

Islamic Ruling About the Contemporary Ongoing Fighting Between Muslims

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Ever since Allah (swt) blessed this Ummah with the message of Islam, brought by the Noble Messenger of Allah (saw), to lead the people out of the darkness into the light, the concept of Jihad was clear to the Muslims and so they did not fight against the disbelievers in Mecca. This is because the Messenger of Allah (saw) taught them that the method to change the ignorant (Jahiliyyah) society is through intellectual conflict, political struggle and seeking Nussrah from the people of power in order to establish the Islamic State.

When the Messenger of Allah (saw) and his noble Companions (ra) established the first Islamic state in Madina Munawwara, rulings of Jihad were revealed and Muslims understood Jihad as the Messenger of Allah (saw) taught them. The concept of Jihad remained clear in the era of the Islamic State until its fall during the year 1924. With the advent of colonialism, the intellectual and cultural invasions of Western capitalism reached the Muslim lands. Many Islamic rulings were distorted. Amongst those were the rulings of Jihad. Hence, the meaning of Jihad fell from its true from what it used to uphold to what is happening nowadays. Each group from amongst the agents of colonialism twist the Sharia texts to demonstrate that it is performing the required Jihad in order to persuade its followers to keep holding on to the reins of power at the expense of Muslim blood. Each group considers its followers as martyrs and claims that their abode will be Jannah and the abode of their enemies, who are in conflict with them over power to please the Western colonialist states, will be Hellfire.

Hence it is necessary to have a correct understanding regarding the ongoing infighting between the Muslims. Here, we will clarify the relevant Islamic rulings in order to adopt the correct stance that pleases the Lord of all Creation. What is Jihad according to Shariah? Jihad is the fighting against the disbelievers to uphold and raise the word of Allah (swt) as the highest. The reasons for its declaration are two matters and they are: repelling the aggression and carrying the Islamic call (dawah), i.e. to break the obstacles against Islam in order to reach the people and to remove them in order to convey the Message of Islam

Jihad falls under special category of fighting (Qitaal), as fighting is general and Jihad is particular. Therefore, every Jihad is fighting, but the opposite is not correct i.e. not every fighting is Jihad. The fighting between people can be classified into three categories:

First: Fighting of disbelievers between themselves. It is considered invalid irrespective of whether it is for the sake of different beliefs in the religion of disbelief, or for the sake of greed and interests.

Second: Fighting of Muslims against the disbelievers to raise the word of Allah (swt) as the highest. This is Jihad in the path of Allah.

Third: Fighting of Muslims between themselves. This is the subject which we will be addressing.

Fighting between Muslims is of two types.

- 1- Legitimate and permissible fighting,
- 2- Unlawful and forbidden fighting.

Legitimate and Permissible Fighting:

It is classified as follows:

- 1- Fighting the People of Rebellion (قِتَالُ أَهْلِ الْبَغْيِ)
- 2- Fighting the Usurper of Authority (قِتَالُ مَغْتَصِبِ السُّلْطَةِ)

3- Fighting the Highway Robbers ((الْحِرَابَةُ) (Hiraba) (قِتَالُ الْمُحَارِبِينَ))

4- Fighting to Protect the Private Sanctities (قتال الدفاع عن الحرمات الخاصة) (Fighting the Assaulter (قتال الصَّيَال))

5- Fighting to Protect the Public Sanctities (قتال الدفاع عن الحرمات العامة)

6- Fighting Against the Deviation within Ruling (القتال ضد انحراف الحكم)

7- Fighting to Establish the Islamic State (القتال من أجل إقامة الدولة الإسلامية)

8- Fighting for the Unity of Muslims (القتال من أجل الوحدة بين المسلمين)

Since the previous examples of conflicts between Muslims in history have little similarity with the ones which are ongoing today between Muslims, we will therefore mention them only briefly, whilst giving more room for discussion on realities similar to the infighting raging between Muslims today. Before discussing these subjects, we need to clarify who actually is considered a martyr, as Martyrdom is amongst the consequences of Jihad.

A Martyr (شهيد Shaheed) is the one who is killed by the disbelievers during the battle while fighting to raise the word of Allah (swt) as the highest. Martyrs are of three categories:

First Category of Martyr: Martyr in this world and Hereafter. He is the one who fought the disbelievers to raise the word of Allah as the highest and was killed during the battle between Muslims and disbelievers either in the lands of Kufr or in the lands of Muslims. Allah (swt) says, "وَلَا تَحْسِبَنَّ الَّذِينَ قُتِلُوا فِي سَبِيلِ اللَّهِ أَمْوَاتًا بَلْ أحيَاءٌ عِنْدَ رَبِّهِمْ يُرْزَقُونَ" **And consider not those who were killed in the path of Allah as dead; nay, they are alive and are provided sustenance from their Lord**". (Surah aali Imran 3:169). This is regarding the martyr for whom the Ahkam Shariah were revealed. And if the word 'martyr' is said, then this is what is meant by martyrdom and he is the true martyr. As for the one who is killed in the battle against the rebels, for instance, he is not a martyr. The one, who is wounded in the battle against disbelievers and then he is fully healed from the wound, dying after that, he is not a martyr either. There are special rulings specific to a martyr. As for what Allah (swt) has informed us, that the martyr is alive, it is specific to whoever is killed in the battle against the disbelievers while upholding the word of Allah (swt) as the highest, or the one who was wounded in battle and died as a result of that wound.

The ruling for the said martyr is that he is neither to be washed nor shrouded. Instead he must be buried along with his blood and clothes. Ahmed reported that the Messenger of Allah (saw) said, regarding those who were killed in the battle of *Uhud*, "لَا تُغَسَّلُوهُمْ فَإِنَّ كُلَّ جَرْحٍ أَوْ كُلَّ دَمٍ يَفُوحُ مِنْهَا يَوْمَ الْقِيَامَةِ وَلَمْ يُصَلِّ عَلَيْهِمْ" **Do not wash them, indeed each wound or each blood will emit the odor of musk on the day of resurrection, and do not pray upon them.**" [Ahmed]

This is evidence regarding the prohibition of offering Janazah prayer for the Martyr. Abu Dawood and Tirmidhi reported from Anas (ra) that: "النبي صلى الله عليه وسلم لم يُصَلِّ عَلَى قَتْلَى أَحَدٍ وَلَمْ يُغَسَّلِهِمْ" **The Prophet (saw) did not pray janazah for those who were killed in the battle of Uhud and he (saw) did not wash them.**" [Bayhaqi]

Second Category of Martyr: He is a martyr in the hereafter without the rulings of a martyr in this world, i.e. he has the reward of martyr in the Hereafter and the rulings of martyr do not apply to him in this world; hence he will be washed, shrouded and jinazah prayers will be offered. It was reported by Bukhari and Muslim that Abu Huraira (ra) narrated that Messenger of Allah (saw) said: "الشَّهَدَاءُ خَمْسَةٌ الْمَطْعُونُ، وَالْمَبْطُونُ، وَالْعَرِقُ وَصَاحِبُ الْهُدْمِ، وَالشَّهِيدُ فِي سَبِيلِ اللَّهِ" **Five are martyrs: They are those who die because of plague, abdominal disease, drowning or a falling building and the martyrs in Allah's Cause.**"

Third Category of Martyr: He is a Martyr of this world and not in Hereafter. Hence rulings of Martyr are taken upon him in this world where he will neither be washed nor be prayed upon, rather he will be shrouded in his clothes. He is the one who fought the

disbelievers for the sake of showing off or for something similar to that. It is reported by Muslim from the narration of Abu Musa Al-Ashari, قَالَ يَا رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ يَا رَسُولَ اللَّهِ الرَّجُلُ يُقَاتِلُ لِلْمَغْنَمِ وَالرَّجُلُ يُقَاتِلُ لِيُرَى مَكَانَهُ فَمَنْ فِي سَبِيلِ اللَّهِ فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ "A man came to the prophet (saw) and said: 'Oh Messenger of Allah! One man fights for booty, another fights to win fame, and the third fights for show off. Which of them is fighting in the cause of Allah?'. The Messenger of Allah (saw) replied: مَنْ قَاتَلَ لِكَلِمَةِ اللَّهِ أَعْلَى فَهُوَ فِي سَبِيلِ اللَّهِ "The one who fights so that Word of Allah be exalted, is the one who fights in the Cause of Allah."

Classification of legitimate fighting between the Muslims:

1- Fighting the People of Rebellion (قِتَالُ أَهْلِ الْبَغْيِ): The People of Rebellion are a group of people who unite for three matters. Rebelling against the state's authority by refraining to perform the rights and obeying the laws, working to topple the head of state or to acquire strength and power for themselves. It is the presence of power within the rebellion that may enable them to take control. As for *Al-Khuruji* i.e. Leaving (out of disobedience): The word 'al-Khuruji' (الْخُرُوجُ) is synonymous with armed rebellion or civil war or internal fighting or using weapons or using violence in a way to achieve the political objectives for which the rebellion occurred. The Obligation (فرض Fard) regarding the People of Rebellion is to fight them with the intention of deterring them, and to discipline them and to return them to the obedience of the Khaleefah. It should not be fought with the intention of killing them and wiping them out. Fighting them is only a disciplinary matter and not an intent to wage war. Those who fight the People of Rebellion are not Martyrs according to the Shariah i.e. Martyrs of this World and Hereafter. Rather, they are only the Martyrs of the Hereafter and they will have the reward of the Martyrs in the Hereafter. As for this world, rulings of Martyrs will not be applied to them and hence they will be washed, shrouded and prayed upon like the rest of the deceased Muslims. Although fighting the People of Rebellion is considered legitimate; however, it is not considered Jihad in the Path of Allah, unless the People of Rebellion were disbelievers and not Muslims.

2- Fighting the Usurper of Authority (قِتَالُ مَغْتَصِبِ السُّلْطَةِ): Authority in Islam rests with the Ummah and the Ummah delegates the Authority to the ruler under the contract that the ruler will rule over them by the Book of Allah (swt) and Sunnah of Messenger of Allah (saw). It is reported by Muslim that the Messenger of Allah (saw) said, وَمَنْ بَايَعَ إِمَامًا فَأَعْطَاهُ صَفْقَةَ يَدِهِ وَتَمَرَةَ قَلْبِهِ، "If a man takes an oath of allegiance to a leader, and puts his hand on his hand and does it with the sincerity of his heart, he must obey him as much as possible. If another man comes and contests him, then behead the other one."

Hence, Pledge of Allegiance (بيعة) is the method to appoint the Khalifah and for his succession, and taking covenant from the previous ruler is not considered the method. Overpowering and seizure of power through oppression and force are not methods either. It is considered as one of the oppressions (مظلمة) by the Usurper of Authority (مغتصب السلطة) against the rights of the Ummah. In this situation, the Ummah has the right to fight to recover what was usurped from it. Whoever is killed in this fighting is the Martyr of Hereafter i.e. he will have the reward of the Martyr in the Hereafter. It was narrated in Musnad Ahmed bin Hanbal that Messenger of Allah (saw) said, وَمَنْ قَتَلَ دُونَ مَظْلَمَتِهِ فَهُوَ شَهِيدٌ "He who dies in defending against the oppression is martyr"

The Shariah ruling is that it is Mubah (Permissible) to fight the Usurper of the Authority. This is because the owner of the rights has a right to give up what he possesses, either to the usurper or to the others. And similarly, he has the right to fight in defense of this right. Hence, if the Ummah gives the Pledge of Allegiance to this Usurper through Consent and Choice (رضا واختيار), the reality of Usurpation of the Authority is annulled and the affairs are considered to be starting to run naturally. If the Ummah does not give a Pledge of Allegiance to the Usurper of Authority, then there will be two cases.

First Case: The refusal of the Ummah to fight against the Usurper although it is capable of that. In this case, the Ummah falls into the sin after three days from the seizure of power by the Usurper. This is because the Shariah ruling is that it is not allowed for the Ummah to remain without Pledge of Allegiance of the Imam upon its neck for more than three days, whilst it is capable of that. Umar (ra) had restricted only three days to the People of Shura to choose one from amongst themselves for the Khilafah, as they were the representatives of the Ummah and that the post of Khilafah is not to be without their consent. Then Umar (ra) ordered to kill those who oppose what the majority had agreed upon. This was not opposed by any of the Companions (ea) of the Prophet (saw) and it is thus the Ijma as-Sahaba (Consensus of the Companions (ra)). Hence, within three days, the Ummah either has to fight the Usurper in order to give Pledge of Allegiance to whom it agrees to, or to give Pledge of Allegiance to whom it agrees to in order to fight along with him against the Usurper. As for granting consent to this Usurper and giving him the Pledge of Allegiance, Sheikh Taqiuddin (ra) says in his Book 'Khilafah,' *"if a usurper were to seize power by force, he would not become Khaleefah, even if he declared himself to be the Khaleefah of the Muslims"*. He then says, *"However, if the usurper managed to convince the people that it would be in the interest of the Muslims to give him their Bai'ah and that the implementation of the Shar' rules obliges them to give the Bai'ah, and they were convinced of that and accepted it and then gave him the Bai'ah by consent and free choice, he would become Khaleefah from the moment that the Bai'ah was given to him by consent and choice."*

Second case: The refusal of the Ummah to fight against the Usurper, when it is not capable of that. In this case, it is Obligatory (فرض Fard) upon the Ummah to proceed in the path of gathering the power with which it can fight the Usurper and eliminate him, as long as it does not want to give him the Pledge of Allegiance. In this regards, the Ummah is excused from the Pledge of Allegiance of the Imam upon its neck after more than three days, since the Ummah is overpowered in its matter, Allah (swt) said, **“Allah does not burden a soul except [with that within] its capacity.”** [Surah al-Baqarah 2:286] The Messenger of Allah (saw) said, **“Allah has forgiven my nation for mistakes and forgetfulness, and what they are forced to do”** [Reported by Tabarani and Dar Al Qutni].

Amongst the examples of Usurpers of Authority is Yazid bin Muawiya. He took the Pledge of Allegiance for himself through coercion, and any pledge that is taken from the people by force becomes invalid. The majority of the representatives of Muslims refused the Pledge of Allegiance to him as mentioned in 'Tareekh at-Tabari'. This was the reason for Abdullah bin Zubair (ra) and Husain bin Ali (ra)'s revolt in order to return the authority to the Ummah from the Usurper. Fighting the Usurper of Authority is a legitimate right; however, it is not considered Jihad in the Path of Allah. And it is the special case within the cases of fighting rebellion.

3- Fighting the Highway Robbers (فِتَالُ الْمُحَارِبِينَ) (Hiraba (الْحِرَابَةُ))

Highway robbers (الْمُحَارِبِينَ) or bandits (People of Hirabab) are terrorizing groups from amongst Muslims, or they can be apostates or people of Dhimma who have left the Pledge of Allegiance and have started relying on what they have in terms of power and weapons, with the intention of looting, pillaging or killing or causing terror amongst the people. They usually live outside the cities, in villages, mountains, plains and deserts.

The obligation in the rights of highway robbers (Muhaariboon) is to call them to throw down their weapons and surrender themselves, by preaching and reminding. If they return, they will be forgiven; otherwise, they will be fought with. It is the obligation upon the state to send a fighting force to confront them and to cut off their harm upon the Muslims. Fighting the Muhariboon is considered legitimate; however, it is not Jihad in the path of Allah unless the highway robbers are disbelievers.

4- Fighting to Protect the Private Sanctities (قتال الدفاع عن الحرمات الخاصة) (Fighting the Assaulter (قتال الصيال))

The Assaulter (Sayyal الصيال) is the one who transgress against the private sanctities such as the soul, wealth and honor. This came in the final sermon of the prophet (saw) in the Farewell Hajj as reported in Bukhari and Muslim, فَإِنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ وَأَعْرَاضَكُمْ عَلَيْكُمْ حَرَامٌ كَحُرْمَةِ يَوْمِكُمْ هَذَا فِي شَهْرِكُمْ هَذَا فِي بَلَدِكُمْ هَذَا فَلْيُبَلِّغُوا الشَّاهِدَ الْغَائِبَ **“Indeed, your blood, your properties, and your honor are sacred to one another like the sanctity of this day of yours, in this month of yours, in this (sacred) town (Mecca) of yours, so let the attender inform the absentee.”**

These are the private sanctities as they are particular to each individual to some extent and they are distinguished from public sanctities.

Fighting to Protect the Private Sanctities:

First: Fighting to defend the soul and it has three cases.

1- Fighting to defend the soul is Obligatory (Fard فرض), if the assaulting transgressor is a disbeliever or a beast or a Muslim, whose blood is no longer a sanctity, such as the married fornicator, the one who leaves Salah or the one who kills in the public places. Allah (swt) said, **“Do not throw [yourselves] into destruction with your [own] hands”** [Surah al-Baqarah 2:195]

2- Fighting to defend the soul is Recommended (Mandub مندوب). It is Permissible (Mubah مباح) to surrender to be killed, if the transgressor is a Muslim whose blood is sacred, and if it does not lead to specific abuses against women and children; otherwise, it is Obligatory to defend the soul. Similarly, it is not permissible to surrender to be killed, if the surrendering person is amongst the people of authority or ulema, as in such a case that their killing would disrupt the interest of the ummah.

3- Surrendering to be killed is Mubah, in such a case that the intention of the transgressor is targeting a single person alone, without threat of public strife.

Second: Fighting to defend the honor

Defending the honor is Obligatory without any disagreement. Sometimes the defense is by the woman whose honor is about to be assaulted, or by her husband or her relatives or any Muslim who is not related to her. This is because honors are the sanctities of Allah (swt) upon the earth and assaulting them is of the ugliest of evils (munkaraat منكرات). It is mentioned in the hadith of the Prophet (saw) about the legitimacy of removing the evil (munkar منكر) through force, **“Whoever amongst you sees the evil (munkar), let him change it by his hand”** [Muslim]

Third: Fighting to defend the wealth

a- Fighting to defend the wealth is Obligatory due to the saying of the Messenger of Allah (saw): **“He who dies while defending his property is a martyr”** [Muslim]. This will be in the following cases:

1. Wealth of the defender in relation to the rights of others such as lease (rental) or mortgage
2. Wealth which is vital on a condition that the defender is not exposed or endangered.
3. Wealth which is the wealth of others.

b- Fighting to defend the wealth is *Mubah*, in a case when the assaulter seeks something of little importance such as a garment or food. Hence defending wealth in such a case is Permissible and not Obligatory.

c- Leaving the fight to defend the wealth is obligatory in such a case, such that if the transgressor is the legitimate ruler with authority (i.e. sultan). It is mentioned in Muslim that

the Messenger of Allah (saw) said, **يَكُونُ بَعْدِي أُمَّةٌ لَا يَهْتَدُونَ بِهَدَايَ وَلَا يَسْتَنُونَ بِسُنَّتِي وَسَيَقُومُ فِيهِمْ رِجَالٌ قُلُوبُهُمْ** قُلُوبُ الشَّيَاطِينِ فِي جُثْمَانِ إِنْسٍ قَالَ قُلْتُ كَيْفَ أَصْنَعُ يَا رَسُولَ اللَّهِ إِنْ أَدْرَكْتُ ذَلِكَ قَالَ تَسْمَعُ وَتَطِيعُ لِلْأَمِيرِ وَإِنْ ضَرَبَ ظَهْرَكَ وَأَخَذَ مَالَكَ فَاسْمَعْ وَأَطِعْ **“There will be leaders after me who will not be led by my guidance and who will not adopt my ways? There will be among them men who will have the hearts of devils in the bodies of human beings. I said: What should I do O Messenger of Allah, if I (happen) to live in that time? He (saw) replied: You will listen to the Amir and carry out his orders; even if your back is flogged and your wealth is snatched, you should listen and obey.”**

Fighting the assaulters is legitimate; however, it is not Jihad in the path of Allah (swt) unless the assaulter is a disbeliever. If the defender is killed, he will be amongst the martyrs of the Hereafter alone.

5- Fighting to Protect the Public Sanctities (قتال الدفاع عن الحرمات العامة)

Transgression against public sanctities is considered transgression against the rights of Allah (swt), if violation against those sanctities are committed in a blatant manner. For example, suspension of Salah and Fasting, prohibiting the Sharia Hijab for women, destroying the mosques or public institutions, plundering the public wealth, openness in selling the wine or drinking it, dealing with interest and gambling and others matters, about which divine texts clarify obligation or prohibition.

Rulings of forbidding the evil on different conditions:

1- Forbidding the evil (munkar), in origin, is an Obligation of Sufficiency (فرض كفاية). If someone performs this and achieves the objective, then the Obligation is removed from the others, due to the saying of Allah (swt), **وَلَتَكُنَّ مِنْكُمْ أُمَّةٌ يَدْعُونَ إِلَى الْخَيْرِ وَيَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ**, **“And let there be [arising] from you a group inviting to [all that is] good, enjoying what is right and forbidding what is wrong, and those will be the successful.”** [Surah Aal-Imran 3:104]

2- Changing the evil becomes an Individual Obligation (فرض عين) upon those are capable of removing it, on the condition that they do not fear that their private sanctities are susceptible to transgression and that their forbidding doesn't result in greater corruption than the corruption of the evil that has occurred in front of them. RasulAllah (saw) said: **مَا مِنْ رَجُلٍ يَكُونُ فِي قَوْمٍ يُعْمَلُ فِيهِمْ بِالْمَعَاصِي يَقْدِرُونَ عَلَى أَنْ يُغَيِّرُوا عَلَيْهِ فَلَا يُغَيِّرُوا إِلَّا أَصَابَهُمُ اللَّهُ بِعَذَابٍ مِنْ قَبْلِ أَنْ يَمُوتُوا** **“If a man is among a people, and in whose midst he does acts of disobedience, and, though they are able to make him change (his acts), they do not change them, then Allah will smite them with punishment before they die.”** [Abu Dawud].

If forbidding the evil results in the occurrence of greater corruption, than the corruption of evil that has occurred, which may occur after challenging the neglect, by forbidding the evil doers, in that case, Forbidding (the evil) is Prohibited (Haram), in accordance with the Shariah principle **“يختار أهون الشرين”** ‘Choosing the lesser of two evils.’

3- If forbidding (the evil) does not result in the occurrence of corruption from other evils that are added by corrupt and immoral people due to their deterrence from forbidding, then forbidding in this case is Recommended. Prophet (saw) said: **وَمَنْ قَتَلَ دُونَ دِينِهِ فَهُوَ شَهِيدٌ** **“He who is killed in defending his religion is Martyr”** [Bayhaqi]

4- If forbidding the evil results into the occurrence of extreme harm to the one who forbids, as well as others around him such as relatives, friends and other citizens, then one is faced with two options:

a- Being silent upon the evil, so one falls into the category of abandoning the forbiddance.

b- Performing the forbiddance, so that one falls into extreme harm, which may also occur to others around him. If the others, upon whom the harm will occur, are content with the

occurrence of such harm, then forbidding the evil is Recommended. If the harm reaches them to the extent of killing them, then they are Martyrs of Hereafter. The act of forbidding the evil applies to them and they can choose to leave it, if they wish. This is because harming the Muslims is Prohibited and keeping silent over evils is also Prohibited.

5- If he who commits the evil is the person of authority in the lands, this case is clarified in the Shariah texts as follows:

a- Forbidding the ruler from evil is Obligatory (فرض Fard) at the level of preaching, advice and soft words at first. It has been narrated in Bayhaqi that the Messenger of Allah (saw) said: **مَنْ كَانَتْ عِنْدَهُ نَصِيحَةٌ لِدَيِّ سُلْطَانٍ فَلَا يُكَلِّمُ بِهَا عَلَانِيَةً، وَلْيَأْخُذْ بِيَدِهِ فَلْيُخْلِ بِهٖ، فَإِنْ قَبِلَهَا قَبِلَهَا، وَإِلَّا كَانَ قَدْ آدَى الَّذِي لَهُ** **“Whoever intends to advise the one with authority, he should not do so publicly. Rather, he should take him by the hand and advise him in private. If he accepts the advice, then all is well. If he does not accept it, he has fulfilled his duty.”**

b- It is Recommended (مندوب Mandub) to use harsh speech while forbidding the ruler from evil. This is because it is necessary to show the sense of honor for the sanctities of Allah (swt) and to make the ruler comprehend the horridness of what he has presented.

c- It is Forbidden (حرام Haraam) to use harshness of the words while forbidding the ruler from evil, if that leads to harm to other persons, if they do not consent to that with what would happen against them in terms of hatred.

d- It is Forbidden to strike the ruler in order to discipline him when he commits the evil. This is because striking the ruler contravenes the prestige which Shariah texts command to give him. This may push the ruler to commit even more terrible corruptions than those of the current evil and the result may not be the removal of existing evil; instead, it may add more evils to it.

e- It is Forbidden to use weapons to revolt against the ruler, if it deviates the ruler further in order to commit immoral act or injustice or to issue an unlawful act.

Fighting to defend the public sanctities does not fall under Jihad; instead, it is another legitimate action whose reward is also great. It is similar to Jihad in its effect and reward and people who perform it (i.e. fighters who exert their effort and risk their lives) earn great reward as a result. As for an un-Islamic society, it is obligatory to change the system through intellectual and political struggle by establishing the righteous Khilafah that removes all the evils from the lands. Although, it is permissible for those who are to change the evils by force by those who are capable to do so as came in the hadith, **“مَنْ رَأَى مِنْكُمْ مُنْكَرًا فَلْيُغَيِّرْهُ بِيَدِهِ،** **“Whoever amongst you sees the evil (munkar), let him change it by his hand”** [Muslim]

Hence, the appropriate treatment for such a situation is to carry out intellectual and political struggle, abiding by the method of Prophet (saw) to overthrow the regime and establish the Khilafah that removes the evils and corruptions in all forms and types.

6- Fighting Against the Deviation within Ruling (القتال ضد انحراف الحكم)

It is the utilization of weapons in order to overthrow the deviant ruler who deserves it, according to the opinion of those who revolt against him. It has many categories, and some of them have been mentioned in the book ‘Ruling System in Islam’ authored by the eminent scholar Sheik Taqiuddin Nabahani, the founder of Hizb ut Tahrir:

What is the deviation of the ruler?

The deviation of the ruler occurs when he abandons the obligations of Islam, whether in his personal behavior or in the internal or external policy, based on which he takes care of the affairs of the Ummah. Those deviations are:

- 1- The ruler committing sins
- 2- The ruler commanding the citizens to commit sins

3- The ruler committing the evils that include monopolization of wealth, positions, jobs and privileges that have been monopolized for himself, his family, his relatives and the groups and people close to him, all the while neglecting the rest of the Ummah.

4- Harming the individuals by beating, punishing and confiscating their wealth.

It is reported by Bukhari that Messenger of Allah (saw) said, **السَّمْعُ وَالطَّاعَةُ عَلَى الْمَرْءِ الْمُسْلِمِ فِيمَا أَحَبَّ وَكَرِهَ مَا لَمْ يُؤْمَرْ بِمَعْصِيَةٍ فَإِذَا أُمِرَ بِمَعْصِيَةٍ فَلَا سَمْعَ وَلَا طَاعَةَ** **“Listening and Obeying are binding upon a Muslim whether he likes or dislikes it, so long as he is not commanded to disobey (Allah). If he is commanded disobedience (to Allaah), then no listening and no obeying.”**

Fighting against the deviation of a ruler is Jihad in the Path of Allah, if the ruler has already disbelieved. As for the ruler who does not apostatize from Islam, committing only deviations, the appropriate treatment for him is to be sentenced by the Mazalim Courts in order for him to be removed. In such a case that he clings to authority and initiates conflict with the help of his supporters, fighting against him is considered the fighting against rebellion. Such fighting is considered legitimate, however this is not seen as Jihad in the path of Allah (swt), according to the Shariah meaning of Jihad.

7- Fighting to Establish the Islamic State (القتال من أجل إقامة الدولة الإسلامية)

As the Islamic State has ceased to exist, with its demise prolonged over a long period of time, the method to reestablish the Islamic State today would be the same method which was followed by the Messenger of Allah (saw) to establish it originally. This can be realized in several steps. Those are:

1- Creating an atmosphere in a land of Muslim countries that responds to the Islamic call, until it has generated a favorable public opinion that supports this call. This is besides demanding what it requires for in terms of thoughts and systems, along with the preparation to support it, which is Nussrah, along with making the sacrifices needed for its sake.

2- The state that responds to the Islamic call, possesses the necessary dispositions and prerequisites, as was the case in Madinah during the time of the Messenger of Allah (saw) in relation to the circumstance of that time. The people of Nussrah are then sought, who are capable and willing to submit themselves to the authority to whom they grant the Pledge of Allegiance, as a head of Islamic state. It is in the case when the powers that these people of Nussrah possess are such that they can crush every rebellion against the new situation internally, and confront any potential external power that attempts to take advantage of the new situation.

3- When these people of Nussrah gather, they grant the Pledge of Allegiance to whom they choose as a leader, declaring the establishment of Islamic State. They change the current system and establish an Islamic system in its place. They utilize the power which the people of Nussrah possess on full alert to strike severely against anyone who attempts to wage war against the rule by all that Allah (swt) has revealed and that which is demanded by the public opinion of the lands.

If the other centers of power remain silent regarding this new situation and give their allegiance to the Khaleefa, then the transfer of power remains peaceful. This is as was the case of the coup during the time of the Messenger of Allah (saw). The people of power remained in their respective places under the light of rulings of Islam and in the interest of the Islamic state.

In case some centers of power rebel and attempt to strike the newly formed state, then the divine text regarding the Second Pledge of Allegiance, the Pledge of Aqabah, confirms the legitimacy of fighting those who wish to cause strife. This is in order to safeguard and guarantee the protection for the new situation, and in this case, the coup would be bloody. The divine text also allows this.

This is the method to establish the Islamic state today. This is the Shariah ruling about the issue of fighting to establish the Islamic state as it was evidenced by the Second Pledge of Allegiance, the Pledge of Aqabah, upon which the Messenger of Allah (saw) established the Islamic state.

As for the ruling of rising up against the Islamic state during or after its establishment, it is Haram (forbidden). If a faction of the military stands up against the Islamic state under the orders of its leaders in order to fight against the Islamic state, it is obligatory upon the Islamic state to fight them as they are now considered rebel forces who left the authority of Islamic state. Fighting them is the fight against rebellion who left the obedience to the Khalifah. This fighting is legitimate and although this is not Jihad in the Path of Allah (swt), whoever is killed in the ranks of the Islamic state is amongst the Martyrs of the Hereafter alone, achieving the reward of the Martyr of the Hereafter.

8- Fighting for the Unity of Muslims (القتال من أجل الوحدة بين المسلمين)

Islamic lands must be as a single state under the authority of a single Imam, the Khalifah of Muslims, who rules them according to Islam. All Muslims in this world must be under his authority as a single Ummah, a single people carrying a singular citizenship, and they must not be divided into multiple authorities or be considered nations separate from one another.

As for the Obligation of the unity of Muslims in the Islamic state, Allah (swt) says, **وَاعْتَصِمُوا** **“And hold firmly to the rope of Allah (swt) all together and do not become divided.”** [Surah Aali-Imran 3:103]

Muslims will not be the holding to the rope of Allah (swt) firmly, except when they are united as a single entity under the single state called the Khilafah. It is the Khilafah that rules with Islam in all the life's affairs internally. It is the Khilafah that carries the Message of Light and Guidance to the world externally through Dawah and Jihad, that governs all of its external relationships with other nations. Islam obligates the unity of Muslims under a single state, the protection of it and forbids its division into separate entities and multiple states. The evidences for this are many, including the narration of Sahih Muslim from Abu Saed Al-Kudri (ra) that the Messenger of Allah (saw) said, **إِذَا بُوِيعَ لِخَلِيفَتَيْنِ فَأَقْتُلُوا الْآخَرَ مِنْهُمَا** **“If pledge of allegiance was given to two khalifahs, then kill the latter of the two.”** It is narrated by Muslim from the narration of Abdullah bin Amr bin Al-A'as (ra) that the Messenger of Allah (saw) said, **وَمَنْ مَاتَ وَلَيْسَ فِي عُنُقِهِ بَيْعَةٌ مَاتَ مِيتَةً جَاهِلِيَّةً** **“Whoever dies without having pledge of Allegiance (to the khalifah) upon his neck, then his death is the death of Jahiliyya (ignorance)”** It is narrated by Muslim that the Messenger of Allah (saw) said, **إِنَّهُ سَتَكُونُ هَنَاتٌ** **“Hanaath (هنات) will appear one after another. Anyone who tries to disrupt the affairs of this Ummah while they are united you should strike him with the sword whoever he be.”** The word 'Hanaath' (هنات) is the plural of the word 'Hanna' (هنة), and what is intended here by the word are the upcoming tribulations. It is also narrated by Muslim from Arfajah that the Messenger of Allah (saw) said, **مَنْ أَتَاكُمْ وَأَمْرُكُمْ جَمِيعٌ عَلَى رَجُلٍ وَاحِدٍ يُرِيدُ أَنْ يَشُقَّ عَصَاكُمْ أَوْ يُفَرِّقَ جَمَاعَتَكُمْ فَأَقْتُلُوهُ** **“When someone comes to you seeking to undermine your solidarity or disrupt your unity while you are holding to one single man (as your leader), then kill him”**.

From these evidences, it is clear as follows:

1- Pledge of Allegiance of a single Khalifah is upon the neck of each Muslims. The Khilafah is a singular entity, and it is not allowed for the Muslims to have more than one Khalifah.

2- It is Obligatory (فرض Fard) to fight against those who do not give Pledge of Allegiance to the Khalifah or those who seek to disrupt the unity of Muslims and divide them into several entities separated from one another.

3- Fighting to unify Islamic lands is Obligatory for several reasons:

a- Those who refrain from obeying the legitimate Khalifah are rebels, and they should be fought as rebels are fought with.

b- Unity is amongst the Islamic obligations

c- The region from the Muslims lands that refuses to enter under the authority of the Khilafah will continue to be under the rule of other than all that Allah (swt) has revealed, and this is Haraam (حرام Forbidden) according to sharia.

In summary, fighting for unity amongst Muslims is Obligatory (فرض Fard) according to Shariah. And it is legitimate and not a Jihad in the Path of Allah (swt) in accordance with the sharia meaning.

Prohibited Fighting between the Muslims (Fighting of Discord قتال الفتنة)

Fighting due to discord between the Muslims is considered an illegitimate conflict between two or more groups of Muslims. Fighting of discord applies to several cases of fighting as mentioned by the scholars:

First case: There is no distinction between the truthful (المحق) from the false (المبطل) in fighting. Here the fighting of discord is due to those who participate in this armed conflict out of ignorance or distraction or for the sake of Asabiyyah (Partisanship) or for any other objective. This fighting does not distinguish the truth from the false. As for the original conflicting parties, they are judged to be either just or abusive, based on their motive to utilize arms. Sometimes, the conflicting parties may be ignorant of the reasons that led them to fight in the first place. Hence their fighting in this case is fighting of discord and they must refrain from it. It is reported by Muslim that the Messenger of Allah (saw) said, لَا تَذْهَبُ الدُّنْيَا حَتَّى يَأْتِيَ عَلَى النَّاسِ يَوْمٌ لَا يُدْرِي الْفَاتِلُ فِيْمَ قَتَلَ وَلَا الْمَقْتُولُ فِيْمَ قُتِلَ فَقِيلَ كَيْفَ يَكُونُ ذَلِكَ قَالَ الْهَزْجُ الْفَاتِلُ وَالْمَقْتُولُ فِي النَّارِ “The world would not come to an end until a day comes to the people on which the murderer would not know as to why he has killed and the slain would not know as to why he has been murdered. It was said: Why would it happen? To which he (saw) replied: It would be because of general massacre and bloodshed. And the slaughterers and the slain would be in Fire.”

Second case: Two groups conflicting with each other unjustly and there is no supporting interpretation for any one of them.

Third Case: illegitimate conflict between two parties over the authority i.e. fighting in pursuit of authority.

Role of the people of reformation in stopping the fighting of discord:

1- Seeking reconciliation between them and cease-fire between two groups. Allah (swt) says, وَأِنْ طَائِفَتَانِ مِنَ الْمُؤْمِنِينَ اقْتَتَلُوا فَأَصْلِحُوا بَيْنَهُمَا “And if two factions among the believers should fight, then make settlement between the two” [Surah al-Hujarat 49:9].

2- When one of the two groups is upon the truth and the other is being oppressive, it is obligatory to support the group which is just against the other, as Allah (swt) says, فَقاتِلُوا الَّتِي فَقاتِلُوا الَّتِي “then fight against the one that oppresses until it returns to the ordinance of Allah” [Surah al-Hujarat 49:9]

3- If both the groups are oppressors and the Islamic State is able to fight and suppress them all, then it is obligatory upon it, as both of them are in error.

4- If the Islamic State is one of the parties in the conflict, then it is obligatory to support it in order to overcome the oppressive group.

Ruling on Fighting of Discord (قتال الفتنة) in all of its cases depending on the differences of conditions of the people:

Firstly: Ruling on the participation of a Muslim in the ongoing fighting between the conflicting parties:

Juristic opinions have agreed that it is obligatory to abandon the fighting during discord with the exception of fighting the oppressor and people of rebellion. Allah (swt) says, وَلَا تَقْتُلُوا “And do not kill the soul which Allah has forbidden, except by right.” [Surah al-Kahf 17:33]. The Prophet (saw) said, كُلُّ الْمُسْلِمِ عَلَى الْمُسْلِمِ حَرَامٌ دَمُهُ وَمَالُهُ وَعِرْضُهُ “Everything belonging to a Muslim is inviolable for another Muslim; his honor, his blood and property.” [Muslim]

In fact, Shariah texts indicate special circumstances of discord that emphasize the Muslim to abandon the fighting with the assertions that,

1- Compulsion to stay away from the battlefield and to disappear from view whenever possible. It is reported by Tabarani in ‘Majma al-Zawa'id’: ادخلوا بيوتكم وأحملوا ذكركم “Enter your homes and render no attention (وأحملوا) to their remembrance”

2- Order to gather ones belongings, and to restrain oneself to private recluses. It is reported by Mustadrik Al-Hakim that the Messenger of Allah (saw) said, فَإِذَا نَزَلَتْ فَمَنْ كَانَ لَهُ إِبِلٌ “When (any discord) is descended, whoever has camel, let him go away with it, and whoever has sheep, let him go away with it, and whoever has land, let him go away with it.”

3- The Prophet (saw) informed that both the killer and the one killed would be in Hellfire. It is reported by Al-Bazar that the Messenger of Allah (saw) said, إِذَا اقْتَتَلْتُمْ عَلَى الدُّنْيَا فَالْقَاتِلُ وَالْمَقْتُولُ “When you fight each yourself over this world, both Killer and the one Killed will be on Hellfire” Conflict over the worldly gains is attributed as conflict between two unjust aggressive parties, and it is considered one of the cases of fighting of discord.

4- The Order to destroy the weapon: The intention here is the extent of urging to avoid fighting, such that the presence of the weapon should not be a temptation to use it in fighting at any stage. It has been mentioned in some of the narrations by Shawkani in his ‘Nayl al-Awtar’ that: فَكَسِّرُوا فِيهِ قَسِيكُمْ “Break your bows.” Here, the word ‘breaking’ does not come as the Literal Meaning (حقيقة Haqeeqah), rather it comes as Metaphor (مجاز Majaaz) i.e. the weapons should be kept away from the reach, or dismantled temporarily, as protecting the weapons to fight disbelievers is legitimate.

Second: Ruling on defending what a Muslim is entitled to defend, from the conflicting parties during the Fighting of Discord, if he carries serious intent for it.

There are many opinions regarding the rule of surrender and abandoning the self-defense during the fighting of discord:

- 1- Self-defense is *Makruh* (disliked)
- 2- Self-defense is *Mubah* (Permissible)
- 3- Abandoning the self-defense is *Mandub* (recommended)
- 4- Surrender and abandoning of self-defense are obligatory
- 5- Self-defense is obligatory.

The outweighed opinion is that the surrender and abandonment of self-defense during the fighting of discord carries the ruling of permissibility (*Mubah*). This outweighing is based on the Foundational Jurisprudence Principle (قاعدة أصولية) that, ‘(أن الأمر بعد النهي يدل على الإباحة)’, i.e. ‘The command after the prohibition indicates its permissibility’

Hence the prohibition in His (swt) saying, وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ “And do not kill the soul which Allah has forbidden, except by right.” [Surah al-Kahf 17:33] and in His (swt) saying وَلَا تَقْتُلُوا أَنْفُسَكُمْ “Do not Kill yourselves” [Surah an-Nisaa 4:29]

