Vol. 1, pp. 299, 381.

¹³⁴ Shaltūt, *Al-Islām wa al-'Alāqāt al-Dawliyyah*, p. 38; Peters, trans. and ed., *Jihad in Mediaeval and Modern Islam*, pp. 45, 51; Riḍā, *Tafsīr al-Manār*, Vol. 2, pp. 215, 316; 'Abd al-Ḥalīm Maḥmūd, “Al-Jihād”, *Kitāb al-Mu'tamar al-Rābi' li-Majma' al-Buḥūth al-Islāmiyyah* (Cairo: Majma' al-Buḥūth al-Islāmiyyah, 1968/1388), p. 36; Fayyād, “Al-Siyāsah al-Khārijiyyah lil-Islām”, pp. 204, 206; Afīfī, *Al-Mujtama' al-Islāmī*, pp. 149-151; al-Faruqī, “Islam and Other Faiths”, p. 100; 'Abd al-Salām Bilājī, “Sharī'ah al-Harb fī al-Sīrah al-Nabawīyyah al-Sharīfah”, in Fāruq Ḥamādah, ed., *Al-Tashrī' Al-Dawlī fī Al-Islām*, Nadawāt wa Munāzarāt, No. 70 (Rabat: Kulliyah al-Ādāb wa al-'Ulūm al-Insāniyyah, 1997), pp. 116-118; al-Qaraḍāwī, *Fiqh al-Jihād*, Vol. 1, pp. 54 f., 241, 256, 289, 430-435; Youssef H. Aboul-Enein and Sherifa Zuhur, “Islamic Rulings on Warfare”, [article online]; available

as those set out by Ibn Taymiyyah (d. 728/1328) in the fourteenth century. Riḍā adds that if preachers are killed or prevented from preaching, Muslims should go to war to protect the mission to preach Islam. Furthermore, he also advises that Muslims should flee any country where they suffer from *fitnah* (religious persecution) because of their beliefs, or if they cannot express their beliefs freely, even if such a country is ruled by Muslims.

Thus, the Islamic justifications for war are closely linked to, and based on, the religion of Islam, but apart from defence against military aggression, the religious persecution of Muslims and the need to secure freedom of religion, there is no text in the Qur'ān that supports force of arms, let alone for the purpose of compelling others to accept Islam. Even those who interpret the unbelief of the idolaters as the justification for fighting them say this action was meant to be restricted to the male idolaters of Quraysh, according to Malik, or of Arabia, according to Abū Ḥanīfah.¹³⁵ This is why *jizyah* is accepted from non-Arab idolaters. This distinction between Arab and non-Arab idolaters proves that the justification for war here is the aggression, not the religious beliefs per se. Also, with reference to verse 9:29, even if the justification for fighting the People of the Book is interpreted as arising from their beliefs and not to the fact that the Byzantines were on their way to attack the Muslims associated with this incident, Islam guarantees their religious freedom and defends them against foreign aggression in return for the payment of the *jizyah* to the Muslim authorities, which also proves that conversion was not the intention here, but the subjection of the Byzantines to the authority of the Islamic state.

from <http://www.strategicstudiesinstitute.army.mil/pubs/display.cfm?pubID=588>; Internet; accessed 21 April 2009, p. 11.

¹³⁵ 'Alī ibn Muḥammad ibn Ḥabīb al-Māwardī, *Al-Ḥāwī al-Kabīr: Fī Fiqh Madhhab al-Imām al-Shāfi'ī Raḍī Allāh 'anh wa huwa Sharḥ Mukhtaṣar al-Muznī*, ed. 'Alī Muḥammad Mu'awwad and 'Ādil Aḥmad 'Abd al-Mawjūd (Beirut: Dār al-Kutub al-'Ilmiyyah, 1999), Vol. 14, p. 153; Rudolph Peters, *Islam and Colonialism: The Doctrine of Jihad in Modern History* (The Hague: Mouton, 1979), p. 36.

Whether jihād is purely defensive or, as Quṭb has it, offensively defensive, it aims to establish what is deemed by Muslims to be a just cause. However, the determination of whether a cause is just has varied throughout history according to the circumstances. Since the traditional hostility to those belonging to different religions is no longer considered a motive for enmity,¹³⁶ and after the agreement of the member states of the United Nations, as stipulated in Article One of the UN Charter, to “maintain international peace” and to settle disputes according to International Law,¹³⁷ no justification is left for any form of war if member states abide by the dictates of international law. At present, the religious freedom of Muslims is more secure in some non-Muslim countries than in a few Muslim countries, transforming the classical paradigm of Muslims versus non-Muslims. Thus in the light of the above discussion and the contemporary world situation, it can be concluded that the Qur’ānic justifications for recourse to war remain aggression and religious persecution, irrespective of the oppressor’s religion.

¹³⁶ See Karl-Wolfgang Tröger, “Peace and Islam: In History and Practice”, *Islam and Christian-Muslim Relations*, Vol. 1, No. 1, 1990, p. 20.

¹³⁷ United Nations, *Charter of the United Nations and Statute of the International Court of Justice* (Geneva: United Nations, reprint, 1997), p. 5.

CHAPTER THREE

JURIDICAL JUSTIFICATIONS FOR WAR

3.1 Introduction

The outbreaks of hostilities between the Muslims and their enemies in Medina during the Prophet's lifetime and the different interpretations of the Qur'ānic *casus belli*, studied in Chapters One and Two above respectively, were the basis on which the jurists of the second/eighth and third/ninth centuries developed the Islamic law of war. This chapter studies the justifications for war and Islamic attitudes towards non-Muslims in the classical Islamic juridical theory of international law and modern Islamic writings on the issue. It also examines how the Islamic justifications for war in classical and modern writings are presented in Western literature. The significance of studying how the Islamic justifications for war are dealt with in Western literature is that it indicates how Western scholars and policy makers view the nature of conflicts where Islam plays, or is thought to play, a role.

The area of Islamic international law is part of the science of *fiqh* (Islamic jurisprudence) dealt with in the literature under various headings such as *Siyar*, *Jihād*, *Maghāzī* (campaigns) and *Amān* (safe conduct). *Fiqh* covers seven main areas: (1) acts of worship; (2) family law; (3) financial transactions; (4) governance; (5) criminal law; (6) morality and (7) international law. The major but very common error in Western scholarship in the area of Islamic international law is the confusion between *sharī'ah* and *fiqh*. Apart from the diverse assessments of the historical instances of war during the Prophet's lifetime, and the various interpretations of the Qur'ānic texts on war, confusing *sharī'ah* with *fiqh*, has made the area of Islamic international law in Western literature the most blatant area of conflict between Islamic/insider and Western/outsider scholarship. Moreover, the Islamic law of war

was formulated by individual jurist-scholars according to their differing interpretations of the sharī'ah texts and their use of exegetical disciplines and juridical methodologies. No less importantly, as John L. Esposito points out, this formulation of the tradition of war in Islam occurred “in specific historical and political contexts.”¹ The failure to take into consideration the nature of the formulation of the Islamic law of war and to relate it to specific periods in history and the paradigm of international relations during which it emerged, explains much of the confusion about the justifications for war in Islam. Thus, this chapter argues that, in the absence of a codification of applicable Islamic law of war by a body of international Muslim jurist-scholars, much of the confusion about the justifications for war in Islam, and the nature of jihād in general, will remain.

3.2 Sharī'ah or *Fiqh*

Sharī'ah is defined as the set of laws given by God to His messengers.² Thus, Islamic sharī'ah is confined to the laws given in the Qur'ān, as the revealed word of God, and in the Sunnah/Ḥadīth of the Prophet, by virtue of some of his acts being divinely inspired. Therefore, sharī'ah “contained in God’s revelation ([Q]ur’ān and *ḥadīth*), is

¹ John L. Esposito, *Unholy War: Terror in the Name of Islam* (Oxford: Oxford University Press, 2002), p. 64.

² See H. Hamid Hassan, *An Introduction to the Study of Islamic Law* (New Delhi: Adam Publishers & Distributors, 2005), p. 3; ‘AbdulḤamid A. AbuSulayman, *Towards an Islamic Theory of International Relations: New Directions for Methodology and Thought*, 2nd & rev. ed. (Herndon, VA: International Institute of Islamic Thought, 1993/1414), p. 2; Muḥammad Ṭalaat al-Ghunaimi, *The Muslim Conception of International Law and the Western Approach* (The Hague: Martinus Nijhoff, 1968), p. 106; N. Calder, “Sharī'a”, *Encyclopaedia of Islam*, new ed., Vol. IX, p. 322; ‘Abbās Ḥusnī Muḥammad, *Al-Fiqh al-Islāmī: Afāquh wa Taṭawwuruh*, Da’wah al-Ḥaq, Issue 10 October/November 1981/Muḥarram 1402, 2nd ed. (Mecca: Muslim World League, 1993-4/1414), pp. 7-11; Ḥamdī ‘Abd al-Mun‘im Shalabī, *Fiqh al-'Ibādāt* (Damanhur: Behera Press, 2003/1424), p. 5; Muḥammad al-Disūqī, *Al-Tajdīd fī al-Fiqh al-Islāmī* (Beirut: Dār al-Madār al-Islāmī, 2006), pp. 20-23; ‘Abdur Raḥmān I. Doi, *Sharī'ah: The Islamic Law* (London: Ta Ha Publishers, 1984/1404), pp. 2-6; Irshad Abdal-Haqq, “Islamic Law: An Overview of its Origin and Elements”, *Journal of Islamic Law and Culture*, Vol. 7, Issue 1, Spring/Summer 2002, pp. 33-36.

explained and elaborated by the interpretative activity of scholars, masters of *fi[q]h*, the *fu[q]ahā*”,³ i.e., the jurists.

The word *fiqh* literally means “understanding”. Hence, the science of *fiqh* is defined as “the practical rules derived by the *mujtahids* (independent legal thinkers) from particular sources or proofs.”⁴ This means that, in this “academic discipline”,⁵ jurists, on the one hand, attempt to discover, understand,⁶ explore, describe, explain, elaborate, interpret⁷ and derive⁸ the rules of the *sharī’ah* and, on the other, exercise their independent reasoning and judgement to formulate Islamic rules for all contemporary, practical activities. In the words of Kamali, *fiqh* “is a product largely of the juristic interpretation of scholars and their understanding of the general guidance of *wahy* [revelation]”.⁹

In the process of making Islamic rules, jurists refer to (1) the Qur’ān, (2) the Sunnah and (3) *ijmā’* (consensus of opinion),¹⁰ that is, the primary sources of Islamic law. If they do not find specific guidance in these sources, they exercise their own

³ Calder, “Sharī’a”, p. 322.

⁴ Hassan, *An Introduction to the Study of Islamic Law*, p. 1. See also Ann K.S. Lambton, *State and Government in Medieval Islam: An Introduction to the Study of Islamic Political Theory: The Jurists*, London Oriental Series Vol. 36 (Oxford: Oxford University Press, 1981), p. 4; Mohammad Hashim Kamali, “*Fiqh* and Adaptation to Social Reality”, *The Muslim World*, Vol. LXXXVI, No. 1, January, 1996, p. 62; Shalabī, *Fiqh al-‘Ibādāt*, pp. 9 f.; Şubhī al-Şālihī, *Ma’ālim al-Sharī’ah al-Islāmiyyah* (Beirut: Dār al-‘Ilm lil-Malāyyn, 1975), p. 13; Muḥammad Muṣṭafā Shalabī, *Al-Fiqh al-Islāmī bayn al-Mithaliyyah wa al-Waqi’iyyah* (Beirut: Al-Dār al-Jāmi’iyyah, 1982), p. 112; Muḥammad, *Al-Fiqh al-Islāmī*, pp. 31-36, 208; al-Disūqī, *Al-Tajdīd fī al-Fiqh al-Islāmī*, p. 16; Abdal-Haqq, “Islamic Law”, pp. 36-39; Robert D. Crane, “The Essence of Islamic Law”, *The Journal of Islamic law*, Vol. 3, Fall/Winter, 1998, p. 186.

⁵ Calder, “Sharī’a”, p. 322.

⁶ Al-Ghunaimi, *The Muslim Conception*, p. 106.

⁷ Calder, “Sharī’a”, p. 322.

⁸ Bernard Weiss, “Interpretation in Islamic Law: The theory of *Ijtihād*”, *American Journal of Comparative Law*, Vol. 26, No. 2, 1978, pp. 199 f.

⁹ Kamali, “*Fiqh* and Adaptation to Social Reality”, p. 64.

¹⁰ See, on *ijmā’*, for example, A.M. Naqeshbandi, “The Doctrine of Consensus (*Ijmā’*) in Islamic Law” (PhD thesis, The Faculty of Law, University of London, 1958); Ahmad Hasan, *The Doctrine of Ijmā’ in Islam*, 2nd reprint (Islamabad: Islamic Research Institute, 1991); Lambton, *State and Government in Medieval Islam*, pp. 10-12; Mahdi Zahraa, “Unique Islamic Law Methodology and the Validity of Modern Legal and Social Science Research Methods for Islamic Research”, *Arab Law Quarterly*, Vol. 18, No. 3/4, 2003, pp. 234-236; ‘Abd al-Karīm Zidān, *Al-Wajīz fī Uṣūl al-Fiqh*, 5th ed. (Beirut: Mu’assasah al-Risālah, 1996/1417), pp. 179-193; ‘Abd al-Wahhāb Khallāf, *‘Ilm Uṣūl al-Fiqh* (Cairo: Dār al-Hadīth, 2003/1423), pp. 50-58; Muḥammad Ṭalaat al-Ghunaimi, *Qānūn al-Salām fī al-Islām* (Alexandria, Egypt: Munsha’ah al-Ma’ārif, 2007), pp. 155-167.

ijtihād (reasoning or judgement in making laws).¹¹ Here, jurists have developed a number of methods and methodologies for applying what are called secondary sources: (4) *qiyās* (analogy); (5) *istihsān* (juristic/public preference); (6) *maṣāliḥ mursalah* (public interest); (7) *sadd al-dharā'i'* (blocking the means, that is, preventing the occurrence of something evil, though it also extends to include facilitating the occurrence of something good); (8) *shar' man qablanā* (sharī'ahs of religions before Islam); (9) *qawl al-ṣaḥābī* (i.e., the opinions of the Companions of the Prophet); (10) *'urf* (custom) and (11) *istiṣḥāb* (the continuation of the applicability of a rule which was accepted in the past, unless new evidence supports a change in its applicability).¹²

Thus, in the words of N. Calder, *fiqh* “designates a human activity, and cannot be ascribed to God or (usually) the Prophet.”¹³ Indeed, *fiqh*, as insightfully observed by Schacht, is “the interpretation of a religious ideal not by legislators but by scholars, and the recognized handbooks of the several schools are not ‘codes’ in the Western meaning of the term. Islamic law is a ‘jurists’ law’ par excellence: Islamic jurisprudence did not grow out of an existing law, it itself created it.”¹⁴ Therefore, Islamic law uniquely developed as an accumulation of scholarly

¹¹ See Wael B. Hallaq, “Was the Gate of Ijtihād Closed?”, *International Journal of Middle Eastern Studies*, Vol. 16, No. 1, Mar. 1984, pp. 3 f.

¹² See, for example, ‘Abd al-Wahhāb Khallāf, *Maṣādir al-Tashrī' al-Islāmī fīmā lā Naṣṣ fih*, 6th ed. (Kuwait: Dār al-Qalam, 1993/1414), pp. 19-176; Hassan, *An Introduction to the Study of Islamic Law*, pp. 138-243; Muhammad Hashim Kamali, *Principles of Islamic Jurisprudence*, 3rd rev. & enl. ed. (Cambridge: Islamic Texts Society, 2003), pp. 16-409; Zahraa, “Unique Islamic Law Methodology”, pp. 236-248; Doi, *Sharī'ah: The Islamic Law*, pp. 21-84; Shalabī, *Al-Fiqh al-Islāmī*, pp. 115-206; Abdal-Haqq, “Islamic Law”, pp. 54-58.

¹³ Calder, “Sharī'a”, p. 322.

¹⁴ Joseph Schacht, “Fikḥ”, *Encyclopaedia of Islam*, New ed., Vol. II, p. 891. See also Joseph Schacht, “Problems of Modern Islamic Legislation”, *Studia Islamica*, No. 12, 1960, pp. 108, 110; Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon Press, 1964, reprint 1996), p. 5; G.M. Badr, “A Survey of Islamic International Law”, *Proceedings of the American Society of International Law*, Vol. 76, 1982, p. 56; Ann Elizabeth Mayer, “The Sharī'ah: A Methodology or a Body of Substantive Rules?”, in Nicholas Heer, ed., *Islamic Law and Jurisprudence* (Seattle: University of Washington Press, 1990), pp. 177-198; Sherman A. Jackson, “Domestic Terrorism in the Islamic Legal Tradition”, *The Muslim World*, Vol. 91, Issue 3-4, September 2001, p. 294; Sherman A. Jackson, “Jihad and the Modern World”, *Journal of Islamic Law and Culture*, Vol. 7, No. 1, 2002, p. 3.

contributions by individual jurists who did or did not belong to different, equally authoritative schools of law (*madhāhib*, sing. *madhhab*) and thus it was not created by the Islamic state.¹⁵ The emergence of several schools of law, some of which survive to the present day, and the formulation and adoption of diverse rules, testify to this fact. But it was left for the Islamic state and judges, as well as to individual Muslims, in the various parts of the Muslim world throughout history, to follow a certain school of law or to select rules from more than one school and from the contributions of a number of jurists.

One of the reasons for the confusion in the current literature on the Islamic law of war is that it makes no distinction between the laws that are part of the *sharī'ah* and the laws based on an interpretation of the *sharī'ah*, or the set of laws that are purely the jurists' judgements based on juridical methodologies or made in accordance with the interests of the circumstances of the Islamic state at the time. The significance of the simple, but crucial, mistake of confusing *sharī'ah* with *fiqh* is that it turns the individual contributions of the jurists of certain periods and historical circumstances, who developed the body of Islamic rules that govern relations with non-Muslims, into an allegedly sacred and unchangeable *sharī'ah*, i.e., divine law, as

¹⁵ According to the words of Sherman A. Jackson, "Islamic law represents what some scholars have referred to as an extreme case of 'jurists' law.' Being neither the product nor the preserve of the early Islamic state, it developed in conscious opposition to the latter. Private Muslims in pious devotion to the study of scripture, during the first two centuries of Islam, succeeded in gaining the community's recognition for their interpretive efforts as constituting the most authentic representation of divine intent." See Jackson, "Domestic Terrorism in the Islamic Legal Tradition", p. 294. It is also worth quoting here Muhammad Abdel Haleem who explains that "Any opinions arrived at by individual scholars or schools of Islamic law, including the recognised four Sunni schools, are no more than opinions. The founders of these schools never laid exclusive claim to the truth, or invited people to follow them rather than any other scholars. Western writers often take the views of this or that classical or modern Muslim writer as 'the Islamic view', presumably on the basis of assumptions drawn from the Christian tradition, where the views of people like St Augustine or St Thomas Aquinas are often cited as authorities." See Muhammad Abdel Haleem, *Understanding the Qur'an: Themes and Style* (London: Tauris, 1999), p. 59. See also David Bonderman, "Modernization and Changing Perceptions of Islamic Law", *Harvard Law Review*, Vol. 81, No. 6, April, 1968, p. 1174; Abdullahi Ahmed An-Na'im, "Sharī'a in the Secular State: A Paradox of Separation and Conflation", in Peri Bearman, Wolfhart Heinrichs and Bernard G. Weiss, eds., *The Law Applied: Contextualizing the Islamic Sharī'a, A Volume in Honor of Frank E. Vogel* (London: I.B. Tauris, 2008), pp. 325 f.

if this were the Muslim position. Thus, Irshad Abdal-Haqq rightly warns that “designating [*fiqh*] as part of the Shari’ah, per se, certainly blurs the line between the infallibility of revealed knowledge (Qur’ān) and its demonstration by Muhammad (Sunnah), [i.e., Shari’ah] and fallible attempts by man to infer, deduce and apply the principles of revealed knowledge through *ijtihad* or otherwise [i.e., *fiqh*].”¹⁶ This stark contradiction and confusion could have been avoided to a great extent if Schacht’s observation that the jurists’ interpretations and rules are scholarly judgements, not “codes” in the Western sense, had been taken into consideration. Unfortunately, that has not been the case.

To give a few examples of this confusion in the writings of two renowned scholars, Majid Khadduri (1909-2007) repeatedly refers to *siyar* (the classical juridical theory of international law) as “part of the shari’a[h]”¹⁷ or “an extension of the sacred law, the shari’a[h]”.¹⁸ He confirms that *siyar* “was the shari’a[h] writ large.”¹⁹ He even adds that, because of his extensive writing on *siyar*, “Shaybānī made a contribution to the shari’a[h]”.²⁰ Nevertheless, Khadduri contradicts this statement twice. First, he says: “The classical theory of Islamic law of nations is found neither in the Qur’ān nor in the Prophet’s utterances, though its basic assumptions were derived from these authoritative sources; it was rather the product of Islamic juridical speculation at the height of Islamic power.”²¹ And in addition

¹⁶ Abdal-Haqq, “Islamic Law”, p. 37. On al-Mawdūdī’s warning of the confusion between shari’ah with *fiqh*, see Anis Ahmad, “Mawdūdī’s Conception of *Shari’ah*”, *The Muslim World*, Vol. 93, No. 3 & 4, July/ October, 2003, p. 540.

¹⁷ Majid Khadduri, *War and Peace in the Law of Islam* (Baltimore, MD.: Johns Hopkins University Press, 1955), p. 47.

¹⁸ Majid Khadduri, trans., *The Islamic Law of Nations: Shaybānī’s Siyar* (Baltimore, MD.: Johns Hopkins Press, 1966), p. 6.

¹⁹ *Ibid.*

²⁰ *Ibid.*, p. 56.

²¹ *Ibid.*, p. 19. This statement is almost worded the same as follows: “The Islamic theory of international relations is to be found neither in the Qur’ān nor in the Prophet Muḥammad’s utterances, though its basic assumptions were derived from these authoritative sources. It was rather the product of Muslim speculation at a time when the Islamic Empire had reached its full development”, see

Khadduri indicates that the rules of Islamic international law consist of the formulations of the Islamic state's relations with non-Muslim states, including treaties, official decrees of Muslim leaders and the opinions of jurists. This leads him to conclude that the sources of Islamic international law "conform to the same categories defined by modern jurists and [identified in Article 38 of] the Statute of the International Court of Justice, namely, agreement, custom, reason, and authority".²² Since these methods of formulating the basic theory of international law inevitably lead to changes in the law because of the changes in international society arising from states of peace and war, Khadduri indicates that such modifications were "derived not from religious doctrine but from common interest".²³ Thus, Mahdi Zahraa rightly states that *siyar* "is not *ab initio* representative of Islamic law, but rather is a collection of views and opinions that should be assessed in the light of the *Qur'ān*, the *Sunnah* and the contingencies of time and place."²⁴

Another typical example of this confusion in the study of "war and peace" in Islam is the following statement by Bernard Lewis: "The *sharī'a*[h] is simply the law, and there is no other [emphasis added]. It is holy in that it derives from God, and is the external and unchangeable expression of God's commandments to

Majid Khadduri, "The Islamic Theory of International Relations and Its Contemporary Relevance", in J. Harris Proctor, ed., *Islam and International Relations* (London: Pall Mall Press, 1965), p. 29.

²² Khadduri, *War and Peace*, pp. 47 f. See also Ali Raza Naqvi, "Laws of War in Islam", *Islamic Studies*, Vol. XIII, No. 1, March 1974, p. 26; Syed Sharifuddin Pirzada, "Islam and International Law", in Altaf Gauhar, ed., *The Challenge of Islam* (London: Islamic Council of Europe, 1978), p. 199; Seif Ahmed El-Wady Romahi, *Studies in International Law and Diplomatic Practice: With Introduction to Islamic Law* (Tokyo: Data Labo Inc., 1980), p. 49; Karima Bennoune, "As-Salāmū 'Alaykum? Humanitarian Law in Islamic Jurisprudence", *Michigan Journal of International Law*, Vol. 15, Winter 1994, pp. 613 f.; Hilmi M. Zawati, "Just War, Peace and Human Rights under Islamic and International Law" (M.A. thesis, McGill University, 1997), p. 7; Yassin El-Ayouty, "International Terrorism under the Law", *ILSA Journal of International & Comparative Law*, Vol. 5, 1999, p. 488; Troy S. Thomas, "Jihad's Captives: Prisoners of War in Islam", *U.S. Air Force Academy Journal of Legal Studies*, Vol. 12, 2003, p. 89.

²³ Khadduri, "The Islamic Theory of International Relations and Its Contemporary Relevance", p. 33.

²⁴ Mahdi Zahraa, "Characteristic Features of Islamic Law: Perceptions and Misconceptions", *Arab Law Quarterly*, Vol. 15, No. 2, 2000, p. 191.

mankind.”²⁵ In the next sentence, he discusses what he calls “holy war”, referring to jihād, which for him is a war commanded by the Islamic faith “to convert or at least to subjugate those who have not [been converted].”²⁶ Until Muslims fulfil this obligation, he adds, the world is divided in two: the house of Islam (*dār al-Islām*) and the house of war (*dār al-ḥarb*).²⁷ Therefore, according to Lewis’ definitions of sharī’ah and jihād, and it is to be noted that he ignores here the third division, namely, the house of peace (*dār al-ṣulḥ*) or the house of covenant (*dār al-’ahd*),²⁸ non-Muslims will be the permanent target of Muslim aggression.

Moreover, Lewis’ remark in his definition of sharī’ah as “simply the law, and there is no other”, ignores the whole process of Islamic legislation, and the eleven sources of law referred to above. While these sources include divine laws, as given in the Qur’ān or the Prophet’s Sunnah, it also includes, among other sources, the consensus of opinion of the jurists/the nation,²⁹ analogy, custom, the public interest of the nation, and even the divine laws of both Judaism and Christianity, etc. In other words, it includes almost all the possible sources for any legal system.

Here Lewis mistakes sharī’ah for *fiqh*, the main body of Islamic law. For example, while he is right in referring to sharī’ah as derived from God, as Muslim scholars define it, it is not clear how he would then reconcile this with another of his definitions of sharī’ah as: “the Holy Law, which deals extensively with the acquisition and exercise of power, the nature of legitimacy and authority, the duties

²⁵ Bernard Lewis, *The Political Language of Islam* (Chicago: University of Chicago Press, 1988), p. 72.

²⁶ *Ibid.*, p. 73. See also Lambton, *State and Government in Medieval Islam*, p. 201.

²⁷ Lewis, *The Political Language of Islam*, p. 73; see also his *The Crisis of Islam: Holy War and Unholy Terror* (New York: The Modern Library, 2003), p. 31.

²⁸ In page 80 of his *The Political Language of Islam*, Lewis says: “Some-by no means all-jurists even recognize an intermediate zone”, and in page 42 of his *The Crisis of Islam*, he says: “In certain periods, jurists recognized an intermediate status”.

²⁹ Some Scholars argue that the consensus refers to the consensus of opinions of the Muslim scholars and others restrict it to the *mujtahids*, although maintain that it refers to the consensus of *ahl al-ḥall wa al-’aqd* (the body of those who bind and loose). However, al-Ghunaimi argues that it means the consensus of the whole *ummah*, see al-Ghunaimi, *Qānūn al-Salām fī al-Islām*, pp. 156-165.

of ruler and subject, in a word, with what we in the West would call constitutional law and political philosophy.”³⁰ This unreasonable claim that God deals extensively with all these matters of constitutional and political philosophy shows the extent of his misunderstanding of the basics of Islamic law.

In fact, Islamic jurisprudence is the culmination of Islamic thought³¹ in matters relating to the practical aspects of religious, economic, civil and political issues. It reflects the religious, legal, moral and ethical thought of Muslims throughout history.³² Nonetheless, it does not necessarily reflect the full reality of Muslim history. More importantly here, although different approaches have been taken to the discussion of particular aspects of war in various Islamic genres, such as the *Sīrah*, *Tafsīr*, *Ḥadīth* and historical literatures, it is the classical Muslim jurists who developed the formulation of the law of war in Islam. Therefore, as Hashmi rightly points, it is *fiqh* that “has historically defined Muslim discourse on war and peace.”³³ However, writing in 1964, Schacht states: “The [Western] scholarly

³⁰ Lewis, *The Crisis of Islam*, p. 8. In stark contradiction to Lewis, Bonderman states that sharī‘ah “was virtually silent in the field of public law”. See Bonderman “Modernization and Changing Perceptions of Islamic Law”, p. 1175.

³¹ See Yūsuf al-Qaradāwī, *Al-Fiqh al-Islāmī bayn al-Aṣālah wa al-Tajdīd*, 2nd ed. (Cairo: Maktabah Wahbah, 1999/1419), p. 5; Yūsuf al-Qaradāwī, *Fiqh al-Jihād: Dirāsah Muqāranah li-Aḥkāmih wa Falsafatih fī Daw’ al-Qur’ān wa al-Sunnah* (Cairo: Maktabah Wahbah, 2009), Vol. 2, p. 880; Ali Ahmad, “The Role of Islamic Law in the Contemporary World Order”, *Journal of Islamic Law and Culture*, Vol. 6, 2001, p. 161. According to the words of Hashmi, “The [Islamic] legal tradition has historically dominated Islamic intellectual life”, see Sohail H. Hashmi, “Islam, Sunni”, *Encyclopedia of Religion and War*, ed., Gabriel Palmer-Fernandez (New York: Routledge, 2004), p. 218.

³² Abdulaziz A. Sachedina, “The Development of *Jihad* in Islamic Revelation and History”, in James Turner Johnson and John Kelsay, eds., *Cross, Crescent, and Sword: The Justification and Limitation of War in Western and Islamic Tradition* (New York: Greenwood Press, 1990), p. 48; see also Khaled Abou El Fadl, “*Ahkam al-Bughat*: Irregular Warfare and the Law of Rebellion in Islam”, in James Turner Johnson and John Kelsay, eds., *Cross, Crescent, and Sword: The Justification and Limitation of War in Western and Islamic Tradition* (New York: Greenwood Press, 1990), p. 151.

³³ Sohail H. Hashmi, “Interpreting the Islamic Ethics of War and Peace”, in Sohail H. Hashmi, ed., *Islamic Political Ethics: Civil Society, Pluralism, and Conflict* (Princeton: Princeton University Press, 2002), p. 195; Rudolph Peters, *Islam and Colonialism: The Doctrine of Jihad in Modern History* (The Hague: Mouton, 1979), p. 9; Muḥammad, *Al-Fiqh al-Islāmī*, p. 206; Fred McGraw Donner, “The Sources of Islamic Conceptions of War”, in John Kelsay and James Turner Johnson, eds., *Just War and Jihad: Historical and Theoretical Perspectives on War and Peace in Western and Islamic Traditions* (Westport, Conn.: Greenwood Press, 1991), p. 32; Louay M. Safi, *Peace and the Limits of War: Transcending the Classical Conception of Jihad*, 2nd ed. (London: International Institute of Islamic Thought, 2003), p. 5; Hadia Dajani-Shakeel, “A Reassessment of Some Medieval and Modern Perceptions of the Counter-Crusade”, in Hadia Dajani-Shakeel and Ronald A. Messier, eds., *The*

investigation of Islamic law is still in its beginnings. This comes partly from the infinite variety and complexity of the subject.”³⁴ Moreover, in 2000 Zahraa concluded that there was a lack of sufficient materials written in English which could “giv[e] non-Muslims an understanding of what Islamic law really is and to familiarise non-Muslims with it.”³⁵ These statements indicate some of the other problems in the study of war in Islamic law in Western literature, in addition to the confusion between *sharī’ah* with *fiqh*. Understanding the nature and methodologies of Islamic law, as well as the paradigm of international relations in the period when classical Islamic law was formulated are prerequisites for studying the justifications for war in Islam.

3.3.1 Jihād

The word jihād, which is the term generally used for ‘war’ in Islamic legal texts, is derived from the verb *jāhad* (present, *yujāhid*) meaning to exert great effort or strive to achieve a laudable goal, either by doing something good or by abstaining from doing something bad. Jihād is thus a broad concept that refers to acts related to both oneself and others. Advising rulers to stop their tyranny is the highest degree of jihād. The Prophet Muḥammad said: “The best [type of] jihād is a word of truth to a tyrant ruler.”³⁶ According to another ḥadīth, supporting one’s parents is also an

Jihād and its Times: Dedicated to Andrew Stefan Ehrenkretz, Michigan Series on the Middle East, No. 4 (Ann Arbor: University of Michigan, Center for Near Eastern and North African Studies, 1991), p. 44.

³⁴ Schacht, *An Introduction to Islamic Law*, p. 5.

³⁵ Zahraa, “Characteristic Features of Islamic Law”, p. 168.

³⁶ See, for example, Aḥmad ibn ‘Alī ibn Ḥajar al-‘Asqalānī, *Fath al-Bārī Sharḥ Ṣaḥīḥ al-Bukhārī*. ed. Muḥib al-Dīn al-Khaṭīb (Beirut: Dār al-Ma‘rifah, n.d.), Vol. 13, p. 53; Ḥadīths numbers 5510, 5511 and 5512 in ‘Alā al-Dīn ‘Alī al-Muttaqī ibn Ḥusām al-Dīn, *Kanz al-‘Ummāl fī Sunan al-Aqwāl wa al-Af‘āl*, ed. Maḥmūd ‘Umar al-Dumyāṭī (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1998/1419), Vol. 3, p. 30; Ḥadīth number 18850 in Aḥmad ibn Ḥanbal, *Musnad al-Imām Aḥmad Ibn Ḥanbal* (Cairo: Mu’assasah Qurṭubah, n.d.), Vol. 4, p. 315; Badr al-Dīn Maḥmūd ibn Aḥmad al-‘Aynī, *Umdah al-Qārī: Sharḥ Ṣaḥīḥ al-Bukhārī* (Beirut: Dār Iḥyā’ al-Turāth al-‘Arabī, n.d.), Vol. , p. 224, Vol. 15, p. 166; Ḥadīth number 7834 in Aḥmad ibn Shu‘ayb al-Nasā’ī, *Sunan al-Nasā’ī al-Kubrā*, ed. ‘Abd al-Ghaffār Sulaymān al-Bindārī and Sayyid Kasrawī Ḥasan (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1991/1411), Vol.

example of jihād.³⁷ Therefore, Justice Jamāl al-Dīn Maḥmūd, former deputy chief justice of the Court of Cassation of Egypt and member of the Islamic Research Council, proudly points out that Islam is the only religion that calls just war “jihād”, i.e., striving to establish a just cause.³⁸ Jurists of the four schools of Islamic law expressed their definitions of jihād in the context of the Islamic law of war in different words. According to the Ḥanafī jurists, jihād means exerting one’s utmost effort in fighting in the path of God either by taking part in battle or by supporting the army financially or by the tongue.³⁹ For the Mālīkīs, jihād means exerting one’s utmost effort in fighting against a non-Muslim enemy with whom Muslims have no peace agreement in order to raise the word of God, i.e., to convey or spread the

4, p. 435; Ḥadīth number 4209 in Aḥmad ibn Shu‘ayb al-Nasā’ī, *Al-Muḥtabā min al-Sunan*, ed. ‘Abd al-Fattāḥ Abu Ghuddah, 2nd ed. (Aleppo: Maktab al-Maṭbū‘āt al-Islāmiyyah, 1986/1406), Vol. 7, p. 161; Muḥammad al-Ghazālī, *Iḥyā’ ‘Ulūm al-Dīn* (Beirut: Dār al-Ma‘rifah, n.d.), Vol. 2, p. 343; Aḥmad ibn ‘Alī al-Rāzī al-Jaṣās, *Aḥkām al-Qur’ān*, ed. Muḥammad al-Ṣādiq Qamḥawī (Beirut: Dār Iḥyā’ al-Turāth al-‘Arabī, 1984-5/1405), Vol. 1, p. 328, Vol. 2, p. 287, Vol. 4, p. 43; Muḥammad ibn Mufliḥ, *Al-Furū’*, ed. Abī al-Zahrā’ Ḥāzim al-Qādī (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1997/1418), Vol. 1, p. 516.

³⁷ According to Yūsuf al-Qaraḍāwī, seeking to excel in one’s education and work are also examples of jihād, see Muhammad Hashim Kamali, “Issues in the Understanding of *Jihād* and *Ijtihād*”, *Islamic Studies*, Vol. 41, No. 4, 2002/1423, pp. 622 f. See also Abdulrahman Muhammad Alsumaih, “The Sunni Concept of Jihad in Classical Fiqh and Modern Islamic Thought” (PhD thesis, University of Newcastle Upon Tyne, 1998), pp. 6, 257, 369; Radwan A. Masmoudi, “Struggles Behind Words: Shariah Sunnism, and Jihad”, *SAIS Review*, Vol. XXI, No. 2, Summer-Fall 2001, p. 23; Yahiya Emerick, “What is the Position of Islam on War and Conflict?”, available from <http://www.themodernreligion.com/jihad/def-emerick.html>; Internet; accessed 21 July 2008.

³⁸ Jamāl al-Dīn Maḥmūd, “Al-Jihād wa Akhlāqīyyāt al-Ḥarb fī al-Islām”, *Tolerance in the Islamic Civilization*, Researches and Facts, the Sixteenth General Conference of the Supreme Council for Islamic Affairs (Cairo: Supreme Council for Islamic Affairs, 2004/1425), p. 847.

³⁹ See, for example, ‘Alā al-Dīn al-Kāsānī, *Badā’i’ al-Ṣanā’i’ fī Tartīb al-Sharā’i’*, 2nd ed. (Beirut: Dār al-Kitāb al-‘Arabī, 1982), Vol. 7, p. 97; Zayd al-Dīn ibn Najīm, *Al-Baḥr al-Rā’iq Sharḥ Kanz al-Daqā’iq*, 2nd ed. (Beirut: Dār al-Ma‘rifah, n.d.), Vol. 5, p. 76; al-Shaykh Nizām, and a group of Indian scholars, *Al-Fatāwā al-Hindiyyah: Fī Madhhab al-Imām al-A‘zam Abī Ḥanīfah al-Nu‘mān* (N.p.: Dār al-Fikr, 1991/1411), Vol. 2, p. 188; ‘Abd Allah Ghawshah, “Al-Jihād Ṭarīq al-Naṣr”, *Kitāb al-Mu’tamar al-Rābi’ li-Majma’ al-Buḥūth al-Islāmiyyah* (Cairo: Majma’ al-Buḥūth al-Islāmiyyah, 1968/1388), p. 184; Muḥammad ‘Abd al-Laṭīf al-Subkī, “Al-Jihād fī al-Islām”, *Kitāb al-Mu’tamar al-Rābi’ li-Majma’ al-Buḥūth al-Islāmiyyah* (Cairo: Majma’ al-Buḥūth al-Islāmiyyah, 1968/1388), pp. 277-280; Wahbah al-Zuhaylī, *Āthār al-Ḥarb fī al-Islām: Dirāsah Muqāranah*, 3rd ed., (Damascus: Dār al-Fikr, 1998/1419), p. 33; Muḥammad Khyr Haykal, *Al-Jihād wa al-Qitāl fī al-Siyyāsah al-Shar‘iyyah*, 2nd ed. (Beirut: Dār al-Bayāriq, 1996/1417), Vol. 1, p. 44; Aḥmad Maḥmūd Krīmāh, *Al-Jihād fī al-Islām: Dirāsah Fiqhiyyah Muqāranah* (Cairo: Al-Dār al-Handasiyyah, 2003/1424), p. 110; Alsumaih, “The Sunni Concept of Jihad”, p. 14.

message of Islam.⁴⁰ The Shāfi‘īs define jihād as fighting in the path of God,⁴¹ while the Ḥanbalīs simply define it as fighting against unbelievers.⁴²

In fact, the terms used in the definitions above such as “fighting against unbelievers”, “in the path of God” or “to raise the word of God”, have all contributed to the misrepresentation of jihād by some as holy war against non-Muslims. But the jurists agree that there are two kinds of jihād: *jihād al-daf‘* (defensive war) which is a *farḍ ‘ayn* (personal duty of every capable person) and *jihād al-ṭalab* (offensive or pre-emptive war initiated by Muslims in non-Muslim territories) which is a *farḍ kifāyah* (collective duty on the Muslims, which may be fulfilled if sufficient numbers perform it). Jihād becomes a *farḍ ‘ayn* when the enemy invades Muslim territory, while it is a *farḍ kifāyah* if it occurs outside Muslim territory.⁴³ The decision to initiate war must be taken by the legitimate authority.⁴⁴

⁴⁰ Muḥammad ibn Muḥammad ibn ‘Abd al-Raḥmān al-Ḥaṭṭāb, *Mawāhib al-Jalīl li-Sharḥ Mukhtaṣar Khalīl*, 2nd ed. (Beirut: Dār al-Fikr, 1977-8/1398), Vol. 3, p. 347; Aḥmad ibn Ghunaym ibn Sālim al-Nafarāwī, *Al-Fawākih al-Dawānī ‘alā Risālah Ibn Abī Zayd al-Qayrawānī* (Beirut: Dār al-Fikr, 1994-5/1415), Vol. 1, p. 395; al-Zuḥaylī, *Āthār al-Ḥarb fī al-Islām*, p. 33; Haykal, *Al-Jihād wa al-Qitāl*, Vol. 1, p. 44; Krīmah, *Al-Jihād fī al-Islām*, p. 110; Alsumaih, “The Sunni Concept of Jihad”, p. 14.

⁴¹ Al-Zuḥaylī, *Āthār al-Ḥarb fī al-Islām*, p. 33; Haykal, *Al-Jihād wa al-Qitāl*, Vol. 1, p. 44; Krīmah, *Al-Jihād fī al-Islām*, p. 110; Alsumaih, “The Sunni Concept of Jihad”, p. 14.

⁴² Maṣṣūr ibn Yūnus ibn Idrīs al-Buhūtī, *Kashshāf al-Qinā’ ‘an Matn al-Iqnā’*, ed. Hilāl Miṣīlḥī Muṣṭafā Hilāl (Beirut: Dār al-Fikr, 1981-2/1402), Vol. 3, p. 32; Muṣṭafā al-Suyūṭī al-Rahaybānī, *Maṭālib Ulī al-Nuhā fī Sharḥ Ghāyah al-Muntahā* (Damascus: Al-Maktab al-Islāmī, 1961), Vol. 2, p. 497; Abd al-Raḥman ibn ‘Abd Allah al-Ba‘lī, *Kashf al-Mukhaddarāt wa al-Riyāḍ al-Muzhirāt li-Sharḥ Akḥṣar al-Mukhtaṣarāt*, ed. Muḥammad ibn Nāṣir al-‘Ajāmī (Beirut: Dār al-Bashā’ir al-Islāmiyyah, 2002/1423), Vol. 1, p. 343; Krīmah, *Al-Jihād fī al-Islām*, p. 110; Alsumaih, “The Sunni Concept of Jihad”, p. 14.

⁴³ See, for example, Muḥyī al-Dīn ibn Sharaf al-Nawawī, *Minḥāj al-Ṭālibīn wa ‘Umdah al-Muḥṭin*, ed. Muḥammad Muḥammad Ṭāhir Sha‘bān (Jeddah: Dār al-Minhāj, 2005/1426), p. 518; Yūsuf ibn ‘Abd al-Barr, *Al-Kāfī fī Fiqh Ahl al-Madīnah* (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1986-7/1407), p. 205; Zakariyyā ibn Muḥammad ibn Aḥmad ibn Zakariyyā al-Anṣārī, *Faṭḥ al-Wahhāb bi-Sharḥ Manhaj al-Ṭullāb* (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1997-8/1418), Vol. 2, pp. 296-298; Zakariyyā ibn Muḥammad ibn Aḥmad ibn Zakariyyā al-Anṣārī, *Manhaj al-Ṭullāb* (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1997-8/1418), pp. 130 f.; Muḥammad al-Ghazālī, *Al-Waṣīṭ fī al-Madhhab*, ed. Aḥmad Maḥmūd Ibrāhīm and Muḥammad Muḥammad Tāmīr (Cairo: Dār al-Salām, 1997/1417), Vol. 7, pp. 5-12; al-Rahaybānī, *Maṭālib*, Vol. 2, p. 07; Maṣṣūr ibn Yūnus ibn Idrīs al-Buhūtī, *Al-Rawḍ al-Murbi’: Sharḥ Zād al-Mustaḥṣinī* (Riyadh: Maktabah al-Riyadh al-Ḥadīthah, 1970-1/1390), Vol. 2, p. 3; al-Buhūtī, *Kashshāf al-Qinā’*, Vol. 3, pp. 33 f.; Mohamed Mokbel Mahmud Elbakry, “The Legality of ‘War’ in Al-Shari‘a Al-Islamiya (The Islamic Law) and Contemporary International Law: Comparative Study” (PhD thesis, University of Glasgow, 1987), pp. 241 f.; al-Qaradāwī, *Fiqh al-Jihād*, Vol. 1, pp. 54 f., 64-114, 240, 411 f.

⁴⁴ See, for example, Muḥammad Sa‘īd Ramaḍān al-Būṭī, *Al-Jihād fī al-Islām: Kayf Nafhamuh? Wa Kayf Numārisuh?*, 5th ed. (Damascus: Dār al-Fikr, 2006/1427), pp. 112, 114-117; Jamal Badawi,

3.3.2 Types of Jihād

Jihād in the sense of personal moral struggle is called *al-jihād al-akbar* (the greater jihād). It is divided into what is called “jihād against the self” and “jihād against the devil”.⁴⁵ Jihād in the sense of an armed, state struggle is called *al-jihād al-aṣghar* (the lesser jihād) and falls into two main kinds: international and domestic jihād. International jihād, the most commonly referred to, is what the jurists sometimes called jihād against *al-kuffār* (unbelievers) or *jihād fī sabīl Allah* (jihād in the path of God), i.e., war with the non-Muslim states. In fact, by the very nature of the structure of the Islamic state, any armed jihād against *al-kuffār* is an international war. This is because, until the abolition of the caliphate on 3 March 1924, Muslims had been, at least theoretically united under one state. Thus, historically and/or theoretically, any jihād which occurred between the Islamic state and its enemies was a war between Muslims and their enemies, misleadingly labelled *kuffār*. But this does not mean that such war was necessarily motivated by the enemies’ *kufr* (unbelief) because, historically and/or theoretically, *kuffār* were part of the Islamic state, which had legalized and practised the conclusion of peace treaties and non-aggression pacts with these *kuffār*, i.e., non-Muslim states and other forms of political or religious entities.

Domestic jihād, the subject of Chapter Five, is divided into four types: (1) fighting against *bughāh* (rebels, secessionists); (2) fighting against *muḥāribūn/quṭṭā’ al-ṭarīq* (bandits, highway robbers, pirates); (3) fighting against *ahl al-riddah*

“Muslim/Non-Muslim Relations: Reflections on some Qur’ānic Texts”, *Scientific Review of the European Council for Fatwa and Research*, No. 6, January 2005/Dhū al-Ḥijjah 1425, p. 269; Katerina Dalacoura, “Violence, September 11 and the Interpretations of Islam”, in Mashood A. Baderin, ed., *International Law and Islamic Law* (Aldershot: Ashgate, 2008), p. 236.

⁴⁵ See al-Qaraḍāwī, *Fiqh al-Jihād*, Vol. 1, pp. 52, 143-168.

(apostates) and (4) fighting against *khawārij* (roughly translated as violent religious fanatics).⁴⁶

The concern of this chapter is with the Islamic justifications for international war, i.e., *jihād* against non-Muslim states. Two factors explain much of the controversy over the justifications for war in Islam between the insider and outsider. First, as several scholars have pointed out, classical Muslim jurists paid little attention to the Islamic *jus ad bellum* (justifications for resorting to war).⁴⁷ Second, there has been much misunderstanding of the role of the religion of Islam in the justifications for war, let alone the terms used in the definitions of *jihād* above. As indicated above, all the various practical aspects of life were discussed by Muslim jurists within Islamic jurisprudence. The five types of the armed *jihād*, whether within the Islamic state or against other states, are based on either religious, political or criminal grounds. Even when a war in these cases is waged on religious grounds, an investigation is still to be made to determine whether it is just or not. In other words, as Johnson points out, “Despite the invoking of religious authority of war, the causes of the wars in question were essentially temporal; despite being termed *jihād*, they were wars of the state, not wars of religion.”⁴⁸

⁴⁶ See al-Zuhaylī, *Āthār al-Ḥarb fī al-Islām*, pp. 59 f.; Khadduri, *War and Peace*, pp. 74- 82; Hilmi M. Zawati, *Is Jihad a Just War? War, Peace, and Human Rights under Islamic and Public International Law*, Studies in Religion and Society, Vol. 53 (Lewiston, NY: Edwin Mellen Press, 2001), pp. 29-39; Muḥammad Ibrāhīm ‘Abd Allah al-Twajrī, *Mukhtaṣar al-Fiqh al-Islāmī* (Riyadh: Dār al-Ma’rāj al-Dawliyyah, 2000/1421), pp. 837 f.; Lambton, *State and Government in Medieval Islam*, p. 211. See Chapter Five.

⁴⁷ Rudolph Peters, *Jihad in Classical and Modern Islam* (Princeton: Markus Wiener, 1996), p. 119; Khaled Abou El Fadl, “The Rules of Killing at War: An Inquiry into Classical Sources”, *The Muslim World*, Vol. LXXXIX, No. 2, April, 1999, p. 150; Khaled Abou El Fadl, “Islam and the Theology of Power”, *Middle East Report*, No. 221, Winter 2001, p. 30; Ann Elizabeth Mayer, “War and Peace in the Islamic Tradition and International Law”, in John Kelsay and James Turner Johnson, eds., *Just War and Jihad: Historical and Theoretical Perspectives on War and Peace in Western and Islamic Traditions* (Westport, Conn.: Greenwood Press, 1991), p. 197; Sohail H. Hashmi, “Saving and Taking Life in War: Three Modern Muslim Views”, *The Muslim World*, Vol. LXXXIX, No. 2, April, 1999, p. 158.

⁴⁸ James Turner Johnson, *The Holy War Idea in Western and Islamic Traditions* (Pennsylvania: Pennsylvania State University Press, 1997), p. 96.

Concerning the first factor, the classical Muslim jurists' discussions, although scant, can still give a fair understanding of the Islamic justifications for war, again especially in the light of the contexts of their time. Thus, comparing contemporary Muslims' discussions of the same issue with their classical counterparts' is important in order to give the Islamic perspective on the justifications for war in the modern world. In addition, comparing these classical and modern insider discussions with the outsider literature is also necessary in order to find out the reasons of the controversies and misunderstandings about jihād. Furthermore, examining the basis of the classical Muslim jurists' three conceptual divisions of the world into the *dār al-Islām* (lit. house of Islam), *dār al-ḥarb* (house of war) and *dār al-ṣulḥ* (house of peace) also gives some insights into the Islamic justifications for war and the Islamic attitudes towards relations with non-Muslim states. This chapter will therefore attempt to study these two points, i.e., the insider/outsider justifications for war and the classical Muslim jurists' division of the world.

3.4.1 Classical and Contemporary Insider Justifications for War

At the outset, it should be mentioned here that Ibn Taymiyyah (d. 728/1328) was the first scholar to pay adequate attention to the question of *sabab qitāl al-kuffār* (justifications for war against unbelievers).⁴⁹ Although this question is the central point for understanding the nature of the Islamic law of war, classical and even many contemporary Muslim scholars fail to expound on it in their various approaches to the study of war in Islam. Ibn Taymiyyah's analysis of the classical Muslim jurists' positions on this question, which is reiterated by many modern Muslim scholars,

⁴⁹ See Aḥmad ibn 'Abd al-Ḥalīm ibn Taymiyyah, *Qā'idah Mukhtaṣarah fī Qitāl al-Kuffār wa Muḥādanatihim wa Taḥrīm Qatlihim li-Mujarrad Kufrihim: Qā'idah Tubayyn al-Qiyam al-Sāmiyah lil-Ḥaḍārah al-Islāmiyyah fī al-Ḥarb wa al-Qitāl*, ed. 'Abd al-'Azīz ibn 'Abd Allah ibn Ibrāhīm al-Zayd Āl Ḥamad (Riyadh: N.p., 2004/1424).

reflects the diverse interpretations of the Qur'ānic *casus belli*, which were considered in Chapter Two. The disagreement over whether it is *kufr* (unbelief), or acts of aggression against Muslims, that is the Qur'ānic *casus belli* results in two different juridical positions being taken on the justifications for war against non-Muslims.

The first position, according to the majority of jurists,⁵⁰ the Ḥanafī, Mālikī, and Ḥanbalī schools, is that the Qur'ānic *casus belli* are restricted to aggression against Muslims and *fitnah*, i.e., persecution of Muslims because of their religious belief (Qur'ān 2:190; 2:193; 4:75; 22:39-40). War and coercion are not means by which religion may be propagated because belief in a religion is only a matter of the conviction of the heart (Qur'ān 2:256; 10:99; 16:93; 18:29). Fighting non-Muslims solely because they do not believe in Islam contradicts the Qur'ānic injunction (Qur'ān 2:256). These jurists therefore maintain that only combatants are to be fought; non-combatants such as women, children, clergy, the aged, the insane, farmers, serfs and the blind, etc., are not to be killed in war,⁵¹ as discussed in the next

⁵⁰ Ibn Taymiyyah, *Qā'idah Mukhtaṣarah fī Qitāl al-Kuffār*, p. 87; Muḥammad ibn Ismā'īl al-Ṣana'ānī, "Baḥṡ fī Qitāl al-Kuffār", in Yūsuf al-Qaradāwī, *Fiqh al-Jihād: Dirāsah Muqāranah li-Aḥkāmih wa Falsafatih fī Ḍaw' al-Qur'ān wa al-Sunnah* (Cairo: Maktabah Wahbah, 2009), Vol. 2, p. 1202; Muḥammad Abū Zahrah, *Al-'Alāqāt al-Dawliyyah fī al-Islām* (Cairo: Al-Dār al-Qawmiyyah lil-Ṭibā'ah wa al-Nashr, 1964/1384), p. 52; al-Būṭī, *Al-Jihād fī al-Islām*, p. 94; Muḥammad al-Ṣādiq 'Afīfī, *Al-Mujtama' al-Islāmī wa al-'Alāqāt al-Dawliyyah* (Cairo: Mu'assasah al-Khānjī, 1980), p. 146; 'Abd al-Laṭīf 'Āmir, *Aḥkām al-Asrā wa al-Sabāyā fī al-Ḥurūb al-Islāmiyyah* (Cairo: Dār al-Kitāb al-Miṣrī; Beirut: Dār al-Kitāb al-Lubnānī, 1986/1406), p. 63; 'Umar Aḥmad al-Firjānī, *Uṣūl al-'Alāqāt al-Dawliyyah fī al-Islām*, 2nd ed. (Tripoli, Libya: Dār Iqra', 1988/1397), p. 85; Nādiyah Ḥusnī Ṣaqr, *Falsafah al-Ḥarb fī al-Islām* (Cairo: Supreme Council for Islamic Affairs, 1990/1410), pp. 95 f.; Abou El Fadl, "Islam and the Theology of Power", p. 29; al-Qaradāwī, *Fiqh al-Jihād*, Vol. 1, pp. 376 f., Vol. 2, p. 1038.

⁵¹ Ibn Taymiyyah, *Qā'idah Mukhtaṣarah fī Qitāl al-Kuffār*, pp. 90-219; al-Ṣana'ānī, "Baḥṡ fī Qitāl al-Kuffār", pp. 1202-1211, 1215; Wahbah al-Zuhaylī, *Al-'Alāqāt al-Dawliyyah fī al-Islām: Muqāranah bi-al-Qānūn al-Dawī al-Ḥadīth* (Beirut: Mu'assasah al-Risālah, 1981/1401), pp. 101 f.; Wahbah al-Zuhaylī, "Majālāt al-'Alāqāt al-Dawliyyah fī al-Islām", in Fārūq Ḥamadāh, ed., *Al-Tashrī' al-Dawī fī al-Islām*, Nadawāt wa Munāzarāt, No. 70 (Rabat: Kulliyah al-Ādāb wa al-'Ulūm al-Insāniyyah, 1997), p. 198; al-Būṭī, *Al-Jihād fī Al-Islām*, pp. 94-102; Muḥammad ibn al-Ḥasan al-Shaybānī, *Al-Siyar al-Kabīr*, ed. Ṣalāh al-Dīn al-Munjid (Cairo: Ma'had al-Makhṭūṭāt, n.d.), Vol. 4, pp. 1415-1417, 1429-1447; Muḥammad ibn al-Ḥasan al-Shaybānī, *Al-Siyar*, ed. Majid Khadduri (Beirut: Al-Dār al-Muttaḥidah, 1975), p. 249; Aḥmad ibn Idrīs al-Qarāfī, *Al-Dhakhīrah*, ed. Muḥammad Būkhūzah (Beirut: Dār al-Gharb al-Islāmī, 1994), Vol. 3, pp. 387-393, 397-401; Ibn 'Abd al-Barr, *Al-Kāfī fī Fiqh Ahl al-Madīnah*, p. 208; Muwaffaq al-Dīn 'Abd Allah ibn Qudāmah, *Al-Kāfī fī Fiqh al-Imām Aḥmad Ibn Ḥanbal*, ed. Muḥammad Fāris and Mus'ad 'Abd al-Ḥamīd al-Sa'danī (Beirut: Dār al-Kutub al-'Ilmiyyah, 2004), Vol. 4, pp. 125 f.; Aḥmad ibn 'Abd al-Ḥalīm ibn Taymiyyah, *Al-Siyāsah al-Shar'iyyah fī Iṣlāḥ al-Rā'ī wa al-Ra'iyyah* (N.p.: Dār al-Ma'rifah, n.d.), p. 104; 'Abd Allah ibn

