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COMBATANT JIHAD IN ISLAMIC LAW OF WAR AND PEACE: SCOPE AND JUSTIFICATION

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Abstract

Local and international media has portrayed Jihad as equal to terrorism, as result of terrorist acts of some people, Jihad is to struggle in the cause of truth with our tongue, wealth, actions and life. Jihad is wider than combatant fighting, it includes saying the truth, going for hajj, kindness to the parents, struggling against one selves, Shytan, kuffar and hypocrites. Justification of Jihad is to fight against injustice, persecution and to protect Islam. If all peaceful ways fails the combatant Jihad has some conditions that must be met before engaging in it such as commandment of a political leader, strength, fighting the combatants only, not killing of women and so on. The hadith of Abu hurairah and the verse of the sword has been explained in the paper in that context.

1.0.0 Introduction

Jihad is seen by some to be synonymous to terrorism; the term jihad becomes a global term in local and international media due to the misuse of same by some religious violent extremists. One factor that also contribute to this is as a result of misconception by some regarding the term and misinterpretation of some religious text by some writers.

In this piece the meaning, classification and types of Jihad will be given, after that the justification for combatant Jihad will also be discussed, and clarification of some religious texts that are misunderstood by some to justify aggression against peace loving people of other faith will also be made. It is not in the scope of this piece to discuss the importance of Jihad, its ethics and conditions, or the termination of war or treatment of prisoners of war. It is also not part this work to comment on contemporary practices of some Jihadist groups such as ISIS, Al-Qaeda, Shabab, Jabhatu al-NUusra, Jaysh Yarmuk, and Boko Haram.

2.0.0 Meaning of Jihad

The word *-Jihad* is an Arabic word derived from the verb *-jahada*². In literal sense it simply means *-to struggle*, *-to exert effort*³ or *-exert oneself*, *-to toil* or *-to strive* or

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² Al-Jauhari I H, *Al-Sihah*, (Dar al-Qalam, Beirut, 1919), vol.3 p22

³ Al-Fayumi, A.M *al-Misbahul Munir*, (al-Maktabat al-Asriyya), vol.1 P62

–it signifies the exertion of one's power to the utmost of one's capacity in the cause of Allah⁴ As stated where Allah (SWT) said:

–Those who criticize the contributors among the believers concerning [their] charities and [criticize] the ones who find nothing [to spend] except their effort⁵,

Jihad technically has been defined by many scholars of different schools of juristic thoughts, which include the following:

Hanafi Scholars defined Jihad to mean: –Inviting pagans to embrace the true religion,(Islam)and waging war against them if they refuse to accept –⁶

According to Ibn Rushd: –Any body that strive in the way of Allah has performed Jihad, although when ever Jihad is mentioned it is referring to fighting pagans (*kuffar*) until they embrace Islam or pay *Jizya*⁷

According to the Mali ki school Jihad is – Waging war against a pagan that has no peace treaty with Muslims for sake of Allah or he entered into their land with out permission.⁸

According to the Shafi'i school Jihad means –Fighting pagans in the cause of Allah to make His word victorious and to support His religion⁹

Hanbali scholars defined Jihad as –Fighting pagans alone not Muslims¹⁰

Among the contemporary scholars Ahmad Al-Dawoody, he defined Jihad as: –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 Muhammad said: –The best [type of] jihād is a word of truth to a tyrant ruler¹¹.

Jihad technically means the unceasing effort that an individual must make towards self-improvement and self-purification. It also refers to the duty of Muslims, both at the individual and collective level, to struggle against all forms of evil, corruption, injustice, tyranny and oppression – whether this injustice is committed against Muslims or Non-Muslims, and whether by Muslims or Non-Muslims. In this context, *jihad* may include peaceful struggle or, if necessary, armed struggle.

⁴ Ibin Faris A., *Mujam MAqayis al-Lugah*, Dar al-Fikr, Beirut, 1979, vol.1P486

⁵ Qur'an 9:79

⁶ Ibn Nujaim Z, *Al-Bahr al-Raiq sharh kanz al-Daqaiq*, (Dar al-Marifa, Beirut), vol.5p76

⁷ Al-Suhaimi A. S. , *Al-Jihad fil Islam*, (Dar al-Nasiha, Madinnah, Kingdom of Saudi Arabia, 1429) p29

⁸ Al-Abi S.A, *Al-Thamar al-Dani*, (al-Maktabat al-Thaqafiyya, Beirut), p. 412

⁹ Al-Dimyati A.M, *I anatu al-Talibeen*,(Dar al-Fikr), vol.4p.180

¹⁰ s Al-Buhuti M. Y, *Kashaf al-Qina*, (Dar al-Fikr, Beirut, 1402), vol.3p.32; Al-Ruhaibani M, *Matalib Uli al-Nuha*, (al maktab al-Islami, Damascus), vol.2p.497,

¹¹ Al-Dawoody A, *Islamic law of war Justification and regulations*, (Pelgrave macmillan, New York, United State of America, 2001), P76

The Qur'an generally uses the term *-jihad* in the broader sense of struggle in God's cause which could include fighting. It was first used in the Qur'an in verses revealed at Makkah long before the early Muslims were permitted to fight:

Allah says: "And those who engage in *jihad* (striving) in Our (cause), We will certainly guide them to Our paths". (Q.29:69) He also says in another verse: "And whoever engages in *jihad* (striving), he does so for his own soul..." (Q.29:6) He also says: "Therefore, listen not to the unbelievers, but engage in *jihad* (striving) against them (with the utmost endeavour)¹², with it (the Qur'an). (Q.25:52)

Similarly, Jihad is being used in the tradition of the Prophet (pbuh) in broader sense of struggle in God's cause. The following traditions prove this assertion: Another man asked, "What kind of *jihad* is best?" The Prophet (p) replied, "A word of truth before an oppressive ruler."¹³

Aisha asked, "O Messenger of Allah, we see *jihad* as the best of deeds, so shouldn't we join it?" He replied, "Hajj is the most excellent of all *jihad* (for women)."¹⁴

3.0.0 Types of Jihad

Different jurists used different measures to classify Jihad, some classified Jihad into two namely offensive Jihad and defensive Jihad,¹⁵ while others classified Jihad into *Jihad bi al-Nafs* and *Jihad bi al-Mal*, and others divide Jihad into *Jihad al-Akbar* (the greater Jihad) and *Jihad al-Asgar* (the lesser Jihad),¹⁶ On the other hand Yusuf Al-Qardawi among the contemporary jurists classify Jihad into three namely Fighting open enemy (*Mujahadat al-Aduwu al-Zahir*), Struggling against Satan (*Mujahadat al-Shaitan*) and Struggling with one self for self improvement (*Mujahadat al-Nafs*)¹⁷

Ibn al-Qayyim (may Allaah have mercy on him) said:

Once this is understood, then jihad is of four kinds: Jihad al-nafs (jihad against one's self), jihad al-Shaytaan (jihad against the Shaytaan), jihad against the kaafirs and jihad against the hypocrites.

Jihad al-nafs (jihad against one's self) is of four kinds:

¹² Ibn Kathir states that this was the interpretation of Ibn Abbas (*Tafsir Ibn Kathir (Abridged)*, Riyadh: Darussalam Publishers), vol.7.

¹³ Al-Tirmithi M. I. *Sunan al-Tirmithi*, (Dar Ihya al-Turath al-Arabi, Beirut, hadith number: 2174) vol. 4p471; Ibn Majah M.Y. *Sunan Ibn Majah*, (Dar al-Fikr, Beirut, Lebanon, hadith number: 4011,) vol. p.1329; Al-Nasa'i A/S. *Sunan al-Nasa'i* Maktab al-Matbuat al-Islamiyyah, Halab, Syria, 1986, hadith number : 4209) vol.7p.161

¹⁴ Al-Bukhari M. I. *Sahih al-Bukhari*: (Dar tauq al-Najat, Beirut, Lebanon, 1422AH, hadith number:2784) vol.7p.194

¹⁵ Shaltut, M., *Al-Qur'an wa-al-Qital*, (1951), (cited in Nurraen Taiwo Hassan DINDI N. T. *The concept of war and peace in Islamic law*, (2012), p65; Al-Qardawi Y, *Fiqhul Jihad*, (Maktabat Wahbah, Cairo, 2009), p.69

¹⁶ Al-Dawoodi A, *Islamic law of war Justification and regulations*, pp. 76-77

¹⁷ Al-Qardawi Y, *Fiqhul Jihad*, p.66

1 - Striving to learn the teachings of Islam without which one cannot attain success and happiness in this world or in the Hereafter; if this is missing then one is doomed to misery in this world and in the Hereafter.

2 - Striving to make oneself act in accordance with what one has learned. Simply knowing without acting, even though it may not cause any harm, is not going to bring any benefit.

3 - Striving to call others to Islam, teaching those who do not know about it. Otherwise one will be one of those who conceal that which Allaah has revealed of guidance and teaching, and it will not benefit him or save him from the punishment of Allaah.

4 - Striving to bear patiently the difficulties involved in calling people to Allaah and the insults of people; bearing all that for the sake of Allaah.

If a person achieves all these four levels, then he will be one of the rabbaaniyyeen (learned men of religion who practise what they know and also preach to others. Cf. Aal _Imraan 3:79). The salaf were agreed that the scholar does not deserve to be called a rabbaani unless he knows the truth, acts in accordance with it and teaches it to others. Whoever teaches, acts in accordance with his knowledge and has knowledge, he will be called great in the kingdom of heaven.

Jihad against the Shaytaan is of two types:

1 - Warding off the doubts that he stirs up to undermine faith.

2 - Striving against him to ward off the corrupt desires that he provokes.

The first jihad is followed by certainty of faith, and the second is followed by patience. Allaah says (interpretation of the meaning):

“And We made from among them (Children of Israel), leaders, giving guidance under Our Command, when they were patient and used to believe with certainty in Our Ayaat (proofs, evidences, verses, lessons, revelations, etc.)”(Q. 32:24)

Allaah tells us that leadership in religion is attained through patience and certainty of faith. Patience wards off desires and certainty wards off doubts.

Jihad against the kaafirs and hypocrites is of four kinds: with the heart, the tongue, one's wealth and oneself. Jihad against the kaafirs is more along the lines of physical fighting whereas jihad against the hypocrites is more along the lines of using words and ideas.

Jihad against the leaders of oppression and innovation is of three kinds:

1 - Jihad with one's hand (i.e., physical jihad, fighting) if one is able. If that is not possible then it should be with one's tongue (i.e., by speaking out). If that is not possible then it should be with one's heart (i.e., by hating the evil and feeling that it is wrong).

These are the thirteen types of jihad, and —Whoever dies without having fought or having resolved to fight has died following one of the branches of hypocrisy. ||¹⁸

However among the contemporary scholars Ibn Baz has following to say on types and classifications of Jihad:

–Jihad is of various kinds, with one's self, one's wealth, by making du'aa', by teaching and guiding, by helping to do good in any way. The greatest form of jihad is jihad with one's self (i.e., going oneself and fighting), followed by jihad with one's wealth, jihad by speaking out and guiding others. Da'wah is also part of jihad. But going out oneself to fight in jihad is the highest form. ||¹⁹

4.0.0 Justification Of Combatant Jihad (*Sabab Qital Al-Kuffar*)

The disagreement over whether it is *kufur* (unbelief) or acts of aggression against Muslims that is the Qur'anic *casus belli* results in two different juridical positions being taken on the justifications for war against non- Muslims.

The first group include Hanafi, Maliki, Some Hanbalis, Sufyan al-Thauri, Ibn Taimiyyah,²⁰ al-San'ani, Shaltut and Yusuf Al-qardawi²¹ are of the view that justification of jihad is aggression and persecution and not unbelief.

Allah says in Quran: –Permission (to fight) is given to those (believers) who are fought against, because they have been wronged; and surely, Allah is able to give them victory.) (40. Those who have been expelled from their homes unjustly only because they said: "Our Lord is Allah." For had it not been that Allah checks one set of people by means of another, Sawami`, Biya`, Salawat, and Masjids, wherein the Name of Allah is mentioned much, would surely have been pulled down. Verily, Allah will help those who help His (cause). Truly, Allah is All-Strong, All-Mighty.) ||²²

Al-`Awfi reported that Ibn `Abbas said, "This was revealed about Muhammad and his Companions, when they were expelled from Makkah."²³ Mujahid, Ad-Dahhak and

¹⁸ Ibn Qayim M. A, *Zad al-Ma`ad fi hadyi khair al-Ibad*, (Muasatu al-Risalah, Beirut, 1994), vol.3P 9-11.

¹⁹ Ibn Baz A. A., *Majmu Fatawa wa Maqalat Mutanawi`a*, (Dar al-Qasim, Riyadh, 1420), vol.3 pp. 334-335.

²⁰ Ibn Taimiyyah A A, *Majmu`u al-Fatawa*, Dar al Wafa`a, vol.28 p358

²¹ Al-Qardawi Y, *Fiqhul Jihad*, ,p 70

²² Qur'an 2:190-193

²³ Ibn Kathir I, *Tafsir al-Quran al-Azeem*, Dar Taibah lil nashr, 1999, vol.5p433

others among the Salaf, such as Ibn `Abbas, `Urwah bin Az-Zubayr, Zayd bin Aslam, Muqatil bin Hayan, Qatadah and others said, "This is the first Ayah which was revealed about Jihad." Ibn Jarir recorded that Ibn `Abbas said, "When the Prophet was driven out of Makkah, Abu Bakr said, `They have their Prophet. Truly, to Allah we belong and truly, to Him we shall return; surely they are doomed.'"²⁴

Allah says in the Quran: – And fight in the way of Allah those who fight you, but transgress not the limits. Truly, Allah likes not the transgressors. And kill them wherever you find them, and turn them out from where they have turned you out. And Al-Fitnah is worse than killing. And fight not with them at Al-Masjid Al-Haram (the sanctuary at Makkah), unless they (first) fight you there. But if they attack you, then kill them. Such is the recompense of the disbelievers. But if they cease, then Allah is Oft-Forgiving, Most Merciful. And fight them until there is no more Fitnah (disbelief and worshipping of others along with Allah) and the religion (all and every kind of worship) is for Allah (Alone). But if they cease, let there be no transgression except against Az-Zalimin (the polytheists and wrongdoers).

The verse is saying 'Fight for the sake of Allah and do not be transgressors,' such as, by committing prohibitions. Al-Hasan Al-Basri stated that transgression (indicated by the Ayah), "includes mutilating the dead, theft (from the captured goods), killing women, children and old people who do not participate in warfare, killing priests and residents of houses of worship, burning down trees and killing animals without real benefit."²⁵ This also the opinion of Ibn `Abbas, `Umar bin `Abdul-`Aziz, Muqatil bin Hayyan and others.²⁶

It has been reported from Sulaiman bin. Buraid through his father that when the Messenger of Allah (may peace be upon him) appointed anyone as leader of an army or detachment he would especially exhort him to fear Allah and to be good to the Muslims who were with him. He would say: Fight in the name of Allah and in the way of Allah. Fight against those who disbelieve in Allah. do not embezzle the spoils ; do not break your pledge; and do not mutilate (the dead) bodies; do not kill the children²⁷

Allah said: –And what is wrong with you that you fight not in the cause of Allah, and for those weak, ill-treated and oppressed among men, women, and children, whose cry is: "Our Lord! Rescue us from this town whose people are oppressors; and raise

²⁴ Abu Jafar Muhammad bin Jarir al-Tabari, *Jami'ul Bayan fi Ta'wil al-Quran*, Muasasa al-Risalah, 1420AH, vol.18 p645

²⁵ bin Kathir I, *Tafsir al-Quran al-Azeem* vol.1 p524

²⁶ Ibn Jarir al-Tabar M, *Jami'ul Bayan fi Ta'wil al-Quran*, (Muasasa al-Risalah, 1420AH), vol.3p562

²⁷ Muslim H. *Sahih Muslim*, (Dar al-Jeel, Beirut, Lebanon, 4619 vol5 p139), Ibn Majah M.Y. *Sunan Ibn Majah* hadith number::2857; Al-Darimi A.A, *Sunan al-Darimi*, (Dar al-kitab al-Arabi, Beirut, 1407AH, hadith number::2439), vol2 p.284

for us from You one who will protect, and raise for us from You one who will help. Those who believe, fight in the cause of Allah, and those who disbelieve, fight in the cause of the Taghut. So fight against the friends of Shaytan; ever feeble indeed is the plot of Shaytan.)²⁸

From the above verses of the Quran it is clear that the justification for combatant Jihad is prevention of aggression (Qur'an .2:190,2:216-217,4:75-76) Fighting must cease once religious freedom is granted(Q.8:60-61) and the mission to preach Islam is protected.

In the analysis of the Quranic verses on warfare Mahmud Shaltut concluded in his *Al-Qur'an Wa al-Qital* as follows that:

—There are only three reasons for which the Islamic state may go to war, vis-à-vis.:

- 1.To repel aggression against it.
- 2.To protect the religion of Islam and
- 3.To defend religious freedom²⁹

For proper understanding of verses related to Jihad we need to understand that Prophet and his companions faced allot persecution from pagans, Bilal bin Rabah was punished, Ammar bin Yasir was maltrited and forced to pronounce kufr³⁰ and Sumaiya was killed, Some companions migrated to Abyssinia (Habasha) just to run away with their faith, yet Meccans sent Amru bin As and his team to Abyssinia to bring Muslims back to Mecca. The Meccans boycott Banu Hashim, Quraish unanimously agree to kill the Prophet(Qur'an .8:30), Abu Jahal was sent even after Prophet's Migration to Madina to crush Islam because they abandon idol worshiping

The Prophet Muhammad (p) lived peacefully with peaceful people of other faiths – both *Ahl al-Kitab* (People of Earlier Scriptures) and others.³¹ The combative form of Jihad is against aggression, oppression and intolerable injustice, whether it be initiated by Muslims (Qur'an 49:9-10) or by non-Muslims. There is no compulsion in religion (Qur'an 2:256), and the fact that Muslims are even allowed to marry chaste women from among Jews and Christians (Qur'an 5:5) is itself proof that Islam cannot at the same time teach aggression to peaceful non-Muslims. The Prophet said to his Companions, “*leave the Abyssinians alone as long as they leave you alone. And do not engage the Turks (in battle) so long as they do not engage you (in battle)*”³² The

²⁸ Qur'an 4:75- 76

²⁹ Shaltut,M., *Al-Qur'an wa-al Qital*, (1951).(cited in Nuraen Taiwo Hassan DINDI N. T. *The concept of war and peace in Islamic law* p. 57

³⁰ bn Kathir I, *Tafsir al-Quran al-Azeem*, vol.4 p605

³¹ Ahmad bin Hnbal, *Musnad Ahmad*, (Al-Maktabah Ash-Shamilah); vol. 3, pg. 211.

³² Abu Dawud, *Sunan Abu Dawud*, (Dar al-Kutub al-Arabi, Beirut), Vol.4 p.186.

Prophet had peace treaties with various people of other faiths,³³ and there were communities of Jews living in Medina which was the capital city of Islam at the time.³⁴ Additional evidence that combat is only against injustice and not due to religious difference is the prohibition by the Prophet (ﷺ) of killing Non-Muslims who were non-combatants, such as women, children, etc.³⁵ For example, he said,

–Never kill women, children, and the old weakened with age³⁶, –Do not kill hermits³⁷ –Do not slay the old and decrepit nor...³⁸
and –Leave them (monks) and that to which they devote themselves.³⁹

To this list, scholars add other non-combatants such as the blind, chronically ill, the insane, peasants, serfs, etc.⁴⁰ If all these categories of non-Muslims are not to be fought, it means then that fighting any non-Muslim is not because they are non-Muslims *per se*, but because they have been aggressive or combatants against Muslims. The injunction in the Qur'an (60:8-9) regarding those who have not fought Muslims on account of their faith nor driven them from their homelands, is that they should be treated with kindness (*birr*) and fairness (*qist*). The Prophet Muhammad (p) was sent as a mercy to mankind (Qur'an 21:107).

The second group who hold the view that the cause for war is disbelieve (*kufur*), and that Muslims are to wage war against unbelievers if they refuse to accept Islam or submit to Muslim rule, this group include Shafi'i⁴¹, some Hanbalis and Ibn Hazm⁴² of Zahiri school, while among the contemporary Sayid Qutb and Abu al-Ala al-Maududi also shared the same opinion with them, they rely on (Q.9:5 and 9:29) They also rely on the hadith of Abu Hurairah.

³³ Al-Bukhari, *Sahih al-Bukhari*, (Dar Ibn Kathir, Beirut, 2nd Edition, 1987), vol.2, p.974. Al-Mubarakpuri S, *Al-Rahiq al-Makhtum*, vol.1, p.148., Al-Sallabi A. M, *Al-Sirah al-Nabawiyah „Ard waqa”T” wa Tahlil Ahdath*. Vol.1, p.492.

³⁴ Safiu Rahaman al-Mubarakpuri, *Al-Rahiq al-Makhtum*., Vol.1, pg.138, Ali Muhammad Muhammad al-Sallabi, *Al-Sirah al-Nabawiyah „Ard waqa”T” wa Tahlil Ahdath*. Vol.1, p.492.

³⁵ Al-Zuhaili W, *Al-„Alaqaat al-Dawliyyah Muqaranatan bi al-Qanun al-Dawli al-Hadithi*. Pg.93, Al-Nawawi, *Takmilah al-Maajmu” Shar al-Muhaddhab*, (Dar al-Kutub al-ilmiiyyah, Beirut, 1st ed., 1423), Vol.24, p.163., commented on by a group of scholars.

³⁶ Abu Ishaq A. M, *Al-Kashf wa al-Bayan*, (Dar Ihya al-Turath al-Arabi, Beirut, 1st Eed., 2002), vol. 2, p.87; Ibn Qudamah, *Al-Mughni*, (Dar al-Fikr, Beirut, 1st Edition, 1405AH), vol.10, p.530.

³⁷ Abu Yala A M, *Musnad Abu Ya”la*, (Dar al-Mahmun li al-turath, Damascus, 1st ed., 1984, Scrutinized by:Husain Salim Asad). Vol.5, p.59.; Ibn Abi Shaibah A. A. *Al-Musannaf fi al-ahadith wa al-Athar*, (Maktabah al-Rushd, al-Riyadh, 1st ed., 1409), vol.6, p.484.

³⁸ Ibn Hazm A , *Al-Muhalla*, (Idarah al-iba’ah al-Muniriyyah, 1347AH), vol.2, p.297.

³⁹ *Ibid*

⁴⁰ Al-Zuhaili W., *Al-Fiqh al-Islami wa Adillatuhu*, (Dar al-Fikr, Syria, 4th ed.), Vol.8, p.11.

⁴¹ Al-Shafi’I M. I, *Al-Umm*,(Dar al-Fikr, Beirut, 1980), vol.4 p169, Al-Dimyati A.M, *I anatu al-Talibeen*, vol4 p108;

⁴² Ibn Hazm A , *Al-Muhalla*, vol.7 p291

5.0.0 Hadith of Abu Hurairah and The Verse of The Sword

The Messenger of Allah (p) said: –I have been ordered to fight the people until they say, There is none Worthy of worship but God⁴³

The Arabic word in this *hadith* is not *-qat'l* (–fight or –kill) but *-qaatal*, which means –to fight back – a meaning more ambiguous than *qatl* which implies proactively and taking the first initiative. The word *-qaatal* implies reciprocity, and thus may not be used for a scenario where one initiates attack without provocation. This act of fighting with a people may also not contradict the injunctions of the Qur'an on the type of people to be fought, the specific exemptions mentioned in Q.2:193, 9:4-7, 4:90 and others like them (all of which should be read in their contexts), as well as the example of the Prophet (p).⁹⁸ The second aspect of this *hadith* conveys the sacredness of the declaration of faith in One God, since it is one of the means (and not the only means!) to cease fighting.⁹⁹ This understanding has also been demonstrated by the Prophet (p) in other *hadith* where he chastised a believer for killing an enemy in battle after the enemy uttered the declaration of faith on the brink of being defeated. Like any other *hadith* or verse of the Qur'an, the *hadith* under consideration cannot be interpreted outside the context of the whole Qur'an and Sunnah, neglecting other explicit statements in the Qur'an and *hadith* on this issue, and disregarding the rules of interpretation (*tafsir*) of religious texts. Furthermore, it would be wrong to try and conclude that this *hadith* (or any other *hadith*) abrogates any of the verses of the Qur'an on this topic. “*There is no compulsion in religion*” (Q2:256), If the interpretation of this *hadith* is to be taken in its literal meaning without considering other texts, we will not have Christians and Jews in the Middle east today, eg. Egypt, Syria, Iraq, and Lebanon.

Ibn Hajar in his commentary on this *hadith* he said this *hadith* has no general application, it has restrictions (*Amun Makhsus*), there is another narration in *Sunan al-Nasai* that said –have been ordered to fight the the pagans⁴⁴ which exclude people of the book, it also exclude people with treaties, those who paid Jizya, and non hostile.⁴⁵

The verse of the sword is said to have abrogate more than one hundred verses in the Quran which teach peaceful relationship with non hostile people of other faith, this is said by many scholars in their *Tafsir*,⁴⁶ Ibn Zaid, Imam Al-Qurtubi, Jamal Alqasimi, Badru al-Din al-Zarkashi, and Ibn Taimiyya, said the verse of the sword did not

⁴³ Al-Bukhari M I, *Sahih al-Bukhari* hadith number::25; Muslim H, *Sahih Muslim*, hadith number:133

⁴⁴ Al-Nasa'i A;S. *Sunan al-Nasa'i* hadith number::3966; vol.7 p.75

⁴⁵ Ibn Hajar A. H. *Fathul Bari*, (Dar al-Fikr, Beirut), vol.1 p77

⁴⁶ Al-Shinqity M.A , Adwaul Bayan, (Dar al-Fikr, Beirut, 1995), vol.5p263; Ibn Atiya A, *Almuharar al-Wajiz*, (Dar al-Kutub al-Ilmiyya, Beirut, 1993) vol. p249, Ibn Al Araby, *Tafsir Ayat al-Ahkam* vol.1 p99; Al-Qurtubi M. A ,*Tafsir al-Qurtubi*, vol.2 p351; Muhammad bin Ali Al-Shaukani M. A, *Fathul Qadir*, vol.2p489

abrogate other ones, and is also not abrogated, all are Muhkam⁴⁷ If Muslims are persecuted by others and they are strong they should use the verse of sward after failure of other peaceful means, in line with the whole objective of Sharia. On the other hand if they are persecuted and they have no power to fight back the verses patience (Q.4:63,81; 15:94; 32:28-30; 53:29-30; 28:55; 51:54; 7:199) will apply and Finally If they are not hostile to us we should be kind to them, engage in dawah, and the verse of Mumtahina (Q.60:8) will apply.

Conclusion

The term Jihad has a wider meaning which includes commanding good, forbidding harm, pilgrimage, kindness to the parents and striving for the right thing. Fighting aggressive people who fight Muslims and entered into their land without permission is also part of Jihad after fulfilling all necessary conditions. The justifications for combatant Jihad are to repel aggression against it, to protect the religion of Islam and to defend religious freedom. Some scholars argued that the verse of the sward has abrogated the verses of peaceful relationship while the strongest opinion is it does not. For proper understanding of the justification of Jihad in Islam there is need to study the life history of the prophet and the reasons for his battles carefully, there is also need to have a holistic approach to the whole relationship of the prophet and his companions with different people before and after migration. All verses that discuss the war in Qur'an there is need to understand it within its context, read verses before it and verses after it.

⁴⁷ Al-Shaukani M.A , *Fathul Qadir*, vol.2p489; Al-Qasimi M.J , *Mahasin al-Tawil*, (Maktba Muhammad Fud Abdul Baqi, Cairo, 1957), vol.8 p3074

