

ON THE NORMALIZATION OF DIPLOMATIC RELATIONSHIP BETWEEN ISRAEL AND MUSLIM COUNTRIES

A Study of Classic *Fiqh* and Contemporary *Fatwas*

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Abstract

This article discusses the different legal opinions of Muslim scholars of various trends in the past and modern time, on the normalization of diplomatic relationship between Muslim countries and Israel. The article aims to compare among these different opinions and also to clearly define the common and specific argument on which they agreed, as well as to accurately define the points of disagreement. The focus of study will be the theoretical reasons as well as practical effects, through the analysis of fatwas and their context. The exploration will give the reader a clear understanding of the nature of these differences yet the conflicting arguments among them. This article follows the methodology of the jurisprudential and contextual analytical comparison. The research questions will follow this logical sequence: what are the general opinions of Muslim religious scholars regarding the issue of diplomatic normalization with Israel? what are the areas of agreements and differences between them? and what are the current fatwas and their reasons for their opinions in the perspective of Islamic law? However, in some points, due to its actual and comprehensive argument as well as the worldwide circulation, Yusuf Qaradhawi's legal opinion and fatwa will be cited and referred longer than others as examining stone and completing legal validity and representing contemporary logics of prominent Muslim jurist. The article concludes some

points of theoretical differences, similarities and practical implications as well as recommendations of notifications for future study.

[Artikel ini membahas perbedaan pendapat antar sarjana muslim mengenai trend di masa lalu dan kini tentang normalisasi hubungan diplomatik antara negara muslim dan Israel. Artikel ini membandingkan perbedaan opini dan juga menjernihkan titik kesepahaman dan ketidaksepahaman yang disepakati bersama. Fokus pembahasan mulai dari aspek teoritis hingga efek praktis melalui analisis fatwa dan konteksnya. Pembahasan juga memberikan pemahaman bagi pembaca keadaan yang berbeda termasuk argumen konflik diantara mereka. Artikel ini menggunakan metode analisis perbandingan hukum dan kontekstual. Setidaknya ada dua pertanyaan yang akan dijawab yaitu apa pandangan umum sarjana muslim mengenai wacana normalisasi hubungan diplomatik dengan Israel dan apa fatwa terbaru serta penjelasannya dalam perspektif hukum Islam? Dalam beberapa hal, argumen aktual dan komprehensif mengikuti sirkulasi yang lebih luas. Fatwa dan pendapat Yusuf Qaradawi akan dikutip dan dirujuk lebih banyak sebagai pijakan serta validasi dan representasi komplis logika kontemporer bagi pemikir muslim ternama. Artikel ini menyimpulkan beberapa hal penting terkait perbedaan dan persamaan teoritis serta implikasi praktis, termasuk juga rekomendasi untuk kajian ini ke depan].

Keywords: Fatwa, Normalization, Diplomatic relationship, Israel, Muslim countries.

A. Introduction

The normalization of relations between Israel and Muslim countries is a hot and controversial debate. For a long time, this issue had become a taboo subject to discuss. Recently, this theme has suddenly emerged and seems to have become a trend from the tendency of Muslim countries themselves. From a normative perspective, the relationship between Muslims and non-Muslims is not a new theme. However, the topic was recently just refreshed mainly because the establishment of the state of Israel in 1947 with the Balfour declaration was interpreted by Muslim countries as deprivation of the sovereign rights and land of the Palestinian people.

Hence if legal opinions are interpreted as a record of people's

aspirations and their normative views, then what are the dynamics and forms of metamorphosis of the legal norms that accompany the varied legal opinions and *fatwas* in relation to the normalization of relations between Israel and the Muslim state? This paper will analyze the related legal opinions and *fatwas*. Starting from the theme of the norms of relations between Muslims and non-Muslims, the legality of armed *jihad* in general, Islamic legitimacy of *jihad* against Israel, and Islamic legitimacy of reconciliation with Israel. In order to understand the agreement and disagreement of Muslim religious scholars on the issue of diplomatic normalization between Israel and Muslim countries, it is necessary to know their intellectual and theoretical background and the origins from which they departed (set off) to reach the conclusion. This issue is originated from four fundamental points; first, the basic nature of the practical relationship of Muslims with non-Muslims (including the Jews), second: the legitimacy of *jihad* in general, third: the issue of *jihad* against the occupier, then fourth: the issue of the reconciliation and conflict resolution with the warriors. Understanding these points lead to a comprehensive picture of the problem. Exclusively, in some points, the article includes and quotes some opinions and *fatwas* of Shaikh al-Qaradhawi, in consideration of his comprehensive elaboration on the problems and its worldwide circulation. It is regarded also as representing logics of current Muslim jurist.

This article follows the methodology of the jurisprudential and contextual analytical comparison between the legal opinions (*fiqh*) and *fatwas*. It compares these different opinions and their ways of deducting textual as well as rational arguments as the basis of legal opinions and *fatwas*. It highlights the general trend of Muslim religious scholars regarding this issue and also clearly defines the common points on which they agreed, as well as to accurately define the points of disagreement. It also explores the effects of the legal opinions and *fatwas* through the analysis of their legal reasoning and the context.

The legal opinions and *fatwas* chosen here are issued by individuals who have an influence on government and society at large. This is known from the biographies of the Muslim jurists or mufti in the Islamic legal discourse, governmental structures and the public's interest in making the opinions and *fatwas* as frame of reference in solving problems. The

fatwas were published over a period of more than 50 years. This is because the relationship between Israel and the Muslim State has been a political problem that has lasted for a long time, so that the *fatwas* studied can reflect the ebb and flow of religious thought and Islamic law over a long period of time.

B. The Basis of The Relationship of Muslims With Non-Muslims

On this issue, ulama are divided into two groups. The first, the basis of the relationship with non-Muslims is war, not peace, and those whoever Islam has reached them and has not become a Muslim, Muslims must fight him until he becomes Muslim or gives the *Jizya* (per capita yearly taxation). This view is seen by the majority of the early jurists of the four imams¹, and some late scholars, including: Abdul-Karim Zaidan², Mustafa Wasfi³, Sayyid Qutb⁴, and others. The second, the basis of the relationship with non-Muslims is peace, and war is only for an urgent and contingent matter.⁵ This view is seen by some of the old scholars, including Al-Khattabi in his book *Milestones of Al-Sunan*, Abu Muslim Al-Asfahani, Al-Qafal Al-Shaashi, Fakhr al-Din al-Razi⁶, and was quoted from Imam al-Thawri.⁷ The contemporary jurists who took this view,

¹ Wahbah Al-Zuhaili, *Aṭṣār al-Harb fī al-Fiqh al-Islāmī* (Damascus: Dar Al-Fikr, 2001), p. 114.

² Abd al-Karim Zaidan, *Majmū‘at al-Buḥūts fī al-Fiqhīyyah* (Baghdad: Maktabah al-Quds, 1986), p. 54.

³ Mustafa Kamal Wasfi, *Muṣanafāt al-Niẓam al-Islāmīah* (Cairo: Maktabah Wahbah, 1977), p. 282.

⁴ Sayyid Qutb, *al-Jihād fī Sabil Allah* (Cairo: al-naadi al-shababi, 1970), p. 113.

⁵ Muhammad Abu Zahra, *al-Mujtama al-Insānī fī Zilli al-Islām* (Cairo: Dar al-Fikr al-Arabi, 1981), p. 141; Muhammad Abu Zahra, *al-‘Alāqāt al-Daulīyyah fī al-Islām* (Cairo: Dar al-Fikr al-Arabi, 1995), p. 47.

⁶ Muhammad Ibrahim Al-Deek, *al-Mu‘ābadāt fī al-Syarī‘ah al-Islamiyyah* (Amman: Dar Al-Furqan for Publishing and Distribution, 1997), p. 24.

⁷ Fakhr Al-Din Abu ‘Umar ‘Uthman Ibn ‘Ali I. Zayla‘I, *Tabyin al-baqa‘iq sharh kanz al-daqa‘iq* (Beirut: Dar al-Kutub al-‘Ilmiyyah, 2000), p. 241.

including: Sheikh Mahmoud Shaltout⁸, Sheikh Muhammad Abdo⁹, Wahba Al-Zuhaili¹⁰, Sheikh Muhammad Abu Zahra¹¹, Muhammad Rashid Rida¹², Sheikh Yusuf Qaradawi¹³, and other late thinkers and scholars.

The legal arguments of the first group rooted in the textual as well as rational approach. The textual is referring to the general meaning of God's verse: "[Believers], fight them until there is no more persecution, and all worship at the Sacred House is devoted to God alone"¹⁴, and "True Religion, in God's eyes, is Islam: [devotion to Him alone]"¹⁵, and "Fight those of the People of the Book who do not [truly] believe in God and the Last Day, who do not forbid what God and His Messenger have forbidden, who do not obey the rule of justice, until they pay the tax and agree to submit"¹⁶ and 'Abdullah bin 'Umar reported: "The Prophet said 'I have been commanded (by Allah) to fight people until they testify that there is no true god except Allah, and that Muhammad is the Messenger of Allah, and perform *Salat* and pay *Zakat*. If they do so, they will have protection of their blood and property from me except when justified by Islam, and then account is left to Allah"¹⁷. Whereas the rational approach is deducted from the action of the Rightly Guided Caliphs and the Companions of the Prophet (*al-Khalifa al-Rashidun*), where the basis of the relationship with non-Muslims in their time was evident through the Islamic conquests that they carried out, and none

⁸ Mahmud Saltut, *Min Taijibāt al-Islām* (Cairo: Al-Idarat al-'Amma li-t-Taqafa al-Islamiya bi-l-Azhar, 1959), p. 93.

⁹ Muhammad Rasid Rida, *Tafsīr al-Manār*, vol. 2 (Beirut: Dar al-Makrifah, 1975), p. 258.

¹⁰ Wahbah Al-Zuhaili, *al-Alāqāt al-Dauliyyah fī al-Islām* (Damascus: Dar Al-Fikr, 1962), p. 120.

¹¹ Zahra, *al-Mujtama al-Insānī fī Zilli al-Islām*, p. 141; Zahra, *al-'Alāqāt al-Dauliyyah fī al-Islām*, p. 47.

¹² Muhammad Rasid Rida, *al-Wahyū al-Muḥammadi* (Beirut: Dar al-Kutub al-Ilmiyyah, 2005), p. 312.

¹³ Yusuf Qaradawi, *Fiqh al-Jihad: Dirasah Muqaranah li-Abkamih wa-Falsafatih fi daw al-Quran wa-al-Sunnah*, vol. 1 (Cairo: Maktabat Wahbah, 2009), p. 274.

¹⁴ Qur'an, 8: 39.

¹⁵ Qur'an, 3: 19.

¹⁶ Qur'an, 9: 29.

¹⁷ Al-Bukhari: 25.

of the caliphs stopped to discuss the issue of the relationship (peace or war), but rather they responded to the call of *jihad* (physical struggle), and this stems from their accurate understanding of the call of Islam of guidance for humanity.¹⁸

The second opinion refers to Quranic verse: “But if they incline towards peace, you [Prophet] must also incline towards it, and put your trust in God”,¹⁹ and “You who believe, enter wholeheartedly into peace or into submission to God”,²⁰ and “And He does not forbid you to deal kindly and justly with anyone who has not fought you for your faith or driven you out of your homes: God loves the just.”,²¹ and the Prophet said: “O people! Do not wish to meet the enemy, and ask Allah for safety, but when you face the enemy, be patient”.²² Among the second group, Yusuf al-Qaradawi may represent their opinion. Qaradawi looks at this issue with great regret, as it was rumored among the classic scholars that the principle is to fight non-Muslims, including Jews, Christians, and others, regardless of their peace towards Muslim, however this issue needs a pause, review and reflection, and not being satisfied with quoting a bias opinion, but rather referring to the original texts. It is imperative to discuss and analyze these texts in terms of the objectives and consider the interests and evils (corruptions) wisely.²³

Qaradawi believes that the claim of some that Islam was spread by sword is a falsehood against this religion that has no basis, and that it is a great fallacy that has serious negative effects on Islam and Muslims.²⁴ He rejected the statement of those who said that the goal of military *Jihad* is the elimination of unbelief, and considered it a rejected goal, but rather the duty of Muslims is to have a strong army, so that it could deter

¹⁸ Saeed Al-Muhairi, *al-‘Alāqāt al-Khārijīyyah li al-Daūlat al-Islāmīyah* (Beirut: Mu’assasah al-Risalah, 1995), p. 34.

¹⁹ Qur’an, 8: 61.

²⁰ Qur’an, 2: 208.

²¹ Qur’an, 60: 8.

²² Muhammad ibn Isma‘il Bukhari, *Sahib al-Bukhari* (Beirut: Dar al-Kotob al-Ilmiyah, 2003), pp. 3024–5.

²³ Qaradawi, *Fiqh al-jihad*, 1: 257.

²⁴ *Ibid*, 1: 270.

the enemies.²⁵ He declared that he is proud for being one of the holders of the opinion that the essence of the relationship with peaceful non-Muslims is peace and not war, so he said: “Thank God that he guided me to this opinion, because it reflects the truth of Islam.”²⁶

Furthermore, Saeed Al-Muhairi believes that this difference between the scholars on this issue, in the past and the present, is due to the fact that the earlier were living in the era of the strength of Islam, while the later ones are at a time in which the Muslims were weak, that is why the disagreement was between the two parties.²⁷ Others argue that the position of the old jurists was justified at the time, as it was in the context of responding, according to the norm of reciprocity, to the nature of the non-Muslims stance towards Muslims based on permanent hostility and the expansionist imperial mentality that was controlling all nations at this time.

C. The Legality of Armed *Jihad* in general

There are at least three opinions: the majority of jurists and scholars²⁸ went that *jihad*, which is in the sense of fighting, is a sufficiency duty “*farḍ al-kifāya*”²⁹, a duty imposed on the whole community of believers but the individual is not required to perform it as long as a sufficient number of community members fulfill it. Ibn Qudamah agreed with them that *Jihad* is a sufficiency duty.³⁰ The second is Sa’id ibn al-Musayyib, and some of the Shafiite went that *Jihad* is an individual duty “*farḍ al-’ayn*”.³¹ The last is the third, Ibn Omar, Ataa, Al-Thawri, and Ibn Shubrama went to the point that *Jihad* is a “recommended action”, and it is not an individual

²⁵ ‘Isam al-’Abd Zuhd, ‘al-Jihād fi Fikr al-Qaraḍāwī’, *Majalah al-Jami’ah al-Islamiyyah*, vol. 17, no. 1 (2011), p. 31.

²⁶ Qaradawi, *Fiqh al-jihad*, 1: 274.

²⁷ . Al-Muhairi, *al-’Alāqāt al-Khārijīyyah li al-Da’ūlā’ al-Islāmiyyah*, p. 41.

²⁸ ‘Abdallah Ibn-Ahmad Ibn-Qudama, *al-Muḡnī*, vol. 4 (Beirut: Dar Al-Fikr, 1998), p. 196.

²⁹ Imam ‘Alauddin Abu Bakr bin Mas’ud Al-Kasani, *Badā’i’ al-Shanā’i*, vol. 9 (Beirut: Dar al-Kutub al-’Ilmiyah, 1986), p. 4300..

³⁰ Qaradawi, *Fiqh al-jihad*, 1: 74.

³¹ Walid Muhammad bin Ahmad bin Muhammad Ibnu Rusyd, *Bidāyāt al-Mujtabid wa Nihāyat al-Muqtaṣid*, vol. 1 (Beirut: Dar Al-Jiil, 1986), p. 396; Ibn-Qudama, *al-Muḡnī*, 4: 196.

or sufficiency duty.³²

The first group based the opinion on the words of Allah: “Yet it is not right for all the believers to go out [to battle] together...”³³, and “Those believers who stay at home, apart from those with an incapacity, are not equal to those who commit themselves and their possessions to striving in God’s way. God has raised such people to a rank above those who stay at home— although He has promised all believers a good reward, those who strive are favoured with a tremendous reward above those who stay at home”³⁴, and the hadeeth of Abu Sa’id Al-Khudri who reported: Prophet sent a detachment to Banu Lahyan tribe and remarked, “Let one of every two men get ready to advance, and both will earn the same reward”³⁵. And that the Prophet, did not go out in all the expeditions. Rather, he used to go out once and stay in Medina another, putting a leader over the group that goes out, as stated in the hadith of Buraida through his father that when the Prophet 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...”³⁶.

The second group based the argument on God’s words: “Fighting is ordained for you, though you dislike it.”³⁷, and “Though you may fight the idolaters, all together, at any time, if they first fight you...”³⁸, and narrated Abu Hurayrah that the Prophet said: “Striving in the path of Allah (*jihad*) is incumbent on you along with every ruler, whether he is pious or impious...”³⁹, and Anas reported that the Prophet said, “Strive

³² Rusyd, *Bidāyat al-Mujtabid wa Nihāyat al-Muqtaṣid*, 1: 283.

³³ Qur’an, 9: 122.

³⁴ Qur’an, 4: 95.

³⁵ Muslim ibn al-Hajjaj al-Qushayri, *Sahih Muslim* (Beirut: Dar al Kutub al-Ilmiyah, 2005), p. 1896..

³⁶ *Ibid*, p. 1731.

³⁷ Qur’an, 2: 216.

³⁸ Qur’an, 9: 36.

³⁹ Abu Daud Sulayman ibn al-Ash`ath al-Sijistani, *Sunan Abi Dawud* (Beirut: Dar al Kutub al-Ilmiyah, 2007), p. 2533. Weak Hadith.

against the polytheists with your wealth, persons (lives), and tongues.”⁴⁰ ⁴¹ The third group mention their reference from logical inference and citation that there are some other texts specified general evidences of *jihad*, knowing that if the specification came after the generalization (general text). Thus, it became ambiguous indicative. Consequently, the deduction from it weakened and cannot be for obligatory anymore, would turn into a recommended action instead.⁴²

It is worthy to note on Ibn Qudamah’s opinion. He believes that *Jihad* is a sufficiency duty or “*farḍ al-kefāyā*”, and it turns to be “Individual duty” in three cases:⁴³ a. If the two fronts met together, it is forbidden for every Muslim attending to leave; b. If the non-Muslims occupy an Islamic country, the people of this country must fight and push them; c. If the ruler mobilizes a certain people, they must obey. Besides, The *Hanafi* and *Shafi’i* schools, and a narration among the *Malikis*, also added a fourth case of “freeing prisoners.”⁴⁴

D. Islamic Legitimacy of *Jihad* against Israel

1. *The Basis of The Relationship of Muslims With the Jews and the Nature of the Conflict against Israel*

This issue is a natural extension of what preceded it in the previous issue about the basis of the relationship with non-Muslims in general, including Jews, Christians, and others, hence the same disagreement extends to it; a. Whoever argues that the basis of the relationship with non-Muslims is peace, he sees that the battle with the Jews is not for the sake of their religion, but rather for their aggression and occupation of

⁴⁰ *Ibid.*, p. 2504.

⁴¹ Ibn al-Hamam, *Fathul Qadir*, vol. 5 (Beirut: Dar al Kutub al-Ilmiyah, 2003), p. 439.

⁴² Rusyd, *Bidāyat al-Mujtabid wa Nihāyat al-Muqtaṣid*, 1: 396; Ibn-Qudama, *al-Muḡnī*, 4: 196.

⁴³ Ibn-Qudama, *al-Muḡnī*, 4: 163.

⁴⁴ Zayn al-Din ibn Ibrahim Ibn Nujaym, *al-Baḥr al-Rā’iq Syarḥ Kanẓ al-Daqā’iq*, vol. 1 (Beirut: Dar al Kutub al-Ilmiyah, 1997), p. 78; `Abd Allah Ibn Abi Zayd Abu Muhammad al-Maliki, *Kifāyat al-Tālib*, vol. 2 (Cairo: Dar al-Fikr lil-Tiba’a wal-Nashr, 1983), p. 3; Zakariyya al-Ansari, *al-Ghurar al-Bahīyyah fi Syarḥ al-Bahjah al-Wardīyah*, vol. 5 (Beirut: Dar al Kutub al-Ilmiyah, 1997), p. 130..

the land; b. As for those who believe that the basis of the relationship with non-Muslims is based on war and fighting, then he considers the battle with the Jews to be for their Judaism, and not for the sake of their mere aggression or usurpation of the land of Muslims;

In the context of the relationship between Muslim and Jews, Qaradawi issued a *fatwa* clarifying the relationship, in which he said:

“The truth that all people should know is that I do not hate the Jews because they are Jews, for Judaism is a religion that is not the reason for the battle between us and Israel, for they are people of a heavenly religion, even if they distorted or changed it, just as the Jews in terms of belief and law are closer to us than the Christians, because they are closer to the religion of Abraham, peace be upon him, than others.”⁴⁵

For the nature of conflict against Israel, at least two opinions are found; a. Believes that the nature of the conflict with the Jews in Palestine is a religious ideological conflict based on the identity of the Jews, and this trend has recently been adopted by most of the jihadist current scholars; b. Believes that the nature of the conflict with the Jews in Palestine is a struggle against the occupation and not against the Jews per se. This trend is adopted by all official Arab and Islamic religious institutions, most scholars of Al-Azhar and most scholars of the Muslim Brotherhood.

The most prominent *fatwas* of this current's scholars on this issue are the *Fatwas* of Qaradawi. In his book “We and the West: Qaradawi and the Jews, Thorny Questions and Critical Answers”, Qaradawi considers that the Palestinian issue is the first issue in contemporary *jihad*, and affirms that the Palestinian issue is the first issue of Arabs and Muslims, and that it is the cause of our ongoing battle with the Zionist Jews, from the early last century until right now. He adds, we are not hostile to the Israeli entity because it is Semitic. This is from How we think of as Muslims is far for two reasons: a. We Arabs are Semites as well, and the Jews in our time are not all Semites anymore, because other elements from all nations have entered into them. Judaism is in its origin

⁴⁵ Yusuf Qaradawi, *Maqālāt Nahnu wālġharb ‘Al-Qaradawi’s Journey Inside the Western Mind* (Cairo: Dar-altawzicc walnshr alsłamyā, 2006). See Sheikh Al-Qaradawi’s website at <https://www.al-qaradawi.net/>.

a religion and not a nationality;⁴⁶ b. Muslims are universal and humane and are not racists by virtue of their religion. Allah said: “People, We created you all from a single man and a single woman, and made you into races and tribes so that you should recognize one another...”⁴⁷ We are also not hostile to Israel, he adds, because it is Jewish, for Judaism is a divine religion, and our master Moses is considered one of the five prophets of the perseverance and strong will, as well as the Holy Qur’an has chosen for the Jews and Christians a name that implies being near to them, namely, “People of the Book.”⁴⁸

Al-Qaradawi explains the real reason for the battle with the Zionism in Palestine, and the truth of the ongoing conflict, which is that they are aggressors who have usurped the land of Palestine, displaced its people, and imposed their presence through violence, injustice, terrorism, orgies, and murder, consequently the conflict will remain as long as they occupy our land, usurp our sanctuaries, and reconciliation between us is unacceptable if it is based on admitting that their aggression and what they usurped from the land and sanctuaries are their right! Qaradawi asserts that no one in existence has the right to surrender the land of Palestine, which has been considered an endowment for all Muslims since they liberated it.⁴⁹ Therefore, Qaradawi issued a *fatwa*: that the battle with the Jews in Palestine is ongoing until the Palestinian right is restored, which is the whole of Palestine, and that the nature of the battle on our part is of a religious doctrinal character in order to defend our usurped right, because the principle in every battle that a Muslim engages in is to defend the truth or resist falsehood, and we said that it is religious because it is a battle for the sake of God, not because it is a battle against the Jews.⁵⁰

⁴⁶ Yusuf Qaradawi, *Maqālāt Naḥnu wālg̃arab “Al-Qaradawi and the Jews, Thorny Questions and Critical Answers, Our Stance Toward the Jews”* (Cairo: Dar-altawziie walnshr alslamya, 2006). See Sheikh Al-Qaradawi’s website.

⁴⁷ Qur’an, 49: 13.

⁴⁸ The previous reference.

⁴⁹ Yusuf Qaradawi, *Fiqh al-Jihad: dirasah muqaranah li-abkamib wa-falsafatib fi daw al-Quran wa-al-Sunnah*, vol. 2 (Cairo: Maktabat Wahbah, 2009), p. 1095.

⁵⁰ Qaradawi, *Fiqh al-Jihad*, 2: 1099 – 1100; Qaradawi, *Qaḍīyyā Falasṭīn al-baq wālbāṭil*, p. 21

2. *Fatwas of Jihad Against Israel:*

The imams of the four schools agreed that the *Jihad* of the occupation and the push of the aggressor on the land of the Muslims is an individual duty “*fard al-’ayn*” over its people which widens and narrows according to need and ability. Some scholars conveyed this agreement, such as Al-Mardawi who said: “Whoever attends in the army from whom is permitted to do *jihad*, or the enemy is present in his country, he must do *Jihad* unanimously.”⁵¹ This opinion also was stated by: The *Hanafite*: it was mentioned in the book “*ḍḥīrt al-fatāwī fī al-ḥiqb*” by Burhan al-Din al- Marghīnānī,⁵² and in the Book of “*al-Baḥr al-Rā’iq*” by Zain al-Din Bin Nujaym.⁵³ The *Malikite*: It was stated in “*mukhtaṣar ḥilli*” by Khalil bin Ishaq al-Jundi: “*Jihad* is obligatory whenever the enemy attack surprisingly, whether over woman, and over those who are close to them if they cannot).”⁵⁴ The *Shafiite*: it was mentioned in the book “*asni al-maṭālib*” by Sheikh Zakaria al-Ansari⁵⁵, and in the book “*al-zawājir*” by Ibn Hajar al-Haytham.⁵⁶ The *Hanbalite*: it was mentioned in the book “*kaṣāf al-qnā’*” by Al-Bahouti⁵⁷, and Ibn Qudamah said so in the book of “*al-muḥṣin*”⁵⁸, and Ibn Taymiyyah in the book “*al-Siyasah al-Syar’iyyah*”⁵⁹, and the book “*al-ftāwī al-kebri*” attributed this opinion to Imam Ahmad bin Hanbal

⁵¹ ‘Ali ibn Sulayman Mardawi, *al-Insaf fi Ma’rifat al-Rajih min al-Khilaf*, vol. 4 (Beirut: Dar al Kutub al-Ilmiyah, 2012), p. 117.

⁵² Ali Haidar, *Durr al-Hukām Syarah Majalat al-’Aḥkām*, vol. 1 (Riyadh: Dar ‘Alami al-Kutub, 2003), p. 282.

⁵³ Ibn Nujaym, *al-Baḥr al-Rā’iq Syarḥ Kanḥ al-Daqā’iq*, 1: 79.

⁵⁴ Khalīl ibn Ishāq al-Jundī, *al-Mukhtaṣar fī al-ḥiqb ‘alā madhhab al-Imām Mālik bin Uns li-Khalīl bin Ishāq bin Ya’qūb al-Mālikī* (Paris: Imprimerie nationale, 1855); Abu Abdillāh Muhammad bin Yusuf bin Abi al-Qasim bin Yusuf al-Mawwaq, *al-Taj Wa al-Iklil Li Mukhtasar Khalīl*, vol. 4 (Beirut: Dar al Kutub al-Ilmiyah, 1994), p. 539.

⁵⁵ Zakariyya al-Ansari, *Asna al-Maṭālib*, vol. 4 (Beirut: Dar Al-Fikr, 2008), p. 178.

⁵⁶ Ibn Hajar Al-Haythami, *Aḥ- Zawajir ‘an Iqtiraf al-Kabair*, vol. 2 (Bairut: Dar Al-Fikr, 1987), p. 296.

⁵⁷ Mansur ibn Ynis ibn Idris al-Buhuti, *Kaṣṣf al-Iqnā’ a’ n Matan al-Iqnā’*, vol. 3 (Beirut: Dar Al-Fikr, 1982), p. 37..

⁵⁸ Ibn-Qudama, *al-Muḥṣin*, 4: 174.

⁵⁹ Aḥmad ibn ‘Abd al-Ḥalīm Ibn Ibn Taymīyah, *al-Siyasah al-Syar’iyyah* (Jeddah: International Islamic Fiqh Academy, 2008), p. 171.

himself directly.⁶⁰ To conclude, the four schools of thought of the classic scholars said that the struggle and fighting against the occupation is an individual duty “*farḍ al-ʿayn*”, and who said it is a sufficiency duty “*farḍ al-kifāya*”, meant that if some Muslims or some of the people of those lands are sufficiently enough to push the aggression, then, in this case, no one more is obligated to go out to fight.

Large number of *fatwas* and statements were issued by the contemporary ulama on the issue of fighting the occupation, especially the Zionist occupation. Many contemporary scholars have explained the ruling on *Jihad* and pushing the occupation. A *fatwa* issued by Al-Azhar scholars in 1947, signed by 26 Azhari scholars, among them: Sheikh Muhammad Hassanein Makhlof, Sheikh Abdul Majid Salim, Sheikh Mahmoud Shaltout, Sheikh Muhammad Draz, and others, as the *fatwa* stated the obligation of *Jihad* on the land of Palestine to save it and protect Al-Aqsa Mosque; and this *fatwa* came after the issuance of the United Nations Partition Plan for Palestine on 11/29/1947.

And among what was stated in this *fatwa*:

“The decision taken by the United Nations is an invalid and unjust decision, and it has no share of truth and justice, and it was issued by a body that does not own the right. The land of Palestine is the property of Arabs and Muslims, in which they spent their precious souls and their pure blood. And it will remain, God willing, the property of the Arabs and Muslims despite the alliance of the people of falsehood, and no one, whoever he was, has the right to dispute it or divide it and tear it apart.”⁶¹

Then a similar *fatwa* was issued by the Al-Azhar Mosque at a meeting of its committee in 1956.

The *fatwa* of Muslim scholars of Prohibition to relinquish (cede) any part of Palestine, issued by International Islamic conference of the scholars of the Islamic nation (1989-1990), signed by 63 scholars, thinkers and preachers, including: Sheikh Muhammad Al-Ghazali, Dr.

⁶⁰ Ahmad ibn ʿAbd al-Halim Ibn Taymiyah, *Majmūʿ al-Fatāwā*, vol. 5 (Beirut: Dar al Kutub al-Ilmiyah, 2005), p. 539.

⁶¹ The Arab Higher Committee (Palestine), *Fatāwa šyriyyah khaṭīrah bimumāsbāʾ muʿābadāʾ al-sulḥ baina al Misri wa alduww al israili*, The rule of Islam in the issue of Palestine, pp. 14-15. Arab Higher Committee, *The Palestine Arab Case: A Statement by the Arab Higher Committee, the Body Representing the Palestine Arabs. April 1947* (Cairo: Costa Tsoumas, 1947), pp. 14–5.?

Yusuf Qaradawi, Prof. Wahba Al-Zuhaili, Sheikh Abdul Rahman Abdul-Khaliq, Dr. Hammam Saeed, Dr. Abdullah Azzam, Sadiq Abdul Majid, Sheikh Hafez Salama, Mustafa Mashhour, Dr. Essam Al-Bashir, and others, among the contents of it:

“Jihad for the sake of God is the only way to liberate Palestine, and it is not permissible under any circumstances to recognize one usurped inch of the land of Palestine for the Jews, and no person or party has the right to give the Jews an affidavit regarding the land of Palestine, or assign any part of it to them, or to recognize any right for them, and this recognition is a betrayal of God and His Messenger, and of the trust that Muslims have been entrusted.”⁶²

The *Fatwa* of Sheikh Abdul Aziz Ibn Baz, among the contents of it: “They must defend their religion, themselves, their families and their children, and expel their enemy from their land with all they can - the people of Palestine - and the Islamic countries and the rest of Muslims must help and support them in order to get rid of their enemy and return to their country.”⁶³

The *fatwas* of Qaradawi: Qaradawi is considered one of the staunch supporters of the Palestinian cause, and one of the scholars who support the Palestinian people’s *Jihad* most, and one of those calling for intensifying efforts to liberate Palestine from the occupation. Al-Qaradawi’s *fatwas* about *Jihad* in Palestine were not mentioned in one independent book, but rather the *fatwas* spread in various books, sites, and references. They all revolve around that *Jihad* for the sake of liberating Palestine is a duty over the people of Palestine and the entire nation, and no one is excluded from this duty.

In his book “The Jurisprudence of *Jihad*”, Qaradawi mentioned a *fatwa* on the types of *Jihad* that is obligatory over the ummah in our time, and he placed at the forefront of these types the liberation *Jihad* against colonialism, and he placed the liberation of the usurped land of Palestine in the forefront⁶⁴, saying:

“The land of Isra ‘and Mi’raj, the first of the two Qiblahs, the third of

⁶² *Fatawa ulama’ almuslimin bitahrīm al-tanāẓul an ayyi juz’in min falastin*, pp. 51-60.

⁶³ .Abd-al-`Aziz Ibn-`Abdallah Ibn-Baz, *Majmu` Fatawa wa-Maqalat Mutanaawi* (Riyadh: Maktabat al-Ma`arif, 1997).

⁶⁴ Qaradawi, *Fiqh al-jihad*, 2: 1325.

the most Holy Mosques, and the land of the Blessed Al-Aqsa Mosque are at the forefront of the areas that the Muslims had to defend, and liberate from the most evil and fiercest colonialism on earth, namely, the brutal, displacing, racist, bloody, and settler Zionist colonialism.⁶⁵ And it is established according to jurisprudence that the people of Palestine have to do fight to expel this unbelieving enemy, and Jihad in their side is a duty over each individual according to his ability, and the woman must go out for Jihad and resistance even if that is without her husband's permission, as well as the boy without the permission of his father, and the servant without the permission of his master. The right (interest) of the group to remain and be protected is greater than the rights (interests) of individuals, if the people of Palestine was unable or inactive, the duty extend to their closest neighbors to take their place in the Jihad against the usurping occupier and expel them from the land of the Muslims, and in the event that the neighbors were unable to fulfill this duty or failed as the factual case, it becomes obligatory for those who follow them, then those who follow them, until it includes all Muslims, and today it is confirmed that the entire Ummah is obligated to rescue Al-Aqsa Mosque and liberate Palestine from the filth of the occupying usurper".⁶⁶

In his *fatwa* regarding the Zionist occupation and the duty of *Jihad* in Palestine in order to liberate it, Qaradhawi said: "Israel is considered a parasitic, intruder entity based on rape, injustice, and aggression. And liberating the land of Islam - the land of Palestine - from this strange germ that entered the body of the Islamic nation is a religious and national duty."⁶⁷

Qaradawi also has another *fatwa* on the need for solidarity of all Muslims in support of Palestine, while discussing the cases of armistice that some countries concluded with Israel, saying:

"The duty of Muslims today is to show solidarity for the liberation of Palestine, and they are responsible for Palestine and its liberation before Allah, history, and generations, and may some exclude some countries that have concluded armistice with Israel, as they are considered a place of armistice. However, I believe that this issue is indivisible, and it is not

⁶⁵ Yusuf Qaradawi, *Qadhiyyatu Kulli Muslim* (Cairo: Maktabat Wahbah, 2000), pp. 104–26.

⁶⁶ Qaradawi, *Fiqh al-jihad*, 2: 1327.

⁶⁷ Yusuf Qaradawi, "Taḥrīr Falastīn Farḍ al-dīnī wal Qaūmī", <https://www.al-qaradawi.net/node/352>, accessed 22 Dec 2020.

permissible to make peace or reconcile separately; Because this harms the overall cause”.⁶⁸

“If the Islamic law does not allow Muslims to give up one Cubit of the land of Islam, more so how about if this land of Islam is the first of the two Qiblas, and the third of the most holy mosques? Here Jihad for the sake of its liberation is greater, more obligatory and honorable in the religion of God”.⁶⁹

Al-Qaradawi also spoke in his book “Jerusalem is the issue of every Muslim” about the importance of the Holy Land and the duty to defend it, stating:

“Jerusalem is not for the Palestinians alone, even if they are the most entitled people over it, and it is not only for the Arabs, even if they are the nation most entitled to defend it, but it is for every Muslim, regardless of his location in the east or west of the earth, in its north or south, whether ruler or ruled, educated or illiterate, rich or poor, man or woman, each according to his position and ability.”⁷⁰

The contemporary ulama *fatwas*’ arguments: refer to the words of God: “Why should you not fight in God’s cause and for those oppressed men, women, and children who cry out, ‘Lord, rescue us from this town whose people are oppressors! By Your grace, give us a protector and give us a helper!’?”⁷¹ And “help one another to do what is right and good; do not help one another towards sin and hostility,”⁷² and the narration `Abdullah bin `Umar: The Prophet said: “A Muslim is the brother of a fellow-Muslim. He should neither commit oppression upon him nor ruin him, and he who meets the need of a brother, Allah would meet big needs, and he who relieved a Muslim from hardship Allah would relieve him from the hardships to which he would be put on the Day of Resurrection, and he who did not expose (the follies of a Muslim) Allah

⁶⁸ *Lam Astathni ahd min al-difa` a`n Falastin*, <https://www.al-qaradawi.net/node/1474>, accessed 20 Dec 2020.

⁶⁹ Qaradawi, *Fiqh al-jihad*, 2: 1099–100; Yusuf Qaradawi, *qadā` flstīn al-ḥaq wāl bāṭl*, vol. 2 (Cairo: Maktabat Wahbah, 2009), p. 21.

⁷⁰ Qaradawi, *Qadhiyyatu Kulli Muslim*, p. 2.

⁷¹ Qur’an, 4: 75.

⁷² Qur’an, 5: 2.

would conceal his follies on the Day of Resurrection.⁷³⁷⁴

To summarize, it becomes clear that most of the classic and contemporary scholars and imams (Most group and individual fatwas issued regarding the Palestinian issue and *Jihad* against the occupier on Palestine by religious scholars) agreed that *Jihad* against the occupier is a sufficiency duty “*farḍ al-keifāya*”, no one is exempt from that religious, moral, and humanitarian responsibility towards occupied Palestine. As for the official religious institutions, they preferred silence, while acknowledging the ground of the validity of the legal jurisprudential ruling agreed upon which states the obligatory of *Jihad* to remove the occupation from the occupied lands in general, and these institutions considered that applying and customizing this legal ruling on a specific case or issue, including the Palestinian issue, is a Political matter and not religious. The political authorities shall be responsible for it according to their interests.

E. Islamic Legitimacy of Reconciliation with Israel

1. *Classic Fiqh*

The jurists defined the reconciliation agreement with close definitions of the same meaning of: the obligation to stop fighting and achieve safety for the two parties for the duration of the agreement (Armistice), and there is no dispute between them on this. According to the *Hanafite* school it means to stop fighting for a period of time with or without paying money, if the imam sees an interest therein.⁷⁵ The *Malikite* School explains reconciliation as a Muslims’ agreement with the warring party (*al-Harbi*) over being peaceful for a period during which he is not under the rule of Islam.⁷⁶ The *Shafiite* defines it as making a peace

⁷³ Bukhari, *Sahib al-Bukhari*, p. 2442.

⁷⁴ Qaradawi, *Fiqh al-jihad*, 2: 1329.

⁷⁵ Muhammad Ibn Ahmad as-Samarqandi, *Tuhfat al-Fuqaha*, vol. 3 (Beirut: Dar al-Fikr, 2002), p. 404; Muhammad Ibn Ahmad as-Samarqandi, *al-Mabsūt*, vol. 2 (Beirut: Dar al-Fikr, 2002), p. 50.

⁷⁶ Abu al-Barakat Ahmad ibn Muhammad ibn Ahmad al-`Adawi Dardir, *al-Sharh al-Kabir*, vol. 2 (Riyadh: Markaz al-Turāth lil-Barmajiyāt, 2013), p. 206; Abu al-Barakat Ahmad ibn Muhammad ibn Ahmad al-`Adawi Dardir, *al-Tāj wālikilīl*, vol. 3 (Beirut: Dar al Kutub al-Ilmiyah, 2013), p. 386.

agreement with the warring people to stop fighting for a certain period, with or without compensation.⁷⁷ Whereas the *Hanbalite* explains it as an agreement of an imam or his deputy with non-Muslims to stop fighting for a specified period of time as needed.⁷⁸

There is no disagreement among the jurists over the legality (legitimacy) of the conclusion of reconciliation (armistice) agreement with the warrior.⁷⁹ But the jurists differed as to when it is valid to conclude a reconciliation (armistice) deal with the enemy on two opinions: a. an armistice with the enemy is permissible absolutely (unlimitedly) according to the interest and need. This opinion is of most of the jurists, including Ibn Rushd from the *Maliki* school,⁸⁰ and the Shirazi from the *Shafi'i* school,⁸¹ and others; b. an armistice with the enemy is not permissible except in case of necessity. This is the opinion of some jurists, including Al-Kasani from the *Hanafi* school,⁸² and others.⁸³

They quoted as an evidence for this that the verses of *Jihad* contained in Surah al-Tawbah have abrogated the verses of peace mentioned in Surah al-Anfal, and this means that the ruling on reconciliation (armistice)

⁷⁷ Muhammad ibn Ahmad Shirbini, *Mughni al-Muhtaj*, vol. 4 (Beirut: Dar al Kutub al-Ilmiyah, 1994), p. 260; Zakariya ibn Muhammad Ansari, *Fath al-Wabbab*, vol. 2 (Beirut: Dar Al-Fikr, 1994), p. 318.

⁷⁸ al-Buhuti, *Kaṣṣf al-Iqnā' a' n Matan al-Iqnā'*, 3: 11; Mansur ibn Ynis ibn Idris al-Buhuti, *Hāṣṣih al-Mqn*, vol. 1 (Beirut: Dar Al-Fikr, 1982), p. 520; Ibn-Qudama, *al-Muḡnī*, 4: 238.

⁷⁹ Muhammad ibn Idris Shafi'i, *Mukhtasar kitab al-Umm*, vol. 8 (Mansurah: Dar al-Wafa lil-Tibaah wa-al-Nashr wa-al-Tawzi, 2001), p. 386; Muhammad ibn Ibrahim Ibn al-Mundhir, *al-Iqnā'* (Beirut: Dar al Kutub al-Ilmiyah, 1997), p. 498; Ibn-Qudama, *al-Muḡnī*; Imam Abdullah bin Mahmud al-Mawsili, *Al-Ikhtiyar li Ta'lil al-Mukhtar* (Beirut: Dar Al-Kutub Al-Ilmiyah, 2016); Muhammad bin Ahmad Bin 'Arafah al-Maliki Al-Dusuqi, *Haṣṣiyah al-Ḍasuqi 'ala al-Syarhi al-Kabir* (Beirut: Dar Al-Fikr, 1989); Dardir, *al-Sharh al-Kabir*.

⁸⁰ Rusyd, *Bidāyah al-Mujtabid wa Nihāyah al-Muqtaṣid*, 1: 283.

⁸¹ Abu Ishaq Ibrahim ibn 'Ali ibn Yusuf Firuzabadi al-Shirazi, *al-Muhadhdhab fi fiqh al-Imam al-Shafi'i*, vol. 2 (Beirut: Dar al Kutub al-Ilmiyah, 2013), p. 259.

⁸² Al-Imam Alauddin Abi Bakr Bin Mas'ud Al-Kasani, *Bada'i al-Sana'i fi Tartib al-Sbara'i*, vol. 7 (Beirut: Dar al Kutub al-Ilmiyah, 1986), p. 108.

⁸³ Shirbini, *Mughni al-Muhtaj*, 4: 219; Jalaluddin Abdurrahman As-Suyuti, *Al Aṣybab Wan Nadho'ir Fi Qowa'idi Wa Furn'i Fiqhis Syafi'iyah*, vol. 1 (Beirut: Dar al Kutub al-Ilmiyah, 1983), p. 125; Ibn-Qudama, *al-Muḡnī*, 4: 309.

is not considered legitimate except in the case of necessity, as well as the words of God: “So [believers] do not lose heart and cry out for peace. It is you who have the upper hand: God is with you,”⁸⁴ as God forbade the Muslims to demand their enemy to compromise while they have the upper hand. In short, some scholars may be in the middle path: to combine the first and second opinions, meaning that the ruling on an armistice is permissible with the warrior due to both necessity and need, as the state of need Islamically takes the same place [ruling] as of necessity.⁸⁵

The arguments of reconciliation refer to Allah said: “But if they incline towards peace, you [Prophet] must also incline towards it.”⁸⁶ “As for those who have honoured the treaty you made with them and who have not supported anyone against you: fulfil your agreement with them to the end of their term.”⁸⁷ “But as for those with whom you made a treaty at the Sacred Mosque, so long as they remain true to you, be true to them.”⁸⁸ And hadiths of the Prophet’s treaties with the polytheists, Jews, and Christians Including the Treaty of *Hudaybiyyah*,⁸⁹ and the nation’s consensus on the permissibility of the armistice under its Sharia legitimate terms.⁹⁰ They also based the argument by citing the hadith narrated by Al-Bara bin Azib who said: “When the Prophet was checked from going to the Ka’ba, the people of Mecca made peace treaty (reconciliation) with him on the condition that he would (be allowed to) enter Mecca (next year) and stay there for three days, that he would not enter (the city) except with swords in their sheaths and arms encased in their covers, that he would not take away with him anyone from its dwellers, nor would he prevent anyone from those with him to stay on

⁸⁴ Muhammad: 35.

⁸⁵ Jalaluddin Abdurrahman As-Suyuti, *Al-’Asbab wal naza’ir fi al-nabu* (Riyadh: Maktabah Nazzar Al-Baz, 1997), p. 89.

⁸⁶ Qur’an, 8: 61.

⁸⁷ Qur’an, 9: 4.

⁸⁸ Qur’an, 9: 7.

⁸⁹ The hadith of the Prophet’s reconciliation with the Quraysh Muhammad ibn Isma’il Bukhari, *Sahih al-Bukhari*, vol. 2 (Beirut: Dar al-Kotob al-Ilmiyah, 2003), p. 974.

⁹⁰ Zayn al-Din ibn Ibrahim Ibn Nujaym, *al-Bahr al-Ra’iq Syarh Kanz al-Daqā’iq*, vol. 5 (Beirut: Dar al Kutub al-Ilmiyah, 1997), p. 85; Al-Kasani, *Bada’i al-Sana’i fi Tartib al-Shara’i*, 7: 108; Al-Dusuqi, *Hasyiyah al-Dasuqi ‘ala al-Syarbi al-Kabir*, 2: 200.

in Mecca (if he so desired).”⁹¹

Ulama define the conditions for the validity of reconciliation agreement. The conditions are: a. the existence of legitimate, public and real interest or necessity:⁹² (the interest of the people of Islam: legitimate, public, and real);⁹³ b. the Imam or his deputy is the one who hold it exclusively: This is the opinion of the majority of jurists, based on the evidence that the Prophet was the one who reconciled Bani Qurayza, Quraysh, and Safwan bin Umayya in the conquest of Mecca himself.⁹⁴ Some scholars have argued for the permissibility of an armistice separately, provided that the scholars of this region estimate the size of the necessity and that the armistice does not cause more harm and that the armistice concerns the besieged group only, and does not include others.⁹⁵ They inferred from the words of God: “God does not burden any soul with more than it can bear,”⁹⁶ “be mindful of God as much as you can.”⁹⁷ And the hadeeth: “And if I order you to do something, then

⁹¹ Muslim ibn al-Hajjaj al-Qushayri, *Sahib Muslim*, vol. 32 (Beirut: Dar al Kutub al-Ilmiyah, 2005), p. 113.

⁹² Al-Shafi’i, *al-umr*. (The Imam reconcile them considering Muslims’ interests); Ibn al-Mundhir, Ibn Almundhiri, *al-iqnā’*; Almusili, *al-ahṭiār*. (What is considered in this is the interest of Islam and Muslims, so it is permissible when there is an interest); Ibn Qudaamah, *al-mughnī*. (It is only permissible for Muslims’ interests); Al-Dardir, *al-ṣyarḥ al-kabīr* and *al-dasūqī’s Entourage*, and Zaydiyyah jurisprudence, *ūḥdā’iq al-’azhār*. (the imam may make reconciliation for an interest); As-Suyuti, *Al-’Asbah wal nazā’ir fi al-nahu*, p. 83. (The imam’s behavior towards the people depends on the interest).

⁹³ *Ibid.*, p. 124; Abu Ishaq Ibrahim ibn `Ali ibn Yusuf Firuzabadi al-Shirazi, *al-Muhadhdhab fi fiqh al-Imam al-Shafi’i*, vol. 12 (Beirut: Dar al Kutub al-Ilmiyah, 2013), p. 322; Shirbini, *Mughni al-Muhtaj*, 4: 260–1.

⁹⁴ Shirbini, *Mughni al-Muhtaj*, 4: 260; Firuzabadi al-Shirazi, *al-Muhadhdhab fi fiqh al-Imam al-Shafi’i*, 2: 259.

⁹⁵ Fatwa of Sheikh Abi Basir Al-Tartousi: Abdel Moneim Mustafa Halim on his official website www.abubaseer.bizland.com. Among the jurisprudential rules that branch off from the Islamic Rule “Harm is put to an end” are the rules: “Harm cannot put to an end by its like”, and “To repel a public harm a private damage is preferred”, and “Severe damage is avoided by a lighter damage,” and “Harm is repelled as far as possible”, and “The repealing of harm is preferred to the attainments of benefits” Ibn Nujaym, *al-Baḥr al-Rā’iq Syarḥ Kanz al-Daqā’iq*, 1: 85; As-Suyuti, *Al-’Asbah wal nazā’ir fi al-nahu*, p. 92.

⁹⁶ Qur’an, 2: 286.

⁹⁷ Qur’an, 64: 16.

do of it as much as you can.”⁹⁸ They also quoted as evidence that the legal commission of *Jihad* is conditional on the availability of ability;⁹⁹ c. that the reconciliation (armistice) agreement should be temporary with a specified period, according to many jurists.¹⁰⁰ However, some jurists have permitted the period to be released and not to be restricted, as for them the considered thing is the interest, and they responded to those who restricted permissibility by time that the Qur’an and the Sunnah mentioned no time;¹⁰¹ d. The absence of a corrupt condition within the agreement: there is no dispute among them regarding the invalidity of any

⁹⁸ Bukhari: 7288, Muslim: 1337.

⁹⁹ This is the saying of a group of scholars in the fatwas issued by them, among them: Sheikh Abd al-Malik Ramdhani al-Jazaery, Sheikh Saad al-Burayk, Sheikh Ibn Uthaymeen, Sheikh Salem al-Tawil, and others, in the context of their talk about the condition of ability for jihad of both types, the defensive and offensive Jihad without distinction. See also: Izz al-Din `Abd al-`Aziz ibn `Abd al-Salam, *Qawa`id al-Abkam fi Masalih al-Anam*, vol. 7 (Cairo: Maktabah al-Kuliyat al-Azhariyyah, 1994), p. 2; Ahmad ibn `Abd al-Halim Ibn Taymiyah, *Majmū‘ al-Fatāwā*, vol. 20 (Beirut: Dar al Kutub al-Ilmiyah, 2005), p. 280.

¹⁰⁰ Ibn al-Mundhir, *al-Ijma`*; `Ali Ibn-Muhammad al-Māwardī, *Al-Abkam al-Sultaniyyah* (Cairo: Mustafa al-babi al-halabi, 1966), p. 106; al-Salam, *Qawa`id al-Abkam fi Masalih al-Anam*, 7: 93; `Abdallah Ibn-Ahmad Ibn-Qudama, *al-Muğni*, vol. 9 (Beirut: Dar Al-Fikr, 1998), p. 238; al-Buhuti, *Kašyf al-Iqnā` a`n Matan al-Iqnā`*, 3: 111. And in Al-Muqni in a narration on the authority of Imam Ahmad; Ahmad ibn `Ali ibn Hajar Al-Asqalani, *Fath Al bari Sharh Sahih Al bukhari*, vol. 5 (Beirut: Dar al Kutub al-Ilmiyah, 2017), p. 430; Dardir, *al-Sharh al-Kabir*, 2: 565; al-Buhuti, *Kašyf al-Iqnā` a`n Matan al-Iqnā`*, 3: 111; Ibn Taymiyah, *Majmū‘ al-Fatāwā*, 5: 612; Firuzabadi al-Shirazi, *al-Muhadbdhab fi fiqh al-Imam al-Shafi`i*, 12: 302; al-Hamam, *Fathul Qadir*, 5: 456. And Al-Shirazi, *al-muhadḍab*, (Beirut: Darul al-Fikr, 1990), 12/302; And Ibn al-Hamam, *šyarḥ fath al-qadir*, (Beirut: Dar Al-Kutub Al-Ilmiyah, 2003), 5/456, 6/108; See also, Al-Dusuqi, *Hasyiyah al-Dasuqi `ala al-Syarhi al-Kabir*, p. 206; Shirbini, *Mughni al-Muhtaj*, 4: 260; Ibn-Qudama, *al-Muğni*, 4: 166.

¹⁰¹ al-Mawsili, *Al-Ikhtiyar li Ta`lil al-Mukhtar*, Muhammad ibn Ahmad Sarakhsi, *Kitab al-Mabsut*, vol. 10 (Beirut: Dar al-Maerifa, 1993), p. 86; al-Hamam, *Fathul Qadir*, 5: 456; Al-Imam Alauddin Abi Bakr Bin Mas`ud Al-Kasani, *Bada`i al-Sana`i fi Tartib al-Shara`i*, vol. 9 (Beirut: Dar al Kutub al-Ilmiyah, 1986), p. 4329; `Abdallah Ibn-Ahmad Ibn-Qudama, *Al-Kafi fi Fiqh al-Imam Ahmad* (Beirut: Dar al Kutub al-Ilmiyah, 1985), p. 166; Ahmad Ibn-`Abd-al-Halim Ibn-Taimiya, *Al-Fatava al-Kubra*, vol. 4 (Beirut: Dar al Kutub al-Ilmiyah, 2005), p. 612.

corrupt condition within it,¹⁰² such as requiring the Muslims to prevent the release of prisoners, prohibit the liberation of a Muslims' village, or imposing their laws on us,¹⁰³ help the polytheists against Muslims,¹⁰⁴ or supply the warring people with what they seek to fight Muslims during armistice.¹⁰⁵

The scholars unanimously agreed on the obligation of fulfilling the agreements between Muslims and the warring people and the prohibition of treachery and treason. For God says: "You who believe, fulfil your obligations."¹⁰⁶ And the armistice contract does not come to end except when: a. the expiry of the contract period, for Allah says "fulfil your agreement with them to the end of their term."¹⁰⁷ b. Violation of the terms of the contract, for Allah says "so long as they remain true to you, be true to them."¹⁰⁸ c. Fear of their betrayal if clues arise, for Allah says "And if you learn of treachery on the part of any people, throw their treaty back at them"¹⁰⁹.

The underlined conclusion of the above opinions can be summarized: a. The reconciliation agreement in Islamic jurisprudence: is an agreement to stop fighting, stop the aggression, and achieve safety for both parties. b. reconciliation (armistice) is permissible with the warrior or occupier and it is based on the interest of Islam and Muslims or the existence of necessity. c. Provided that it should be issued by the guardian leadership, and being free of the corrupt conditions except at necessity. d. The Reconciliation (armistice) agreement must be fulfilled unanimously by all Muslims when it is valid. e. permanent reconciliation (peace), as well as full normalization, is not permissible with the warrior

¹⁰² Shafi'i, *Mukhtasar kitab al-Umm*; Abu Zakariyya Yahya ibn Sharf Al-Nawawi, *Raudat al-Talibin*, vol. 7 (Beirut: Maktabah al-Islami, 1991), p. 520; Ibn-Qudama, *al-Muqni'*, Dardir, *al-Sharh al-Kabir*, 2: 206; Al-Dusuqi, *Hasyiyah al-Dasuqi 'ala al-Syarhi al-Kabir*.

¹⁰³ Al-Dusuqi, *Hasyiyah al-Dasuqi 'ala al-Syarhi al-Kabir*.

¹⁰⁴ Al-Kasani, *Bada'i al-Sana'i fi Tartib al-Shara'i*, 7: 109; Ibn-Qudama, *Al-Kafi fi Fiqh al-Imam Ahmad*, 4: 166.

¹⁰⁵ Al-Kasani, *Bada'i al-Sana'i fi Tartib al-Shara'i*, 9: 4310.

¹⁰⁶ Qur'an, 5: 1.

¹⁰⁷ Qur'an, 9: 4.

¹⁰⁸ Qur'an, 9: 7.

¹⁰⁹ Qur'an, 8: 58.

or the occupier.

2. *Fatwas of Reconciliation with Israel*

After the 1973 war, Egyptian President Anwar Sadat concluded the Camp David Peace Agreement with Israel in 1978, then the Oslo Accords between the Palestine Liberation Organization and Israel was concluded in 1993, then the 1994 Wadi Araba peace Treaty with Jordan, and similar agreements with other Arab countries followed, such as Tunisia, Morocco and Mauritania, then the Emirates and Bahrain.

The word reconciliation (conciliation) in the books of *fiqh* is synonymous with (armistice) meaning seeking safety and stopping fighting with the enemy,¹¹⁰ while the armistice is the agreement between the Imam of the Muslims and the warring people over being peaceful, for a specified or absolute period, as it means temporary peace according to the majority of jurists, and includes absolute (unlimited) peace according to some opinions and this exact meaning is what the religious texts (evidence) support.¹¹¹ So, the limits of the legal reconciliation which agreed on its permissibility is the agreement to stop the war for a known period if it is a binding contract, or for an absolute term if it is a non-binding contract. However, from international law perspective reconciliation means the permanent peace, namely a final settlement.¹¹² Normalization can be defined as a permanent reconciliation whereby a series of agreements of various aspects, namely the cultural, economic, and security aspects, and so on, are included (added). It is a perpetual reconciliation, to which a set of additional conditions and agreements are added. Whereas full normalization is the complete establishment

¹¹⁰ al-Mawsili, *Al-Ikhtiyar li Ta'lim al-Mukhtar*, p. 120; `Ali Ibn Muhammad al-Mawardi, *al-Hawi al-Kabir*, vol. 14 (Beirut: Dar al Kutub al-Ilmiyah, 1994), p. 296; Muhammad bin Ahmad Bin `Arafah al-Maliki Al-Dusuqi, *Hasyiyah al-Dasuqi `ala al-Syarhi al-Kabir*, vol. 2 (Beirut: Dar Al-Fikr, 1989), p. 206.

¹¹¹ .Ahmad ibn `Abd al-Halim Ibn Taymiyah, *al`Uqūd al-Durrīyah min Manāqib Shaykh al-Islām Ibn Taymīyah* (Beirut: Dar al Kutub al-Ilmiyah, 1975), p. 219; Ahmad ibn `Abd al-Halim Ibn Taymiyah, *Majmū' al-Fatāwā*, vol. 29 (Beirut: Dar al Kutub al-Ilmiyah, 2005), p. 140; Muhammad b. Abi Bakr Ibn Qayyim, *Abkām abl al-Dhimma*, vol. 2 (Dammam: Ramadi Publishing, 1997), p. 476.

¹¹² Gerhard von Glahn and James Larry Taulbee, *Law Among Nations: An Introduction to Public International Law* (London & New York: Routledge, 2015), p. 72.

of commercial, tourism, diplomatic, cultural and historical relations in accordance with the charters of United Nations.¹¹³

As it is reviewed in the previous explanation that there is no disagreement among contemporary scholars regarding the permissibility of concluding reconciliation according to the jurisprudential perspective (the armistice) with Israel in principle; in terms of the sense of stopping fighting, preventing aggression, and achieving safety between the two parties, as is the opinion of most of the classic jurists. Also, there is no dispute among these scholars regarding the impermissibility of permanent reconciliation, as well as full normalization (loyalty, alliance) with Israel while its occupation of Palestine and Al-Aqsa Mosque.¹¹⁴ However the contemporary scholars have differed as to whether or not the condition of interest for Muslims would be fulfilled in the event of concluding a reconciliation agreement (an armistice or partial normalization) by some Arab and Muslim countries with Israel nowadays, before the end of the occupation of Palestine and Al-Aqsa Mosque. Hence, they differed on two opinions: a. the majority of contemporary scholars, most notably Al-Qaradawi, say that it is impermissible to conclude peace agreements (permanent reconciliation or full normalization) with Israel in these circumstances, and that it is forbidden to sell any Palestinian land to the Jews, as long as they occupy the land; b. some scholars, most notably Sheikh bin Baz through his famous *fatwa*, Ibn Uthaymeen, and Abdullah bin Bayh, say that an armistice (Partial normalization) with the enemies (Israel) is permissible, whether it is temporary or absolute, despite the occupation, if the guardian Imam sees the interest in that. On the condition that Muslims are unable to fight the warring polytheists (i.e. the enemy) and are unable to give them a choice between to submit to Islam or pay the *jiḏya* tax.¹¹⁵

¹¹³ See and compare S.D.A.D.M.A. Hilali, *Al-Jadid fi al-Fiqh al-Siyasi al-Mu'asir* (Wahbaa Library For Publis, 2011); Mahmoud Abdo, *Hussan Tarawadah al-Subhyuni Ala Abwab al-Mabrusab* (Beirut: Research Center for Palestinian Strategic Studies, 2013); `Awatif `Abd al-Rahman, *al-Masbru` al-Subhyuni: al-ikhtiraq al-Sabyuni li-Misr min 1917 hatt? 2017* (Cairo: al-`Arabi lil-Nashr wa-al-Tawzi', 2017).

¹¹⁴ *Maūsū`i al-`as`ilat al-falaṣṭīnī*, published by the Bayt Al-Maqdis Center for Documentary Studies: 220-269. It contains many collective and individual fatwas.

¹¹⁵ Mohsen Mohammad Saleh, *Taṭawwūr al-taṭbi` al-`rabīyyah al-isrā`īlī wa atharubu` li qadhiyyah al-filṣṭīnī: malaf ma`lūmāt* (Beirut: Zaytuna Center for Studies and

3. *Fatwas Forbidding Normalization*

Fatwa of the Palestinian Scholars issued by the First Conference of Palestinian Scholars held in January 1935, and the most prominent scholars who signed this *fatwa* are: the Mufti of Jerusalem, Sheikh Muhammad Amin al-Husseini, the Mufti of Jenin, Sheikh Hasan Abu al-Saud, the Mufti of Beer Sheba, Sheikh Muhammad Salim Bseiso, and the Judge of Hebron, Sheikh Ahmed al-Nahawi. among what it says:

“We are muftis, judges, teachers, imams and preachers in Palestine, after researching and examining what arises from selling lands in Palestine to the Jews of achieving Zionist objectives of Judaizing this holy Islamic country and removing it from the hands of its people, as happened in the villages that were sold to the Jews. We have unanimously agreed on the prohibition of selling land in Palestine to the Jews, and the prohibition of brokering, mediating or facilitating this sale in any form”.¹¹⁶

Then a *fatwa* was issued by the Al-Azhar Mosque at its committee meeting in 1956 prohibiting permanent reconciliation with the Israeli entity and the necessity of *jihad*, stating: “The committee states that reconciliation with Israel as the advocates want it, is not permissible according to Shari’a because it is approved the usurper to continue his usurpation, recognition of the right of his hand over what he raped, and enabling the perpetrator to continue.” The *fatwa* of the Conference of Palestinian Scholars held in 1992 prohibiting participation in the Madrid Conference, and stated the prohibition of normalization. *Fatwa* of the Palestine Scholars Association prohibiting normalization with the Israeli occupation 2019. The *fatwa* of scholars of the International Islamic Conference held in Pakistan in 1968. The *fatwa* of a very large group of Yemeni scholars prohibiting normalization with the Jews. Al-Qaradawi’s *fatwa* in which he says: “It is impermissible to conclude peace treaties with Israel, nor any form of peace settlement, nor to concede to them any piece or part of the land of Palestine, and we consider recognition

Consultation, 2020).

¹¹⁶ Akram Zaytr, *The Documents of the Palestinian National Movement 1918 1939: Akram Zuayter Papers* (Beirut: Institute for Palestine Studies, 1984), pp. 388–9; Bayan N. Al-Hout, *Political Leadership and Institutions in Palestine, 1917-1948* (Beirut: Institute for Palestine Studies, 1981), pp. 880–1.

of the State of Israel a betrayal.”¹¹⁷

4. *Fatwas Permitting Normalization*

Ibn Baz explains in his *fatwa* that: Everyone who takes charge of the Muslims, whether he is a king, a prince, or a president, must look into the interests of his people, so he allows what is beneficial to them and is in their interest, of matters that are not prevented by Sharia, and prevent the rest regarding the relations with any non-Muslim state. He also explains: that reconciliation with Jews or other infidels does not require loyalty or affection towards them. Rather, this requires security between the two parties, and to stop hurting each other, and so on, such as buying and selling, exchanging ambassadors and other transactions that do not require loyalty or affection towards the infidels. And all this is in the case of the inability to fight the polytheists, and the inability to oblige them to pay the *Jizya* if they are among the People of the Book or the Zoroastrians. but in the case of the ability to fight them giving them a choice between to enter Islam or pay the *jizya* tax, it is not permissible then to reconcile with them (refraining from fighting or abandoning the *Jizya*). It is permissible to reconcile when needed or necessary, in the case of the inability to fight them or oblige them to pay the *Jizya*. Thus, for Ibn Baz, the Prophet absolutely reconciled the Jews of Medina with an absolute (unlimited) reconciliation when he immigrated to Medina, and his action did not necessitate any affection or love toward them, however he used to treat them commercially and socially (buying from them, talking to them, calling them to God, and encouraging them to enter Islam), and he died while his armor was mortgaged to a Jew for food bought for his family.

Bin Baz was asked about the permissibility of building normalization treaties with Israel, so he said:

“Every state considers its own interest, and if a country, represented by a king, prince, or president, sees (believes) that the interest of Muslims is in reconciliation with the Jews, exchanging ambassadors, commercial cooperation and other dealings which are originally permitted by Sharia, then there is nothing wrong with that. And if the interest of a state and

¹¹⁷ Saleh, *Taḥannūn al-taḥbī‘ al-a‘rabīyah al-isrā‘īlī wa atharuhu ‘li qadbiyyah al-ḥijābīyah: malaf ma‘lūmāt*.

its people are to boycott the Jews, then the state has the right to do what is required by the legitimate interest, based on the Prophet Muhammad who reconciled the people of Makkah and the Jews of Medina and Khaybar”.¹¹⁸

It should be noted that some people have misunderstood the *fatwa* of Ibn Baz when they attributed to him the permissibility of reconciliation with the Jews in the international customary sense - permanent reconciliation (permanent peace) - even though he made clear and states that:

“Reconciliation between the ruler of Muslims in Palestine and the Jews does not require the Jews to have a permanent ownership of what is under their hands, but rather it requires that they own a temporary ownership until the temporary armistice ends, or the Muslims are empowered to push them away from the homes of Muslims by force in the case of the absolute (unlimited) armistice. Thus, they must be fought when able until they embrace Islam or pay the tax and agree to submit”.¹¹⁹

Sheikh Ibn Uthaymeen stated that:

“As for what is related to reconciliation with Israel and the like, the matter is neither mine nor yours, and this is a matter related to governments and perhaps the day will come, God willing, when the elimination of Jews and Christians also from this Arabian Peninsula and its environs, so that God may save us from their evil”.¹²⁰

Regarding the permissibility of the initiative for normalization between the UAE and Israel, Sheikh Abdullah bin Bayyah stated: “International relations and treaties are among the exclusive and sovereign powers (terms of reference) of the guardian Imam, according to the Sharia and law, and Islamic law is full of models that regulate reconciliation and peace in accordance with the public interest.”¹²¹

¹¹⁸ Hilali, *Al-Jadid fi al-Fiqh al-Siyasi al-Mu'asir*.

¹¹⁹ . *Majallat al-Buhuth al-Islamiyah*, no. 48, pp. 130–2.

¹²⁰ The Open-Door Meetings, meeting No. (78)

¹²¹ Saleh, *Taṭammūr al-taṭbī' al-a'rabīyah al-isrā'īlī wa atharuhu 'li qadhiyyah al-ḥisnī: malaf ma' lūmāt*.

5. *Arguments of Prohibition*

Looking at the core argument, the Preventers refers to the words of Allah: “[Prophet], you will not find people who truly believe in God and the Last Day giving their loyalty to those who oppose God and His Messenger, even though they may be their fathers, sons, brothers, or other relations;”¹²² “You who believe, do not take My enemies and yours as your allies, showing them friendship;”¹²³ “But God forbids you to take as allies those who have fought against you for your faith, driven you out of your homes, and helped others to drive you out: any of you who take them as allies will truly be wrongdoers;”¹²⁴ “Why should you not fight in God’s cause and for those oppressed men, women, and children who cry out, ‘Lord, rescue us from this town whose people are oppressors!;”¹²⁵ “Fight those of the People of the Book who do not [truly] believe in God and the Last Day, who do not forbid what God and His Messenger have forbidden, who do not obey the rule of justice, until they pay the tax and agree to submit;”¹²⁶ “So [believers] do not lose heart and cry out for peace. It is you who have the upper hand: God is with you.”¹²⁷ They also quoted hadiths indicating the duty and virtue of defending religion, land, honor and money. They also inferred that the ruling of the land of Palestine applies to the Islamic ruling of the land conquered by the Muslims, and the classic scholars agreed that it is considered part of the abode of Islam, and therefore it should not be waived.

For contemporary reasons of prohibition, those who are forbidding these normalization agreements (existing between Arabs and Israel) view them as do not conform (apply) to the form of the legal reconciliation agreement in Islamic jurisprudence, so they are impermissible Islamically, and that is in the following ways:

1- They are comprehensive permanent agreements; In the text of the Declaration of Principles in the Palestinian-Israeli treaty: ‘A just, lasting, and comprehensive peace settlement’ and the like in the Jordanian

¹²² Qur’an, 58: 22.

¹²³ Qur’an, 60: 1.

¹²⁴ Qur’an, 60: 9.

¹²⁵ Qur’an, 4: 75.

¹²⁶ Qur’an, 9: 29.

¹²⁷ Muhammad: 35.

treaty; in it: 'Achieving a just, lasting, and comprehensive peace in the Middle East.'

2- These reconciliation agreements stipulated the end of hostility and the end of the enmity; It was stated in the preamble to the Jordanian treaty: 'Taking into account that they declared the end of the state of hostility between them according to the Washington Declaration', and it also says: 'By doing so bypassing psychological barriers', and in the annexes of the Palestinian Treaty 4/3 what reads: 'The two parties agree to stop campaigns of hostility against the Jews... As well as campaigns of hostility against the global Zionism.'

3 - These conditions have been exceeded further, as it was stated in Article 11/1 of the Jordanian Treaty: 'Canceling everything that refers to the hostile aspects and those that reflect intolerance, discrimination and hostile expressions in the texts of private legislation,' 'and to refrain from such references or expressions in all government publications', and 'taking all possible legal and administrative measures that would prevent the spread of such Propaganda (publicity) by any organization or individual.'

4- Finally, the presence of some Muslims who have abandoned the land of Palestine does not mean the fall (forfeit) of the rights of others: The agreement only binds the countries and peoples of those who signed, excluding other Muslims. Because the people of Islam in general are not obligated except for what was held by the general imam of the public, who is the caliph, and this is also agreed upon among the jurists.

6. *Arguments of Permission*

Looking at the core argument, the Advocates refers to the Allah's words: "But if they incline towards peace, you [Prophet] must also incline towards it, and put your trust in God,"¹²⁸ "As for those who have honoured the treaty you made with them and who have not supported anyone against you: fulfil your agreement with them to the end of their term,"¹²⁹ "But as for those with whom you made a treaty at the Sacred Mosque, so long as they remain true to you, be true to them,"¹³⁰ "God

¹²⁸ Qur'an, 8: 61.

¹²⁹ Qur'an, 9: 4.

¹³⁰ Qur'an, 9: 7.

commands you [people] to return things entrusted to you to their rightful owners, and, if you judge between people, to do so with justice.”¹³¹ The Sunnah, through the Prophet’s action, proved the permissibility of reconciliation with the enemy as in the reconciliation of the people of Najran, the conquest of Mecca, and the story of Khaybar. Ibn Abd al-Barr said: “The scholars from among the people of Jurisprudence, *Hadith*, and *Al-Seera* agreed that *Khaybar*, some of which was controlled by military force and some was by reconciliation agreement, and the reconciliation of the survival of the Jews in Khaybar was suspended on the needs of Muslims.”¹³² Ibn Taymiyyah said: “It was conquered at 7 H before the revelation of the verse of *al-Jizya*, and the prophet kept them as they were farmers and made an absolute (unlimited) reconciliation with them.”¹³³ An analogy of the contemporary issue to the Treaty of *Hudaybiyyah*, where the prophet made a reconciliation with them even though they were in control of the Great Mosque of Mecca, and the prophet reconciled with the Jews in Medina upon his emigration, as well as the Prophet died while his armor was mortgaged to a Jew for food.

Regarding the logical arguments for permission, the opponents respond that: a. The Jews were not usurpers of the land of Medina upon the advent of the Prophet, and so was the case in the treaty of *Hudaybiyyah*, it was with a belligerent state, not an occupying state; b. The treaty of *Hudaybiyyah* was an armistice for the benefit of the Muslims, in which there was no concession on the Great Mosque of Mecca, nor it was a full reconciliation of normalization or alliance with them; c. The public interest of the state and the nation is determined through consulting the people of political, economic and religious specialists (the competent institutions).

F. Normalization: Between Scripture and Interpretation

Abdullah Saeed explained that literalists are of interpretations that hold on to the authority of scripture, texts and traditions, and at the

¹³¹ Qur’an, 4: 58.

¹³² Abu ‘Umar b. ‘Abd al-Barr, *Al-Tambid lima fi al-Muwatta’ min al-Ma’ani wa al-Asanid* (Maroco: Wizarah ‘Umum al-Awqaf wa al-Syu’uni al-Islamiyah, 1968), p. 645.

¹³³ Ahmad ibn ‘Abd al-Halim Ibn Taymiyah, *Al-Jawab al-Sahib*, vol. 1 (Riyadh: Dar al-asima, 1999), pp. 216–7.

same time approach the problem of meaning through a strict linguistic perspective.¹³⁴ The literalist views that the closer interpretation is to the highest authority, the more valid and reliable the interpretation will be. Therefore, after the Prophet died, the party considered to be the most authoritative in interpreting al-Qur'an was the *Sahaba* generation, followed by the *tabi'in* generation. Companions and *tabi'in* have the highest authority in interpreting al-Qur'an compared to other generations after them, because they are the generation of Muslims closest to the prophetic era, so it is perceived that they know the whole of Islam more correctly.¹³⁵ Meanwhile, the next generation is required to be obedient in accepting this tradition of interpretation by taking it for granted and making it the main basis for interpreting the Qur'an, even though it is in a relatively different context.¹³⁶

For the contextualist, the essence of interpretation of the contextual approach is a matter of context. Contextualists believe that the teachings of the Qur'an should be used to create a good and just society, rather than just to get rigid rules.¹³⁷ Al-qur'an in the process of revelation by Allah to Muhammad is a transcendent, but when the Quran was revealed in Arabic in the 6th century Arabic group, the Qur'an has a significant relationship with the physic and socio-historical context when it was revealed. Thus, understanding the context behind the revelation of the al-Qur'an is very important in helping to interpret the holy text as a whole.¹³⁸ Contextualists argue that meaning is not just an autonomous content in the text. Because meaning is the result of a dialectic between text and context. Therefore, the meaning of the text is not limited to what is displayed textually, but is multiple and plural, due

¹³⁴ Abdullah Saeed, *Interpreting the Quran: Towards a Contemporary Approach* (London: Routledge, 2006), p. 50.

¹³⁵ `Abd al-Rahman ibn Ahmad Ibn Rajab, *Jami` al-`ulum wa-al-bikam fi sharh khamzin hadithan min jawami` al-kilam* (Cairo: Dar al Hadith, 2003), p. 477.

¹³⁶ Saeed, *Interpreting the Quran*, p. 42.

¹³⁷ Abdullah Saeed, 'Some Reflections on the Contextualist Approach to Ethico-Legal Texts of the Quran', *Bulletin of the School of Oriental and African Studies*, vol. 71, no. 2 (2008), pp. 221–37, 223.

¹³⁸ Abdullah Saeed, 'Rethinking 'Revelation' as a Precondition for Reinterpreting the Qur'an: A Qur'anic Perspective', *Journal of Qur'anic Studies*, vol. 1, no. 1 (1999), pp. 110–1.

to different ways of reading, from one individual to another, from one time to another.¹³⁹ Their view in the interpretation of al-Qur'an, that the Qur'an is a source of guidance that must be understood differently, under different circumstances, and does not result in rigid laws and guidance. The contents of the Qur'an must be applied differently depending on the context, so that they are always relevant in every situation, time, and place.¹⁴⁰

In the case of interpreting *dar al harb* and *al-salam, jibad*, and the normalization, Abdul-Karim Zaidan¹⁴¹, Mustafa Wasfi¹⁴², Sayyid Qutb¹⁴³ are the literalists. While al-Khattabi, Abu Muslim al-Asfahani, Al-Qafal Al-Shaashi, Fakhr Al-Din Al-Razi and those the contemporary jurists who took this view, including: Sheikh Mahmoud Shaltout¹⁴⁴, Sheikh Muhammad Abdo¹⁴⁵, Wahba Al-Zuhaili¹⁴⁶, Sheikh Muhammad Abu Zahra¹⁴⁷, Muhammad Rashid Rida¹⁴⁸, Sheikh Yusuf Qaradawi¹⁴⁹, Ibn Baz and Ustaimin are the contextualists. In discussing the theory of *jibad*, the contextualists accept the opinions of Islamic jurists, who divided the world into three parts: the Islamic region (*dar al-Islam or dar al-salam or dar al-'adl*); agreement area (*dar al-'abd or dar al-muwada'a or dar al-Sulbi*); and war zone (*dar al-harb or dar al-jawr*).¹⁵⁰ But in their opinions, this division is not based on the state of enmity between the Islamic region and other regions, but is determined by events and does not originate from

¹³⁹ Richard C. Martin, "Understanding the Qur'an in Text and Context", *History of Religions*, vol. 21, no. 4 (1982), pp. 363–4.

¹⁴⁰ Saeed, "Some Reflections on the Contextualist Approach to Ethico-Legal Texts of the Qur'an", pp. 211–37.

¹⁴¹ Zaidan, *Majmū'at al-Buḥūts fi al-Fiqhīyyah*, p. 54.

¹⁴² Wasfi, *Muṣanafāt al-Niḡam al-Islāmīah*, p. 282.

¹⁴³ Qutb, *al-Jihād fi Sabil Allah*, p. 113.

¹⁴⁴ Saltut, *Min Taujīhāt al-Islām*, p. 93.

¹⁴⁵ Rida, *Tafsīr al-Manār*, 2: 258.

¹⁴⁶ Al-Zuhaili, *al-Alāqāt al-Daulīyyah fī al-Islām*, p. 120.

¹⁴⁷ Zahra, *al-Mujtama al-Insānī fī Zillī al-Islām*, p. 141; Zahra, *al-'Alāqāt al-Daulīyyah fī al-Islām*, p. 47.

¹⁴⁸ Rida, *al-Wahyū al-Muḥammadi*, p. 312.

¹⁴⁹ Qaradawi, *Fiqh al-jibad*, 1: 274.

¹⁵⁰ Māwardī, *Al-Abkām al-sultaniyyah*, p. 136; Al-Kasani, *Bada'i al-Sana'i fi Tartīb al-Shara'i*, 7: 130–4; Shafi'i, *Mukhtasar kitāb al-Umm*, 4: 103; Ibn-Qudama, *al-Muḡnī*, 10: 609.

Islamic Legislation. In addition, they argue that this division is not based on geographic or juridical criteria but represents the country to describe rather than situations that can be judged subjectively.¹⁵¹

The contextualists tend to have a question such as: is *jihad bellum justum* in Islam? Even primitive peoples have recognized that if war was fought under certain conditions, and by certain methods, it would be just war; and if it is done under different circumstances, it is unjust war.¹⁵² The term *bellum justum* has existed in the works of the Greek philosophers Plato and Aristotle, while ancient Rome used the juice of *fetiale*.¹⁵³ Aristotle, for his part, concluded that war should be fought only for the sake of peace. He outlined three cases:¹⁵⁴ self-defense; to enforce hegemony over those who will thus benefit; and to regulate political control over enslaved states.¹⁵⁵ However, in medieval times, the *bellum justum* doctrine was described with theological upheaval, and was developed by Saint Augustine and Saint Thomas Aquinas, who argued that just war is a war that has a *causa justa*.¹⁵⁶ Influenced by divine law, Saint Aquinas mentioned three criteria for just war: princely authority; just cause; and correct intentions.¹⁵⁷ Furthermore, he distinguished seven types of war, four of

¹⁵¹ Compare to Marcel A. Boisard, *Jihad: A Commitment to Universal Peace* (Indianapolis: American Trust Publications, 1991), p. 53.

¹⁵² Hasan Moinuddin, *The Charter of the Islamic Conference and Legal Framework of Economic Co-operation Among Its Member States* (Oxford: Clarendon Press, 1987), p. 26; William Ballis, *The Legal Position of War: Changes in Its Practice and Theory from Plato to Vattel* (New York: Garland Publishing, 1937), p. 1.

¹⁵³ Josef L. Kunz, 'Bellum Justum and Bellum Legale', *The American Journal of International Law*, vol. 45, no. 3 (1951), p. 530; Ballis, *The Legal Position of War*, p. 21.

¹⁵⁴ Ballis, *The Legal Position of War*, p. 19.

¹⁵⁵ William Lambert Newman, *Politics of Aristotle: With an Introduction, Two Prefatory Essays and Notes Critical and Explanatory*, vol. 4 (Cambridge: Cambridge University Press, 2010), p. 328.

¹⁵⁶ Joan D. Tooke, *The Just War in Aquinas and Grotius* (London: SPCK, 1965), p. 10; Lisa Sowle Cahill, 'Nonresistance, Defense, Violence, and the Kingdom in Christian Tradition', *Interpretation*, vol. 38, no. 4 (1984), p. 384; Maurice Keen, *The Laws of War in the Late Middle Ages* (London & New York: Routledge, 2017), p. 66; Paul Ramsey, 'The Just War According to St. Augustine', in *Ethics of War and Conflict: Critical Concepts in Philosophy*, ed. by Asa Kasher (New York: New York University Press, 1992), p. 8.

¹⁵⁷ Geoffrey G. Butler and Simon MacCoby, *The Development of International Law* (New Jersey: The Lawbook Exchange, Ltd., 2003), p. 4.

which were just war and unjust war. Just war is: *bellum romanum*, waged by believers against unbelievers; *bellum judicale*, paid by believers who have the authority of a judge; *bellum licitum*, exercised on the authority of a prince; and the *bellum necessarium*, which believers run in self-defense. Unjust wars are: *bellum praesumptuosum*, waged by rebels; *bellum temerarium*, pursued by believers of legal authority; and *bellum voluntarium*, which are run by believers in their own authority.¹⁵⁸ In the same term, Franciscus de Victoria states three causes for unjust war: religious differences, expansion of power, and personal ambitions of kings.¹⁵⁹

In the following period, the concept of just war was secularized and extracted from its theological ground by Grotius and the gentium juicers of the seventeenth and eighteenth centuries.¹⁶⁰ Hugo Grotius, a prominent writer on war issues during the seventeenth century, led the law reform movement. He argued that war was a legal right, while for previous writers it was just a historical fact. In his book *De jure belli ac pacis*, Grotius achieved this idea by combining the laws of nature with gentium juice.¹⁶¹ According to him, there are three causes for war: self-defense, restoration of property, and imposing punishment. In other words, the justification for the Hugo Gratius war is primarily based on the basic morality of self-defense. Thus, a just war can be either a self-defense war against the aggressor of injustice or a war of execution to

¹⁵⁸ Ballis, *The Legal Position of War*, p. 50; Saint Thomas Aquinas, *Summa Theologica* (New York: Benziger Brothers, 1917), p. 40.

¹⁵⁹ . Francisco de Vitoria, *De Indis et De jure belli relectiones: being parts of Relectiones theologicae XII* (New York: Oceana, 1964), p. 170.

¹⁶⁰ Hans Kelsen and Fletcher School of Law and Diplomacy, *Principles of international law* (New York: The Lawbook Exchange Ltd, 2012), p. 30. See also and compare, Fahmi Majid, "Nalar Fiqh Ulama Kontemporer atas hukum jihad: Studi komparasi Muhammad Sa'id Ramadan al-Buti dan 'Abdullah Azzam", Master Thesis (Jakarta: Syarif Hidayatullah State Islamic University, 2021).

¹⁶¹ Hedley Bull, Benedict Kingsbury, and Adam Roberts (eds.), *Hugo Grotius and International Relations* (Oxford: Clarendon Press, 1992), pp. 16–26; Hamilton Vreeland, *Hugo Grotius: The Father of the Modern Science of International Law* (Little, Colo: Fred B Rothman & Co, 1986), p. 171; Arnold Duncan McNair and A.D. Watts, *Legal effects of war* (Holmes Beach, Fla.: Gaunt, 1999), p. 3; Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, 5th edition (New York: Basic Books, 2015), p. 168.

uphold one's rights.¹⁶²

The just war tradition in Islamic law contains several important guidelines on how to behave for Muslims during armed conflict. Such ethical and practical guidelines regarding methods, means and justified limits of power relate to some degree to the Catholic *jus in bello* principle, in that they are also based on the pillars of “proportionality” and “discrimination.”¹⁶³ These principles require that mujahid should strike the right balance between dictating military necessity and humanitarian concerns and by requiring warring parties to use proportional means to achieve military objectives and to distinguish between military and civilian targets in order to minimize losses of civilian life or damage to civilian property.¹⁶⁴ The following verse from al-Qur'an is related to proportionality in armed hostility: “whoever retaliates in proportion to the persecution he has suffered and is then persecuted (again), surely Allah will help him. Verily Allah is All-Forgiving, Most Forgiving.”¹⁶⁵ Likewise, the assumption that a person should not be involved in violence for longer than necessary in these circumstances is firmly implanted in the following: “And fight them so that there is no slander and that religion is solely for Allah. If they stop (from disbelief), then Allah is All-Seeing what they are doing.”¹⁶⁶

Some of these rules were passed down to the Prophet Muhammad in response to certain circumstances and needs. For example, the need to exercise restraint in vengeance was carried out after the defeat in 'Uhud (625), where the Prophet Muhammad was angry and vowed to take revenge when he saw the body of his uncle Hamza: “If God gives me power upon Quraysh, I will mutilate seventy of them.”¹⁶⁷ However,

¹⁶² Robert L. Holmes, “Can War Be Morally Justified? The Just War Theory” in *Just War Theory*, ed. by Jean Bethke Elshtain (New York: NYU Press, 1992), p. 202.

¹⁶³ Hisham M. Ramadan (ed.), *Understanding Islamic Law: From Classical to Contemporary* (Lanham, MD: AltaMira Press, 2006), p. 74.

¹⁶⁴ Mark R. Amstutz, *International Ethics Concepts, theories, and cases in global politics*, Fifth edition. edition (Lanham: Rowman & Littlefield, 2018), p. 111.

¹⁶⁵ Qur'an, 22:60.

¹⁶⁶ Qur'an, 8:39.

¹⁶⁷ Mahmoud M. Ayoub, *The Qur'an and Its Interpreters* (Albany: State University of New York Press, 1984), p. 396. Some sources suggest that the Prophet vowed to mutilate thirty enemy bodies, not seventy, see Tariq Ramadan, *The Messenger: The Meanings*

after that the Prophet received a revelation that expressly prohibits taking disproportionate actions in giving punishment and also training patience with the enemy,¹⁶⁸ in al-Qur'an explained: "And if you give reward, then pay back the same with the torment inflicted on you. But if you are patient, that is actually better for those who are patient."¹⁶⁹

According to the tradition, the prophet Muhammad has repeatedly underlined the need for proportionality in the use of legitimate force by asking his companions to respect the bodies of the living and the dead (including animals), avoid torture or other ill-treatment of detainees, respect the dignity and integrity of all mujahid and refrain from using poisonous weapons against enemies and destroying nature.¹⁷⁰ Tradition suggests that this principle of differentiation can be traced to an incident in which the Prophet Muhammad met a woman who was killed while on the battlefield and he expressed disapproval of the practice of killing women and children, which in turn promoted a different ethic of behavior that included prohibition against killing civilians and accidental destruction of livestock, trees, gardens, and wells.¹⁷¹ Shirazi noted that prior to the start of armed *jihad*, the Prophet Muhammad would instruct his soldiers in the following:

"Don't handcuff or tie the prisoners. Don't cut it up. Don't kill the injured. Do not chase one back or the person throwing the gun. Don't use dangerous means with the enemy. Don't kill the old, the young or the woman. Don't cut trees, unless you have to. Don't spread poison on the ground. Don't cut off the water supply. No trespassing of houses is allowed and people have safety. If any Muslim, whether of high rank or not, gives the disbelievers temporary protection from hearing God's

Of The Life Of Muhammad, 1st edition edition (London: Penguin Press, 2008), p. 125.

¹⁶⁸ Ayoub, *The Qur'an and Its Interpreters*, p. 125.

¹⁶⁹ Qur'an, 16:126.

¹⁷⁰ Bernard Lewis and Buntzie Churchill, *Islam: The Religion and the People*, 1st edition edition (New Jersey: Prentice HallWharton School Publishing, 2015), p. 151; Hilmi Zawati, *Is Jihad a just war? war, peace, and human rights under Islamic and public international law* (Lewiston, N.Y: E. Mellen Press, 2001), p. 109.

¹⁷¹ Youssef H. Aboul-Encin, *Islamic Rulings on Warfare* (Carlisle, PA: Strategic Studies Institute, U.S. Army War College, 2004), p. 21; Harfiyah Abdel Haleem, *The Crescent and the Cross: Muslim and Christian Approaches to War and Peace* (Basingstoke: Macmillan, 1999), p. 131.

message, then let him do it. If he follows you then he is your brother in religion; but if he refuses, secure his safety and seek help from the gods".¹⁷²

In short, for the contextualists, today is the era of cooperation, as far as it is for the benefit of people at large, including Muslims themselves. Human kind live in one world, one responsibility. Hence, any cooperation for the shake of peace and prosperity as well as human dignity is suggested by Islam.

G. Concluding Remarks

Contemporary and classic Muslim scholars differed regarding the basis (essence) of the relationship between Muslims and non-Muslims, weather it based on peace and cooperation or war, because of the different circumstances and times in which these scholars lived. However, the elimination of unbelief is not considered one of the goals of the Islamic military *jihad*, rather it is considered a rejected goal by most contemporary scholars (with the exception of the jihadist movement).

The liberation of Jerusalem and Palestine and resisting the Zionist occupation are an Islamic legitimate duty of sufficiency duty "*farḍ al-kiyāyā*" on all Muslims (whether *Jihad* by word, money, heart; civil or military *jihad*) according to most Muslim scholars. However, armistice, reconciliation, and normalization with non-Muslims who are non-combatants (peaceful) is the general principle (status) in the nature of the relationship with the non-Muslims.

There are three types of normalization with their different legal opinions: a. Partial normalization (cease-fire). It means stop fighting, stop aggression, and achieve safety or interests for both parties; It is islamically-permissible with the warrior or occupier based on the interest of Muslims in general or in part (country's interest) determined by the legitimated leadership; b. Permanent reconciliation that leads to full normalization focusing the rights of Palestinians over their land. It is islamically-permissible with the warrior or the occupier based on the interest of Palestinians or Muslim in general; This reconciliation is also should be based on meticulous recommendation of Muslims, Arabs

¹⁷² Muhammad al-Mahdi Husayni al-Shirazi, *War, Peace, and Non-Violence: An Islamic Perspective* (London: Fountain Book, 2001), p. 109.

and Palestinians (namely the League of Arab States, the Organization of Islamic Cooperation and the Palestinian National Authority) c. Permanent reconciliation that leads to full normalization and permanent peace. It is more than having agreement on the disputed land. It includes the normalization of commercial, tourism, diplomatic, cultural and historical relations; It is not permissible with the warrior or the occupier unless by ending the act of occupation; This impermissibility applies for all parties whether the League of Arab States, the Organization of Islamic Cooperation, the Palestinian National Authority, the Arab and Muslim national regimes, or others.

Only the highest representative of the interest of Muslims, Arabs and Palestinians (the League of Arab States, the Organization of Islamic Cooperation and the Palestinian National Authority) may (it is permissible for them to) conclude a permanent reconciliation or normalization agreement with Israel, regarding the rights of Palestinians over their land in accordance with the principle of achieving the benefit of the Palestinians (the interest of the Palestinians according to the view of the majority of Palestinians). The realization of this interest may be subject to the principle of negotiation and bargaining (compromise)), and these bodies bear full responsibility that their decision in this regard conforms to the interest of Palestinians or not. It is not permissible for Arab and Muslim national regimes alone to conclude such agreements as long as the Palestinians have not yet achieved their rights.

It is not permissible for anyone, whether (the League of Arab States, the Organization of Islamic Cooperation, the Palestinian National Authority, or the Arab and Muslim national regimes) to conclude a permanent reconciliation or full normalization agreement and peace with Israel in general, except after the Palestinian achieved their rights and Muslim obtains usurped religious rights, namely the full sovereignty over the Islamic Sanctuaries in Palestine.

Apart from the legal differences of opinion above, nowadays the tendency of communal solidarity bonds (including in Muslim countries) has shifted towards a pattern of international relations based more dominantly on national interest and context as well as emergency global issue. Consideration of the relationship due to merely religious denominations tends to thin out. Thus, each country feels more freedom

to take its own strategic stance. Morocco, United Arab Emirates, Bahrain, Sudan and Saudi Arabia choosing more active and progressive initiatives to normalize relations with Israel is a clear sign. Normalization considerations are also increasingly finding momentum, when the world is faced with potential disasters and global humanitarian crises caused by the COVID-19 pandemic and global warming.

BIBLIOGRAPHY

- ʿAbd al-Rahman, ʿAwatif, *al-Masbru` al-Subhyuni: al-ikhtiraq al-Sabyuni li-Misr min 1917 hatt?? 2017*, Cairo: al-ʿArabī lil-Nashr wa-al-Ṭawzī, 2017.
- Abdo, Mahmoud, *Hussan Tarawadab al-Subhyuni Ala Abwab al-Mabrusab*, Beirut: Research Center for Palestinian Strategic Studies, 2013.
- Aboul-Enein, Youssef H., *Islamic Rulings on Warfare*, Carlisle, PA: Strategic Studies Institute, U.S. Army War College, 2004.
- Al-Asqalani, Ahmad ibn ʿAli ibn Hajar, *Fath Al bari Sharh Sahib Al bukhari*, vol. 5, Beirut: Dar al Kutub al-Ilmiyah, 2017.
- Al-Deek, Muhammad Ibrahim, *al-Muʿābadāt fi al-Syariʿah al-Islamiyyah*, Amman: Dar Al-Furqan for Publishing and Distribution, 1997.
- Al-Dusuqi, Muhammad bin Ahmad Bin ʿArafah al-Maliki, *Hasyiyah al-Dasuqi ʿala al-Syarhi al-Kabir*, Beirut: Dar Al-Fikr, 1989.
- , *Hasyiyah al-Dasuqi ʿala al-Syarhi al-Kabir*, vol. 2, Beirut: Dar Al-Fikr, 1989.
- Al-Haythami, Ibn Hajar, *Aḡ- Zawagir ʿan Iqtiraf al-Kabair*, vol. 2, Bairut: Dar Al-Fikr, 1987.
- Al-Hout, Bayan N., *Political Leadership and Institutions in Palestine, 1917-1948*, Beirut: Institute for Palestine Studies, 1981.
- Al-Kasani, Al-Imam Alauddin Abi Bakr Bin Masʿud, *Badaʿi al-Sanaʿi fi Tartib al-Sharaʿi*, vol. 7, Beirut: Dar al Kutub al-Ilmiyah, 1986.
- , *Badaʿi al-Sanaʿi fi Tartib al-Sharaʿi*, vol. 9, Beirut: Dar al Kutub al-Ilmiyah, 1986.
- Al-Muhairi, Saeed, *al-ʿAlāqāt al-Khārijīyyah li al-Daūlaʿ al-Islāmīyyah*, Beirut: Muʿassasah al-Risalah, 1995.
- Al-Nawawi, Abu Zakariyya Yahya ibn Sharf, *Raudat al-Ṭālibin*, vol. 7, Beirut: Maktabah al-Islami, 1991.
- Al-Zuhaili, Wahbah, *al-ʿAlāqāt al-Daūliyyah fī al-Islām*, Damascus: Dar Al-Fikr, 1962.
- , *Aḡār al-Harb fī al-Fiqh al-Islāmī*, Damascus: Dar Al-Fikr, 2001.
- Amstutz, Mark R., *International Ethics Concepts, theories, and cases in global politics*, Fifth edition. edition, Lanham: Rowman & Littlefield, 2018.

- Ansari, Zakariya ibn Muhammad, *Fath al-Wahhab*, vol. 2, Beirut: Dar Al-Fikr, 1994.
- , *al-Ghurur al-Bahiyah fi Syarḥ al-Bahjah al-Wardiyah*, vol. 5, Beirut: Dar al Kutub al-Ilmiyah, 1997.
- , *Asna al-Maṭālib*, vol. 4, Beirut: Dar Al-Fikr, 2008.
- Aquinas, Saint Thomas, *Summa Theologica*, New York: Benziger Brothers, 1917.
- Arab Higher Committee, *The Palestine Arab Case: A Statement by the Arab Higher Committee, the Body Representing the Palestine Arabs. April 1947*, Cairo: Costa Tsoumas, 1947.
- As-Suyuti, Jalaluddin Abdurrahman, *Al Asybah Wan Nadho'ir Fi Qowa'idī Wa Furu'i Fiqhis Syafi'iyah*, vol. 1, Beirut: Dar al Kutub al-Ilmiyah, 1983.
- , *Al-'Asbab wal nazā'ir fi al-nabu*, Riyadh: Maktabah Nazzar Al-Baz, 1997.
- Ayoub, Mahmoud M., *The Qur'an and Its Interpreters*, Albany: State University of New York Press, 1984.
- Ballis, William, *The Legal Position of War: Changes in Its Practice and Theory from Plato to Vattel*, New York: Garland Publishing, 1937.
- al-Barr, Abu 'Umar b. 'Abd, *Al-Tambid lima fi al-Muwatta' min al-Ma'ani wa al-Asanid*, Maroco: Wizarah 'Umum al-Awqaf wa al-Syu'uni al-Islamiyah, 1968.
- Boisard, Marcel A., *Jihad: A Commitment to Universal Peace*, Indianapolis: American Trust Publications, 1991.
- al-Buhuti, Mansur ibn Ynis ibn Idris, *Kaṣṣf al-Iqnā' a'n Matan al-Iqnā'*, vol. 3, Beirut: Dar Al-Fikr, 1982.
- , *Hāṣīb al-Mqn*, vol. 1, Beirut: Dar Al-Fikr, 1982.
- Bukhari, Muhammad ibn Isma'il, *Sabih al-Bukhari*, Beirut: Dar al-Kotob al-Ilmiyah, 2003.
- , *Sabih al-Bukhari*, vol. 2, Beirut: Dar al-Kotob al-Ilmiyah, 2003.
- Bull, Hedley, Benedict Kingsbury, and Adam Roberts (eds.), *Hugo Grotius and International Relations*, Oxford: Clarendon Press, 1992.
- Butler, Geoffrey G. and Simon Maccoby, *The Development of International*

- Law*, New Jersey: The Lawbook Exchange, Ltd., 2003.
- Cahill, Lisa Sowle, “Nonresistance, Defense, Violence, and the Kingdom in Christian Tradition”, *Interpretation*, vol. 38, no. 4, 1984, pp. 380–97 [https://doi.org/10.1177/002096438403800404].
- Dardir, Abu al-Barakat Ahmad ibn Muhammad ibn Ahmad al-`Adawi, *al-Sharh al-Kabir*, vol. 2, Riyadh: Markaz al-Turāth lil-Barmajīyāt, 2013.
- , *al-Tāj wāliklīl*, vol. 3, Beirut: Dar al Kutub al-Ilmiyah, 2013.
- Firuzabadi al-Shirazi, Abu Ishaq Ibrahim ibn `Ali ibn Yusuf, *al-Muhadhdhab fi fiqh al-Imam al-Shafi`i*, vol. 2, Beirut: Dar al Kutub al-Ilmiyah, 2013.
- , *al-Muhadhdhab fi fiqh al-Imam al-Shafi`i*, vol. 12, Beirut: Dar al Kutub al-Ilmiyah, 2013.
- Glahn, Gerhard von and James Larry Taulbee, *Law Among Nations: An Introduction to Public International Law*, London & New York: Routledge, 2015.
- Haidar, Ali, *Durr al-Hukām Syarah Majala’ al-’Abkām*, vol. 1, Riyadh: Dar ‘Alami al-Kutub, 2003.
- Haleem, Harfiyah Abdel, *The Crescent and the Cross: Muslim and Christian Approaches to War and Peace*, Basingstoke: Macmillan, 1999.
- al-Hamam, Ibn, *Fathul Qadir*, vol. 5, Beirut: Dar al Kutub al-Ilmiyah, 2003.
- Hilali, S.D.A.D.M.A., *Al-Jadid fi al-Fiqh al-Siyasi al-Mu’asir*, Wahbaa Library For Publis, 2011.
- Holmes, Robert L., ‘Can War Be Morally Justified? The Just War Theory’, in *Just War Theory*, ed. by Jean Bethke Elshtain, New York: NYU Press, 1992.
- Husayni al-Shirazi, Muhammad al-Mahdi, *War, Peace, and Non-Violence: An Islamic Perspective*, London: Fountain Book, 2001.
- Ibn al-Mundhir, Muhammad ibn Ibrahim, *al-Iqnā’*, Beirut: Dar al Kutub al-Ilmiyah, 1997.
- Ibn Nujaym, Zayn al-Din ibn Ibrahim, *al-Baḥr al-Rā’iq Syarḥ Kanẓ al-Daqā’iq*, vol. 1, Beirut: Dar al Kutub al-Ilmiyah, 1997.
- , *al-Baḥr al-Rā’iq Syarḥ Kanẓ al-Daqā’iq*, vol. 5, Beirut: Dar al Kutub al-Ilmiyah, 1997.
- Ibn Qayyim, Muhammad b. Abi Bakr, *Abkam abl al-Dhimma*, vol. 2,

Dammam: Ramadi Publishing, 1997.

Ibn Rajab, `Abd al-Rahman ibn Ahmad, *Jami` al-`ulum wa-al-bikam fi sharh kbamsin hadithan min jawami` al-kilam*, Cairo: Dar al Hadith, 2003.

Ibn Taymiyah, Ahmad ibn `Abd al-Halim, *al' Uqūd al-Durrīyah min Manāqib Shaykh al-Islām Ibn Taymīyah*, Beirut: Dar al Kutub al-Ilmiyah, 1975.

----, *Al-Jawab al-Sahib*, vol. 1, Riyadh: Dar al-asima, 1999.

----, *Majmū' al-Fatāwá*, vol. 5, Beirut: Dar al Kutub al-Ilmiyah, 2005.

----, *Majmū' al-Fatāwá*, vol. 20, Beirut: Dar al Kutub al-Ilmiyah, 2005.

----, *Majmū' al-Fatāwá*, vol. 29, Beirut: Dar al Kutub al-Ilmiyah, 2005.

----, *al-Siyasah al-Syar'īyyah*, Jeddah: International Islamic Fiqh Academy, 2008.

----, *Al-Fatawa al-Kubra*, vol. 4, Beirut: Dar al Kutub al-Ilmiyah, 2005.

Ibn-Baz, `Abd-al-`Aziz Ibn-`Abdallah, *Majmu` Fatawa wa-Maqalat Mutanaawi*, Riyadh: Maktabat al-Ma`arif, 1997.

Ibn-Qudama, `Abdallah Ibn-Ahmad, *Al-Kafi fi Fiqh al-Imam Ahmad*, Beirut: Dar al Kutub al-Ilmiyah, 1985.

----, *al-Muğnī*, vol. 4, Beirut: Dar Al-Fikr, 1998.

----, *al-Muğnī*, vol. 9, Beirut: Dar Al-Fikr, 1998.

al-Jundī, Khalīl ibn Ishāq, *al-Mukhtaṣar fī al-fiqh 'alá madhhab al-Imām Mālik bin Uns li-Khalīl bin Ishāq bin Ya'qūb al-Mālikī*, Paris: Imprimerie nationale, 1855.

Keen, Maurice, *The Laws of War in the Late Middle Ages*, London & New York: Routledge, 2017.

Kelsen, Hans and Fletcher School of Law and Diplomacy, *Principles of international law*, New York: The Lawbook Exchange Ltd, 2012.

Kunz, Josef L., 'Bellum Justum and Bellum Legale', *The American Journal of International Law*, vol. 45, no. 3, 1951, pp. 528–34 [<https://doi.org/10.2307/2194549>].

Lam Astathni abd min al-difa'a'n Falastīn, <https://www.al-qaradawi.net/node/1474>, accessed 20 Dec 2020.

Lewis, Bernard and Buntzie Churchill, *Islam: The Religion and the People*, 1st edition, New Jersey: Prentice HallWharton School Publishing, 2015.

- Majid, Fahmi, 'Nalar Fiqh 'Ulama Kontemporer atas hukum jihad: studi komparasi Muhammad Sa'id Ramadan al-Buti dan 'Abdullah Azzam', Master Thesis, Jakarta: Syarif Hidayatullah State Islamic University, 2021.
- al-Maliki, `Abd Allah Ibn Abi Zayd Abu Muhammad, *Kifāya' al-Tālib*, vol. 2, Cairo: Dar al-Fikr lil-Tiba'a wal-Nashr, 1983.
- Mardawi, `Ali ibn Sulayman, *al-Insaf fi Ma`rifat al-Rajih min al-Khilaf*, vol. 4, Beirut: Dar al Kutub al-Ilmiyah, 2012.
- Martin, Richard C., 'Understanding the Qur'an in Text and Context', *History of Religions*, vol. 21, no. 4, 1982, pp. 361–84.
- al-Mawardi, `Ali Ibn Muhammad, *al-Hawi al-Kabir*, vol. 14, Beirut: Dar al Kutub al-Ilmiyah, 1994.
- , *Al-Ahkam al-Sultaniyyah*, Cairo: Mustafa al-babi al-halabi, 1966.
- al-Mawsili, Imam Abdullah bin Mahmud, *Al-Ikhtiyar li Ta'lim al-Mukhtar*, Beirut: Dar Al-Kotob Al-Ilmiyah, 2016.
- al-Mawwaq, Abu Abdillah Muhammad bin Yusuf bin Abi al-Qasim bin Yusuf, *al-Taj Wa al-Iklil Li Mukhtasar Khalil*, vol. 4, Beirut: Dar al Kutub al-Ilmiyah, 1994.
- McNair, Arnold Duncan and A.D. Watts, *Legal effects of war*, Holmes Beach, Fla.: Gaunt, 1999.
- Moinuddin, Hasan, *The Charter of the Islamic Conference and Legal Framework of Economic Co-operation Among Its Member States*, Oxford: Clarendon Press, 1987.
- Muslim ibn al-Hajjaj al-Qushayri, *Sahib Muslim*, Beirut: Dar al Kutub al-Ilmiyah, 2005.
- , *Sahib Muslim*, vol. 32, Beirut: Dar al Kutub al-Ilmiyah, 2005.
- Newman, William Lambert, *Politics of Aristotle: With an Introduction, Two Prefatory Essays and Notes Critical and Explanatory*, vol. 4, Cambridge: Cambridge University Press, 2010.
- Qaradawi, Yusuf, *Qadhiyyatu Kulli Muslim*, Cairo: Maktabat Wahbah, 2000.
- , *Maqālāt Naḥnu wālġharb "Al-Qaradawi's Journey Inside the Western Mind*, Cairo: Dar-altawzicie walnshr alslamya, 2006.
- , *Maqālāt Naḥnu wālġharb "Al-Qaradawi and the Jews, Thorny Questions*

- and Critical Answers, Our Stance Toward the Jews*”, Cairo: Dar-altawziee walnshr alslamya, 2006.
- , *Fiqh al-jihad: dirasah muqaranah li-abkamih wa-falsafatih fi daw al-Quran wa-al-Sunnah*, vol. 1, Cairo: Maktabat Wahbah, 2009.
- , *Fiqh al-jihad: dirasah muqaranah li-abkamih wa-falsafatih fi daw al-Quran wa-al-Sunnah*, vol. 2, Cairo: Maktabat Wahbah, 2009.
- , *qdi’ flstīn al-ḥaq wāl bātl*, vol. 2, Cairo: Maktabat Wahbah, 2009.
- , ‘Taḥrīr Falastīn Farḍ’ al-dīnī wal Qaūmī’, <https://www.al-qaradawi.net/node/352>, accessed 22 Dec 2020.
- Qutb, Sayyid, *al-Jihād fi Sabil Allah*, Cairo: al-naadi al-shababi, 1970.
- Ramadan, Hisham M. (ed.), *Understanding Islamic Law: From Classical to Contemporary*, Lanham, MD: AltaMira Press, 2006.
- Ramadan, Tariq, *The Messenger: The Meanings Of The Life Of Muhammad*, 1st edition edition, London: Penguin Press, 2008.
- Ramsey, Paul, ‘The Just War According to St. Augustine’, in *Ethics of War and Conflict: Critical Concepts in Philosophy*, ed. by Asa Kasher, New York: New York University Press, 1992.
- Rida, Muhammad Rasid, *Tafsīr al-Manār*, vol. 2, Beirut: Dar al- Makrifah, 1975.
- , *al-Wahyū al-Muḥammadi*, Beirut: Dar al-Kutub al-Ilmiyyah, 2005.
- Rusyd, Walid Muhammad bin Ahmad bin Muhammad Ibnu, *Bidāya’ al-Mujtahid wa Nihāya’ al-Muqtaṣid*, vol. 1, Beirut: Dar Al-Jiil, 1986.
- Saeed, Abdullah, ‘Rethinking “Revelation” as a Precondition for Reinterpreting the Qur’an: A Qur’anic Perspective’, *Journal of Qur’anic Studies*, vol. 1, no. 1, 1999, pp. 93–114.
- , *Interpreting the Quran: Towards a Contemporary Approach*, London: Routledge, 2006.
- , ‘Some Reflections on the Contextualist Approach to Ethico-Legal Texts of the Quran’, *Bulletin of the School of Oriental and African Studies*, vol. 71, no. 2, 2008, pp. 221–37.
- al-Salam, ‘Izz al-Din ‘Abd al-‘Aziz ibn ‘Abd, *Qawa’id al-Abkam fi Masalih al-Anam*, vol. 7, Cairo: Maktabah al-Kuliyat al-Azhariyyah, 1994.
- Saleh, Mohsen Mohammad, *Taṭawwūr al-taṭbi’ al-a’rabīyyah al-isrā’īlī wa*

- atharubu 'li qadhīyyah al-flṣṭīnī': malaf ma'lūmāt*, Beirut: Zaytuna Center for Studies and Consultation, 2020.
- Saltut, Mahmud, *Min Taujībāt al-Islām*, Cairo: Al-Idarat al-`Amma li-t-Taqaafa al-Islamiya bi-l-Azhar, 1959.
- Samarqandi, Muhammad Ibn Ahmad as-, *Tuhfat al-Fuqaha*, vol. 3, Beirut: Dar al-Fikr, 2002.
- , *āl-Mabsūt*, vol. 2, Beirut: Dar al-Fikr, 2002.
- Sarakhsi, Muhammad ibn Ahmad, *Kitab al-Mabsut*, vol. 10, Beirut: Dar al-Maerifa, 1993.
- Shafi`i, Muhammad ibn Idris, *Mukhtasar kitab al-Umm*, vol. 8, Mansurah: Dar al-Wafa lil-Tibaah wa-al-Nashr wa-al-Tawzi, 2001.
- Shirbini, Muhammad ibn Ahmad, *Mughni al-Muhtaj*, vol. 4, Beirut: Dar al Kutub al-Ilmiyah, 1994.
- al-Sijistani, Abu Daud Sulayman ibn al-Ash`ath, *Sunan Abi Dawud*, Beirut: Dar al Kutub al-Ilmiyah, 2007.
- Tooke, Joan D., *The Just War in Aquinas and Grotius*, London: SPCK, 1965.
- Vitoria, Francisco de, *De Indis et De jure belli relectiones: being parts of Relectiones theologicae XII*, New York: Oceana, 1964.
- Vreeland, Hamilton, *Hugo Grotius: The Father of the Modern Science of International Law*, Little, Colo: Fred B Rothman & Co, 1986.
- Walzer, Michael, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, 5th edition edition, New York: Basic Books, 2015.
- Wasfi, Mustafa Kamal, *Muṣanafa' al-Niḡam al-Islāmiyah*, Cairo: Maktabah Wahbah, 1977.
- Zahra, Muhammad Abu, *al-Mujtama al-Insānī fī Zilli al-Islām*, Cairo: Dar al-Fikr al-Arabi, 1981.
- , *al-'Alāqāt al-Daulīyyah fī al-Islām*, Cairo: Dar al-Fikr al-Arabi, 1995.
- Zaidan, Abd al-Karim, *Majmū'ah al-Buḡūt's fī al-Fiqhīyyah*, Baghdad: Maktabah al-Quds, 1986.
- Zawati, Hilmi, *Is Jihad a just war? war, peace, and human rights under Islamic and public international law*, Lewiston, N.Y: E. Mellen Press, 2001.
- Zayla'I, Fakhr Al-Din Abu 'Umar 'Uthman Ibn 'Ali I., *Tabyin al-haqa'iq sharh kanḡ al-daqa'iq*, Beirut: Dar al-Kutub al-'Ilmiyah, 2000.

- Zaytr, Akram, *The Documents of the Palestinian National Movement 1918 1939: Akram Zuayter Papers*, Beirut: Institute for Palestine Studies, 1984.
- Zuhd, 'Isam al-'Abd, 'al-Jihād fi Fikr al-Qaraḍāwy', *Majalah al-Jami'ah al-Islamiyyah*, vol. 17, no. 1, 2011.

