

The Legacy of Jihad

Islamic Holy War and the Fate of Non-Muslims

Edited by Andrew G. Bostom, MD

Foreword by Ibn Warraq



Prometheus Books

59 John Glenn Drive
Amherst, New York 14228-2197

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JIHAD: AN INTRODUCTION

Rudolph Peters

The Arabic word *jihad* (verbal noun of the verb *jahada*) means to strive, to exert oneself, to struggle. The word has a basic connotation of an endeavour towards a praiseworthy aim. In a religious context it may express a struggle against one's evil inclinations or an exertion for the sake of Islam and the *umma*, e.g., trying to convert unbelievers or working for the moral betterment of Islamic society ("jihad of the tongue" and "jihad of the pen"). In the books on Islamic law, the word means armed struggle against the unbelievers, which is also a common meaning in the Koran. Sometimes the "jihad of the sword" is called "the smaller jihad," in opposition to the peaceful forms named "the greater jihad." Nowadays, it is often used without any religious connotation, more or less equivalent to the English word crusade ("A crusade against drugs"). If used in a religious context, the adjective "Islamic" or "holy" is currently added to it (*al jihad al-Islami* or *al-jihad al-muqaddas*).

The origin of the concept of jihad goes back to the wars fought by the Prophet Mohammed and their written reflection in the Koran. It is clear that the concept was influenced by the ideas of war among the pre-Islamic Northern Arabic tribes. Among these, war was the normal state, unless two or more tribes had concluded a truce. War between tribes was regarded as lawful and if the war was fought as a defence against aggression, the fighting had an additional justification. Ideas of chivalry forbade warriors to kill non-combatants like children, women and old people. These rules have become incorporated into the doctrine of jihad which was fixed in the latter half of the second century of the Hijra era.

The Koran frequently mentions jihad and fighting (*qit'il*) against the unbelievers. K. 22.39 ("Leave is given to those who fight because they were

Rudolph Peters, "Jihad: An Introduction," in *Jihad in Classical and Modern Islam* (Princeton, NJ: Markus Wiener, 1996), pp. 1–8.

wronged—surely God is able to help them—who were expelled from their habitations without right, except that they say ‘Our Lord is God.’”), revealed not long after the Hijra, is traditionally considered to be the first verse dealing with the fighting of the unbelievers. Many verses exhort the believers to take part in the fighting “with their goods and lives” (*bi-amwalihim wa-anfusihim*), promise reward to those who are killed in the jihad (K. 3.157–58, 169–72) and threaten those who do not fight with severe punishments in the hereafter (K. 9.81–82, 48:16). Other verses deal with practical matters such as exemption from military service (K. 9.91, 48.17), fighting during the holy months (K. 2.217), and in the holy territory of Mecca (K. 2.191), the fate of prisoners of war (K. 47.4), safe conduct (K. 9.6), and truce (K. 8.61).

It is not clear whether the Koran allows Muslims to fight the unbelievers only as a defense against aggression or under all circumstances. In support of the first view a number of verses can be quoted justifying fighting as a reaction against aggression or perfidy on the part of the unbelievers (e.g., “*And fight in the way of God with those who fight you, but aggress not: God loves not the aggressors,*” [K. 2.190] and “*But if they break their oaths after their covenant and thrust at your religion, then fight the leaders of unbelief.*” [K. 9.12]). In those verses that seem to order the Muslims to fight the unbelievers unconditionally, the general condition that fighting is only allowed by way of defense could be said to be understood (e.g., “*Then, when the sacred months are drawn away, slay the idolaters wherever you find them, and take them, and confine them, and lie in wait for them at every place of ambush,*” [K. 9.5] and “*Fight those who believe not in God and the Last Day and do not forbid what God and His Messenger have forbidden—such men as practise not the religion of truth, being of those who have been given the Book—until they pay the tribute out of hand and have been humbled.*” [K. 9.29]). Classical Muslim Koran interpretation, however, did not go into this direction. It regarded the Sword Verses, with the unconditional command to fight the unbelievers, as having abrogated all previous verses concerning the intercourse with non-Muslims. This idea is no doubt connected with the pre-Islamic concept that war between tribes was allowed, unless there existed a truce between them, whereby the Islamic *umma* took the place of a tribe.

During the second half of the eighth century the first comprehensive treatises on the law of jihad were written by al-Awza’i (d. 774) and Muhammad al-Shaybani (d. 804). The legal doctrine of jihad was the result of debates and discussions that had been going on since the Prophet’s death and through which the doctrine had been developed. The period in which the doctrine of jihad was gradually formulated coincided with the period of the great conquests, in which the Muslim conquerors were exposed to the cultures of the conquered peoples. With regard to the doctrine of jihad, there may have been some influence from the Byzantine Empire, where the idea of religious war and related notions were very much alive. It is, however, very difficult to identify these influences. If there are

similarities, they are not necessarily the result of borrowing and may be due to parallel developments.

The doctrine of jihad, as laid down in the works on Islamic law, developed out of the Koranic prescriptions and the example of the Prophet and the first caliphs, which is recorded in the hadith. The crux of the doctrine is the existence of one single Islamic state, ruling the entire *umma*. It is the duty of the *umma* to expand the territory of this state in order to bring as many people under its rule as possible. The ultimate aim is to bring the whole earth under the sway of Islam and to extirpate unbelief: “*Fight them until there is no persecution (or: seduction) and the religion is God’s (entirely).*” (K. 2.193 and 8.39). Expansionist jihad is a collective duty (*fard ‘ala al-kifaya*), which is fulfilled if a sufficient number of people take part in it. If this is not the case, the whole *umma* is sinning. Expansionist jihad presupposes the presence of a legitimate caliph to organize the struggle. After the conquests had come to an end, the legal specialists laid down that the caliph had to raid enemy territory at least once a year in order to keep the idea of jihad alive.

Sometimes jihad becomes an individual duty. This is the case when the caliph appoints certain persons to participate in a raiding expedition or when someone takes an oath to fight the unbelievers. Moreover, jihad becomes obligatory for all people capable of fighting in a certain region if this region is attacked by the enemy. In this case, jihad is defensive.

Sunnite and Shi’ite theories of jihad are very similar. However, there is one crucial difference. The Twelver Shi’ites hold that jihad can only be waged under the leadership of the rightful *Imam*. After the Occultation of the last one in 873, theoretically no lawful jihad can be fought. This is true for expansionist jihad. However, as defence against attacks remains obligatory and the *‘ulama* are often regarded as the representatives of the Hidden Imam, several wars between Iran and Russia in the 19th century have been called jihad.

War against unbelievers may not be mounted without summoning them to Islam or submission before the attack. A *hadith* lays down the precise contents of the summons:

Whenever the Prophet appointed a commander to an army or an expedition, he would say: “. . . When you meet your heathen enemies, summon them to three things. Accept whatsoever they agree to and refrain then from fighting them. Summon them to become Muslims. If they agree, accept their conversion. In that case summon them to move from their territory to the Abode of the Emigrants [i.e., Medina]. If they refuse that, let them know that then they are like the Muslim bedouins and that they share only in the booty, when they fight together with the [other] Muslims. If they refuse conversion, then ask them to pay poll-tax (*jizya*). If they agree, accept their submission. But if they refuse, then ask God for assistance and fight them. . . .” (*Sahih Muslim*)

This *hadith* also neatly sums up the aims of fighting unbelievers: conversion or submission. In the latter case, the enemies were entitled to keep their religion and practice it, against payment of a poll-tax (*jizya*) (cf. K. 9.29, quoted above). Although the Koran limits this option to the People of the Book, i.e., Christians and Jews, it was in practice extended to other religions, such as the Zoroastrians (*Majus*).

Whenever the caliph deems it in the interest of the *umma*, he may conclude a truce with the enemy, just as the Prophet did with the Meccans at al-Hudaybiyya. According to some law schools a truce must be concluded for a specified period of time, no longer than ten years. Others hold that this is not necessary, if the caliph stipulates that he may resume war whenever he wishes to do so. The idea behind it is that the notion of jihad must not fall into oblivion.

The books on law contain many practical rules concerning warfare, dealing, e.g., with exemptions from the obligation to fight, the protection of the lives of noncombatants, lawful methods of warfare, treatment of prisoners of war, safe-conduct to enemy persons, and the division of the spoils.

The most important function of the doctrine of jihad is that it mobilizes and motivates Muslims to take part in wars against unbelievers, as it is considered to be the fulfillment of a religious duty. This motivation is strongly fed by the idea that those who are killed on the battlefield, called martyrs (*shahid*, plur. *shuhada'*), will go directly to Paradise. At the occasion of wars fought against unbelievers, religious texts would circulate, replete with Koranic verses and *hadiths* extolling the merits of fighting a jihad and vividly describing the reward waiting in the hereafter for those slain during the fighting.

Another function was to enhance the legitimation of a ruler. After the year 750, the political unity of the *umma* was lost, never to be restored again. Several rulers would govern different regions of the Muslim world. One of the ways to acquire greater legitimacy was to wage jihad against unbelievers, which is one of the main tasks of the lawful caliph.

A final function of the jihad doctrine was that it provided a set of rules governing the relationship with the unbelieving enemies and behaviour during actual warfare. Muftis could invoke this set of rules and give fatwas showing that a ruler's foreign policy was in conformity with the rules of Islamic law. These rules could be moulded to fit the circumstance. A case in point is that, due to the collapse of Islamic political unity, often two Muslim states would be at war with one another. In such situations muftis would usually find cause to label the enemies either as rebels or as heretics, thus justifying the struggle against them.

During Islamic history, but especially in the 18th and 19th centuries, radical movements striving for a purification of Islam and the establishment of a purely Islamic society proclaimed jihad against their opponents, both Muslims and non-Muslims. To justify the struggle against their Muslim adversaries, they would brand them as unbelievers for their neglect to adhere to and enforce the strict rules of Islam.

For some Muslim intellectuals the colonial experience affected their outlook on jihad. Some would argue that in view of the military superiority of the colonizer, jihad was not obligatory anymore on the strength of K. 2.195 (“... and cast not yourselves by your own hands into destruction ...”). Others, however, elaborated new interpretations of the doctrine of jihad.

The first one to do so was the Indian Muslim thinker Sayyid Ahmad Khan (1817–1898). When after the Mutiny of 1857 the British, arguing that the Muslims wanted to restore Moghul rule and that the doctrine of jihad made them fight the British, began favouring the Hindus in the army and in government service, Sayyid Ahmad Khan wanted to show that Islam did not forbid cooperation with the British colonial government. In this he was motivated by his desire to safeguard employment for the young Muslims from the middle and higher classes. In order to demonstrate that the Indian Muslims were not obliged to fight the British and could be loyal subjects, he gave a new interpretation of the jihad doctrine. On the basis of a new reading of the Koran, he asserted that jihad was obligatory for Muslims only in the case of “positive oppression or obstruction in the exercise of their faith ... impair[ing] the foundation of some of the pillars of Islam.” Since the British, in his opinion, did not interfere with the practising of Islam, jihad against them was not allowed.

Middle Eastern Muslim reformers like Muhammad ‘Abduh (1849–1905) and Muhammad Rashid Rida (1865–1935) did not go as far as Sayyid Ahmad Khan. On the strength of those Koranic verses that make fighting against the unbelievers conditional upon their aggression or perfidy, they argue that peaceful coexistence is the normal state between Islamic and non-Islamic territories, and that jihad is only allowed as defensive warfare. This, however, left the way open to proclaim jihad against colonial oppression, as the colonial enterprise was clearly an attack on the territory of Islam. A recent development in this line of thinking is the presentation of the jihad doctrine as a form of Muslim international law and the equation of jihad with the concept of *bellum justum*. Those who have elaborated this theory proudly point out that Muhammad al-Shaybani (d. 804) had formulated a doctrine of international public law more than eight centuries before Hugo Grotius.

Present-day thinking about jihad, however, offers a wider spectrum than only the modernist interpretation mentioned here. Apart from the conservatives, who adhere to the interpretation as given in the classical books on Islamic law, there are the ideologues of the radical Islamic opposition, who call for jihad as a means to spread their brand of Islam. Some of these radical groups call for the use of violence in order to defeat the established governments. However, they are faced with a serious doctrinal problem, as they preach an armed revolution against Muslim rulers, whereas Islamic law allows revolt only in very rare circumstances. One of these is when a ruler abandons his belief. Since the apostate deserves capital punishment, fighting against him is allowed. Throughout Islamic history, gov-

ernments and opposition movements have declared their Muslim adversaries to be heretics or unbelievers (*takfir*, declaring someone to be a *kafir*, unbeliever) in order to justify their struggle against them. It is this line of reasoning that is used by contemporary radical Islamic groups to give legitimacy to their use of arms against rulers who are to all appearances Muslims. In modern times these views were first propagated by fundamentalists like Sayyid Qutb (d. 1966) and Abu al-Adla al-Mawdudi (1903–1979).

The most eloquent and elaborate statement of this view can be found in a pamphlet published by the ideologue of the Jihad Organization, whose members, in 1981, assassinated President Sadat of Egypt. It is called *al-Farida al-Gha'iba*, or “The Absent Duty” referring to the duty to wage jihad, which, according to the author, ‘Abd al-Salam Faraj, is not fulfilled anymore. The author borrows his arguments from two fatwas issued by the fundamentalist author Ibn Taymiyya (1263–1328), whose opinion was sought regarding the legitimacy of Mongol rule in the Middle East. The prop of Ibn Taymiyya’s reasoning is the fact that they apply their own law instead of the Shari’a. This, in his opinion, is sufficient cause to regard them as unbelievers, even if they pronounce the profession of faith. However, even if this argument is not accepted, then they still have forfeited their right to demand the obedience of their Muslim subjects and they may be fought.

The author of “The Absent Duty” argues that the situation Ibn Taymiyya describes is very similar to the Egyptian situation, as Egyptian law, with the exception of family law and the law of succession, is based on codes of Western inspiration. Observing that in spite of the vocal demands of the Islamist groups the government has always refused to introduce the Shari’a, the author concludes that such a government cannot be regarded as Islamic and that it is an individual duty of all Muslims to rise in armed rebellion against this heathen regime in order to replace it with an Islamic one.