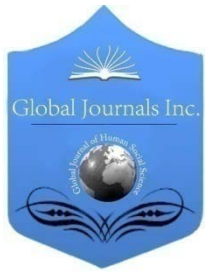
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Security, International Security, Islamic Jurisprudence and the Burden of Proof

By Dawood Adesola Hamzah

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I. Introduction

In the post-Cold War era, the impulse of violence and insecurity became widespread particularly in the Muslim world. Muslim groups began to emerge with the aim of promoting *'Jihad'* in a way that are arguably antithetical and questionable to the basic ethos of Islam as a religion and civilization. These emerging groups of firebrands catalogue violence as part of greater *Jihad*. Al-Qaeda, questionably claims to have sociological and historical essence in *Sunni* Islam whereas its principles *Jihad* methodology are considered deviation from the true Islam. This development puts the veracity of Islamic 'theory of peace' on lifeline. It also demonstrates a symptomatic danger not only to domestic security but also to international security. Security means absence of threats;[1] or the state of being free from danger or menace.[2]It is a precious instrumental value which gives individuals and groups the opportunity to pursue the invention of humanity rather than live determined and diminished lives – a human life beyond the merely animal.[3]The Muslims, advertently or inadvertently have become complicit in the acts that threatened the security of the cotemporary humanity.

a) *Security: A Conceptual Framework*

The aim of human security is to secure and safeguard the vital core of people's lives from critical and pervasive threats. This requires an identification of critical and pervasive threats to this vital core of people's lives, as well as relevant response mechanisms.[4]Thus, the need arises for scrutinizing and separating enormous varieties of adverse events in human life to determine which of them truly constitute threats and which may be taken as mere trivialities.[5] "Vital core" suggests a minimal or basic or fundamental set of functions related to survival, livelihood and dignity; it implies that the institutions that undertake to protect human security will not be able to protect every aspect of human well-being, but at very least they will protect this core.[6] Security threats are wittingly or wilfully caused by a bunch of people or another in different forms such as terrorists, states, rebel groups, or paramilitary formations. It is noted that organs of the state sometime may constitute threat to human security. For example police forces that violate human rights by torturing or committing acts of cruelty against prisoners.[7] Security threats can be either direct or indirect. Direct threats are usually associated with violence, but they can take several other forms such as deliberate policies of social or economic deprivation and exclusion.[8] Indirect form of threats are characterized usually in the act of groups or institutions for different primary purposes such as instigating economic crisis which may subject a large section of the population to deprivation.[9]It may take a form of state policy in the instances of mining or forestry programs that lead to environmental degradations such as oil and chemical pollutions. These may erode the very existence and survival of a community. It may also take the form of favouritism of the political elites which may lead to destabilising horizontal inequalities or social exclusion.[10] Security threats can also be traced to negligence in effective demobilisation of soldiers which can trigger violent crimes; engagement in manufacture and marketing of small arms that can lead to destabilization of a region.[11]

Author: e-mail: dawosla@live.com

[1] Booth, K., Security and Emancipation, Review of International Studies, Vol. 17, No. 4, (1991), p 319.
[2] Oxford Dictionaries – Language Matters, http://www.oxford-dictionaries.com/definition/english/security (accessed 09 June, 2015).
[3] Booth, K., Theory of World Security, Cambridge University Press, (2007), p. 107.
[4] Alkire, S., A Conceptual Framework for Human Security, CRISE Working Paper 2, Queen Elizabeth House, University of Oxford, (2003), p. 29.
[5] Ibid.
[6] Ibid at p. 24.
[7] Ibid at p. 29.
[8] Ibid
[9] Ibid.
[10] Ibid.
[11] Ibid.

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Three conceptual dimensions of security have been identified. Firstly, it is found in the general usage of the term covering the broad day-to-day usage such as a position aspired to: of being safe, secure, protected.[12]It is also used in political term to refer to political actions, processes, or structures that is capable of securing the safety of a political unit. Here it can be used as a tool to provide certain phenomenon with a specific priority by placing it in the realm of high politics.[13] It can also be used to identify, describe, understand, explain, or even predict phenomena in the general social realm such as "security policy," "security-policy interaction," or "security institutions and structures."[14]

The notion of security in political context took an innovative turn in 1947 when the US authority inaugurated the National Security Council.[15] This development later crystalized and served as a model for many countries around the world as they began to adopt and launch blue-print of "security policy". Consequently, security policy began to take a new dimension which goes beyond the purviews of defence, military policies and of course, preparation for war. It rather aimed at avoiding war comprehending and embracing internal, domestic security, economic development and policy to influence the international system with a view to achieve peaceful environment regionally and globally and in providing aid to developing nations.[16] Security policy thus, became a significant instrument in the promotion of domestic and international interests of nation-states within the framework of internationalism. This was practically demonstrated in many nation-state policies especially during the cold-war when the idea of security began to re-enact a shift from traditional notion of military defence and avoidance of aggression to economic, political and social matters at both domestic and international spheres.[17]

The end of the cold-war ushered in a new regime of security concept. This historical era (1989-91) marked the end of the hitherto bipolarity balance of world power to a uni-polarity form which opened a new chapter in the concept of security particularly at international level.[18]

II. International Relations Contextualized in Security

As the uni-polarity era could not bring a significant change to the traditional notion of security, undoubtedly most of the global conflicts were now between the only extant and most influential country in the world, the superpower United States of America and its allies fighting to protect the interest of the 'international community' against the recalcitrant rebels such as Iraq, the Taliban,[19]the Al-Qaeda, and recently the ISIS.

Traditional international relations theory has been concerned with a variety of components and elements of wars and conflicts that conventionally characterize the three levels of analysis, namely, the individual angle, the domestic and international angles of warfare.[20]The first level is an attempt to investigate the individual factor in the instigation and exacerbation of wars and conflicts now and before. Adolf Hitler, for example, who was the leader of Nazi Germany from 1934 to 1945, is an important figure if the complexities of the World War II will have to be decoded.[21] Similarly, Julius Caesar and his fellows played a critical role in the events that led to the demise of the Roman Republic and the rise of the Roman Empire.[22]Napoleon Bonaparte was a French military and political leader who dominated European affairs for nearly two decades while leading France against a series of coalitions in the Revolutionary Wars and the Napoleonic Wars.[23] He won several of these wars and the vast majority of his battles, rapidly conquering most of continental Europe before his ultimate end in 1815.[24]He was not only one of the notable commanders in history, his campaigns are subjects of research in military schools worldwide and he remains one of the most celebrated and controversial political figures in Western history.[25] Thomas Hobbes in his *Leviathan* identifies three important factors that usually trigger wars and conflicts at this individual level which include, competition, diffidence (fear), and of course, glory.[26]

Experts identify domestic politics as the important factor accounting for conflicts and war at this level.[27] Here pattern of policy and administration of a state regime coupled with influential interest group at this level constitute the important determinants of going to war and the strategies to be adopted in this regard.[28] For example, the military attack on Pearl Harbour conducted by the Imperial Japanese Navy in 1941 was

[12] Heurlin, H., and Kristensen, International Security, *International Relations, Vol II,* Danish Institute of International Affairs, Copenhagen, Denmark, para. 2.2.
[13] Ibid.
[14] Ibid.
[15] Ibid.
[16] Ibid.
[17] Ibid.
[18] Ibid.
[19] Ibid at para. 2.2.1.
[20] Patterson, E., Religion, War, and Peace: Leavening The Levels of Analysis in Seiple, C., et all, *The Routledge Handbook of Religion and Security,* Routledge, London and New York, (2013), p. 115.
[21] Ibid.
[22] Lawrence, K., "The approach of civil war", *The making of the Roman Army: from Republic to Empire*. Norman, OK: University of Oklahoma Press, (1998), p. 102.
[23] Hales, E. "*Napoleon and the Pope*", London, (1962), p. 114.
[24] See generally Andrew, R., *Napoleon: A Life*, Penguin Group, (2014).
[25] See generally, Messenger, C., *Reader's Guide to Military History,* Routledge, (2001).
[26] See generally Hobbes, T., *Leviathan,* Penguin Books Limited, (1985).
[27] Patterson, E., supra note no. 21 at p. 116.
[28] Ibid.

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arguably based on Japanese domestic politics intended to serve as a preventive measure to keep the U.S. Pacific Fleet from interfering with military actions the Empire of Japan was planning in Southeast Asia against overseas territories of the United Kingdom, the Netherlands, and the United States. [29] It was not an action initiated by an individual but by a conglomerate of interest groups including the military, the business class, and those close to the emperor all of which had its own interests to protect in the action.[30]

The international dimension which is the third angle to conflicts and wars is explained by international politics. Waltz observes that international politics is defined by anarchy as there is no central government to stop states from going to war.[31] It follows that the absence of central political administration means that it will be difficult if not impossible to stop the next interstate war.[32]Waltz argues that power and security within anarchy explaining the possibility and essence of conflict. He further observes that as anarchy continues to provide explanation for the international system, it provides leverage and clout to certain non-state actors that have, in one way or the other wielded power to engage and compete in globalized anarchy similar in pattern to that of states.[33] Waltz cites Roman Catholic Church and al-Qaeda as examples of such non-states actors. According to him, these non-state actors in competing in globalized anarchy, like the state actors, utilizes instantaneous communication, rapid and cheap international travel, sharing sets of competing values at the international level such as the legitimacy of democracy and human rights, economic resources that are freely exchangeable or replaceable as well and deadly and destructive firepower.[34]

III. International Dimension of Security

Security generally, and international security in particular are all about war and peace, life and death, safety and survival. The traditional approach was essentially on the question of stability of the states' system, the use of force, nuclear proliferation, military strategy, intelligence and the distribution of resources.[35] However, the paradigm shift from this traditional approach has widened the scope to cover new areas of contemporary security related issues such as climate change and its consequential effects, migration and population explosion, poverty, health, privatisation, organised crime and international terrorism among others. Actually it has been extended in all directions since the 1990s, from nations to groups, individuals, international systems, NGOs, and local governments.[36]

The traditional or realist model has been a dominant factor in the study of security to explaining war, peace and security in their conceptual framework. The popular expression coined by Sagan and Waltz that: "*to be at peace, prepare for war*," and "*the more weapons, the better*' are commonly accepted among proponents of the Realist school of thought.[37] Realists and later Neo-realists have always seen security as only partial and temporary, because "*war is inevitable*." They believe the world is anarchical – that there is no world government above that of the states or nations.[38] Furthermore, because they see the state as the highest authority, the security of states is the most important factor in seeking peace. Realists therefore defined peace as the absence of war and security as the absence of threats.[39]

In the period preceding the 1980s, the notion of national security was thought to be the preserve of states. It referred to the ability of states to defend themselves against encroachments of their territorial integrity and political sovereignty.[40] Matters relating to military power, strategy, and deterrence loomed large. Since then, the notion of security has been progressively broadened to incorporate such areas as economic privation, environmental degradation, and gender discrimination.[41] A condition of security is the degree of resistance to, or protection from, harm. It applies to any vulnerable and valuable assets, such as a person, dwelling, community, nation, or organization. Establishing or maintaining a sufficient degree of security is the aim of the work, structures, and processes called "security." Barry Buzman puts it simply, '*the discussion about the pursuit of freedom from threat*'.[42] Marc Levy contends that a threat to national security is a situation in which some of the nation's most important values are drastically degraded by external

[29] See generally Conn, Stetson; Fairchild, Byron; Engelman, Rose C. "7 – The Attack on Pearl Harbor", *Guarding the United States and Its Outposts*, Washington D.C.: Center of Military History United States Army, (2000).

[30] Lee, D.S., *Power Shifts, Strategy, and War: Declining States and International Conflict,* Routledge, New York, (2007), p. 114.

[31] Waltz, K.N., *Man, the State and War: A Theoretical Analysis,* New York: Columbia University Press, (1959), p. 233.

[32] Ibid.

[33] Ibid.

[34] Ibid, also, Patterson, E., supra note no. 21 at p. 116.

[35] See generally Baylis, J., "International Security in the Post-Cold War Era", in John Baylis and Steve Smith (eds), *The Globalization of World Politics*, Oxford, Oxford University Press, (1997)..

[36] See generally Rothschild, E. "What is Security." *Dædalus,* Vol.124, No. 3, (1995), pp. 53–98.

[37] Sagan, S. D., and Waltz, K., *The Spread of Nuclear Weapons: A Debate.*New York: W.W. Norton and Company, (1995).

[38] Waltz, K., *Theory of International Politics.* New York: McGraw Hills, Inc., (1979).

[39] Waltz, K., ibid.

[40] Khong, Y.F., Human Security: A Shotgun Approach to Alleviating Human Misery? *Global Governance* Vol. 7 No. 3 (2001), p. 231.

[41] Khong, Y.F., ibid.

[42] Buzman, B., *People, State and Fear, An Agenda for International Security in the Post-Cold War Era,* 2nd ed., London: Harvester Wheatsheaf (1991), p. 18.

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action.[43] Conceptualizing security, Davis Baldwin formulates the matrix in the form of a sequence of questions – security for whom? Security for which values?, how much security?, from what threats?, by what means?, at what cost?, and in what period?[44]

From international relations point of view, John Herz unfolds the meaning of security in terms of a general interpretation of International Relations as a security game.[45] He argues that the key concept from which to theorize about international relations: "*let us think first of all about how to survive, thereafter about everything else*." But thinking about how to survive means things about international politics".[46]

Hertz thus argues that in the state of nature, which is the state within which the security dilemma thrives, all men live in a condition in which a war of all against all is a permanent possibility. This possibility is the basis upon which social relations are organized. To improve their position from which to face other human being, people group into communities:[47]

> *… families and tribe may overcome the power in their internal relations in order to face other families or tribes; large groups may overcome it to face other classes untidily, entire nations may compose their internal conflicts in order to face other nations.*[48]

Der Derian agrees with Herz when he observes that

> 'a fear-of-the-power-of-others-to-kill-me splits the human species, or better, unites atomistic individuals in communities. It creates cleavages between those to be feared and those to be trusted. 'The fear of the external other is transvalued into the "love of the Neighbour" … and the perpetuation of community is assured through the internalization and legitimation of a fear that lost its original source long ago'. [49]

The notion of security among political scientists, experts in government and international relations, stands to mean "national security".[50] It refers to a set of defence mechanisms designed to protect a state so that it can continue to exist as a sovereign entity. That of course includes protection from attacks and threats that originate from outside its national boundaries, and also usually includes protection from any actions that may seriously threaten the country's ruling regime from within.[51] From the traditional point of view security strictly is defined in terms of military and political frameworks. However, in the context of modern conceptual framework, it also covers phenomena such security against drug abuse and drug trafficking, economic crises, the problems of illegal immigration, forced migration etc.[52]

a) Security and Concept of Religion

The theoretical literature in international relations and security studies has been largely indebted to a story of religious "return".[53] It is argued that since the end of the wars of religion of the seventeenth century and the foundation of the modern state system in 1648 in Europe, religion came to play an increasingly marginal role in global affairs even though it did not disappear entirely.[54] For many years, religion, like culture in general, has tended to be studied as a domestic factor, rather than an external factor in explaining security issues.[55] However, the Iranian Revolution in 1979 sparked a debate about the rise of Islam and Islamic fundamentalism in world politics, international relations theorists have generally continued to isolate religion as an important factor in explaining international conflicts. Beginning with the reunification of Germany in 1989, and in addition to the longstanding ethnic and religious conflicts in many Muslim countries, plus the September 11, 2001 tragedy in the US, all together have once again given reason for experts in security to reassess how religion particularly Islam — plays a significant role as an ideational factor in the ongoing quest to explain peace and security issues of the world.[56] The emergence of al-Qaeda as a global threat around the world has made stakeholders aware of the importance of including religion in their analytical accounts.[57]

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[43] Levy, M. 'Is Environment a National Security Issue? *International Security* Vol. 20 No. 2, (1995) p. 40.

[44] Baldwin, D., 'The Concept of Security', *Review of International Studies,* Vol 23, No. 1, (1997) pp. 12-18.

[45] Huysmans, J., Security! What Do You Mean?: From Concept to Thick Signifier, *European Journal of International Relations,* Vol. 4, (1998), p. 234.

[46] Hertz, J., *International Politics in the Atomic Age,* New York: Columbia University Press (1962), p. 3.

[47] Huysmans, J., ibid at p. 235.

[48] Hertz, J., 'Idealist Internationalism and the Security Dilemma', *World Politics,* Vol. 2, No. 2 (1950), p. 158.

[49] Der Derian, J., 'The Value of Security: Hobbes, Marx, Nietzsche, and Baudrillard', in David Campbell and Michael Dillon (eds) *The Political Subject of Violence,* pp. 94-113, Manchester: Manchester University Press, (1993), p. 104.

[50] Othman, Z., Human Security in Islam, *A paper presented at the International Development Studies Conference on "Mainstreaming Human Security: The Asian Contribution"* Bangkok, Thailand (2007), p. 4.

[51] Othman, Z., ibid.

[52] Hassan, J. M., Ramnath, Thangam (Eds): *Conceptualizing Asia-Pacific Region.* (Kuala Lumpur: Institute of Strategic and International Studies; (1996); and Yamamoto,Y., "Institutional Infrastructure and Mechanisms for Implementing Comprehensive Security in the Asia-Pacific Region" (1996), Othman, Z., ibid.

[53] Petito, F., and Hatzopoulos, P., *Religion in International Relations: The Return from Exile,* Basingstoke, U.K.: Palgrave Macmillan, (2003), in Seiple, C., Hoover, D.R, and Otis Pauletta, *The Routledge Handbook of Religion and Security,* Routledge Taylor and Francis Group, London and New York,(2013), p. 125.

[54] Gutkowski, S., *Religion and Security in International Relations Theories, in The Routledge Handbook of Religion and Security,* p. 125.

[55] Othman, Z., ibid at p.3.

[56] Piscatori, J.P., Islam *in a World of Nation-States.* New York: Cambridge University Press (1986) and Esposito, J. L., *The Islamic Threat: Myth r Reality?* New York: Oxford University Press (1999) in Othman, Z., ibid at p. 12

[57] Seiple, C., Hoover, D.R, and Otis Pauletta, *The Routledge Handbook of Religion and Security*, ibid.

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The divisive effects of religion appear to be eclipsing its cohesive role which particularly true about Islam.[58] Basically, peace in Islam means submission to God, thus a Muslim means the one who submits. It follows that Islam instructs people on how they may live together in peace and harmony regardless of race, class or beliefs. By submitting oneself to God, it will lead to true peace – internally and externally. Thus, peace in Islam is beyond realism "absence of war."[59] A goal of a Muslim is the Hereafter and to prepare one needs peace in order to submit his duty to God. Thus, peace and secured environment is important for human survival in Islam.[60]*Qur'an* categorically condemns those persons and groups who commit acts injurious to peace, security, and public order of society as a whole (including both the governmental and non-governmental sectors).[61]

A minority group of Muslims today seems to be interpreting the concept of *Jihad* out of context claiming the mantle of *"jihadist"* but are operating from a distorted and truncated definition of the word.[62]Muslim jurists are unanimous that Islam's theology and ethics contains a rich conception of security, one attaching great importance to human life, honour, and property. Islam insists on justice, respect for legitimate authority, peace building, and strict limits on the use of force.[63]

b) International Relations: An Islamic Perspective

In the orthodox Islamic jurisprudence, the world is divided into *Dar al-Islam* (the abode of peace) and *Dar al-Harb* (the abode of war) and of course, *Dar al-Ahd* (the Abode of Covenant). This is particularly the position in the Hanafi School of Thought. But Al-Shafi'i maintains contrary position. According to the Shafi'i School, the division of the world into two or three was an outcome of exigency necessitated by "the frequent foreign attacks on Islamic lands."[64] The idea of dividing the world into two conflicting abodes is not essentially rooted in the basic sources of Islamic law.[65] The two terms are neither stated nor explained in both the *Qur'an* and *Sunnah*.[66] They were coined by some Muslim scholars many centuries after the advent of Islam as a reaction to preponderant hostility and warmongering situation at that particular point in time. In other words, they were results of *Ijtihad* carried out to respond to the prevailing situation at the time.[67] Therefore, these concepts were applied to various regions according to the practical or legal condition prevailing therein in relation to the Muslim state and its citizens during the period of conflicts between the Islamic state and its rivals. This means that the division was legal rather than theological, and therefore it is capable of being changed or abrogated, especially when the condition led to its existence is over. Even if one accepts the justifications presented by traditionalists, it is no more valid to apply these concepts on the contemporary world. Today all Muslim majority states maintain diplomatic relations with almost all nations of the world and thus the concept of *Dar-Ahd* or (Abode of Covenant) appears to have relevant application at present. Abode of Covenant refers to those non-Muslim Governments which have armistice or peace agreement or diplomatic ties with Muslim governments. According to all Muslim jurists including even the traditionalists or orthodox jurists, under Abode of Covenant, peaceful and positive relations must prevail.[68]

It is thus argued that the new approach not only declines the division of the world into two parts, but also adopts different explanations to the related *Qur'anic* text. Therefore, it regards peace as the organizing principle of Muslim foreign relations and of international relation in general.[69] First considering fight as the basis of Muslim foreign relations with others not only to destructive conflicts instead of mutual cooperation among nations as the *Qur'an* explicitly commands, but also contradicts the *Qur'anic* perspicuous rule which read*:*

"no compulsion in religion".[70] This is a persistent and unrelenting law which other related verses in the Qur'an clarify and the prophetic traditions explain.

When it comes to relations between two Muslim states, the traditional trend among Muslim scholars was to view *al -Dar al-Islam* as one undifferentiated category. Although, in reality, Muslim lands can be divided into several sovereign and independent political entities but such differentiation is only in form.[71] From the Islamic jurisprudence point of view, they are one nation that cannot be divided based on artificial geographical

[58] Qibla, A., and Ahmad, R., *Islam and Security: A Sunni Perspective, in* in Seiple, C., Hoover, D.R, and Otis Pauletta, *The Routledge Handbook of Religion and Security,*Routledge Taylor and Francis Group, London and New York,(2013), p. 69.

[59] Othman, Z., ibid at p. 12

[60] Ibid.

[61] Qibla, A., and Ahmad, R., supra.

[62] Ibid.

[63] Ibid.

[64] Abu Zahrah, M., *al'Alaqat al-Dawliyyah fi al-Islam (International Relations in Islam),* Cairo, Al-Dar al-Qawmiyyah, (1964), p. 31.

[65] Azuhaili, W., *Athar al-harb fil Fiqh al-Islam, (Effects of War in Islamic Jurisprudence)* Damascus, Dar al-Fikr, p. 76.

[66] Abo-Kazleh, M., Rethinking International Relations Theory in Islam: Toward a More Adequate Approach, *Alternatives Turkish Journal of International Relations, Vol. 5, No. 4 (2006) , pp. 45-46*

[67] Zahid, M.I., *Glossary of Islamic Terms,* (Online Document), 1998, (accessed 27th April, 2006).

[68] Ibn Qayyim, *Za al-Ma'ad,* Beirut: Ar-Risalah Foundation, vol. 3 (1986), p. 160; Ibn al-Qayyim, *Ahkam AhluDhimmaa,* (Provision of the People of the Book), Damascus, Matba'at Jami'at, Damascus, (1961), pp. 475-485; Ibn al-Qayyim, *Ahkam AhluDhimmaa,* (Provision of the People of the Book), Damascus, Matba'at Jami'at, Damascus, (1961), pp. 475-485.

[69] Al-Qurtubi, *al-Jami le Ahkam al-Qur'an, (Provision of the Qur'an) vol. 5, Cairo, Dar al-Katib al-Arabi, (1976), pp. 310-11;* Al-Tabari, *Jami al-Bayan fi Ta'will al-Qur'an (Interpretation of Qur'an) vol. 9, Cairo, Dar al-Ma'arif, (n.d.), p. 20.*

[70] Qur'an 2:256.

[71] Hassan, M.H., War, Peace or Neutrality: An Overview of Islamic Polity's Basis of Inter-State Relations, A Working Paper at S. Rajaratnam School of International Studies, Singapore, (2007), p. 14

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boundaries or ethnicity.[72] The majority of traditional Muslim scholars' view that Islam does not permit the existence of multiple *Dar al-Islam* and it is not permissible to appoint two Muslim rulers in the same period.[73] This is because Islam enjoins unity and forbid the opposite.[74]The current reality in the Muslim world is considered by the modern scholars as an exception justified on the basis of a maxim in Islamic jurisprudence that: "*dharurat* (emergencies) permits the prohibited".[75]

From the above, the basis of relationship between different Muslim states is mutual peace and security. A war situation is an exception only permissible against those who transgress God's rule after all peaceful means have been exhausted.[76]

In the basic theology, Islam considers all Muslims to be one *Ummah*, a community whose basis is faith and common objectives. There exists among all its constituent units a deeper unity which does not allow the differences of region, race, language, and nation to disrupt and disintegrate it. Islam has established on very strong footing the solidarity and fraternity among all the Muslims and has abolished all the distinctions on the basis of race, colour, language, blood or nationality. The concept of Islamic brotherhood makes all the Muslims men and women, to whatever nation, race, colour, rank or status they may belong, equal in rights and obligations.[77]

The *Qur'an* declares: *Surely this community of yours is one community (ummah), and I am your Lord, therefore serve Me.*[78]"*The Believers are but a single Brotherhood*."[79]In another verse, the believers are called as protecting friends of each other.[80] Unity and solidarity among the Muslims has been stressed by the Holy Qur'an in these words: *"And hold fast, all of you together, to the cable of Allah, and don't separate…."*[81]

One *Hadiths* states that: "*It is sufficient evil for a Muslim that he should look down upon his brother. The life, wealth, and honor of a Muslim are inviolable by another Muslim*"[82]In his famous sermon delivered on the occasion of Farewell Pilgrimage in 10th A.H., the Prophet Muhammad declared that: "*You must know that a Muslim is the brother of the Muslim and they form one brotherhood. Nothing of his brother is lawful for a Muslim except what he himself allows willingly. So, you should not oppress one another….."* In another Hadith he was quoted to have said: Sahih Muslim on the authority of Abu Hurairah, the Messenger of Allah said: *"A Muslim is brother to a Muslim. He does neither wrong him, nor puts him to disgrace, nor does he hate him…. . Every Muslim's blood, property and honour are sacred to another Muslim*."[83]

The principles enunciated in the above quotations are not only applicable to the Muslims at individual level but also at national and international levels.[84] A Muslim country, therefore, would regard other Muslim countries as brother nations and would extend every sort of help to his brothers in every field of life such as defence, economic development, education, finance, social sector, etc. If there is conflict between two brotherly Muslim countries, it is imperative for other Muslim countries to arrange reconciliation between the two. But if the aggressor among the conflicting Muslim countries is not ready to reconcile, the other Muslim countries would help the one wronged by the aggressor till the aggressor is forced to come to terms in accordance with a *Qur'anic* injunction.[85]

Accordingly, Muslims are identified as one *Ummah* (community), as parts of which they move towards a common goal, strive to realize their common objectives, worship one and the only God.[86] The above authorities from *Qur'an* and *Sunnah* lead to the conclusion that all Muslims are brothers and are like a single body, and therefore can never be indifferent towards one another. Among them should prevail the spirit of cooperation, brotherhood, fraternity, goodwill, love, sympathy, and unity of direction and purpose, and they should be always united for the defence of the *Ummah*. From this we can infer that the responsibility of the Islamic State is not confined to its boundaries only, but it is also responsible for and committed to all individuals of the Muslim *Ummah*.[87]

c) Security in Islamic Perspectives

In the contemporary globalized world, Islam has become synonymous with turmoil and violence, and thus, security risks.[88]It is thus argued that the current climate of security-driven politics strengthen the conception that Islam is destined to remain associated with these negative labels for some decades to come.[89]The veracity of this contention is reinforced by the widespread political instability in different parts of Islamic world due to lack of genuine initiative to bring

[72] Ismail, L.F., *Ikhtilaf Ad-Darain wa Atsaruhu fi Ahkam Al-Munakhat wa Al-Muamalat, pp. 8, as quoted in* Hassan, M.H., ibid.
[73] Al-Mawardi, Al-Ahkam As-Sultaniyyah, p. 8.
[74] Qur'an 49:10; 3:103.
[75] Hassan, M.H., War, ibid.
[76] Al-Mawardi, Al-Ahkam As-Sultaniyyah, ibid pp. 70-72.
[77] Chaudry, M.S., Islam's Concept of International Relations, http://www.muslimtents.com/shaufi/b17/b1711.htm (accessed 21st February, 2013).
[78] Qur'an 21:92.
[79] Qur'an 49:10.
[80] Qur'an 8:72.
[81] Qur'an 3:103.
[82]Sahih Muslim.
[83] Sahih Muslim as quoted in Chaudry, M.S., Islam's Concept of International Relations, ibid.
[84] Chaudry, M.S., Islam's Concept of International Relations, ibid.
[85] Chaudry, M.S., Islam's Concept of International Relations, ibid.
[86] Amini, I., Foreign Policy of an Islamic State, *Al-Tawhid Islamic Journal,* Vol. II, No. 4 (1985), Part 11, as quoted in http://www.al-islam.org/al-tawhid/foreign_policy/ (accessed 21st Feb., 2013).
[87] Ibid.
[88] Mansouri, F., & Akbarzadeh, S., Islam and Political Violence in the New World Order, in Mansouri, F., & Akbarzadeh, S., *Political Islam and Human Security,* Cambridge Scholars Press, (2006), p. 2.
[89] Ibid.

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about political reforms in most Muslim states.[90] This calls for an examination of the Islamic theoretical framework of security. Security can be considered a corollary to the issue of peace. The factors that bring about peace contribute to the establishment of security.[91] There is certainly an interconnection between security and law as the latter lays down principles for the attainment of the former. Law sets out parameters of acceptable conducts. It is argued that Islam is a religion that provides general principles for life as well as detailed laws on acceptable conducts that guarantee peace and security in a society.[92]That explains why it imposes penalties on certain criminal acts. Though, those penalties are strongly contested in certain quarters on the notion that they are harsh. However, the ultimate goals of those penalties are not only to serve as deterrent but also to guarantee security and safety in the society.

Under theory of Maqasid *Shari'ah* (the goals of *Shari'ah*) as specified by majority of Muslim jurists including al-Shatibi, are of two types, namely, *dini* or values of the Hereafter and *dunyawi* or values pertaining to this world.[93] The worldly values (*dunyawi*) are further classified into four, namely, the preservation of *nafs* (life), the preservations of *nasl* (progeny), the preservation of '*aql* (intellect), and the preservation of *mal* (wealth or property).[94] The totality of these classifications yield five ultimate values of the law, namely, *din* (religion), life, progeny, intellect, and wealth or property.[95]"And there is (a saving of) life for you in the Law of Equality in punishment, O men of understanding, that you may become the pious."[96]*Jihad* has thus been endorsed and authorized with a view to protect religion, and so is just retaliation (*qisas*) which is designed to protect life.[97] The *Shari'ah* takes affirmative and also punitive measures to protect and promote these values. Theft, adultery and wine-drinking are punishable offences as they pose a threat to the protection of private property, the well-being of the family, and the integrity of human intellect respectively.

The Qur'an is categorical in denouncing and reproaching commission of acts injurious to peace, security, and public order, thus, attaching great importance to human life, honor and property. It says: "Because of this did We ordain unto children of Israel that if anyone slays a human being unless it be [in punishment] for murder or for spreading, corruption on earth – it shall be as though he had slain all mankind; whereas, if anyone saves a life, it shall be as though he had saved the lives of all mankind."[98]

In his farewell pilgrimage declaration, the Prophet Muhammad emphatically stressed the inviolability of security of life and property saying that equality of human beings and the sanctity of human life, honor, and property are not negotiable. He stated that:

> "There is no superiority for an Arab over non-Arab and for a non-Arab over an Arab; nor for the black over the white, except in God's consciousness. All humankind is the progeny of Adam and Adam was made out of clay. Behold every claim of privilege whether that of blood or property is under my heels. Verily your blood, your property and your honor are sacred and inviolable until you meet your Lord and you will he held accountable for your actions."[99]

The Prophet was also quoted to have said that: "Among the deadly sins: polytheism is the deadliest one, and killing a human being, and disobedience of parents, and telling lies."[100]

Two important points can be established from the above analysis. First,Islam makes peace a corner-stone of its ideology. It thus makes it imperative on its adherents to be involved in peace-building mechanism rather to be involved in anarchy, violence and acts of terrorism. The ultimate goal of Islam is the institutionalization of peace based on justice and equity, freedom and human rights.[101] Therefore, to attribute terrorism to Islam as widely and presently believed is erroneous and distortion of fact. The word Islam itself is rooted in notion of surrendering, submitting and becoming reconciled with one another, to make peace.[102]

d) Characterization of Jihad

Opinions differ on the definition of the word '*Jihad*'. However, there appears to be a unanimity on that '*Jihad*' is capable of two meanings, namely, an inner spiritual struggle (the "greater *jihad*"), and an outer physical struggle against the enemies of Islam (the "lesser *jihad*")[103] which may take a violent or non-violent form.[104] *Jihad* is often controversially translated as "Holy

[90] Ibid.
[91] Zarabozo, J.D., *Peace and Security (parts 2 of 3): Society,* http://www.islamreligion.com/articles/509/peace-and-security-part-2 (accessed 22 June, 2015).
[92] Ibid.
[93]Nyazee, I.A.K., Theories of Islamic Law, Islamic Research Institute, International Islamic University, Islamabad, Pakistan, (2009), p. 231.
[94] Ibid.
[95]Ibid.
[96] Qur'an 2:179.
[97] Kamali, M.H., Principles of Islamic Jurisprudence, The Islamic Texts Society, Cambridge, (2003), p. 513.
[98] Qur'an 5:32.
[99] Ibn Sa'd A.M., *Al-Tabaqat Al-Kubra,*(trans. Abdallah A'madi), Karachi: Nafees Academy, (1987), 1:469.
[100] Al-Bukhari, M.I., *Al-Jami' al-Sahih,* Beirut: Dar Ihya' al-Turath al-'Arabi, (1987), 6:2519.
[101] Ayaz, Q., and Ahmad, R., Islam and Security: A Sunni Perspective in Seiple, C., et al, *The Routledge Handbook of Religion and Security,* Routledge, Taylor and Francis Group, (2013), p. 70.
[102] Ibid.
[103] Diane, M., *Essential Islam: A Comprehensive Guide to Belief and Practice,* ABC-CLIO/Greenwood, (2010), p. 87.
[104] DeLong-Bas, N.J., *Jihad for Islam: The Struggle for the Future of Saudi Arabia*, Oxford University Press, (2010), p. 3.

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War".[105] Some orientalists including Bernard Lewis argue that '*Jihad*' in many instances connotes military expeditions,[106] but others disagree. For example, while Javed Ahmad Ghamidi contends that there is consensus among Islamic scholars that the concept of *jihad* will always include armed struggle against wrong doers,[107] he also maintains that there is no concept in Islam obliging Muslims to wage war for propagation or implementation of Islam after the time of Muhammad and his companions, and the only valid basis for *jihad* through arms is to end oppression when all other measures have failed.[108]

Al-Ghunaimi observes that Muslim jurists advocated a holy war of aggression under the doctrine of the *Jihad* which has influenced the whole concept of Muslim international law and relation and resulting in a theory that is generally irreconcilable with the modern standards of international law.[109]According to him, the word '*jihad*' which literally and classically signifies exertion, toil, painstaking, doing one's utmost or striving, later began to acquire a narrower sense of hostility or waging war against infidels.[110]This technical definition subsequently obfuscated the classical one to the extent that some writers misrepresent the word "*Jihad"* as synonymous to "holy war."[111]It is noted that the word '*Jihad*' can be used in its restrictive and wider senses. For example, in the Makkah text it is to be construed in its classical meaning because Muslims, as then, had not resorted to arms in defending themselves. The Prophet Muhammad was quoted to have remarked that "The pilgrimage is the most excellent of all the *jihads."* Here it is used in a wider sense. However, in some Medinah texts, where it is used in technical and restrictive sense, the word rather has implication of holy war. [112] Muir agrees saying that "The word *jihad* is the same as subsequently used for a religious war, but it had not yet probably acquired its fixed application. It was employed in its general sense before the Hegra and probably up to the battle of Badr."[113]

An example of Qur'an verses usually quoted to justify 'Jihad' reads: "And do battle against them until there be no more *fitnah,* persecution."[114] It is observed that this verse was revealed in the second year after the conclusion of the treaty of *Hudaybiyay* at a time when the Muslims were gearing up for pilgrimage were unsure of whether the Makkans would allow them to carry out their ritual plan. They were thus, reluctant to engage in battle with them in case they resorted to force to prevent them.[115] It was on account of possibility that fighting would be taking place within the precinct of the Makkah sanctuary and during the sacred months. Thus, the Muslims were divinely permitted to defend themselves within the prescribed limits stated in the above verse. It follows that an aggressive war was not anticipated in the light of this verse. It is significant to note that the verse specifically used the word *fitnah* to indicate persecution by the Makkans against the Muslims.

This contention is affirmed by the two verses that precede the one earlier discussed which state that: "Fight in the way of God against those who fight against you, but begin no hostilities. Lo! God loves not aggressors. "And slay them whenever you find them, and drive them out of the places whence they drove you out, for persecution is worse than slaughter. And fight not with them at the Inviolable Place of Worship until they first attack you there, but if they attach you (there) then slay them. Such is the reward of disbelievers. But if they desist then Lo! Allah is Forgiving; Merciful. "And fight them until persecution be no more, and religion is for God. But if they desist, then let there be no hostility except against wrongdoers."[116]

Muslims are allowed only to fight those who launch attack or perpetrate aggression against them and are forbidden to begin any hostilities. It is noted that the phrase "religion is for God"in the above verse has been wrongly interpreted by some commentators to mean that 'all people should embrace Islam'. Such interpretation could not be sustained as it contradicts the remainder of the verse which states that: "But if they desist, then let there be no hostility except against wrongdoers."[117] Muslim jurists hold that aggression or oppression perpetrated against the Muslims by others constitute the cause (*Illah*) that legitimizes *Jihad*[118] and in this regard, for self-defense.[119] A number of Qur'anic verses (including those that have been earlier discussed in this work) are quoted to support this position.[120]

e) Ethics of Military Jihad

Acting in the light of the *Qur'anic* verses and *Sunnah* of the Prophet discussed above, the Muslim jurists introduced some rules to govern the military

[105] Lloyd, S.L., *Holy War, Just War: Exploring the Moral Meaning of Religious Violence,* Rowman & Littlefield, (2007), p. 221, and Peters, R., *Jihad in Medieval and Modern Islam,* Brill, (1977), p.3.
[106] Lewis, B., *The Political Language of Islam,* University of Chicago Press, (1988), p. 72; Watt, W.M., Islamic Conceptions of the Holy War in: Murphy, T.P., *The Holy War,* Ohio State University Press, (1974), p. 143.
[107] Javed, G., The Islamic Law of Jihad, *Mizan, Dar ul-Ishraq, http://www.renaissance.com.pk/junespart2y2.html*(accessed 24 June, 2015).
[108] Ibid.
[109] Ghunaimi, M.T., *The Muslim Conception of International Law and the Western Approach,* Martins Nijhoff/ The Hague, (1968), p. 163.
[110] Ibid at p. 164.
[111] Ibid.
[112] Ibid.
[113] Muir, W., *Life of Mohammad,* Vol. III, Edinburgh: John Grant, (1923), p.
[114] Qur'an 2:193
[115] Ghunaimi, M.T., supra note no. 105 at p. 166.
[116] Qur'an 2:190-192.
[117] Ghunaimi, M.T., supra note no. 105 at p. 167.
[118] Ayaz, Q., and Ahmad, R., supra at p. 71.
[119] Ibn al-Hummam, K.D.M., *Fath al-Qadir,* Beirut: Dar Ihya' al-Turath al-'Arabi, (1986), vol. 4, p. 291.
[120] Qur'an 22:39-40)`

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aspect of *Jihad.* According to them, Jihad becomes legitimate for the Muslim under the following conditions:

- When Muslims are subjected to oppression, or attack by others *Jihad* could be used as a means of self-defense
- When their land and homes are either unjustly invaded or/and usurped by others
- When they are persecuted simply on account of their being Muslims, it means their rights for freedom of religion and faith are being denied and thus, they can protect this right by means of military *Jihad*
- When the need arises for safeguarding the path of justice; as a last measure to check treachery and fraud; and for checking internal enmity against legitimate authority of the state and for safeguarding peace; and support for the oppressed people.

Under the ethics of Jihad, two categories of enemies are identified, namely, belligerents and non-belligerents. The former include an individual, group, country, or other entity that acts in a hostile manner, such as engaging in combat. The word 'belligerent' comes from Latin, literally meaning "one who wages war". The latter is the opposite. It is not permissible under the Islamic rules of war to attack the non-belligerents in any case. This is reflected in Article 3 of the Cairo Declaration on Human Rights in Islam that it not permissible to kill non-belligerents such as old men, women and children.[121]

f) Ethical Rules of (Military) Jihad

Under the Sunni theology, it is prohibited to launch *Jihad* for worldly motives or gain. This was based on the *Sunnah* of the Prophet Muhammad where he was quoted to have said that: "He who went to fight in the way of God but had the intention of benefiting himself with a rope to fasten his camel will get the string but no reward in the Hereafter."[122] Thus, the Sunni jurists lay down guidelines that must be observed before a military *Jihad* could be declared.

1. Approval of Imam: It is mandatory that a sensitive matter like declaration of military *Jihad* should first be approved by a legitimate Imam or ruler of the community. This shows that war is not declared on flimsy reasons or excuses as it involves life which is considered highly sacrosanct in Islam. It follows that in order to bring any military operation under a recognized command structure the first step is to centralize the combative operation and to inculcate in the army the principle of "listen and submit" (*sam'a wa ta'ah*)[123] which in modern military parlance stands for "Obey first before you complain" or "You do what I say."This requirement is aimed at maintaining peace and public order and conforms to a saying of the Prophet in which he asked Muslims "to obey the ruler even if he is a black slave with his head like a dry grape".[124]
2. Avoidance of Aggression: Muslims are not allowed to crave for war and so, should not be aggressive in their declaration of military *Jihad*. The Prophet was quoted to have said that: "Do not ask for a clash with the enemy, rather pray for peace and wellbeing. If conflict is inevitable, fight with courage and determination. Be it known that the path to heaven lies under the shadow of swords."[125]This Hadith confirms that right from its inception, Islam had encouraged to crave for peace rather than war but where war becomes inevitable, they are encouraged to face it with fortitude and steadfastness.[126]
3. Refrain from Surprised Attack: In the Pre-Islamic Arabs, the war strategy is to launch surprised attack against the enemy especially at night. This practice was stopped and declared prohibited by the Prophet of Islam. He forbade the Muslim from attacking the enemy at night or early dawn.[127]
4. Mutual Dialogue before War: Muslim jurists hold that it is obligatory to engage in dialogue with the enemy of Islam before restoring to force. This position was based on a tradition of the Prophet which states that: "Whenever you meet polytheist in a battlefield, invite them to accept one of the three options: first, invite them to accept Islam, and if they do, accept this from them; second, if they do not accept, then offer them the status of *dhimmis* [protected citizens of the Islamic State], and if they accept it, then abstain from bloodshed; third, if they do not accept this offer then seek the help of God and begin fighting against them."[128]
5. Respect to Human Dignity: In pre-Islamic period, it was the practice to burn enemy alive while engaging in warfare. The Prophet Muhammad stopped this practice as revealed in a statement he was reported to have made that: "Nobody has the authority to award a punishment of fire. It is the prerogative of the Creator of fire."[129]
6. Prohibition of Subjecting Enemy to Torture and Humiliating Killing: The Prophet prohibited the act of tying with ropes and torturing the enemy before

[121] Abiad, N., & Mansoor, F.Z., *Criminal Law and the Rights of the Child in Muslim States – A Comparative and Analytical Perspective,* British Institute of International and Comparative Law, (2010), p. 54.
[122] Al-Hindi, H. A.A., *Kanz al-'Ummal,* Beirut: Muassasa al-Risala, (1979), Vol. 4. P. 336.
[123] Maududi, S.A.A., *Al-Jihad fi al-Islam,* Lahore: Tarjaman al-Qur'an, (2010), p. 238.
[124] Al-Bukhari, M.I., supra, Vol. 6, 2612.
[125] Ibid Vol. 3, 1101.
[126] Abiad, N., & Mansoor, F.Z., supra at p. 72.
[127] Al-Tirmidhi, M. I. *Al-Sunnan,* Beirut: Dar Ihya' al-Turath al-'Arab, Vol.1, (n.d.), 563.
[128] Abu Dawud, S.A.S., *Al-Sunan,* Lahore: Islamic Academy, (1983), Vol. 2, 328.
[129] Ibid, Vol. 2,351.

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killing. It has been reported on the authority of Abu Ayyub Ansari that the Prophet proscribed the act of executing of a person with his hand tied.[130]

7. Prohibition of Acts of Rampaging and Looting: The act of rampaging, looting and stealing property by violent method under the guise of waging *Jihad* is condemned in absolute terms. During the battle of *Banu Nadir* which was a battle with a Jewish tribe that took place in June 625 CE, this was affirmed in a statement made by the Prophet while addressing a gathering that:

> "Does anybody from you, in his arrogance, believe that God has not prohibited anything except the restrictions mentioned in the Glorious Qur'an [?]. By Almighty Allah, the advice I give you and the decree of *amr* and *nahi* (doing right and abstaining from wrong) – my proclamations – are like the Glorious Qur'an or more than that. God has not permitted you to enter into the houses of the People of the Book (*Banu Nadir*) without permission, and beat their women, or consume their fruits. They have paid you whatever was due from them."[131]

8. Prohibition of Brutal and Revengeful Acts: In situation where Islam permits waging war against enemy, it prohibits the destruction of crops, murdering the local population, and burning of properties. Such acts are considered as mischief which is condemned in the Qur'an in absolute terms. It says that: "Whenever he attains authority, he goes about the earth spreading mischief and destroying harvests and killing the human race, even though God (whose testimony he invokes) does not like mischief."[132] This guiding principle was re-enacted by Caliph Abu Bakr who, while dispatching the Muslim army to fight in Syria specifically instructed them in following order:

- Do not kill women, children, and the elderly;
- Do not mutilate dead bodies (*muthla*);
- Do not attack or persecute religious dignitaries and do not destroy places of worship;
- Do not cut fruit-bearing trees and do not set ablaze the harvests;
- Do not demolish houses;
- Do not slaughter animals;
- Honour your pledges; and note that
- The life and property of those who confess loyalty are as sacred as those of Muslims.[133]

9. Peace Gesture Must Be Respected: If fighting military *Jihad* is,*ab initio*aimed at stamping out mischief, injustice and oppression with a view to establish peace, justice and orderly society, peace gesture from the opponent serves as a signal to incline towards those positive values and must be complimented and respected. A number of Qur'an verses points to this position. Military *Jihad* is permitted "until the war lays down its arms,"[134] and "until mischief ends and the way prescribed by God prevails,"[135] The Qur'an is more specific when it states that: "If they leave you alone and do not fight against you and offer you peace, then God does not permit you to harm them."[136]

10. Envoys and Neutral Parties Must not be Harmed: In Islamic jurisprudence, envoys are protected and under no circumstance should they be harmed. When the envoy of Musailama, a rival claimant to prophethood came to Prophet Muhammad and delivered the message of his mission, the Prophet's response was to the effect that: "Had the murder of envoys been permissible, I would certainly have killed you."[137] By method of Qiyas, Muslim jurists have extended the ruling in this prophetic statement to conflict situation and held that if a person approaches the frontiers of an Islamic state and discloses his identity as an ambassador or envoy and declares that he has a message for the Head of State, he will be protected and allowed safe passage without hindrance. Such immunity should be extended to his goods, equipment, servants, staff, and even arms. However, if he fails to establish his credentials as an envoy, he may be denied this immunity.[138] Similarly, those who are neutral and impartial in hostility should not be attacked. This is established in Qur'an where it is stated that: "If they leave you alone and do not fight against you and offer you peace, then God does not permit you to harm them."[139] Muslims are thus required to give this category of people asylum if it sought. It states that: "And if any one of those who associate others with God in His divinity seeks asylum, grant him asylum that he hear the word of God, and then escort him to safety for they are a people bereft of all understanding."[140]

g) Terrorism: A Challenge in Jurisprudence Discourse

Muslims have been victims of embarrassing vilification in recent time as their faith has been persistently associated with terrorism and violence due to the actions of a few extreme individuals who have

[130] Ibid, Vol. 2, 358.
[131] Abu Bakr, M., *Al-Tamhid,* Lahore: al-Maktaba al-Quddusiyya, (1983), Vol. 1, p. 149.
[132] Qur'an 2:205.
[133] Ibn Khaldun, R., M., *Al-'Aibar wa Dewan al-Mubtada Khabar fi Tarikh al-'Arab wa al'Ajami w al-Barbar,* Urdu trans., Lahore: al-Faisal Nashiran, (2004),
[134] Qur'an 47:4.
[135] Qur'an 2:193.
[136] Qur'an 8:61.
[137] See generally Ibn Hanbal, *Musnad,* Beirut: Dar al-Kotob al-'Ilmiyah, (1986).
[138] Abu Yusuf, Y.I., *Kitab al-Kharaj,* Cairo: al-Matba'a al-Salafiyyah, (1963), p. 116; Maududi, S. A.A., *Al-Jihad fi al-Islam,* Lahore: Tarjaman al-Qur'an, (2010), p. 231.
[139] Qur'an 4:90.
[140] Qur'an 9:6.

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engaged wantonly in the act in the name of Islam. The examples of the attack on the twin towers in New York, the bombings of Bali, Madrid and London, the recent attack by 24-year-old Seifeddin Rezaugi that left about 18 British tourists dead at Tunisia popular beach resort in Sousse give justification for this criticism. But the outrage been fuelled further by many media channels which defame Islam by portraying these attackers as 'Islamists' or 'Jihadists', as though they were sanctioned by Islam, or had any legitimacy to act or speak on behalf of the Muslims.[141] It is has been noted that the blanket usage of the terms such as "Islamist terrorism", "Muslim terrorists" "Muslim militants", Muslim extremists" in Western political speech and media has variously been called "counter-productive," "unhelpful," "highly politicized, intellectually contestable" and "damaging to community relations.[142]

Attempt to define terrorism has generated debate among academicians and jurists. Thus, there is neither an academic nor an accurate legal consensus regarding the definition of the term.[143] It is not intended hereto discuss theoretical details of terrorism either in conventional or Islamic jurisprudence. Suffice to say that the contemporary Muslim jurists catalogue all acts of terrorism as rebellion and un-Islamic.[144] This has been replicated in Fatawah and Declarations by a number of internationally acclaimed Muslim institutions and organizations. For example, the Jeddah-based pan-Islamic organization, the Organization of the Islamic Conference (now Cooperation) (OIC), adopted a Convention in the twenty-sixth session of its Islamic conference of Foreign Ministers in Ouagadougou, Burkina Faso, held in July 1999 declaring acts of violence and terrorism un-Islamic. It is stated in the Preamble to this Convention, *inter alia* that:

"…. Believing that terrorism constitutes a gross violation of human rights, in particular the right to freedom and security, as well as an obstacle to the free functioning of institutions and socio-economic development, as it aims at destabilizing State; convinced that terrorism cannot be justified in any way, and that it should therefore unambiguously condemned in all its forms and manifestations, and all its actions, means and practices, whatever its origin, causes or purposes, including direct or indirect actions of States; recognizing the growing links between terrorism and organized crime, including illicit trafficking in arms, narcotics, human beings and money laundering; Have agreed to conclude this Convention, calling on all Member State of OIC to accede to it."[145]

The Convention contain about 12 Articles making provisions on wide range of issues relating to security, violence and terrorism at both local and international levels and how the member states of the Organization could cooperate in combating these phenomena.

Similarly, the Muslim World League in its sixteenth session which was held in the Islamic Academy of Jurisprudence in Makkah in January 5-10, 2002, declared act of terrorism un-Islamic. The Declaration states that all forms of terrorist activities, whether committed by individuals, groups, or states, are inconsistent with Islamic teachings.[146]It is specifically states that:

> "Terrorism is aggression perpetrated by individuals, groups, or states in a spirit of oppression against one's religion, blood, reason, wealth, or honour. It comprises all types of fear-inducing behaviour, harms, and threats, including armed burglary, the spreading of fear amongst travellers, and acts of highway robbery. It covers all acts of violence or threats to commit individual or group crimes for the sake of striking fear amongst people or terrifying them through threats of causing harm to them or endangering their lives, freedom, security, or general conditions. Included in the types of terrorism is the endangering of national resources or the damaging of public utilities or private properties. All of the above are types of mischief on earth, which God prohibited Muslims from committing when He said in the Qur'an: "[A]nd seek not mischief in the earth. Indeed, God does not like those who spread mischief." God has legislated a rigorous punishment for terrorism, aggression, and corruption, and regarded them as acts of war against God and His Messenger (PBUH)."[147]

In similar vein, the Pakistani religious scholars held a meeting in Jamia' Ashrafa, Lahore, Pakistan between 15and 17 April, 2010. The aim of the gathering was to explore the Islamic rules on acts of violence and terrorism. The gathering declared in a Resolution that militant methods such as suicide bombing, kidnapping for ransom, and bombing in public places are un-Islamic.[148]

[141] What Does Islam Say About Terrorism? http://discover.islamway.net/articles.php?article_id=47 (accessed 29 June, 2015).
[142] See for example Jackson, R., "Constructing Enemies: 'Islamic Terrorism' in Political and Academic Discourse", *International Journal of Comparative Politics,* Vol. 42, No. 3, (2007), pp. 394-426.
[143] Myra, W., *Terrorism, War and International Law: The Legality of The Use of Force Against Afghanistan in 2001*, Ashgate Publishing,(2009), p. 38.
[144] Ayaz, Q., and Ahmad, R., supra at p. 77.
[145] *Convention of the Organization of the Islamic Conference (OIC), on Combating International Terrorism,* Council on Foreign Relations, http://www.cfr.org/terrorism-and-the-law/convention-organization-islamic-conference-oic-combating-international-terrorism/p24781 (accessed 29 June, 2015).
[146] Ibid at p. 78.
[147] Ibid.
[148] Abu 'Ammar, Z. R., "Kalimat al-Haqq", *The Monthly, al-Shari'ah,* (2010), p. 2.

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IV. Security and the Making of al-Qaeda and isis

The usual narrative has been that the violent Muslim groups emerged from the influence of teachings of Islam. This narrative is not different from the old accusation of many oriental writers. For example Professor Wilfred Cantwell Smith who in his controversial comments against the background of the history of Western-Islamic relationships said that Muhammad preached Islam with a sword in one hand and the *Qur'an* in the other.[149] In the century immediately following the death of the Prophet Muhammad, Muslim forces conquered lands stretching from the borders of China and India to Spain's Atlantic coast. Bernard Lewis notes:

> "For almost a thousand years ... Europe was under constant threat. In the early centuries it was a double threat—not only of invasion and conquest, but also of conversion and assimilation. All but the easternmost provinces of the Islamic realm had been taken from Christian rulers, and the vast majority of the first Muslims west of Iran and Arabia were converts from Christianity. North Africa, Egypt, Syria, even Persian-ruled Iraq, had been Christian countries, in which Christianity was older and more deeply rooted than in most of Europe. Their loss was sorely felt and heightened the fear that a similar fate was in store for Europe."[150]

A US congressional report alleges that "Saudi Arabia has not stopped its interest in spreading extreme Wahhabism. ISIS...is a product of Saudi ideals, Saudi money and Saudi organizational support, although now they are making a pretence of being very anti-ISIS." It states further that Saudi "money goes to constructing and operating mosques and madrassas that preach radical Wahhabism. The money also goes to training imams; media outreach and publishing; distribution of Wahhabi textbooks, and endowments to universities and cultural centres."[151]

However, DeLong-Bas expresses doubt about this position. According to her, there is too much negative comment towards Wahhabism in the West. She argues that Ibn Abd al-Wahhab was "not the godfather of contemporary terrorist movements", but "a voice of reform, reflecting mainstream eighteenth-century Islamic thought. His vision of Islamic society was based upon monotheism in which Muslims, Christians, and Jews were to enjoy peaceful co-existence and cooperative commercial treaty relations.[152]DeLong-Bas believes that extremism in Saudi Arabia "does not stem from" Islam, but from issues such as oppression of the Palestinian people, "Iraq, and the American government's tying [the hands of] the U.N. [and preventing it] from adopting any resolution against Israel, have definitely added to the Muslim youth's state of frustration."[153] DeLong-Bas was quoted as saying[154] that she did "...not find any evidence that would make me agree that Osama bin Laden was behind the Attack on the Twin Towers.[155] A month later in *The Justice*—the student newspaper of Brandeis University (where she was teaching at the time) -- she disputed the quote, stating: "Of course he did. He's the CEO of Al-Qaeda and the leader of their political agenda. All I claimed was that he didn't have anything to do with the logistics or the planning of the attacks themselves." [156]

It is pertinent to quote a verbatim blunt revelation of Garikai Chengu (A research scholar at Harvard University) in which he states that:

> "Much like Al Qaeda, the Islamic State (ISIS) is made-in-the-USA, an instrument of terror designed to divide and conquer the oil-rich Middle East and to counter Iran's growing influence in the region. …. The CIA first aligned itself with extremist Islam during the Cold War era. Back then, America saw the world in rather simple terms: on one side, the Soviet Union and Third World nationalism, which America regarded as a Soviet tool; on the other side, Western nations and militant political Islam, which America considered an ally in the struggle against the Soviet Union. The director of the National Security Agency under Ronald Reagan, General William Odom recently remarked, "by any measure the U.S. has long used terrorism. In 1978-79 the Senate was trying to pass a law against international terrorism – in every version they produced, the lawyers said the U.S. would be in violation."

During the 1970's the CIA used the Muslim Brotherhood in Egypt as a barrier, both to thwart Soviet expansion and prevent the spread of Marxist ideology among the Arab masses. The United States also openly supported Sarekat Islam against Sukarno in Indonesia, and supported the Jamaat-e-Islami terror group against Zulfiqar Ali Bhutto in Pakistan. Last but certainly not least, there is Al Qaeda.

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[149] See generally, Cantwell, S.W., *Islam in Modern History,* Princeton University Press, (1957).

[150] Bernard Lewis, *Islam and the West* (New York: Oxford University Press, 1993), p. 13.

[151] Butt, Y., (A Senior Advisor to the British American Security Information), *How Saudi Wahhabism is the Foundationhead of Islamist Terrorism*, http://www.huffingtonpost.com/dr-yousaf-butt-/saudi-wahhabism-islam-terrorism_b_6501916.html (accessed 29 June, 2015)

[152] Meri, J.W., *Medieval Islamic Civilization: An Encyclopaedia,* Routledge, (2005), *Jihad,* p. 419.

[153]"American Professor Natana DeLong-Bas: 'I Do Not Find Any Evidence...'". *Islam Daily Observing Media*. 03 Jan 2007; also see generally, *Jihad and The Islamic Law of War*, The Royal AAl-Al-Bayt Institute for Islamic Thought, Jordan, (2009).

[154]In an interview in the London daily *Asharq Al-Awsat* - December 21, 2006.

[155] "American Professor Natana DeLong-Bas, supra.

[156] Bernard, H., Culture and Controversy, *The Justice, http://www.thejustice.org/article/2007/01/culture-and-controversy* (accessed 24 June, 2015).

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Lest we forget, the CIA gave birth to Osama Bin Laden and breastfed his organization during the 1980's. Former British Foreign Secretary, Robin Cook, told the House of Commons that Al Qaeda was unquestionably a product of Western intelligence agencies. Mr. Cook explained that Al Qaeda, which literally means an abbreviation of "the database" in Arabic, was originally the computer database of the thousands of Islamist extremists, who were trained by the CIA and funded by the Saudis, in order to defeat the Russians in Afghanistan.

… ISIS recently rose to international prominence after its thugs began beheading American journalists. Now the terrorist group controls an area the size of the United Kingdom. In order to understand why the Islamic State has grown and flourished so quickly, one has to take a look at the organization's American-backed roots. The 2003 American invasion and occupation of Iraq created the pre-conditions for radical Sunni groups, like ISIS, to take root. America, rather unwisely, destroyed Saddam Hussein's secular state machinery and replaced it with a predominantly Shiite administration. The U.S. occupation caused vast unemployment in Sunni areas, by rejecting socialism and closing down factories in the naive hope that the magical hand of the free market would create jobs. Under the new U.S.-backed Shiite regime, working class Sunni's lost hundreds of thousands of jobs. Unlike the white Afrikaners in South Africa, who were allowed to keep their wealth after regime change, upper class Sunni's were systematically dispossessed of their assets and lost their political influence. Rather than promoting religious integration and unity, American policy in Iraq exacerbated sectarian divisions and created a fertile breeding ground for Sunni discontent, from which Al Qaeda in Iraq took root. There are essentially three wars being waged in Syria: one between the government and the rebels, another between Iran and Saudi Arabia, and yet another between America and Russia. It is this third, neo-Cold War battle that made U.S. foreign policy makers decide to take the risk of arming Islamist rebels in Syria, because Syrian President, Bashar al-Assad, is a key Russian ally. Rather embarrassingly, many of these Syrian rebels have now turned out to be ISIS thugs, who are openly brandishing American-made M16 Assault rifles.

… ISIS is not merely an instrument of terror used by America to topple the Syrian government; it is also used to put pressure on Iran. … America is using ISIS in three ways: to attack its enemies in the Middle East, to serve as a pretext for U.S. military intervention abroad, and at home to foment a manufactured domestic threat, used to justify the unprecedented expansion of invasive domestic surveillance."[157]

[157] Chengu, G., *The War on Terrorism is Terrorism,* http://www.counterpunch.org/2014/09/19/how-the-us-helped-create-al-qaeda-and-isis/(accessed 23 June, 15)

It is argued that in view of this revelation, it is naïve to suggest that Islam and its over a billion innocent population around the world are responsible for the emergence of these terrorist groups. The Muslims may not be totally exonerated but, certainly the solution may be said to be beyond their control.

V. Conclusions and Recommendations

It can be concluded from the above analysis that security is a subject of concern to all including the Muslim world. Islam stands for peace and security despite unholy violence and terrorism perpetrated by a tiny group of Muslims which point to the contrary. There has been shift from the classical division of the world into Dar-al-Islam and Dar-al-Harb. This has opened a new chapter in security within the conceptual framework of the Islamic jurisprudence. Under the Islamic jurisprudence, the security, preservation of life, and the preservation of wealth or property are important components of the objectives of the *Shari'ah* (*Maqasid al-Shari'ah*). In other words, the *Shari'ah* framework is to establish justice leading to the attainment of those objectives. It is true that the word *'Jihad'* is capable of dual meanings. The *Qur'an* and *Sunnah* are unequivocal in condemning any attempt to interpret this term to justify acts of terrorism and violence especially against innocent people and institutions. Contemporary Muslim jurists are doing their bits to prove and assert the position of Islam on the issues of security and acts of violence and terrorism. However, these efforts are arguably being undermined and eclipsed by the powerful forces of predominant international politics. The much prescribed Islamic solutions to the hydra-headed phenomena of violence and terrorism emanating from Muslim territories had become irrelevant. This is because many terrorist groups that claim to fight in the name of Islam are arguably brainchild of the international political ideologies. How they emerged is a topical issue between the Islamic and Western blocs.

a) Recommendations

It is suggested here that the stakeholders in international politics should review their preponderant ideologies which are set to achieve certain political and economic interests at the expense of international security. Governments of many majority Muslim states should strive to imbibe the culture of democracy and rules of law within their cultural and religious values. This will go a long way to give many groups particularly, potential Muslim political groups sense of belonging in the running of State affairs. Western democracy should promote the democratic values and encourage developing nations to practice these values according to their culture and religious belief. Any attempt to impose democratic standard or value of a country on another will be counterproductive and lead to emergence of

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violent groups particularly among the youths. Muslims around the world should do more to dissuade youths from radicalization especially through social-media.

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