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(*hafīdhahullāh*)

ON DANGEROUS ERRORS REGARDING AGREEMENTS AND COVENANTS OF SAFETY AND SECURITY¹

From the most erroneous dangers which have been practiced today, in the name of applying the “ahkām of jīhād”, is what some youth of certain groups do of acts of killing and destruction within the lands of the *kuḥfār* after these youth have entered these lands with an official covenant of safety and security. Or these youth kill non-Muslims who enter the lands of Islām with official covenants of safety and security.² It is well-known that of the affairs which are specified to the formation of nation-states is the issue of the rights of those individuals who enter these states. The *fuqahā* of the era have affirmed that a state has the right to refuse entry (to individuals) at certain times.³

In the past, people travelled between different states without following any procedures whatsoever up until the First World War.⁴ From this point in history states began to follow the system of using passports which are expressions of documentation authorised by competent authorities within the state which stamp and approve it for the holder. The passport indicates the identity of the holder as well as the nationality, residency, date of birth and (sometimes includes)

¹ Abridged from the edit of Shaykh Muhammad bin Zakariyyā Abū Ghāzī and our Shaykh Mashhūr Hasan Āl Salmān to Imām al-Mujtahid Abū ‘Abdullāh Muhammad bin ‘Īsā bin Muhammad bin Asbagh al-Azdī al-Qurtubī (aka Ibn Munāsif), *Kitāb ul-Injād fī Abwāb il-Jihād* (Beirut: Mu’assasah ar-Rayān, 1425 AH/2005 CE), vol.1, pp.63-81. Translated by ‘AbdulHaq al-Ashanti.

² See what we will relay from the classifier (i.e. Ibn Munāsif) regarding this issue, *inshā’Allāh*, which will make you stop at where we have concluded. Also based on this is the *fatāwā* of the major scholars of this era.

³ See Hishām Sādiq, *al-Jinsiyāt wa’l-Mawtin wa Markaz al-Ajānib* [Nationality, Nation and Foreigners], p.16; Zakī Zaydān, *Huqūq us-Sā’ih wa Wājibātihi fī’l-Fiqh il-Islāmī* [Tourist Rights and its Obligations in Islamic Law], pp.72-3.

⁴ Ibrāheem Ahmad Ibrāheem, *al-Qānūn ad-Dawli al-Khās*, vol.1, p.280.

the person's distinguishing characteristics. Contemporary states do not allow foreigners to enter their territories if they do not hold this document (i.e. a passport). Passports are of various types:

- ✓ diplomatic passports which give the holder the right to traverse as a diplomat;
- ✓ special passports which are given to those who travel for formal and official affairs, such as a delegate from a country that is part of an international conference;
- ✓ usual passports
- ✓ travel passes – these are the last to be granted, they are usually given to individuals who have no affirmed nation to which they belong.

There are also entry visas which are an expression of permission from the authorities of a state allowing a foreigner to enter its territories. It certifies the state's agreement for a foreigner to enter its regions and is granted within the holder's foreign passport. It also includes a warning for the period allowed to remain within the state. The *fuqubā* of the era have formed the view that these procedures which are implemented by states in this manner represent an *'Aqd ul-Amān* [Agreement of Safety and Security] which was mentioned by the scholars of the past. This is based on the principle of *al-'Ādatu Mubakkamatun* ['custom is the basis of judgement']⁵ and the *fiqh* principle:

«العبرة بالحقائق والمعاني لا بالألفاظ والمباني»

“What are important are the realities and the meanings (that are applied), not terms and structures.”
(so if there is a contradiction between a term and the reality of what is being manifest then the reality and what it means is what is of importance, despite the use of a mere term)

What is worth mentioning is that this is for a Muslim when he enters a disbelieving country, or for when a non-Muslim enters the Muslim abodes. It does not apply to Muslims travelling through Islamic lands as:

The *fuqubā* consider all the Islamic lands as being one abode, Dār ul-Islām, the accepted geographical borders do not have any impact since all are Dār ul-Islām.

This is because all must enter under one constitution which is the Noble Qur'an

⁵ Courts which are based on the *Sharee'ah* and the *fuqahā* base their judgements on customs which are not explicitly found within the sources of the Book and the Sunnah, this is as long as the custom is something which is contemporary and common among the people and is not in conflict with the *Sharee'ah*.

and the Prophetic Sunnah and the (Muslim states') laws and regulations have to be based on these two sources.⁶

After this foreword we bring to attention to the confusion that some of those who are young in age [Hudathā ul-Asnān] have between *'Aqd udb-Dbimmah* [contract of protection], *'Aqd ul-Amān* [contract of safe-passage, safety and security] and *'Aqd ul-Hudnah* [cease-fire agreement/armistice]. So how are they formed? What are the conditions? How are they achieved? What results from those who kill non-Muslim visitors to Muslim lands is: a misguided conflation in this issue devoid of explaining previous covenants. It is possible to collate all the differences in six matters:⁷

1. The contract of *dbimmah* [protection] is *wājib* [obligatory] according to the texts of the Book and the Sunnah. So, if a non-Muslim seeks a contract (from Muslims within their country) then the non-Muslim is given the contract of *dbimmah* and the Muslim leader has to give them this contract. This is contrary to agreements of security and safety and treaties, which are all termed as being 'Ahd' [a promise], 'Muwāda'ah' [a pledge], 'Mu'āhadah' [an agreement], 'Sulh' [a treaty] and 'Silm' [a peace accord] – these are all permitted except for in the case when he wants for them to hear Allāh's Speech then in which case it is *wājib* according to the statement of the generality of the people of knowledge.
2. The contract of *dbimmah* is permanent while the contract of agreement and security is temporary.
3. The contract of *dbimmah*
4. With the contract of *dbimmah* such non-Muslims are under (Muslim) authority, as opposed to with the Ahl ul-'Ahd and Ahl ul-Amān wherein non-Muslims are not under (Muslim) authority.
5. The contract of *dbimmah* is only given and authorised by the Muslim leader or his deputy this is according to most of the people of knowledge. Likewise, is for the *hudna* [truce/ceasefire/armistice] as opposed to the contract of security which any free

⁶ Az-Zuhaylī, *al-Huqūq wa'l-Wājibāt wa'l-'Alaqāt ad-Dawliyyah fi'l-Islām* [Rights, Obligations and International Relations in Islām], p.166; Zuhaylī, *Āthār ul-Harb*, p.282; Shaltūt, *al-Islām: 'Aqeedatan wa's-Sharee'atan*, p.433; 'AbdulQādir 'Awdah, *at-Tashrī' al-Janā'ī al-Islāmī*, vol.1, p.275.

⁷ See the book by our brother Faisal Jāsīm (*hafīdhahullāh*), *Kashf ush-Shubuhāt fī Masā'il il-Ahd wa'l-Jihād*, p.23.

I say: also, from the *ahkām* of this issue is: the Muslims have agreed that it is obligatory to be loyal to covenants of security and that treachery is *harām*.

intelligent mature Muslim can give. Any slave can also give it without the permission of the master.

6. The contract of *dhimmah* contains the condition that those non-Muslims who agree to it must take on the condition of *sigbār* [subjugation]. This is as opposed to the agreements and covenants of security which do not contain this condition.

Due to these differences between the three types of agreement the things which negate them also differ. From the most detailed differences according to consensus is the difference between the covenant of security and abiding by it and between deception during warfare.⁸ An example of misguidance in this matter can be seen with the author of the publication *La 'Ahd wa la Dhimmah wa la Amān, yā 'Ulama us-Sultān* [No Agreement, No Protection and No Security O You Scholars of the Rulers!]. The author transmits the words of Ibn Qudāmah in *al-Mughnī* regarding negation of the contract of protection (*dhimmah*):

The covenant of dhimmah [protection] is negated with three things: withholding from paying the jizyah; withholding from adhering to the regulations of Islām and fighting against the Muslims. This is whether these were made as conditions for them or not.

Based on this, the author held that these three things negated the covenant of agreement and security with America!⁹ The author then concluded that: there is no security for America's people

⁸ See *Kitāb ul-Injād*, p.296.

⁹ **Translator's Note:** Other *takfīrī* ideologues who have concurred this include the likes of Nāsir al-Fahd, who justified 9/11 on account of the Americans, according to him, "collectively being like Ka'b ibn Ashraf"! A similar argument has also been posited by the *majhūl takfīrī* writer "Abū Haithem al-Hijāzī". Both of such arguments are devoid of referral to the *fuqahā* and motivated by an extreme political agenda.

Interestingly, other *jihādī-takfīrīs* rushed to say the opposite, Abū Baseer 'AbdulMun'im Mustaphā Halemah at-Tartūsī, a Syrian *takfīrī* ideologue, based in South London, achieved notoriety for upholding after the London 7/7 bombings that there was a covenant of security between Muslims living in the UK and the UK authorities which thus withholds any Muslims from treachery and betrayal to the authorities. While this is absolutely correct, and he transmitted abundant statements from the scholars of the past to prove this, it was rather odd for Abū Baseer to all of a sudden argue that which the scholars of Ahl us-Sunnah and *Salafīyyah* had already been saying for years. Indeed, many have noted that this new approach adopted by Abū Baseer was only due to his fear of being implicated in any of such terrorist activities and he was thus criticised by his own *takfīrī-jihādī* cohorts. Refer to an English translation of Abū Baseer's research on the issue of trusts and covenants of security: <http://www.en.altartosi.com/Covenants-eng.pdf>

in any country whatsoever, including their own (Muslim) countries. Based on this, the author allows for American citizens to be killed even if they enter (Muslim) lands with a visa (which is a covenant of security and safety) and the likes. He considers that it is legitimate for us to kill them if they enter our countries even if they have a visa (which is a covenant of security and safety). This opposes the principles of the 'Ulama regarding the topic of the covenant of security and safety, for the classifier (i.e. Ibn ul-Munāsif) affirms this basis concerning this topic of the covenant of security and safety and the different views in regards to it along with all the evidences and the most accurate view from them. Ibn ul-Munāsif transmits from Ibn ul-Mundhir about the indication that is understood to be a covenant of security is taken just as speech is understood. There is no doubt therefore that a visa and whatever precedes it from interactions are most clear in being covenants of security via mere indication. So that we cut off any doubt with certainty, we will relay the words of the classifier (i.e. Ibn Munāsif) about this which removes any covers and clears up the main intent. Ibn ul-Munāsif (*rahimabullāh*) stated after relaying the statements of the *fūqahā* and their evidences:

If what the Divine Legislation is documented, along with the statements of the 'Ulama about taking heed to affirmed covenants of security, one will see that it involves whatever statement, signs and feelings are indicated. I say: every term or word, in whatever language, and anything written with any handwriting, or any sign, symbol or the likes which are understood and wherein the Muslim (and non-Muslim) combatant feels assured that they have a covenant of security – is taken to be a covenant of security at the time - whether the Muslim intends it to be or not. It must be fulfilled and adhered to. If the Muslim does not intend to ensure the non-Muslim's safety and security yet the (non-Muslim) combatant feels assured that he has a covenant of security - that combatant must be treated as having a covenant of security. In this instance the issue will return to the original case and thus it would not be permissible to assassinate such a combatant. The evidence for the accuracy of this limitation is that: whatever statements are commonly understood (as being trusts of safety and security) must be adhered to and this is likewise for every language as this does not necessitate only being in the Arabic language...¹⁰

Omar Bakri Muhammad Fustuq and Anjem Chouhdary, both not known for serious or meticulous Islamic scholarship, had also argued that the 'Ahd ul-Amān has been negated by the UK, this in turn is blindly followed by their minions.

¹⁰ *Al-Injād, op.cit.*, p.309

Abū 'Ubaydah¹¹ says: these words are accurate and strong, and this is what the view of Shaykh ul-Islām Ibn Taymiyyah,¹² and others, is based on, which is that all names which have no limit within the language or in the *Shar'* have to be referred back to what is (understood) customary by the people. Then he (Ibn ul-Munāsif) affirmed an important issue, which is the issue among us now, that: an entry visa or residency permit is understood to be a covenant of security. Ibn ul-Munāsif further explained:

As for writing and the indications and the likes that it contains, then all of that are terms and understandings which are no different to spoken words. The ruling of this considers meanings and understandings not mere words. What affirms this is that the Messenger of Allāh (*sallallāhu 'alayhi wassallam*) wrote to the kings of *kufr* calling them to Islām and signalled to his companions. Also, the signal that was given in regards to the Jewish person who hit a girl with two stones. She signalled with her head (i.e. nodded) when she was asked as to who the culprit was and when the name of the culprit was mentioned a third time she said: yes and nodded with her head, then the Messenger of Allāh had the culprit executed for his crime via the use of two large stones. The hadeeth was reported by Muslim in his Saheeh.¹³ All of this is clear evidence and a lucid proof of the Divine Legislation fulfilling acting upon understandings. If a Muslim does not intend to grant the covenant of security that the (non-Muslim) combatant thinks he has due to what the Muslim done which appears to be a covenant, yet the combatant is assured (that he has a covenant of security) – then the sanctity of a covenant of security is granted to the combatant. As for fulfilling what the combatant thinks (is a covenant of security) or granting him safe passage without attacking him, after he thought that he has a covenant of assurance and security anyway which insured that he would be neither killed nor imprisoned, then Allāh says,

¹¹ i.e. Shaykh Mashhūr (*hafidhahullāh*)

¹² *Al-Qawā'id an-Nūrāniyyah*, pp.132-35 and within other works of his.

¹³ In *Kitāb ul-Qasāmah wa'l-Mahāribeen wa'l-Qisās wa'd-Deeyāt* [The Book of Oaths, Combatants, Retribution and Blood-Monies], (Bab Thabūt ul-Qisās fī Qatl bi'l-Hijārah wa Ghayruhu), vol.10, p.1672, on the authority of Anas bin Mālik (*radi Allāhu 'anhū*). Al-Bukhārī also reported the hadeeth in many instances within his Saheeh: hadeeth nos. 2413, 2746, 5295, 6876, 6877, 6879, 6884 and 6885.

Translator's Note: The hadeeth is also reported by Imām Bukhārī in his *Saheeh* (*Kitāb ud-Dīyāt*) on the authority of Anas (*radi Allāhu 'anhū*).

﴿وَأَمَّا تَخَافَنَّ مِنْ قَوْمٍ خِيَانَةً فَانْبِذْ إِلَيْهِمْ عَلَى سَوَاءٍ﴾

“If you [have reason to] fear from a people betrayal, throw [their treaty] back to them, [putting you] on equal terms.”

{*al-Anfal* (8): 58}

Allāh instructs to inform them of any rejection of what they thought they had agreed to which insured their security and trust. **It is not permissible to attack them until they know with insight what their affair is and they are warned,**¹⁴ **this was the origin for everything that the people of kufr felt was a covenant and a trust from the Muslims.**

As for the one who indicates in a way in which a covenant of security is sensed or does something which apparently establishes a covenant of security yet does not intend to give (a trust of covenant), then he falls into one of two conditions:

- ❖ Either he was inattentive and did not intend to grant a trust or covenant of security thus did not adhere to the assurance at all, then in which case he was still a cause for assuring (the combatant). As a result, the Muslim has to maintain this trust as he was the cause for (the combatant thinking) that he had a trust.
- ❖ Or he pretended to give a covenant and trust on purpose knowing that he does not intend to grant security whatsoever. All he wishes to do is delude the person in order to gain power over the person, **this is the basis of treachery and betrayal is harām according to the consensus.** For this reason, 'Umar bin al-Khattāb (*radi Allāhu 'anhu*) promised what he did and there is no known difference among the Muslims about the prohibition of treachery and betrayal. We will clarify inshā'Allāh the difference between the deception which is allowed during warfare and the treachery which is not allowed when it comes to the trust and covenant of security.¹⁵

¹⁴ **Translator's note:** Hence, we see the clear error of the likes of certain Muslim turning on their colleagues, in whichever remit of work they may be in, and then shooting them on a violent rampage in the name of Islām. Moreover, some Muslims will then condone such actions even though it totally opposes this basis. For those killed were neither informed of any enmity nor were they prepared for it. Thus, we see that many ideologues are totally ignorant when it comes to issues regarding the fiqh of Jihād.

¹⁵ *Kitāb ul-Injād*, vol.2, pp.309-310

Then Ibn ul-Munāsif states, explaining the difference:

Deception and plotting during warfare via administrative planning is a well-known practice and an affirmed tradition. However, maybe some who we see are confused over the conditions which they think permit the deception that is allowed during warfare. We thus viewed that we clarify the differences. We say: the obligation to fulfil (trusts and promises) is verified and so is the warning of betrayal, the restricted descriptions of covenants or security are also affirmed. Yet with this, the Prophet's statement allowing deception during warfare is also affirmed. It is clear however that the permitted deception is: **whatever is referred back to proficient consideration and administrations of obscure war plans and views which are unbeknown to the enemy or which the enemy are heedless of. Anything which resembles such plans to weaken the enemy fall into this type, as long as a trust of security is not presumed and does not include people feeling that they had such a trust at any given time.** Scheming (against those who think they have trust), dissolution (of the trust or covenant) and hatching plots (against those who think they have a trust or covenant) are all included within this. Digression at the time of fighting and seizing an opportunity to attack is likewise included (as impermissible actions towards those who think they have a trust or covenant). Also, from what is not included (as being legitimate and permissible deception during war) is for the Muslim to make it seem as if he is with the enemy or on the same religion as them or that he has come to advise them (when he really wants to attack them). If they (the enemy) are found to be inattentive then this is included as being a trust or covenant, because the enemy feels that they have mutual peace and harmony from the Muslim and they allow him to live among them, in such an instance it is not permissible for the Muslim to be treacherous. So, the main difference (between deception during warfare and the treachery which is not allowed within granting covenants to non-Muslims) is that we have given him assurance that we have entered a covenant of security. He (the non-Muslim) goes with a sense of mutual peace and harmony (with the Muslim) and thinking that all of that will be fulfilled, trusting the Muslim due to what the Muslim manifested to him. He (the non-Muslim) was not taken in due to a change in the situation rather (this assurance) came from the Muslim's treacherous manifestation of friendship to him, hereby

committing treachery. In the issue of plotting and deception his assurance (without clearly achieving it from the other) was only due to his own negligence and deficiency of the other....and the likes which reflects his irresponsibility without any ascribing treachery to the other (who gave no indication of there being any assurance of security). This is clear, alhamdulillah.

The issue can at times apparently resembles the matter of Amān [security and safety] and at other times the matter of permissible plotting. There is no differentiation except in the different instances of the enemy's assurance based on the regulations that we have drawn up. For if a Muslim man observed a Harbī in a certain direction of enemy land or elsewhere and manifested to him that he has thrown down his weapon, and walked towards the direction of warfare, indicating that he has seen him, going towards him as if he is surrendering or making peace with him, and the likes, then the other (i.e. the Harbī) will be assured of this; until the Muslim achieves his goal (of killing the Harbī) - then this is deception which is not permissible, for it (what he has done) is a covenant (Amān). Also, in another example, even if the Harbī, who is negligent, sees what he (the Muslim) is doing by putting down his weapon and walking towards the direction of the Harbī, as in the first example, the Muslim may just manifest that he is unaware of the Harbī so that the Harbī does not feel that the Muslim has seen him and is going towards him in peace. However, the Muslim deludes him into thinking that he is unaware of where the Harbī is. This action of his is the action of one who removes his weaponry so as to rest, if he is assured when doing that, until the enemy feels assured due to what he has been deluded as thinking is the Muslim's heedlessness, not out of feeling there is a trust from him – then this is permissible.¹⁶ This is classed as *Tawriyah* [trickery] and *Makeedah* [plotting] both of which are neither connected to treachery nor Amān [sanctified safe-passage], and Allāh knows best.¹⁷

¹⁶ **Translator's note:** meaning that it is allowed to feign ignorance as a tactic, but it is not allowed to fake an agreement or trust. So for example, a tactic would be to play dead allowing one's enemy to get close after which one could harm the enemy. But it would not be allowed to claim surrender only to then kill the enemy when one is close to them, this is betrayal and treachery.

¹⁷ *Al-Injād*, pp.311-313

Then Ibn ul-Munāsif uncovers a doubt of an objector and deals with it with academic words: **“So if one objects to this basis via reference to the killing of Ka’b ibn Ashraf¹⁸ after he had been assured and after peace and safety had been manifest to him...”** and then Ibn Munāsif responds to this claim with important words which need not to be transmitted here.¹⁹ The intent is how security and safety is achieved and completed and what its terms are. What is also worth mentioning is that the author (Ibn ul-Munāsif) acknowledges that the covenant of security can be specific and this is what goes back to assure specific individuals and this is not linked to the right of others and that Ibn ul-Munāsif acknowledges division in the rulings related to covenants of security and that if some Musta’maneen break the covenant of security then they are not treated the same as those who are pleased with the covenant. Except if they all agree, along with their leader, to reject the covenant.²⁰ Ibn ul-Munāsif says:

As the truce made with them was generic and to their advantage and with the acknowledgement of their kingdom and country, and their system. This matter would be imbalanced if mere individuals responded by breaking this in favour of whatever they are happy with. In the ruling of fulfilment (of agreements and the like) it is not permissible to break this (truce). Pleasing a few individuals is not a factor in this over their group.²¹

Based upon this it becomes clear to us the accuracy of what has been acknowledged by the ‘Ulama of our era about the prohibition of wreaking havoc, hijacking airplanes and killing non-Muslims in their lands which is committed by some young Muslims who enter those lands with Amān [safe-passage and security],²² in the form of entry-visas. For this is an example of betrayal and treachery, the prohibition is intensified when it is ascribed to the Sharee’ah and considered as being from “Jihād”, as they claim!

Here now we have some points from the *fatāwā* of contemporary scholars about this issue which are practical applications of the previously acknowledged Usūl of the Fuqahā’.²³ It is

¹⁸ Verified in Saheeh Muslim in *Kitāb ul-Jihād wa’s-Siyar* (Chapter: ‘The Killing of Ka’b ibn Ashraf Tāghūt ul-Yahūd’), hadeeth nos. 1801 and 119.

¹⁹ See *al-Injād*, pp.314-316

²⁰ *Al-Injād*, p.321

²¹ *Ibid.*

²² And if they are Mu’āhadeen then the opposition to the *Sharee’ah* would be from two angles, like a person who steals pork and eats it!

²³ Ibn ul-Munāsif discusses this subject in Chapter Six of this book which we have edited and goes into some detail. Our Kuwaiti brother Faisal Jāsīm (*hafīdhahullāh*) worked hard in his treatise *Kashf ash-Shubuhāt fī Masā’il al-’Ahd wa’l-Jihād* and presented the transmissions of the *Fuqahā’* to refute those

obligatory to distribute and disseminate this via all media, radio and TV, and to translate this into many languages so that the whole world will know the rulings of the Islamic Sharee'ah about this topic and the acknowledgements of Islām's senior scholars. It was mentioned in the acknowledgement of the *Council of Senior Scholars* stated about the Riyadh bombings²⁴ of 1424 AH²⁵ that which certifies the accuracy of our previous words. They state, after explaining the prohibition of transgressing against people such as Mu'āhadeen, Ahl udh-Dhimmah and Musta'maneen and relaying the texts about this, that:

The intent is that whoever enters with a covenant of security or an agreement from the leader based on a benefit that he sees fit then it is neither permitted to dishonour such a person nor transgress against him or his wealth. If this is clear then the bombing which occurred in the city of Riyadh is prohibited and not acknowledged by the religion of Islām whatsoever. The impermissibility of it is from two angles:

1. The action transgresses on the sanctity of the Muslim lands and breeds fear among those living in security within them.
2. The action involved killing souls which are sanctified within the Islamic Sharee'ah.
3. The action causes corruption on the earth.
4. The action includes taking sanctified wealth.

They also stated:

The *Council of Senior Scholars* therefore clarifies the issue in order to caution the Muslims from falling into prohibited and destructive matters and so as to caution them from the plots of Shaytān. For Shaytān entices the servant until he makes him fall into destruction either via *ghulū fi'd-deen* [religious extremism] or by turning away from the *deen* and fighting against it, Allāh's refuge is sought. Shaytān does not care via which means he gains triumph over the servant as both the path to extremism and aversion are ways of Shaytān which both lead the person to gain the Anger of ar-Rahmān and His punishment.

who try to ignore what was mentioned by the scholars of the past so as to allow wreaking havoc, bombings and killings. He (i.e. Faisal Jāsim) explains their negligence of the 'Ulama's restrictions and refutes their doubts especially regarding their claim that their actions are valid because covenants issued by the leaders today are not recognised because the leaders are not recognised in the Divine Legislation, as they claim!

²⁴ On the evening of 11/3/1424 AH

²⁵ Reported in the paper *al-Jazeera*, no.11186, Thursday 14 Rabī' al-Awwal 1424 AH.

They also stated:

Also, all should know that the Islamic Ummah today is suffering from the incursion of the enemies from all sides, and they are pleased with any means which facilitate their control over the people of Islām, their humiliation and exploitation of their mineral wealth. So, whoever helps them in their aims to conquer the Muslims and the Islamic lands has co-operated in helping the degradation of the Muslims and the dominance over their lands, and this is of the gravest crimes. It is thus obligatory to attach importance to *Shari'* knowledge based on the Book and Sunnah and in agreement with the Salaf of the Ummah as taught within the schools, universities, Masājid and media outlets. Likewise, it is important to attach concern to commanding the good and forbidding the evil and to mutually advise to good. For there is a need, or rather a necessity now because the time more than ever demands it, for the Muslim youth to have good opinion of their 'Ulama and take knowledge from them. The youth also have to know that the enemies of the *deen* wish to cause a gulf between the Ummah's youth and their 'Ulama and leaders so that their power will be weakened so as to facilitate their control over them all - so it is obligatory to pay concern to this. May Allāh protect all from the plots of the enemies and it is upon the Muslims to have *taqwā* of Allāh secretly and publicly, and to make a sincere truthful repentance unto Allāh from all sins for no calamity descends except due to sins and the calamity is not lifted except by *tawbah*. We ask Allāh to rectify the condition of the Muslims and to avert all evil and harm from the Muslims' lands. And may prayers and peace be upon our Prophet Muhammad, his family and his companions.

Al-'Allāmah Shaykh 'Abdul'Azeez bin Bāz (*rahimabullāh*) was asked: **“What is the ruling of transgressing against foreign tourists and visitors in Islamic lands?”**

Answer:

This is impermissible, transgression against anyone is not allowed whether against tourists or workers because they are Musta'minūn [non-Muslims who have agreements of safe passage in a Muslim land] and they have entered with an agreement [‘Ahd] hence it is impermissible to transgress against them. Rather, the state should be advised to prevent them from that which should not manifested. As for transgression against them then this is impermissible, as for an individual then it is not upon him to kill, beat or harm them. Rather it is upon him to raise

the matter to those in authority as transgression against them is transgression against a people who have entered a land with an agreement 'Ahd and it is impermissible to transgress against them. Rather their situation is to be raised with those who can prevent their entry or is able to prevent their apparent evil. If they are Muslims then it is sought-after to advise them and call them to Islām or advise them to leave evil via referring to the *Shari'* proofs, Allāhu Musta'ān, wa la hawla wa la quwwata ila billāh. May prayers and peace be upon our Prophet Muhammad, his family and his companions.²⁶

Imam Bin Bāz (*rahimahullāh*) was also asked:

Some youth think that harming the kuffār, including citizens within an Islamic country or those who travel to the Islamic country, is from the Shar'. For this reason, they make it permissible to kill them if they see that which they dislike.

Answer:

It is neither allowed to kill the disbelieving citizen or the Musta'min who is a visitor to whom the state has granted entry and safe passage, nor to kill sinners or transgress against them. Rather, whatever evil occurs from them is to be referred to the Divine Legislation and what the Sharee'ah Courts view as being applicable.

The questioner then asks: **"What if there are no Sharee'ah courts?"** Answer from the Shaykh (*rahimahullāh*):

If there are no Sharee'ah Courts then advice only, advice to those in authority, guiding them to good and co-operating with them so that they judge by Allāh's Shar'. As for the one commanding the good and forbidding the evil raising his hand to kill or hit anyone then this is not allowed. However, one should co-operate with those in authority in a way which is closer to righteousness so that they judge by Allāh's Shar' in regard to Allāh's servants. If not, then it is wājib to give advice and guide towards good and reject evil in a way which is closer to goodness. This is obligatory, Allāh Says,

²⁶ Imām Bin Bāz, *Majmū' al-Fatāwā wa'l-Maqālāt*, vol.8, p.239

﴿فَاتَّقُوا اللَّهَ مَا اسْتَطَعْتُمْ﴾

“Fear Allāh as much as you can...”

{*Taghābun* (64): 16}

For his forbidding the evil with his hand via killing or beating will no doubt result in further evil and corruption.²⁷

Shaykh al-'Allāmah al-Faqeeh Muhammad bin Sālih al-'Uthaymeen (*rahimahullāh*) stated in a Jumu'ah Khutbah about the Khobar bombings, wherein he relayed many texts in regards to Amān [agreements of safe-passage and security]²⁸:

Based on this, the kuffār here have an Amān which is sanctified, and their blood is sanctified, hence you see the error of the bombing which took place in Khobar²⁹ at the compound which housed those whose blood and wealth is inviolable. Eighteen people were left for dead and 386 people were injured including Muslims, children, women, elderly and the youth. Wealth and property were destroyed in that attack and there is no doubt that this incident is neither acknowledged at all in the *Shar'* [Divine Legislation of Islām] nor by the intellect or natural disposition. As for the *Shar'* then you have heard the Qur'anic and Prophetic texts which indicate the obligation of respecting Muslims when it comes to their blood and property, and likewise respect for the kuffār who have contracts of protection or promises or contracts of Amān [safe-passage and security]. Respect for those Mu'āhadeen, Musta'maneen and Dhimmiyeen is from the good qualities of the Islamic religion and this respect for them depends on the agreements with them and this does not necessitate love, (religious) allegiance or (religious) support for them, rather it is fulfilment of trusts, Allāh says:

﴿إِنَّ الْعَهْدَ كَانَ مَسْئُولًا﴾

“Indeed, the commitment is ever [that about which one will be] questioned.”

{*al-Isrā'* (17): 34}

²⁷ Imām Bin Bāz, *Majmū al-Fatāwā wa'l-Maqālāt*, vol.8, p.207; also see vol.1, pp.276-280 in his fatwa on 'Hijacking Planes and Terrorising People who have safe-passage.'

²⁸ Which are also relayed by Ibn ul-Munāsif in the first section of Chapter Six.

²⁹ On Wednesday 10th Safar 1417 AH/26 June 1996 CE.

As for the intellect then the intelligent person does not deal with anything prohibited because he knows the evil consequence of that and the punishment, and he does not deal with anything permitted until its consequence and what it involves has become clear to him. The Prophet (*sallallāhu 'alayhi wassallam*) said: “Whoever believes in Allāh and the Last Day then let him say good or keep quiet.”³⁰ He (*sallallāhu 'alayhi wassallam*) made īmān’s perfection that a person only say that which is good or otherwise keep quiet, likewise it can be said: from īmān’s perfection is for a person to do good or otherwise restrain themselves. There is no doubt that this evil (terrorist bombing) operation is based on several corrupt aspects which we will mention according to what Allāh facilitates. As for this evil action (i.e. bombing) opposing the *fitrah* [natural disposition] then all who have a natural sound disposition hates transgression towards others and views that as being evil, for what was the sin of those Muslims who were injured in the attack? What was the sin of those who were safe in their beds in their homes that led to them being injured in this painful incident? What was the sin of those Mu’āhadeen and Musta’maneen? What was the sin of those children, old people and frail people? This was an unjustified atrocity!! Its corrupt aspects are the following:

FIRST: It contains disobedience to Allāh and His Messenger, and it contains transgressing Allāh’s prohibitions. It also leads to the curse of Allāh, the angels and all the people³¹ and nothing will be accepted from the one who committed the atrocity.

SECOND: It distorts the image and reputation of Islām for the enemies of Islām will exploit such atrocities to further their distortion of the image and reputation of Islām and make people flee from Islām. This is even though Islām is innocent from these actions as the manners of Islam inculcate: truthfulness, piety and trust, and the Islamic religion sternly warns against such (evil terrorist actions).

THIRD: Fingers, from inside and outside, will point to this atrocity and brand it as being an action of those committed to Islām. Even though we know for sure that those who are committed to the Sharee’ah of Allāh in reality, would neither

³⁰ Reported by al-Bukhārī (hadeeth no.6018) and Muslim (hadeeth no. 74) from Abū Hurayrah (*radi Allāhu 'anhu*).

³¹ **Translator’s note:** hence, the advocates of such terrorist actions end up being thrown into the jails of the kuffār with neither constructive repercussions of their beliefs nor positive outcomes resulting from their methods.

do such actions nor be happy with such actions at all. Rather they (those truly committed to the Sharee'ah) free themselves from such actions and denounce them unequivocally because the one who is truly committed to the Allāh's *deen* is the one who establishes Allāh's *deen* according to how Allāh wants and not according to his own desires which are based on emotion and a deviant methodology. Committal to the *deen* in accordance with the Sharee'ah is abundant with our youth and all praise is due to Allāh.

FOURTH: Many of the common people who are ignorant of the reality of committal to Allāh's *deen* will look at many of those who are committed to the *deen* and distance themselves from them.³² They will have enmity, fear, caution and warning vis-a-vis those who are committed to the religion, as we hear from some of the ignorant common people who warn their children from being committed to the religion especially after they witnessed the Riyadh bombings.

FIFTH: It causes chaos in this country which should actually have the most security and safety of all lands of the earth because it includes Allāh's House which He made a sanctuary for the people as it contains the Ka'bah which Allāh gave a standing to people with which their *deen* and *dunyā* is rectified. Allāh Says,

“And [mention] when We made the House a place of return for the people and [a place of] security.”

{*Baqarah* (2): 125}

And Allāh says,

“Allāh has made the Ka'bah, the Sacred House, standing for the people...”

{*al-Mā'idah* (5): 97}

And it is well-known that people do not pray towards this Sacred House except via passing through this land from one of its directions.

SIXTH: The taking of life and wealth and the harms that have come to lives and wealth as people see in the media. Hearts blown up, livers disintegrated and tears flowing when one sees children on hospital beds injured in their eyes, ears, hands, legs or other parts of their bodies. Is there anyone who condones or is pleased with such (terrorist) actions? I do not know what they want with these attacks, do they want rectification? Rectification does not come about by such actions for evil

³² **Translator's note:** This is a common manifestation in many countries.

does not bring about good and evil means are not a route to rectification whatsoever.³³

The respected Shaykh Sālih al-Fawzān was asked:

“Some have given rulings permitting the killing of Americans all over the world saying that they (the Americans) are “warring” (against Islām and Muslims), what do you say about this respected Shaykh?”

Answer:

This Muftī is an ignoramus! Because there is some detail (that needs to be acknowledged) in this issue. So those whom we have made agreements with and they have entered our lands with agreements [ʿAhd] and safe-passage [Amān], or whom we have employed to do work which we are in need of – they are under our agreement and protection and it is neither permissible to betray (the trust) with them nor kill them. The states with which there is an agreement between us and them, along with diplomatic representation, it is impermissible to betray them. The kuffār [non-Muslims] who enter our countries with our permission it is not permissible to betray them. Allāh Says,

“And if any one of the polytheists seeks your protection, then grant him protection so that he may hear the words of Allāh. Then deliver him to his place of safety.”

{*at-Tawbah (9): 6*}

It is not permissible to betray those who enter Muslim countries with the permission of the Muslims, or those who the Muslims employ, it is not permissible to make such pronouncements. The Harbī is the one whom we have no agreement or covenant of security and safety with – this is the Harbī.³⁴

Shaykh Sālih al-Fawzān was also asked:

“Are there any kuffār [disbelievers] in these (Muslim) countries whom it is permitted to kill or assassinate? Especially because there are those who permit this action based on the hadeeth of the Prophet (sallallāhu ʿalayhi wassallam): “Expel the Mushrikeen from the Arabian Peninsula.””

Answer:

³³ *At-Tahdheer min at-Tasarruʿ fiʿt-Takfeer*, pp.53-65

³⁴ From the audio *Fatāwā al-ʿUlama fiʿl-Ahdāth ir-Rāhinah allatī Hadathat bi-Madeenat ir-Riyādh*, in the book *al-Fatāwa ash-Sharʿiyyah fiʿl-Qadāyā al-ʿAsriyyah*, p.124.

If a disbeliever enters (the country) with an agreement from the one in authority or he came in order to fulfil something of importance and then leave – then it is not permissible to transgress against him. Islām is a religion of honouring trusts, and it is not a religion of betrayal or treachery, it is impermissible to transgress against the disbeliever who we have an agreement with and is under our safety. The world should not speak about Islām being a religion of betrayal and of reneging on agreements, this is not from Islām. As for the saying of the Prophet (sallallāhu 'alayhi wassallam): “Expel the Mushrikeen from the Arabian Peninsula”³⁵ this hadeeth is Saheeh. However, it does not mean kill those who are Mu'āhad and Musta'min and under our covenant. Rather, this is for the Yahūd and Nasārā who do not have agreements and covenants with the Muslims.³⁶

We conclude this chapter by bringing attention to some important issues which we could summarise in the following:

First: It is upon those in authority to safeguard studying the Divine Legislation and prohibit entry of people of disobedience who manifest evil. This is a reason for security and safety and prevents the actions of the excitable ones who are motivated by emotion and are thus led to kill and wreak havoc.

Second: Jihād in the path of Allāh and the sensible rulings that are connected to it make it clear to you.....it is an issue from commanding the good and forbidding the evil. If this however will result in a worse evil coming about then at that point it should not be done. The Ummah otherwise should prepare itself and cultivate itself so as to establish this hallmark of the religion. The truthfulness of what we say is clear to you in these two quotes:

- a. From Imām Ibn ul-Qayyim where he said: **“For this reason, if the strength of Ahl udh-Dhimmah grows and our obligating them to Islamic rulings is excused and we acknowledge this, if they then become weak, we obligate them to the Islamic rulings, this is acceptable.”**³⁷

³⁵ Reported by al-Bukhārī (hadeeth nos. 3168 and 3053) and Muslim (hadeeth no. 1637) from the hadeeth of Ibn 'Abbās (*radi Allāhu 'anhumā*).

³⁶ Form the audio recording entitled *Mu'āmalat ul-Kuffār* [Dealing with the Disbelievers].

³⁷ *Ahkām Ahl udh-Dhimmah*, vol.1, p.395; compare this with what was stated by Shaykh Ibn Bāz in the newspaper *al-Muslimūn*, no.517, 21 Rajab 1415 AH/23 December 1994 CE and in no.520, 19 Sha'bān 1415 AH/10 January 1995 CE. It was regarding the treaty with the Jews, and he stated:

It is obligatory on all those who are in authority of the Muslims, be they kings, princes or presidents, to maintain whatever is beneficial for their

- b. Al-'Izz bin 'AbdusSalām stated under '40th example of combing between the benefits and the harms': **“Fleeing from the battlefield is a major sin however it would become obligatory to flee from the battlefield if he knows he will be killed without causing any harm to the kuffār (enemy combatants). This is putting life into harm’s way, and this is only permitted if there is a benefit in bringing glory to the deen by harming the Mushrikeen. If no harm can be caused to them on the battlefield, then it is obligatory to flee due to the harm what will cause be caused to life by remaining stationed, along with that pleasing the kuffār and restraining the people of Islām. In this instance remaining stationed will be a harm and not a benefit.”**³⁸

Within the quotes from the author (Ibn ul-Munāsif)³⁹ and others it is evident that the issue of Jihād is just like the number of Rak’ats of the prayer and that each have to be done in their correct place and order and that not looking at the end-results and consequences of actions is incorrect, Allāh is the Guide.

Third: What we have established prior does not signify that not transgressing against those non-Muslims whom we have an agreement with – means that they are our brothers (in *deen*) or that we aid them in our countries or that we help them in defensive Jihād against their enemies. For this reason, our Shaykhs of this era, such as Ibn Bāz, al-Albānee and al-'Uthaymeen ruled that it was permitted to fight in Chechnya just as they ruled that it was permitted to fight in Afghanistan before that (in the 1980s) during the Atheist Russian occupation of the country.

people and allow that which will benefit them and be in their interests in matters which Allāh’s Pure Divine Legislation does not prohibit with any state of kufr.

He mentioned within the article the likes of what were mentioned by Ibn ul-Qayyim (*rahimahullāh*).

³⁸ *Qawā'id ul-Ahkām*, vol.1, p.151 – al-Bulqīnī did not comment on this in *al-Fawā'id ul-Jasām*

Translator’s note: This is an issue wherein the likes of Anwār al-Awlakī gravely erred.

Awlakī stated after 45 minutes into the lecture of *The Story of Ibn al-Akwa* that if there are too few Muslims fighting on the battlefield then they can barricade themselves into a fortified building and wait for reinforcements!!? This is incorrect as rather the Muslims are allowed to flee! If at that point there are too few Muslim soldiers then this is an instance wherein it is allowed for the Muslims to leave the arena of Battlefield and regain reinforcements, however Awlakī was trying to assert that the Muslims must persist on fighting and barricade themselves into a building and carry on fighting even though they will be overwhelmed. Refer to the lecture of Awlakī: *'The Story of Ibn al-Akwa'* after 2 and half minutes on track 9 of the *Dar Ibn al-Mubarak* (Beirut, August 2003) CD, part 12.

³⁹ As you will see in our words within the section on ‘The Methodology of the Author in this Book’.

Fourth: The new issues which arise are all treated by the 'Ulama with principles and require extra research and modern study. Such as issues related to: civilians in abodes of war and how they are to be dealt with as they have refrained from warfare; combatants mixing in with civilians or using civilians as human-shields; the Divinely Legislated rulings related to destroying bridges, electric power stations, oil reserves, non-military aircraft and sea vessels; and the likes of such economic targets of the enemy.⁴⁰

These are the most well-known errors committed today in the name of “Jihād” which I wanted to bring to attention to along with what the author (Ibn ul-Munāsif) had acknowledged about this important topic, so that the reader will recognise the importance of the scholars' acknowledgements and the necessity of following their principles which contain salvation and balance and are distant from extremism and aversion.

With Allāh is success, there is no Lord but He

⁴⁰ Refer to Professor Hasan Abū Ghuddah's 342 page study entitled *Qadāyā Fiqhiyyah fi'l-'Alaqāt id-Dawliyyah Hāl ul-Harb* [Fiqh Issues Related to International Relations During War], Riyādh, KSA: Makatab al-'Ubaykān, 1420 AH.