

“There will always remain a group from my nation fighting (يقاتلون) upon the command of Allah, overpowering their enemies, none who opposes them can harm them, until the hour comes”. Related by Muslim

Discussion on the understanding of the methodology to establish the Islamic state.

Introduction.

This paper was written not as a detailed discussion of the evidences of how to establish the Islamic state. Rather it was written as a response to our sincere brothers who are members of hizb ut tarir in Britain who claim that to fight jihad as part of a comprehensive methodology to establish the Islamic state is invalid. (See the method to re-establish the khilafah by members of hizb ut-tarir in Britain al-khilafah publications page 68).

Before reading this discussion it is imperative that the reader has an understanding of methodology that the writer is defending. As it is not my purpose here to explain the methodology, but a certain part of it, in order for the reader to fully appreciate how this part fits in within the whole methodology I suggest that they first read the following books:

- 1) In pursuit of Allah’s pleasure by Dr.naahah Ibrahim, Asim Abdul Maajid and Esaam-ud-Deen Darbaalah. Al-Firdous Ltd London.
Distributed by Message of Islam Hounslow Middlesex TW5, UK.
- 2) The Absent Obligation by Muhammad, Abdus Salam Faraj.
Distributed by Maktabah Al Ansar, Birmingham B12 6JY, UK.

Plan of study.

I intend to split this paper into three sections;

- 1) Clarifying some fundamental concepts, and definitions.
- 2) Presenting the arguments
- 3) Conclusion

In the Name of Allah we begin, seeking his pleasure alone. O’Allah show us the truth as truth and give us the blessing of following it, and show us the falsehood as false and give us the blessing of staying away from it. Any mistakes I may have made in this paper is solely my own doing, and anything good is from Allah.

PART 1: CLARIFYING SOME FUNDAMENTAL CONCEPTS AND DEFINITIONS.

I will list these as a series of points.

- 1) We are Muslims, and as Muslims we are required to do certain actions, and stay away from others.

The prophet Muhammad is reported to have said:

“What I have forbidden to you, avoid; what I have ordered you (to do), do as much of it as you can.” Related by Al-Bukhari and Muslim.

- 2) We have been ordered to establish the Islamic State. This is proven by various evidences (see page 65 In Pursuit of Allah’s Pleasure also page 19 The Absent Obligation and Al-Ahkam as-Sultaniyyah page 10 Ta-Ha publishers Ltd.)

- 3) This obligation is known to be fard al-khayr, and thus if neglected, those capable of carrying out the work required to achieve the obligation, become sinful.
انظر الوجيز في الأصول الفقه للدكتور عبد الكريم زيدان

- 4) So what is the definition of the khilafah, and does it exist today?
 - a) Definition of the Islamic state (also known as the khilafah, dar-ul-islam, or imamate).

There are many definitions given by the scholars of Islam for the Islamic state, all of which may be summed up in the definition:

The Islamic State according to Islamic scholars is every country/region in which the Muslims rule and the Islamic shariah is implemented.

(انظر مجموعة بحوث فقهية تأليف الدكتور عبد الكريم زيدان ص 50)

From this definition we may take that the Islamic state is a state in which:

- 1) The authority is in the hands of the Muslims, meaning they have the ability to implement the laws they decide to govern by, and defend it.
- 2) The sovereignty belongs to Allah, meaning that the source of all legislation must be the shariah of Muhammad (may the peace and blessings of Allah be upon him).

b) Does the Islamic state exist today (5-4-2002)?

By looking at the reality of the Muslim countries we can see that there is not one Muslim country which use's the Islamic Shariah as it's sole basis for legislation even though those in authority claim to be Muslims.

Please look at the fatwa of ibn taymiya (may Allah have mercy on him) against the tartar's to see how we are supposed to judge this reality.

(مجموعة الفتاوى: سؤال عن حكم التاتر المبتسبين إلى الإسلام ج 28 ص 509).

C) Defining our reality.

Based on what has previous been stated our reality may be defined as follows;

The absence of the Islamic State, which in turn means;

In Muslim countries the Muslims do not have authority, and/or the sovereignty is not for Allah.

It must be one or the other or both according to what been stated.

Those in authority claim to be muslims, thus the focal issue is that their reference point in all matters must be Islam (i.e sovereignty must be for Allah alone).

The essence than in trying to establish the Islamic state in Muslim countries is an issue of making Allah's Word sovereign.

5) Now that we are aware of the obligation of the Islamic state, and its Implications (see 3) and its non-existence at this point in time what are we required doing about it?

We are ordered to refer all matters back to Islamic Shariah. (See surah 4 verse 44,50,59).

6) Commands in the Islamic shariah are either decisive or non decisive in respect to its transmission and/or implication.

Non-decisive texts are the basis of ijtihaad.

Now scanning the text of the quran, Sunna and ijma we don't find any definite evidence on the way to establish the Islamic state after its abolishment in 1924.

Thus we are lead into the field of ijtihaad .

5) Before discussing ijtiḥād I would like to state a few important points.

At the time of the Prophet Muhammad (peace and blessings of Allah be upon him), verses of the Quran were revealed addressing certain matters.

Now those verses, and the sunna of the prophet (pbuh) are limited in number but are unlimited in application as they serve as a basis for all laws of man until the Day of Judgment.

There are many principles used by scholars of usool, one important one I want illustrate is that which is called the effective cause (or more simply, the reason of the legislation) of a law (علة أو مناط) and the difference between it and the reality (الواقع).

The reality is what is perceived by the senses and interpreted by the sound mind.

The effective cause is the constant apparent attribute upon which the particular law is based.

It is this effective cause, which is important to decipher in order to uncover the value of law (i.e it's hukūm, e.g. fard or haram) of a similar matter, which shares the same effective cause.

The effective cause is either apparent from the Islamic sources by clear indication, or it is alluded to (this is done from the usage of certain words which indicate the reason for an action either definitely or indefinitely), or no indication might be forth coming from that particular text and thus other texts must be analyzed in order to deduce the effective cause.

But this is not left to the whims of scholars, but there are many conditions, which need to be fulfilled.

One of these conditions is that the cause must promote or defend the general aim(s) of the shariah in a way understandable to the sound mind.

These aims are

- 1) the religion of islam
- 2) Human life
- 3) The mind
- 4) Lineage / Honor
- 5) Wealth

Example:

The saying of the prophet (peace be upon him) "every wine is an intoxicant, and every intoxicant is unlawful". Gives the clear reason for the forbidding of wine and is extended to all other intoxicating substances.

Now solid drugs like cocaine are very much different from wine in its appearance, taste etc. i.e. the reality of it is different but because the effective cause is the same (the intoxication of the mind) the value of the law is the same. (i.e. it is forbidden).

Side note: qiyas owla is when the effective cause is more evident in the branch case (i.e the new matter) then in the original case (i.e. the Quranic text or the hadith).

The important point to understand is that the hukm of a particular matter deduced by qiyas is dependent on the identification of the effective cause and this is linked to the general aims of the shariah.

7) Ijtihad is the process of extracting practical laws of shariah from its detailed evidences.

This happens when there are no definite texts available for a particular matter. Ijtihad is valid if there is no definite text on a practical issue and none of the laws of ijthad are broken.

These laws are many, a few examples are;

The mujtahid considers all texts that he deems relevant to the issue.

He is aware of cases of abrogation of the law of certain texts.

If he considers a law to be abrogated but continues to use the law his ijthad will be invalid. In the same way if he knows of sound relevant texts but neglects to consider them his ijthad will also be invalid.

8) It is important to recognize that we are ordered to follow the shariah of the prophet (pbuh) and not necessarily the prophet himself (peace be upon him) This is because not all his actions were meant to be followed like his marriage to more than 4 wives, or those that have been abrogated (e.g mutta, temporary marriage).

9) Following the strongest evidence.

Muslims are obliged to follow what they think the shariah has ordained for them to do, and this means following what we are most convinced of.

We are also encouraged to seek further knowledge to consolidate our understanding.

But it is important to realize that that the scholar's have permitted following a scholar on a matter of ijthad without knowing his detailed evidences.

The truth of the matter is that unless we reach the level of ijthad ourselves we are bound to follow another person's ijthad.

If there is a choice between two ijthads we should follow the one we are most convinced of.

10) WHAT IS THE MEANING OF JIHAD?

انظر الجهاد و القتال للدكتور محمد خير هيكل

According to the scholars of usool the literal usage of a word can be split into 4 groups.

- a) The literal linguistic meaning:
That is a word used in its original linguistic context e.g. a horse
- b) The literal shariah meaning:
This is a word placed by the Lawgiver (Allah(swt)), as a meaning not placed by the Arabs before.
e.g. الصلاة (prayer)
The Arabs used the word to mean الدعاء, the shariah transferred this meaning to a new one, that being; the actions and the saying opened with the takbir, and finished with the tasleem.
- c) The literal general customary meaning. الحقيقة العرفية العام
This is a word transferred from its linguistic meaning to a meaning acknowledged by the people at large.
e.g. The word الدابة, originally its linguistic meaning was any thing that walked on the earth, but then it commonly became to be used as representing any 4 legged creature.
- d) The literal specific customary meaning الحقيقة العرف الخاصة
This is a word transferred from its linguistic meaning to a new meaning acknowledged by a specific community of people.
e.g. الرفع النصب الجر the nominal, the subjunctive and the genitive as known to the grammarians.

A) THE LINGUISTIC MEANING OF JIHAD.

The word Jihad (جهاد) in Arabic, is a verbal noun. It comes from the quadrilateral verb (جاهد). This form implies the participation of 2 sides.

In Lisaan Al-Arab it states: Jihad is the utmost excursion of energy and ability in actions and speech.

In Tafseer Al-Neesaaboori it states: Jihad is the excursion of effort to attain a goal.

In the explanation of Tafseer Jalalain, it states: Jihad is patience upon difficulty, and this could be in war or within oneself.

The summary is that Jihad is the upper most excursion in order to attain a goal in the presence of opposition (even if this opposition is struggling against oneself).

B) THE SHARIAH MEANING OF JIHAD.

According to the Hanifees it is mentioned in their book Bidaai' Al-Sinaai', by Al-Kaasaanee (97-7 بدائي الصنائع للكسائي):

Jihad according to the shariah is the using of all ones ability in fighting in the way of Allah whether with ones wealth or tongue or other than that.

According to the Malikees it is mentioned in Minhu Al-Jaleel

(منح الجليل مختصر سيدي خليل للشيخ محمد عليش 3-135):

Jihad is fighting between muslims and non-muslims, that are not under a treaty with the muslims, for the purpose of making Allah's Word the supreme, or the coming for the fighting or entering the kafirs land for fighting.

According to the Shafees it is mentioned in Al-Iqnaa' (الإقناع):

(حاشية البجيرمي على شرح الخطيب 4-225)

Jihad is fighting in Allah's way (cause).

According to the Hanbalees the same meaning as the Shafees is given and this

can be seen in Al- Mugnee by Ibn Qudama chapter The Book Of Jihad

(المغني لابن قدامة 10-375). This can be seen by the context of the usage of the word jihad in this chapter.

The summary of Jihad according its shariah can be taken from the definition given in the Haasheah of Ibn Abideen (332-3 حاشية ابن عابدين):

Jihad is the upper most excursion in fighting in Allah's cause, directly, or helping with wealth or by opinion.

Please note that the Quranic verses revealed in Mecca using the word Jihad or one of its derivatives is primarily referring to the linguistic meaning. Whereas those verse revealed after the Hijrah refer to what has been stated above.

C) THE GENERAL CUSTOMARY MEANING

The meaning of Jihad was transferred by the shariah from its linguistic meaning to the shariah meaning until the shariah meaning dominated the general public usage of the term.

D) THE SPECIFIC CUSTOMARY MEANING

By looking at the Islamic Books written by scholars of different fields, we can see that they didn't create a specific usage for the word Jihad. Rather they used it according to its Sharaih and general customary meaning, which is fighting in the cause of Allah.

Finally we see that there are only 2 usages of the word Jihad.
The first is its linguistic meaning, and the second is its shariah meaning.

Throughout the rest of this discussion I will be using the word Jihad in its shariah meaning as summarized above. (i.e. fighting to make Allah's word supreme).
When this word appears by itself it means physical fighting, but when it is qualified it goes to its intended meaning (i.e. jihad of the tongue etc).

PART 2 PRESENTING THE ARGUMENTS FOR THE OBLIGATION OF FIGHTING ANY RULER WHO DOES NOT RULE ACCORDING TO THE SHARIAH, AND JIHAD AS BEING AN INTEGRAL PART OF WORKING TO ESTABLISH THE ISLAMIC STATE.

I intend to present my argument as follows:

A) The abrogation of the Prophets (pbuh) prohibition of fighting in Mecca and its replacement by the order to fight. Thus if we find ourselves in a similar situation as the prophet was in Mecca (i.e. without the Islamic State), we would be obliged to fight in order to make the sovereignty for Allah alone. So there is no basis for saying jihad cannot be used to establish the Islamic state.

The details of the abrogation can be seen in appendix 1.

B) That the final rulings, regarding fighting, was revealed in order to make the sovereignty completely for Allah . Making the sovereignty for Allah alone is the essence of establishing the Islamic State in Muslim countries. (see part1 4c). Thus we are obliged to fight jihad in order to establish the Islamic State.
Please see appendix 2

C) The obligation to fight any ruler who does not rule according to the Islam.
Our present rulers are not ruling according to Islam, thus we are ordered to fight them until the sovereignty is completely for Allah.

Thus looking at points A, B and C we can see that fighting jihad is an integral part of the correct methodology to establish the Islamic State.

PART A

- 1) It is reported in seerah of Ibn Hisham that some of the companions of the prophet (pbuh) asked permission to fight Quresh, and the prophet replied that he had not been ordered to do that yet.

Note that the prophet (peace be upon him) was getting revelation and all the ayats revealed in Mecca about this issue called for patience. So his actions were in accordance with the verses.

This incident is often used by those claiming that it is forbidden to fight for the establishment of the Islamic state.

- 2) The second pledge of Al-Aqabah is known as the pledge of war. This occurred in Mekka before any verses of jihad were revealed. Ibn Hisham narrates that the prophet (peace be upon him) said "I will wage war against whom you wage war against and declare peace with whom you declare peace, my blood is your blood and my pact is your pact." When the prophet (peace be upon him) emigrated to Madinah the people of Aws and Khazraj came out in war clothing, in order to prevent any opposition that might arise.

Thus combining the two incidents would lead one to believe that fighting was only permissible after you have secured support from ahlul nusrah (the people of power/authority).

But let us look further!

3) After the migration to medina the ayats of jihad were revealed. Indeed most of the scholars of tafseer-ul-quraan spoke about a verse of the quraan and called it ayat as-saif (the verse of the sword) and that is the saying of Allah(swt)

“Then when the sacred months have passed, then kill the mushrikun wherever you find them, and capture them and besiege them and prepare for them each and every ambush”

Concerning this verse Ibn katheer said “ad-dahkak ibn muzahim said: Verily it abrogated every treaty, contract and term between the prophet (peace be upon him and the mushrikun.”

Al-Awfi reported Ibn abbas (may Allah be please with him) said about this verse: no treaty or covenant was left for any one from the mushrikun after surah baraa(at-Tawba) was revealed.

Al-Haafith Al-Qalbi said: And we find here what abrogated the turning away from the disbelievers and keeping patient about the harm they do to us. This is to order us to fight them and to avail us from repeating that which was abrogated, which was mentioned in 114 verses out of 54 surahs.

This means that the reply given by the prophet (pbuh)(see point 1) was abrogated as the verses which were governing his actions at that time were abrogated.

(Side note Imam Suyuti opinion about the abrogated verses actually being in a category of what “Allah (swt) has caused to be forgotten”, thus when Muslims are weak and few in number they must remain patient, is weak and goes against clear hadith;

“jihad will continue until the day of judgment” Abu dawood

“There will always remain a group from my nation fighting(يقاتلون) upon the command of Allah overpowering their enemies, none who apposes them can harm them until the hour comes”. Related by Muslim.)

Now let us consider the words of the scholars. If the kufaar gain power over us as they had over the prophet in Mecca, they obviously would not be ruling according to Islam, should we remain patient or are we obliged to fight them? According to the strongest position we would have to fight them because the verse ordering to fight the mushrikun has abrogated the statement in point 1.

This is the case when a kafir nation invades the Muslim lands and subdues its people as is happening in Chechnya at the present time.

Now does this now allow use to fight to establish the Islamic state? In order to answer this question we must look more deeply into the reason for the legislation of fighting in Islam.

PART B) Why is fighting allowed in Islam?

Allah says: AND FIGHT THEM UNTIL THERE IS NO MORE FITNAH AND THE RELIGION IS WHOLLY FOR ALLAH 8/39

Ibn Taymiyyah said: so if part of the religion is for Allah and another is for other than him, fighting is obligatory until the religion is for Allah alone. He wrote this in a fatwa regarding the tartar's that used to govern by other than islam.(al-fataawa 28/354)

Al-Bukhari and Muslim narrated on the authority of Abu Musa (may Allah be pleased with him) that the messenger of Allah (peace be upon him) was asked:

WHICH JIHAD IS IN THE CAUSE OF ALLAH?

HE REPLIED:

HE WHO HAS FOUGHT TO RAISE THE WORD OF ALLAH SUPREME IS IN THE CAUSE OF ALLAH.

So Jihad in Islam is to raise Allah's word highest.

i.e. The sole basis for the legislation of fighting in islam, is to make the shariah supreme.

Jihad has been legislated to make the religion highest, which is the highest priority out of the general aims of the shariah (see part1 section7).

No Muslim of sound faith denies that jihad is an on going obligation.

But it is strange to see those people who admit the obligation of jihad to defend Muslim life and Muslim land but do not see it as a way to establish Allah's religion (i.e. the Islamic state). Even though the effective cause of jihad is to make Allah's word supreme i.e. sovereign, and this is more apparent in the latter case than in the former two.

So from qiyas owla it would necessitate that jihad was obligatory in order to establish the state.

PART C) Rebellion against the ruler.

It was related in saheeh Muslim that Junadah ibn ‘Umayyah (may Allah be pleased with him) said:

...The Messenger of Allah (peace be upon him) ...said: WE SHOULD NOT CHALLENGE THOSE IN AUTHORITY OVER US UNLESS YOU SEE KUFUR BAWAAH AND YOU HAVE PROOF OF IT FROM ALLAH.

Imam Nawawi (may Allah have mercy on him) said Al-Qadhi Iyyadh said: The scholars were agreed that the leadership must not be conferred to a disbeliever, and should the ruler reveal kufur he must be removed. Likewise If he abandons establishing prayers and calling for them.....if he manifests kufur, a change of shariah or a bid’ah , he is out of leadership and obeying him becomes invalid. It is the obligation of the Muslims to stand up to remove him and replace him with a just ruler, if they are able to do so.

The members of HT in Britain write, in their book entitled The Method to establish The Islamic state, whilst commenting on this hadith page 68:

“However these ahadith are not connected to the current situation. They are all connected to revolt and rising against the khaleefh and are titled under the subject of khurooj min al khaleefh i.e. rising against the authority of a khaleefh or an imam”

Later on they say:

“The ahadith of fighting apply to changing a ruler i.e. a khaleefh who has gone astray not a system, ONLY THE STRUGGLE OF THE PROPHET (SAW) IN MAKKAH APPLIES TO CHANGING OF A SYSTEM. SO MILITARY STRUGGLE IS NOT THE METHOD TO RE ESTABLISH THE KHILAFAH.”

From these statements we can see 2 things:

- 1) That their objection for applying these ahadith today are based on the fact that
 - a) The leader must have first been ruling by Islam then went astray i.e. he was a legitimate ruler but then turned bad (unlike our present rulers who have never ruled according to Islam)
 - b) These ahadith relate to removing a person not a state.
- 2) They consider the makkan period as being the only time the prophet changed a system.

Reply to 1a.

First lets read the words of Al-Haafidh Ibnu Katheer:
In interpreting the verse:

DO THEY THEN SEEK THE JUDGMENT OF (THE DAYS OF)
IGNORANCE? 4/50

He said: Allah(swt) rebukes those who leave Allah's judgment, which contains all that is good and just and forbids all that is bad. They turn instead to the opinions, desires and laws laid down by men without any recourse to Allah's Shariah. ...And the TARTAR'S USED TO JUDGE ACCORDING TO THE LAWS LAID DOWN BY THEIR RULERS, TAKEN FROM THEIR KING GHENGHIS KHAN WHO PUT TOGETHER FOR THEM A LAW BOOK (YASA) EXTRACTED FROM DIFFERENT LAWS OF THE JEWS, CHRISTIANS AND THE RELIGION OF ISLAM AND OTHER SOURCES. It also contained many laws and regulations taken solely from his own opinion and wishes which later became a system of law followed by the people and given precedence over the laws of Allah's Book and the sunnah of his messenger (pbuh). Therefore WHOEVER DOES THAT IS A KAFIR WHO MUST BE FOUGHT UNTIL HE RETURNS TO THE LAW OF ALLAH AND HIS MESSANGER, AND DOES NOT GOVERN ON ANY MATTER EXCEPT BY THE LAW.

Please note that *the tartars never ruled according to Islam* until they were beaten in the final battle of Shaqhab around 702AH.

They were never considered as legitimate rulers who then latter deviated.
Nor were they considered ahul bugah al-muta-awwileen i.e. misconceived rebels against the imam. Al-Fataawa 28/540-541
Nor were they fought as kafir invaders.
But they were fought because they didn't implement the shariah.

This can be clearly seen from the fatwa of ibn taymiyyah;

The summary of his fatwa is as follows:

EVERY GROUP, which rebels against the mutawaatir law of Islamic shariah, must be fought by the consensus of all the imams of the Muslims. even if they pronounce the shahaadah .

...the Tartars and THE LIKE have more greatly rebelled against the Islamic shariah than those who refused to pay zakat...thus he who doubts about fighting them is the most ignorant of the people about the religion of islam...

This is because the reason (effective cause) for fighting is to make the shariah supreme.

It is clear from the above that the condition 1a is not a valid consideration.

As for 1b anyone who has read about the history of the tartars is aware how they ruled other than by the shariah and it wasn't an Islamic state. Thus the fight was against their illegitimate state.

Thus 1b is not valid either.

People who claim that the Tartars were fought on the basis that they were kafir invaders are greatly mistaken and must read the fatwa of Ibn Taymiyyah. This will clarify that the sole basis for fighting them was that they didn't implement the shariah.

Jihad must be look at in its correct context as the mechanism by which the religion of islam defends itself and propagates itself, and is solely concerned with making Allah's law's sovereign

Reply to 2)

To understand point 2 we must first understand what they mean by a system.

It is clear from the context of their writings that they are referring to a political ruling system.

It is also clear that after the prophet (pbuh) emigrated to medina, Jihad was used to bring the other tribes under the rule of the Islamic state. They were offered the 3 choices

- 1) Embrace Islam and come under the authority of the Islamic State
- 2) Pay the jiziyah and come under the authority of the Islamic State
- 3) Fighting in order to bring them under the authority of the Islamic state.

This was in fact changing a political ruling system.

The fact that prophet himself (pbuh) was the leader of a state, is relevant only to that particular case (i.e. an Islamic State assimilating a non Islamic state, into its authority). This is because for the assimilation to occur there must have been an Islamic State in the first place, which necessitates, in the normal state of affairs, the presence of the khaleefh.

But jihad is not restricted by the lack of a khaleefh, this can be clearly seen from the ahadith about the continuous obligation of jihad, and the famous fatwa of the great hambali scholar Ibn Qudammah who wrote in Al-Mugni that if a kafirs invade a Muslim land they must fight even without the permission of the khaleefh. This is because the religion would suffer a great loss if time were wasted in getting his permission.

The focal point is that jihad was legislated as the means of making Allah's laws sovereign, and jihad is still an obligation today.

PART 3: CONCLUSION.

If we look at the life of the prophet we see that his ultimate objective was the pleasure of Allah (swt). This can be seen from many verses from the Quran, and the dua he said after being stoned from Ta'if .

His mission in this world was to make Allah's religion sovereign.

He (pbuh) said; I have been ordered to fight the people until they say there is no god but Allah.(related by Al-Bukhari and Muslim).

This had always been his aim. It never changed, but the means and methods leading to it did, by Allah's command.

Surah Taubah was revealed to clarify the rulings of jihad until the Day of Judgment.

Every occasion in which the prophet and his companions fought jihad was with one objective, to make Allah's religion supreme. Jihad was used to remove every arrogant tyrant who refused to allow his people to hear the call and live under Islam, and it will continue to do so until the Day of Judgment.

(insha Allah).

Imam Muslim relates on the authority of Abu Hurairah(may Allah be pleased with him) that the prophet (pbuh) said :

HE WHO DOES NOT FIGHT IN THE CAUSE OF ALLAH, NOR EXPRESS A DESIRE FOR DOING SO WILL DIE A DEATH OF IGNORANCE.

O'ALLAH SHOWER YOUR BESSINGS ON THE MUJAHIDEEN WHEREVER THEY ARE AND ALL THOSE WORKING TO MAKE YOUR WORD THE HIGHEST.

Written by your brother in Islam Abu Hamzah Al-kashmeeri

APPENDIX 1 ABROGATION.

Abrogation is defined by the scholars of usool as the total suspension of a law by a law revealed later on in time.

Abrogation only occurred in the time of the prophet(pbuh) and ceased to occur after his death.

Example the hadith of the prophet (pbuh):

كنت نهيتكم عن زيارة القبور, أ لا فزوروها فإنها تذكركم بالآخرة

“ I used to forbid you from visiting the graves, nay visit them for it will remind you of the hereafter”.

This is called a clear abrogation.

It contains a clear indication that the action was once forbidden, by the use of the words “I used to forbid you.”

It also contains a clear indication that it is now allowed, by the use of the words “ visit them”

I intend to show (insha Allah) that the command of the prophet (pbuh) not to fight, whilst he was in mecca has been abrogated, and replaced by the order to fight. So if we find ourselves in a similar situation as the prophet was in Mecca, we would be obliged to fight in order to make the sovereignty for Allah alone. Thus there is no basis for saying jihad cannot be used to establish the Islamic state.

In order for us to get to our intended goal we need to first understand the following points;

- 1) What type of fighting was forbidden for the muslims in mecca?
- 2) What are the supposed abrogating verse ?
- 3) What is the proof of it abrogating the previous verse ?

1) WHAT TYPE OF FIGHTING WAS FORBIDDEN IN MECCA.

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Imam Al-Jassass states: The scholars are all agreed that fighting . was forbidden before the hijrah

The fighting here means fighting other than in self defense. It is well known that the companions would fight in self-defense, individually or in small groups. *They were never given permission to start a fight collectively as if they were at war with Qurash, as they did in Medina.*

This can be seen from Ibn Ishaq's account of Sad ibn Abi Waqas hitting a kafir with a bone, and making him bleed. This was the first blood spilt in islam. It occurred when Sad when to pray in the mountains with a group of muslims. A group of kafirs followed them and started a fight with them.

Ibn Jawzi reports that Umar (ra) said that when he became a muslim crowds of kafirs would gather around him and attack him so he would retaliate by fighting back.

The prophet never condemned (after knowing about these public occurrences) his companions for defending themselves thus implying the lawfulness of their actions.

HAVE YOU NOT SEEN THOSE WHO WERE TOLD TO HOLD BACK THEIR HANDS (FROM FIGHTING) AND PREFORM AS-SALAT.....BUT WHEN FIGHTING WAS ORDAINED FOR THEM BEHOLD! A SECTION OF THEM FEAR MEN AS THEY FEAR ALLAH OR EVEN MORE... 4/88

Imam Waahideeh states about the above verse that it was revealed about a certain group of companions who used to suffer a lot of persecution by the kafirs. They would say: oh messenger of Allah, grant us permission to fight these people. So he (pbuh) would say: Hold back your hands from them, I haven't been ordered to fight them. Then when the messenger of Allah (pbuh) migrated to medina he ordered them to fight but, some of them didn't want to. Thus the verse was revealed.

Al-Nisaaee reports on the authority of Ibn Abbas (ra) that some companions came to the prophet (pbuh) and said: oh messenger of Allah, we used to be respected when we were disbelievers, but now in islam we are humiliated. The prophet replied : I have been ordered to overlook/forgive, so do not fight them. After his migration to medina the order came to fight but they were reluctant, so the verse 4/88 was revealed.

Here we see the Muslims seeking permission to fight the kafirs and we see the prophet's reply:

Hold back your hands, I haven't been ordered to fight.

And

I have been ordered to forgive so don't fight.

The meaning of forgiving here is not used in its absolute sense to include forfeiting self-defense.

Thus we conclude that fighting, started by the Muslims, as if at war was forbidden, and not fighting in self-defense, by individuals or small groups.

(The case of Hamzah hitting Abu Jahal with his bow is not really relevant because wasn't a muslim at that time.)

A very important point to consider is that, none of the verses revealed in mecca actually explicitly state not to fight. But many verses were revealed calling for the muslims to have patience and overlook the persucution they were suffering. E.g.

BUT FORGIVE AND OVERLOOK, TILL ALLAH BRINGS HIS COMMAND 2-109

If we consider the words of Al-Waahideeh and Al-Nisaaee we see that the prophet (pbuh) understood those verses calling for patience and forgiving, as a prohibition to start the fighting and draw lines with Qurash.

(This can be seen by the use of the particle of consequence ف (so) in the narration of Al-Nisaaee i.e. fighting is forbidden because of the orders to forgive /overlook)

Thus all these verses were directly related to the prophet's prohibition to fight, such that if later on the prohibition of fighting were abrogated, then the legal ruling regarding these verses calling to patience/forgiving would also be abrogated.

This is because the prophet understood these verses to mean the prohibition of fighting.

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2) WHAT ARE THE ABROGATING VERSES?

In order for us to understand the abrogation, we must understand the chronological order of the revelations of the verses in question.

- a) The verses calling for forgiveness and patience under oppression were revealed in Mecca before the Hijrah .
- b) The first verse allowing fighting was revealed during the Hijrah.
- c) the verses making fighting an obligation were revealed around the first or second year after the Hijrah (according to Imam Suyuti)

Thus the claim is that, all verses (revealed in Mecca) calling for patience under persecution (stage a) were abrogated by the verse allowing fighting (stage b).

Then the verse in stage b is subsequently abrogated by the obligation to fight (stage c).

So what was the first verse revealed permitting fighting?

At-Tabarri mentions in his tafsir, that Qatada said about the verse:

PERMISSION (TO FIGHT) IS GIVEN TO THOSE WHO ARE
FOUGHT AGAINST, BECAUSE THEY HAVE BEEN WRONGED
AND SURELY ALLAH IS ABLE TO GIVE THEM VICTORY.22/39

This was the first verse revealed permitting fighting.

Al-Nisaaee and At-Tirmidi relate on the authority of Ibn Abass (ra)
That verse 22/39 was revealed during the prophet's migration to
Medina, and it was the first verse revealed about fighting.

Some scholars say that the first verse, about fighting, to be revealed
was

AND FIGHT IN THE CAUSE OF ALLAH THOSE WHO FIGHT
YOU

Al-Hakim states that the first verse was

ALLAH HAS PURCHASED FROM THE BELIEVERS THEIR
LIFES...

But the correct opinion is the the first one we have related and this is
supported by most of the prominent scholars including
Ibn Abass, Mujahid, Dahak, Zaid ibn Aslam, Qatada and others.

So did verse 22/39 abrogate all the verses calling for patience in mecca?

This can be answered in 2 ways:

- 1) by looking at the details of the texts them selves
- 2) looking at the implications of non-abrogation of the texts in
question.

3) WHAT IS THE PROOF OF THE ABROGATION

a) looking at the details of the texts them selves.

What are we looking for that will indicate abrogation has taken place?

A clear abrogation is when there is a shariah text showing that a previous law has been ceased.

انظر الوجيز في الاصول الفقه للزحيلي ص 70

This text then is considered to have abrogated the previous texts. There are many conditions that need to be fulfilled in order to prove that abrogation has occurred, but the 3 main aspects relevant to our discussion are:

- 1) an initial ruling
- 2) a later ruling indicating the suspension of the previous ruling
- 3) the latter ruling is revealed after the initial ruling.

Example; the saying of the prophet(pbuh):

كنت نهيتكم عن زيارة القبور, ألا فزوروها فإنها تذكركم بالآخرة

I used to forbid you from visiting the graves, nay visit them for it (will) remind you of the Hereafter.

1) The initial ruling can clearly be seen from the words: I used to forbid you from visiting the graves .
The important word here is the word indication the prohibition of an action. i.e. forbid.

2) The latter ruling is given by the imperative verb: visit
the indication of the suspension of the previous ruling is given by the usage of the particles that approximately means : nay

3) The latter ruling is taken to have occurred after the previous because the previous ruling has been conveyed in the past tense and the latter ruling is conveyed in the imperative tense with contains the future times.

Bearing these 3 points in mind let us look at the texts in question.

The verse 22/39:

PERMISSION (أذن) (TO FIGHT) IS GIVEN TO THOSE WHO ARE FOUGHT AGAINST, BECAUSE THEY HAVE BEEN WRONGED AND SURELY ALLAH IS ABLE TO GIVE THEM VICTORY.

The word permission is given (أذن) is used in the passive past tense, and is known to mean that the permission comes from Allah(swt).

Ibn Arabi mentions in his book Ahkam Al-Quran:

“The meaning of أذن is أبيض : It is made permissible. Indeed its linguistic meaning is the permissibility of the forbidden”

Condition 1)

The presence of a previous ruling can be deduced by analysis of the word (permission is given (to fight)).

This ruling is the prohibition of fighting.

The prohibition is taken from the meaning of “permission” which means the permissibility of what was forbidden (as stated by Ibn Arabi).

This fact is also supported by the verse:

HAVE YOU NOT SEEN THOSE WHO WERE TOLD TO HOLD BACK THEIR HANDS(FROM FIGHTING)BUT WHEN FIGHTING WAS ORDAINED FOR THEM BEHOLD! A SECTION OF THEM FEAR MEN AS THEY FEAR ALLAH OR EVEN MORE... 4/88

“hold back your hands “ is an order not to fight.

This is supported by the narration.

I have been ordered to forgive so don't fight.

So don't fight is the negative imperative which indicates a prohibition.

The fact that the prohibition is related to fighting is apparent from the context of the verse.

This also can be deduced from the statement (this was the first verse revealed about fighting) by the prominent companion Ibn Abass narrated by Al-Nisaaee and Al-Trimidi as mentioned before.

Thus condition 1 has been fulfilled.

Condition2)

The presence of a later ruling indicating the suspension of the previous ruling.

Again the latter ruling is apparent from the word “permission (to fight) is granted”

The indication of the suspension of the previous ruling is also found in the word “permission is given” as this is making lawful that which was unlawful. Thus the prohibition is suspended.

Thus condition 2 is fulfilled.

Condition3)

The latter ruling being revealed after the previous ruling is apparent from the study of the occasions of the revelations (اسباب النزول).

It is not disputed that the prohibition of fighting occurred in Mecca and the permission occurred after leaving Mecca.

So condition 3 is also fulfilled.

THUS THIS IMPLIES CLEAR ABROGATION OF THE RULING OF THE PROHIBITION OF FIGHTING.

Now as stated before, the prohibition of fighting, was based on the verses calling for patience.

(This can be seen by the use of the particle of consequence ف (so) in the narration of Al-Nisaaee i.e. fighting is forbidden because of the orders to forgive /overlook).

So the abrogation is actually an abrogation of the legal ruling of these verses, which orders the Muslims not to fight.

As for the fact that verse 22/39 was later changed from one of permissibility to an obligation this is not in dispute. It can be proven in the previous way, but as there is no dispute, the words of Imam Shafee should suffice us.

Imam Shafee states in Al-Umm 4/161
“ Allah made jihad obligatory after it was made permissible by his saying:

FIGHTING HAS BEEN PRESCRIBED FOR YOU BUT YOU DISLIKE IT....”

Imam Suyuti states in his book الحاوي الفتاوى about the verse:

PERMISSION (TO FIGHT) IS GIVEN TO THOSE WHO ARE FOUGHT AGAINST.

“This verse implies the permissibility and not an obligation, and Imam Shafee has clearly said that fighting before the Hijrah was forbidden, then made permissible after the Hijrah then made an obligation.”

Please note that these statements do not contradict the second pledge of Aqabah and the treaty made after the building of the first mosque in Medina as narrated in Ibn Hisham. Because these treaties obliged the Muslims to defend the prophet and Medina, and not to initiate fighting.

B) looking at the implications of the non-abrogation of these texts.

There is a clear contradiction that is apparent from the verses ordering fighting and those forbidding it. Thus those who deny abrogation might try to reconcile the texts by a type of specification (تخصيص), by saying:

Those texts forbidding fighting are applicable when there is no Islamic State, and those texts allowing fighting are applicable when there is an Islamic State.

To understand this argument we must first be aware of the difference between specification (تخصيص) and abrogation(نسخ).

Specification is an explanation of the exception(s) of an established general rule.

Abrogation is the suspension of a law after its affirmation.

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From the previous discussion it can clearly be seen that The prohibition of fighting was originally affirmed, and then subsequently the prohibition was removed. This is compatible with what has been said about abrogation.

As for those who claim it is a type of specification, they need only look at the implications, to see the fallacy of such an argument.

If those verses forbidding fighting are applicable when there is no Islamic State, and verses allowing fighting are applicable when there is an Islamic State. That means Jihad is not permissible today, as we do not have an Islamic State. This is in clear contradiction to the ahadith of the prophet (pbuh)

“jihad will continue until the day of judgment” Abu dawood
“There will always remain a group from my nation fighting(يقاتلون) upon the command of Allah overpowering their enemies, none who opposes them can harm them until the hour comes”. Related by Muslim.

If the claimants of non-abrogation try to state that those verses calling for patience are **applicable only to the actual method of establishing the Islamic State**. This can also be readily dismissed. Our discussion on what type of fighting was forbidden, clearly shows that all types of fighting (other than in self defense) was forbidden (i.e. legal assassinations and reprisals), not specifically fighting for the establishment of the Islamic State. **Thus these verses are not specific to establishing the Islamic State.**

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4) CONCLUSION

Having shown that the legal ruling of verses forbidding fighting has been abrogated, **it is important to realize that they no longer form a basis for legislation.**

The methodology of the prophet to establish the Islamic State was regulated according to the verses being revealed at that time.
As Allah(swt) says in the Quran (approximately translated)

“He doesn’t speak from desire indeed it is a revelation being revealed”.

We are obliged to follow the Shariah of Muhammad (pbuh) as it ended, and not as it started.

In Mecca the verses called for patience and to overlook the harm done to them by the kafirs, The muslims would defend themselves if they were able but would never launch an attack on the enemy. These verses were abrogated by the verses of Jihad, first permitting this type of fighting then obliging it.

Nobody should use these verses as an evidence to forbid jihad against the oppressive rulers we have in the muslim lands.
Rather Jihad was legislated as the means to establish Allah’s laws, and remove persecution.

We are all aware of the lack of the Islamic State, and the persecution that muslims are facing in the hundreds of prisons around the world because of their adherence to Islam.

Therefore consider carefully the words of Allah:

FIGHT THEM UNTIL THERE IS NO MORE FITNAH AND THE RELIGION IS WHOLLY FOR ALLAH 8/39.

APPENDIX 2 : WHY HAVE WE BEEN ORDERED TO FIGHT IN ISLAM ?

The basis of Qiyas is to identify the reason why a certain established practical law was permitted, and to link this reason to a new situation. This implies the law is applicable in both cases. This reason should be tangible and have a link to the 5 general aims of the shariah.

Now in order to find out why fighting is allowed in Islam (and thus understand in which situation we are allowed to fight) it requires identifying the reason / effective-cause / علة of its legislation.

The scholars of usool have stated that the highest level and clearest identification of the effective cause occurs when you have a text from the Quran or Sunna explicitly stating the reason. This happens when a particular word is used which indicates the reason behind an action (ألفاظ التعليل).

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In order for us to identify the effective cause, we must look at all the relevant texts that provide a reason for fighting. The most prominent verse explaining the reason for fighting is verse 8-39.

If we consider the verse 8/39

و قاتلوهم حتى لا تكون فتنة و يكون الدين كله لله

Which means

AND FIGHT THEM UNTIL THERE IS NO FITNAH AND THE DEEN IS WHOLLY FOR ALLAH.

Studying the grammatical construction of this verse reveals the following points:

اعراب القرآن الكريم للأستاذ محيي الدين الدرويش ج 1 ص252 و ج3 ص138

- 1) AND - و is a particle of conjunction حرف العطف, which links the verse to the disbelievers.
- 2) FIGHT قاتلو is an imperative verb فعل أمر which indicates an obligation.
- 3) The و in the word fight indicates that it is addressed to all the muslims not just the prophet, as it represents the plurality of the doers of the verb.
- 4) THEM هم refers to the disbelievers.
- 5) UNTIL حتى This is a particle of extent حرف الغاية (i.e. it implies the extent to which an action should be done).
In this context it indicates the reason for the fighting .
- 6) THERE IS NO لا تكون this is a negation of what is to follow
- 7) FITNAH فتنة this is the subject فاعل of the imperfect verb تكون
- 8) AND (THE DEEN) IS و يكون
AND - و here is a particle of conjunction and joins تكون with يكون
i.e. ...until there is no fitnah and (until) the deen is wholly for Allah.
- 9) THE DEEN الدين is the noun اسم of يكون
- 10) WHOLLY كله used for emphasis i.e. all the deen should be for Allah and not only part of it
- 11) ALLAH الله this is the predicate خبر of يكون

So from the above we can deduce that it is obligatory for Muslims to fight the disbelievers until there is no more fitnah and until the deen is completely for Allah. The removal of fitnah and the deen being completely for Allah are then, the reasons for fighting according to this verse. (Please note that fighting in Islam is not limited only to fighting disbelievers. This can be seen from ahadith about fighting the bad rulers in Sahih Muslim (see part 2 c) and other evidences.) So what is the meaning of fitnah, and what is the meaning of deen?

1) What is the meaning of fitnah?

a) Imam Al-Asfahaanee in his book Al-mufradaat Al-alfaaz Al-quran
الأصفهاني في مفردات ألفاظ القرآن

States that there are several usages of the word fitnah including hardship, punishment, trial/test, and temptation. It is derived from a word الفتن which means to purify gold by placing it in fire.

b) Ibn Kathir states in his tafseer about the ayat 8/39
ابن كثير تفسير ج 2 ص 348

Ibn Umar is reported to have said, as a reply to a question:

Do you know what fitnah is? Mohammad (pbuh) used to fight the polytheists, and the entering upon them was fitnah. And not your fighting for the kingship.

Ibn Umar is also reported to have said:

I and my companions fought until the deen was solely for Allah, and shirk was removed, and there was no more fitnah.

Ibn Abbas is reported to have said about the meaning of the part of the verse
AND FIGHT UNTIL THERE IS NO MORE FITNAH
This means shirk/polytheism.

Abu Al-Aleeya, Mujahid, Al-Hasan, Qatada also agreed with this interpretation.

It is also reported that fitnah means religious persecution.

c) Imam Al-Qurtabi in his tafseer states that the word fitnah in verse 8/39 means kufur/ disbelief. He then refers to verse 2-193 and explains that the reason for fighting is to remove kufur. He then quotes Ibn Abbas, Qatada and others stating that fitnah in this context means shirk/polytheism and what follows it by means of persecution the believers.

تفسير القرطبي ج 2 ص 351 و ج 7 ص 354

d) Imam Nasafee states in his tafseer about verse 8-39:

AND FIGHT THEM UNTIL THERE IS NO MORE FITNAH

In order that there is absolutely no shirk/ polytheism

From the above it can be seen that fitnah in this context means shirk/polytheism and includes religious persecution.

2) What is the meaning of deen?

a) Imam Al-Asfahaanee in his book Al-mufradaat Al-alfaaaz Al-quran

الأصفياني في مفردات ألفاظ القرآن

States that there are several meanings for the word deen e.g. obedience, religion

One of the meanings is Islam, as mentioned in the verse 3-19

INDEED THE DEEN WITH ALLAH IS ISLAM.

b) Imam Nasafee states in his tafseer about the part of the verse 8-39:

AND THE DEEN IS WHOLLY FOR ALLAH.

All other false deens should cease and islam should remain by itself.

And about the verse 2-193

AND THE DEEN IS FOR ALLAH

Specifically(for Allah) the devil should have no portion; meaning nothing other than him (Allah) is worshiped.

c) Ibn kathir states in his tafseer about the verse 8/39

AND THE DEEN IS WHOLLY FOR ALLAH

Ibn Abbas is reported to have said this means pure towheed for Allah.

Muhammad bin Ishaq reportedly says that it means pure towheed and no shirk.

From the above it can be seen that the meaning of deen in this context is total submission to the will of Allah i.e. islam.

So fighting is obligatory until there is no more shirk and Allah alone is worshipped in all matters.

Let us then consider the verse of the Quran 9-31

اتخذوا أحيارهم و رهبانهم اربابا من دون الله و المسيح ابن مريم و ما أمروا إلا ليعبدوا إليها واحدا لا إله إلا هو سبحانه عما يشركون

THEY TOOK THEIR RABBIS AND MONKS TO BE THEIR LORDS BESIDES ALLAH AND (THEY TOOK AS THEIR LORD) THE MESSIAH, SON OF MARYAM WHILE THEY WERE NOT COMMANDED EXCEPT TO WORSHIP ONE GOD. GOLY BE TO HIM FROM HAVING THE PARTNERS THEY ASSOCIATE (WITH HIM).

Ibn Katheer states in his tafseer that Imam Ahmed and Trimidi and others have related about this verse.

Once Allah's messenger was reciting the verse 9-31. Adi bin Hatim said " oh Allah's messenger! They never worshipped them (i.e. the rabbis and the monks).

Allah's messenger replied " They certainly do! They (the rabbis and the monks) made lawful things as unlawful and unlawful things as lawful, and they (the Jews and the Christians) followed them, and so that was their worship of them.

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*Ibn Katheer also narrates that السدي states that: men used to give council and disregard the book of Allah behind their backs, and this is why Allah says : **AND THEY WERE NOT COMMANDED EXCEPT TO WORSHIP ONE GOD.** Meaning if He (Allah) forbids something then it is haram, and if he allows something then it is lawful, and follow what He has legislated, and implement what He has ruled.*

If we look at the grammatical construction we can see that the word “messiah”-المسيح Is joined to the word “their monks” أحبارهم by the use of the conjunctive particle و . We also see that the secondary object –المفعول الثاني in relation to the verb ”they took” اتخذوا and the word “messiah” المسيح has been omitted and it is the word “lord” ربا.(i.e. and (they took as their lord) the messiah)

اعراب القرآن الكريم للأستاذ محيي الدين الدرويش

It is clear from verse 9-30 (“the Christians say : messiah is the son of Allah:) that the shirk in relation to the messiah (may peace be upon him) was one of worship.

Whereas from the narration of Adi bin Hatim it is clear that the shirk in this case was legislating by other than by Allah’s laws.

The use of the particle of conjunction “and” و before the word “messiah” shows that both types of actions (worshipping other than Allah, and legislating other than what Allah has revealed) are both forms of shirk.

Thus when we read the verse :

FIGHT THEM UNTIL THERE IS NO MORE SHIRK/PERSECUTION AND THE DEEN IS WHOLLY FOR ALLAH.8-39

We can see that legislating by other than what Allah has revealed also comes under this verse. Thus fighting is obligatory in order to make the sovereignty for Allah alone.

Ibn Taymiyyah said about the above verse: “so if part of the religion is for Allah and another is for other than him, fighting is obligatory until the religion is for Allah alone.”

He wrote this in a fatwa regarding the tartar’s that used to govern by other than islam.(al-fataawa 28/354)