journals.unizik.edu.ng/index-php/jcpl ISSN: 2736-0342
NNAMDI AZIKIWE UNIVERSITY, AWKA
JOURNAL OF COMMERCIAL AND PROPERTY LAW

Misconception of the Legalisation of Armed Conflicts under Shari'ah: A Review of Shari'ah Ethical Standpoint

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Abstract

Shari'ah has been attacked tremendously for the past three decades. The fulcrum of the attacks has been the wrongful misconception of the legalization of armed conflicts under Shari'ah. To worsen the situation, most players in the armed conflicts carried Shari'ah emblems and cited the legislation in the primary sources of Shari'ah as validity for their actions. This has given Shari'ah legal system bad image across the universe with respect to incessant collapse of commercial transactions, amongst other in the affected region. This thus prompted these researchers to review the misconception surrounding legalization of the armed conflicts under Shari'ah. With the aid of doctrinal method of legal research, the paper finds that the misconception is deeply rooted in the history of Shari'ah which experienced series of attacks/wars from the enemies and the divine legislation to fight for self defence. The paper finds further that most who engaged in armed conflicts in the recent time intentionally interpreted Shari'ah legislation to suit their illegal agenda. The paper ultimately finds that Shari'ah legislation is about ensuring peace and tranquility on earth as showcased by Prophet Muhammad (PBUH) and never supported conflicts of whatever guise. The paper recommends proper understanding of the Shari'ah standpoint on armed conflicts with a view to reconciling the misconceptions across the world.

Keywords: Misconception, Legalisation, Armed Conflicts, Review, Shari'ah Ethical Standpoint.

1. Introduction

Conflict refers to clash of interest among people which subsequently lead to use of physical and mental means of attacks. It is viewed as 'a disagreement between two or more individuals.'[1] Modern conflict is therefore a situation capturing the occurrence of misunderstanding taking place in the recent time (i.e. this century) involving use of military advanced weapons[2] to levy attack or defend one's territory from invasion. To this end, Michael Nicholson[3] states that modern conflict is an activity ensuing when conscious beings (individual or group) wishing to carry out mutually inconsistent acts concerning their wants, needs and obligations. This may involve an escalation of disagreement which if not tamed may lead to violent and destructive activities in form of disturbance of public peace or even war. Little wonder the modern conflict is perceived as modernized means of waging war.[4]

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[1] DL Austin, 'Definition of Conflict' <https://ebrary.net/2852/management/conflict>accessed 4 April 2024

[2] Robotics, Massive Ordnance Penetrator bombs, Peregrine Air-to-Air Missile etc.

[3] M Nicholson, 'Rationality and the Analysis of International Conflict' (Cambridge University Press 1992).<https://www.google.com/url?q=https://mariancrc.org/wp-content/uploads/>accessed 4 April 2024.

[4] Global Justice Blog 'Peace and Conflict Series: What is so 'Modern' about Modern Conflict?' <https://www.globaljusticeblog.ed.ac.uk/2017/02/08/peace-and-conflict-series-3/> accessed 20 March 202.

Be that as it may, the identities and activities of the players in the modern conflicts gave rise to the general misconception that Shari'ah gives nod to engagement in conflicts.[5] Debates have been on for centuries tilting towards discovering the root of conflicts that metamorphosed into what it is in the modern time. Thus, from academic angle, the need to settle the misconception is not superfluous. Against this backdrop, this paper thus x-trays the Shari'ah standpoint on the modern conflicts with a review to reconciling the misconception against Shari'ah with respect to the modern conflicts.

2. Brief Overview of the Modern Armed Conflicts

The world has always been experiencing conflicts of one kind or another. The cause of them is usually fundamental greed and selfishness that human minds are characterized with.[6] If one is accustomed to history, it should not be hard to relate with today's unceasing violence in the world and see it as a part of normalcy. Occurrences like World Wars[7] I and II are examples of conflicts that history can never forget due to their damaging effects.[8]

In the recent time, conflict assumes uniquely apprehensive style having become more sophisticated. This sophistication is the courtesy of rapid technological advancement in this century as it raises concerns about situations like cyber-attacks and weaponization of bots and drones.[9] This situation thus makes the modern conflicts deadlier and harder to resolve. It has become easier for violence perpetrators to lodge their attacks by working their ways around some firewalls on the internet to infiltrate the defence mechanism of their targets.[10]

3. Forms of Modern Armed Conflicts

The modern conflicts take different forms. It ranges from big ones with deadly effects like war to small ones like interpersonal misunderstanding.[11] The fulcrum of this paper is thus on the bigger aspects of this categorization and how they have been attributed to Shari'ah dictates. As far as this century is concerned, part of the most popular ongoing conflicts include civil wars, proxy wars, armed insurgency, genocides, riots, gang wars, spyware etc.

4. Root of the Modern Armed Conflicts

A number of causes have been attributed to the modern conflicts in the world over. But the significant part of them relate to identity in form of culture or religion.[12] Another notable cause is establishment of supremacy by a group on the other. In most cases the other would rather choose to revolt rather than succumb to that supremacy. The act of revolt would be met with another

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[5] A Walker, 'What is Boko Haram?' <https://www.uisp.org/default/files/SR308.pdf> accessed 21 June 2024.

[6] WV Doorn, 'Greed' and 'Grievance' as Motivations for Civil War: The Libyan Case' <https://www.e-ir.info/2013/03/09/the-libyan-case-greed-and-grievance-as-motivations-for-civil-war/> accessed 10 February 2024.

[7] World War 1 took place from 1914-1918; World War 2 from1939-1945

[8] The Post War World, International Monetary Fund (IMF)<https://www.imf.org/external/np/exr/center/mm/eng/mm_dr_01.htm>accessed 10 February 2024.

[9] E Anthony, 'Automated motilities: From weaponized drones to killer bots'<https://www.researchgate.net/publication/329102985_Automated_mobilities_From_weaponized_drones_to_killer_bots> accessed 2 March 2024.

[10] KS Pranay, 'Impact of Tech on war' <https://raksha-anirveda.com/impact-of-technology-on-war/>accessed 2 March 2024.

[11] N Sullivan, 'Nature of Modern War and Conflicts'
<https://study.com/academy/lesson/the-nature-of-modern-wars-conflicts.html>accessed 2 March 2024.

[12] L Michelle, 'Culture and Conflict' <https://www.beyondintractability.org/essay/culture_conflict>accessed 2 March 2024.

greater act of violence. In situations that physical attacks are not used, political and economic ones would be employed. And all these are having devastating effects on the world generally as it becomes more unsafe to live every day.

In another sphere, modern conflicts involve some notable eight factors which include, conflicting resources, conflicting styles, conflicting goals, conflicting perceptions, conflicting pressures, conflicting roles, different personal values and unpredictable policies.[13] Meanwhile, supremacy, injustice, vulnerably, distrust and helplessness have also been viewed as causes of modern conflicts.[14] If keen attention is paid to all the disruption going on in the world, it is basically because of one or combination of two or more of these factors. Even the matter of religion is part of asserting supremacy of faith by a part on another. There have been protests[15] from different corners of the world in situations whereby people feel they have been maltreated or sidelined. On the global stage, modern conflicts abound.

The ongoing conflict in Ukraine is the latest of the world's conflicts. The war started with Russia in February 2014 and escalated a year ago. From last year till now thousands of lives have been lost[16] and the war has resulted in many citizens leaving their homes for safety purpose. The end of this war is not yet in sight and the amount of destruction it might cause too is unknown.

Another popular conflict in the recent time is the one going on in Afghanistan.[17] This is not a single conflict experience as the country has suffered a lot due to decades of violence involving civil wars, foreign interventions, insurgency and political and economic insecurity, among others. The recent upheaval in Afghanistan has put many of her citizens in untold suffering which the end date is not yet in sight.

Another reigning conflict in this century is the one taking place at Ethiopia. This conflict has been happening for decades. It is about the fight the country is having with her neighbour, Eritrea. This conflict is characterized with internal power struggles and nearly two years of civil war. The decade long conflicts which got intensified in 2018 after dissolution of the dominant party political coalition, the Ethiopian People's Revolutionary Democratic Front,[18] is causing the country a lot of atrocities and making citizens to suffer.

South Sudanese civil war has been causing the citizens of the country hardship too. The conflict started in 2011 after the South Sudan's declaration of Independence from Sudan. This conflict has been going on for decades despite internationally supported efforts[19] to reach a ceasefire through several agreements and resolution strategies.

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[13] Bell and Hart, '8 Causes of Conflict' <https://Www.Thebestof.Co.Uk/Local/Lincoln/Community-<Hub/Blog/View/Eight-Causes-Of-Conflicts-According-To-Bell-And-Hart/> accessed 2 March 2024.

[14] E Roy, 'Dangerous ideas: Five beliefs that propel groups toward conflict'" <https://pubmed.ncbi.nlm.nih.gov/12772423/>accessed 4 April 2024

[15] Ibid.

[16] K Thomas, Ukraine war: Total number of civilian casualties in Putin's invasion<https://www.independent.co.uk/news/world/europe/how-many-have-died-in-ukraine-war>accessed 4 April 2024.

[17] International Conflict in Afghanistan beginning in 2001 that was triggered by the September 11 attacks <https://www.britannica.com/event/Afghanistan-War>accessed 4 April 2024.

[18] The Ethiopian People's Revolutionary Democratic Front was an ethnic federalist political coalition in Ethiopia that existed from 1988 to 2019.

[19] Several UN Missions in Sudan

Another instance of conflicts is the one going on in Yemen between government coalition forces and Houthi rebels[20] since 2015. This country is known to be one of the poorest countries in Arab world.[21] The ongoing conflict has left the citizens in the worst state than they used to be before the conflict broke out. Through this conflict, thousands lives have been lost and millions have been displaced, among other disastrous effects.

Another instance of conflict in today's world is the one going on Turkey. This strife started as a result of denial by the government against the establishment of independent Kurdish states. This conflict is characterized with waging of insurgency by the PKK[22] and the national government. This war became expanded in 2014 when the leader of the rebel group, Abdullah Ocalan, started calling for 'all-out resistance' in the fight against the neighbouring Islamic states.[23]

Talking of conflicts, Israeli-Palestinian conflict is one of the most enduring in the history of the conflicts in the world. The conflict which was reported to have started in 1948 is still ongoing without any viable resolution in sight. The major causes[24] of the conflicts are identified to include ownership of land and its control which in other words means sovereignty and security. This conflict is particularly popular for the usage of advanced war weapons. All attempts made to resolve the problem have been proving abortive.

From the foregoing it is obvious that the world is breathing conflicts. It is also evident that it does not start today as many of these conflicts dated back to previous century. Looking at the mentioned conflicts above, there is none that anyone can say is purely religious. Even the one going on Islamic territories like Sudan and Palestine has more to do with establishing worldly supremacy than religious. This is to clearly state that humans in their selfishness fight and somehow relate it to religion, while the real cause is worldly. Another important point inferable from the above instances is the fact that conflicts in the modern world take place across the world and not limited to a particular country or continent.

There are certain deadly occurrences which can be easily attached to the modern conflicts. The likes of which are: bombing, espionage, kidnapping, spyware, ransom ware, biochemical attacks, and so on. Conflicts have both short and long term effects and those effects are making human lives becoming not conducive on daily basis. Within the last decade, a report showed that at least 100 million people in the world were displaced due to a form of conflict or the other.[25]

Having discussed what conflict means especially in the modern world, it is obvious that Shari'ah which has often been accused of causing conflicts is actually not the cause. The misconception is thus not far-fetched.

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[20] Wilson Center, 'Who are Yemen's Houthis?' <https://www.wilsoncenter.org/article/who-are-yemens-houthis>accessed 4 April 2024

[21] This include: Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Somalia, Sudan, Syria etc

[22]PartiyaKarkeren Kurdistan (PKK), meaning: Kurdistan Workers' Party

[23] Bulgaria, Armenia, Azerbaijan and Iran

[24] KR Selina, 'What Were the Causes and Consequences of the Arab-Israeli War?' <https://www.e-ir.info/2014/01/15/what-were-the-causes-and-consequences-of-the-1948-arab-israeli-war-2/>accessed 20 March 2024

[25] Relief Web, 'Alert 2021! Report on Conflicts, Human Rights and Peace Building' <https://reliefweb.int/report/world/alert-2021-report-conflicts-human-rights-and-peacebuilding>accessed 20 March 2024

5. Misconception of Legalization of Armed Conflicts under Shari'ah

Some percentages of the modern world armed conflicts are erroneously attributed to Shari'ah dictates.[26] And talking of religion, Islam, being the product of Shari'ah, has gotten itself a huge attention in the midst of all the crises going on in the world.[27] This situation did not start today because it is rooted in the past from the belief that Shari'ah legal system was being established by swords.[28] This wrong notion was the reasons some part of the world believe Shari'ah is a threat to their existence. However, Shari'ah legal system offers a peaceful atmosphere from the Supreme Law Giver through His Messenger, Prophet Muhammad (PBUH) for the purpose of easing the world's affair and not to cause any difficulty whatsoever as firmly spirited in the Qur'an.[29]

It is noteworthy that the sword and blood notion have given a strange identity to Shari'ah and its adherents, presenting them as violent phenomenon on earth. That is what has been promoted by the world media through their hypocritical propaganda as being directed by their owners who are war profiteers and enemies of peace Shari'ah stands for. The propaganda reached a stage at which Shari'ah principle of *Jihad* has been conceptualised as all forms of violence[30] thereby portraying Shari'ah as inhumane laws.[31] The misconception is thus not farfetched from the history as to how the Prophet Muhammad (PBUH) struggled to establish the Shari'ah legal system in Makkah.

It is not gainsaid therefore that there were and still are authors, mostly of western descent, who particularly embarked on the mission of dehumanizing the peaceful Shari'ah legal system. This caucus of people carries out their mission through some of the most effective means in today's world i.e. media and book publications. Articles and books are examples of the intellectual weapons employed by these people paint badmouth and black paint Shari'ah.[32]

Understanding the sheer hatred as the cause of such wrong misconception being held by the some non-Muslims, it is quite surprisingly confusing seeing Muslims in today's world acting in ways that attest to wrong definition giving to Shari'ah.[33] Extremists with deadly and wrong ideologies which are mounted on the belief that no religion must exist aside Islam are part gasoline these anti-Islamists are using to fuel their agenda. These extremists have been causing a lot of violence based on blind followership[34] of their *Sheiks* who are found of interpreting verses of *Quran* and *Sunnah* of Prophet to suit their whims and caprices.

The crisis of September 11 in 2001, popularly known as 9/11, is one of the atrocious events attributed to Islam. The popular knowledge in the public domain attributed credit of the sad event

[26] International Crisis Group 'Northern Nigeria: Background to Conflicts' Working Paper to Prevent Conflict, Africa Reports No 168, 2010' <htpps://www.icrc.org/en/download/file/79244/ihl_and_islamic_law.pdf> accessed 21 June 2024

[27] Ibid

[28] H Ahmad, 'Top Ten Misconceptions about Islam' <https://ukm.my/kamal3/iea/Misconceptions%20...out%20Islam.pdf> accessed 21 April 2024

[29] Qur'an 2 (Al-Baqora) v 185 says: "Allah intends for you ease, and does not intend for you hardship"

[30] Meanwhile, it doesn't strictly mean physical struggle, but disciplining one's soul to adhere to Allah's rules

[31] Meanwhile Shari'ah is a law from the Supreme and it has its primary sources from Qur'an and Sunnah

[32] Satanic Verses by Salman Rushdie

[33] FMT Al-Olaqi, and NU Shaikh, 'The Sword in the Islamic World View' *International Journal of Philosophy and Theology* (2016) 4(1) 42-54

[34] Allah says in Surat Al-An'am: "Wert thou to follow the common run of those on earth they will lead thee away from the Way of Allah"

to Osama bin Laden[35] and Al-Qaeda.[36] After this occurrence, many more bad names were added to the list for Shari'ah. Although it is more than two decades ago, but the impact is still felt in relation to how Shari'ah is being perceived especially in the western part of the world. This fundamentally wrong notion about Shari'ah is deserving of re-writing for the world to see clearly the Shari'ah standpoint with respect to conflicts and the surrounding misconceptions.

6. Review of Shari'ah Ethical Standpoint

The truth is that, history recorded instances of blood and sword while the Prophet Muhammad (PBUH) was struggling to establish Shari'ah legal system in Makkah.[37] It is however, noteworthy that those swords and bloodsheds were not at the instance of the Prophet (PBUH);[38] rather Shari'ah legal system spread through strategic propagation and intelligent admonition flavoured with love and care.[39] The method of *Dawah* (call) used by the Prophet (PBUH) was as ordained by the Almighty Allah thus:"*Invite (all) to the Way of thy Lord with wisdom and beautiful preaching; and argue with them in ways that are best and most gracious."*[40]

Notwithstanding the above, growing up in the city of Makkah, the Prophet (PBUH) was known for his integrity and his track record was clean as he has no act of immorality attributed to his name. Due to his honesty which was also attested to by idol worshippers of Makkah, he was nick-named '*Al-Amin*' i.e. the trustworthy.[41] More so, there were many stories in attestation to the beautiful traits of the Prophet.[42] Part of these was when he assisted an old idolatress to carry luggage knowing that the content was the statutes of her gods. The woman was talking bad of him to warn him against the man named Muhammad not knowing he was the one. The woman, upon getting to know, accepted Islam on the spot.[43]This attests to the typical acts of kindness through which the message of Shari'ah legislation was spread.

It is important to clarify that involvements in the wars by the Muslims at the earliest period of Shari'ah legislation were unavoidable reactions to the situation on ground at that period.[44] At those early days of Islam, believers were living in trepidation for years before Shari'ah started gaining foot in the city of Makkah and its environs. Those who are conversant with history of Islam will attest to the fact that the height of persecution Muslims suffered in the hands of nonbelievers was what warranted the Muslims to defend themselves. One of the most horrible was the scene of

[35] Who is Osama bin laden? <https://obamawhitehouse.archives.gov/blog/2011/05/02/osama-bin-laden-dead>accessed 20 March 2024

[36] Al-Qaeda? <https://www.pbs.org/wgbh/pages/frontline/shows/binladen/who/alqaeda.html>accessed 20 March 2024

[37] A Sultana, 'Digging Islamic Roots of Jihad to Unveil the Truth' <htpps://www.politicsandreligionjournal.com/index.php/prj/article/view/360/407> accessed 21 April 2024

[38] ibid

[39] Qur'an Chapter 3 verse159

[40] Qur'an 16 (An-Nahl) verse 125

[41] i.e. The Faithful or The Trustworthy

[42] AIM At-Tirmidhi, 'The Characteristics of Muhammad' <https://muqith.files.worldpress.com/2010/10/the-characteristics-of-prophet-muhammed-pbuh.pdf> accessed 21 April 2024

[43] Source: Sahih Bukhari Vol. 1, Book 3, Hadith 92

[44] Starting around 7th century when Islam was firstly introduced in Mecca

torture of Bilal[45]on whose chest a heavy rock was placed for several hours because he refused to deny Muhammad and Shari'ah.[46]

Wars then were fought for the liberation and defence of the group of Muslims from the attack of the idol worshippers who kept striking them indiscriminately day and night, including the women and children among them. This was something Muslims would never do, as Islam clearly forbids indiscriminate attacks for it is considered a transgression.[47] When Muslims were forced to fight, they did it with clear instructions from their Lord and His Messenger. They avoided overreaction and unjust attack especially against the vulnerable i.e. kids and women. The bloodsheds were those of able men on the battle grounds who have lunched attack at them at the first instance. This evident that Shari'ah is ethically against unjust war. For instance, during the fight against Byzantine army, the Prophet (PBUH)[48] instructed his troop thus:

> *In avenging the injuries inflicted upon us molest not the harmless inmates of domestic seclusion; spare the weakness of the female sex; injure not the infants at the breast or those who are ill in bed. Refrain from demolishing the houses of the unresisting inhabitants; destroy not the means of their subsistence, nor their fruit-trees and touch not the palm ... and do not mutilate bodies and do not kill children*.[49]

While talking of religious violence, it seems history chooses to be silent about some ruthless conflicts that have taken place in the past with credits to Christianity one of instances of which is the Crusade. The Crusades are series of violent conflicts that took place within the 11th to 13th centuries[50] over a control of land in the Middle East with the European Christians as the major players. The wars were full of scenes of widespread massacre of Muslims, Jews and non-Christians. This shows that the world is used with employing violence in fighting. But under Shari'ah, fights are only permitted in defined circumstances of self defence. Allah says:[51]

> *Allah does not forbid you from those who do not fight you because of your faith, and do not expel you from your homes, from being righteous towards them and acting justly towards them. Indeed Allah loves those who act justly.*

The above verse attest to the fact that, unless it becomes essentially unavoidable, that is, it reached a stage where Muslims were being maltreated as in situations of being forcefully driving out of their homes and being fought because of their religion, involving in armed conflicts is considered a serious transgression and abomination. The reason being that Allah warns in the Qur'an that whoever kills a single soul for no just cause shall be deemed to have killed all mankind as a form of severe punishments and consequences.[52]

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[45] Bilal ibn Rabah al-Habashi; the first prayer caller (mu'azzin) in the Muslim faith

[46] 'He was beaten mercilessly, dragged around the hills of Mecca and subjected to long periods without food or water.' <https://www.sj-r.com/story/lifestyle/2021/03/13/story-bilal-ibn-rabah/4646693001/>accessed 20 March 2024

[47]Qur'an 2 (Al-Baqora) verse 190: 'Fight in the cause of Allah those who fight you, but do not transgress limits; for Allah loveth not transgressors.'

[48] Peace be upon him

[49]AA Galwash, 'The Religion Of Islam' <https://www.islambasics.com/chapter/xxxii-payment-of-tribute-called-jiziaislam-jizia-or-the-sword> accessed 10 February 2024

[50] The Crusades (1095–1291) <https://www.metmuseum.org/toah/hd/crus/hd_crus.htm>accessed 10 February 2024

[51] Qur'an 60 (Al-Mumtahana) verse 8

[52] Qur'an 5 (Ma'idah) verse 32

Further, it is quite surprising today to see extremists acting using religion as an excuse to cause atrocities in world. They may be claiming to be Muslims but their actions do not represent what Shari'ah legislates.[53] These people are the misrepresentation of Shari'ah because what they are doing is against what Shari'ah dictates. As a result, the media nowadays is filled with news of one terrorist act or another being attributed to Muslims.

There is nothing in the tradition of Prophet that suggests such method of propagation of Shari'ah. The salient principle laid down by the Prophet under Shari'ah is 'do not inflict injury and do not reciprocate injury.' This irresistibly points to the fact that Prophet was sent as a mercy to the world.[54] The extremist are usually acting under the influence of blind followership for their leaders against the tenet of Shari'ah.[55] In most cases, they hide under obnoxious campaign for Shari'ah to revenge for a particular wrong they might have suffered in the hands of their targets. These people are fond of citing *jihad* as the basis of their actions. This position is far from the truth because under Shari'ah*jihad* does not need to involve armed violence.

The concept of Jihad under Shari'ah signifies struggling for the course of Allah. Qur'an says, 'Fight in the way of Allah.'[56] From the jurisprudence of Islamic law, *Jihad* has three categories, namely:

i. Struggle against oneself which is of the highest order (*Jihad al-Akbar*)
ii. Struggle for the propagation of truth (Qur'an) which is of major order (*Jihad al-Kabir*)
iii. Struggle of a defensive battle which is of lower order (*Jihad al-Asghar*)

From this categorization, it is obvious that, extremists are involving in the lower form of *jihad* which is physical fight. And in fact, the rationale behind their actions cannot be said to be religious. The Prophet (PBUH) was reported to have told his companions when returning from a battle that the best form of *Jihad* is the one against their soul because what jihad entails is to definitely strive to run away from all what Allah and His Messenger warns from against of which violence is inclusive.[57] The physical fight is only comes to play at the last resort for defensive purpose. This is the correct concept of physical fight in Islamic jurisprudence as orchestrated thus:[58]

> *Permission (to fight) has been given to those who have been fought, because they were wronged. And indeed Allah is competent to give them victory. (They are) those who have been evicted from their homes without right - only because they say, 'Our Lord is Allah'*

The above quoted verse of the Qur'an evidences that Shari'ah opposes violence. Thus, whoever is involved in violent acts under the pretense of Shari'ah is a hypocrite.[59] This is because every aspect of Islam is to promote peace and humans wellbeing in the world. Although it may seems confusing, especially to those with lack of in-depth understanding of Shari'ah, to see these perpetrators of violent acts citing authorities of Qur'an and Sunnah to back their actions. The truth is the verses

[53] Qur'an 34 (Sabai) verse 28
[54] Qur'an 21 (Al-Anbiyai) 107
[55] Qur'an 6 (Al-An'am) verse 116
[56] Qur'an 2 (Al-Bakhora) verse 190
[57] UA Lanase, 'Analysis of the Rights and Treatments of War Captives under Islamic International Law' *International Humanitarian Law* (2022) 57
[58] Qur'an 22 (Al-Hajj) verse 39
[59] The Prophet was reported to have said: 'A Muslim is that person whom people are saved from the evil of his tongue and hands'

and traditions were twisted to suit their odious and atrocious acts. In the Qur'an (Surat at-Tawba),[60] Allah declares: "*And when the sacred month have passed, then slay the idolaters wherever you find them and capture them and besiege them and sit in wait for them in every place of ambush".*.

It is important to note that this verse was circumstantial and revealed for the circumstance alone. It was released during the period of war to prohibit attacks on non-believers with a view to observing the sanctity of sacred months.[61] This is a grace the other party would not give the Muslims. The implication of the verse is that, it does not mean that Muslims are permitted to attack non-believers for no reason outside these periods.

Abu Huraira reported the Prophet to have said:[62]"*Do not initiate the greetings of peace with Jews and Christians. When you meet any of them in the road, push them to the narrower part of the road*."

The *hadith* seems to be promoting violence but it is not. It was circumstantial as well because according to Ibn Quayyim, the statement was made in a specific situation when the Muslims were marching to the tribe of Qurayzah who had violated their peace agreement. And 'push them' does not entail physical pushing. It means do not leave the wider part of the road for them, an act which would have been a sign of respect to those people according to their culture.

Other verses abound[63] which have been so misinterpreted or narrowly interpreted. To therefore avoid the effects of such misinterpretation, knowledge of Shari'ah and most importantly *MaqasidShari'ah* is needed to be sought especially with respect to the *SabaabNuzul* (the circumstances behind various verses and sayings of the Prophet). It is hereby trite that Shari'ah legal system forbids conflict and can never be said to be the causes of any conflicts whatsoever. At best, Shari'ah stance on conflict presents a great recipe for anti-conflict mechanism.

7. Shari'ah Stance on Conflicts

In the recent time, conflicts are reigning without any viable solution in sight. Governments both at national and international level are wallowing in aftermaths of crisis that have befallen their territories. Different forms of leadership ideologies were employed to solve the problems they fail. As a result of this, now is the time to once again remind the world of the beauty of Shari'ah and how it is best option for the world to escape this calamitous trap it found itself.

To start with, Shari'ah legislated for Islam as a religion. The term Islam originated from Arabic word, '*salaam*'[64] which literally means peace. Technically, Islam means total submission to the will of Allah. This means absolute adherence to His Ordinance with sincerity. To be a Muslim, there are six articles of faiths[65] that are needed to uphold. They include beliefs in the oneness of Allah, the Prophet, the Book, the Angels, the Last Day and Predestination. Believing in these six goes beyond just saying them, one needs to act upon them day-in-day-out whether in private or public.

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[60] Qur'an 9 (At-Tawba) verse 5
[61] These months are *Rajab* (7th month), *Dhul Qadah*(11th month), *Dhul Hijrah* (12th month) and *Muharam*(1st month).
[62] Sahih Bukhari
[63] For example, Qur'an 47 (Muhammad) verse 4; Qur'an 2 (Al-Baqora) verse 191
[64] What's Islam? <https://www.britannica.com/topic/Islam>accessed 10 February 2024
[65]Key believes in Islam <https://www.bbc.co.uk/bitesize/guides/zr4r97h/revision/1>accessed 10 February 2024

Shari'ah primary sources are the Quran and Sunnah being referred to as the Book and Prophet (PBUH) above. The fact that there is the Book, an overall fundamental law that guides all affairs, and the Prophet, whose life is a practical example[66] in all matters is a unique attribute that no other man-made system of living has today. Shari'ah legal system is an encapsulating of all Muslims' affairs. This is attested to when Allah says: 'We have neglected nothing in the Book (of decree)'.[67]

In the discussion of individual differences across the universe, one of the most popular factors today is religion. Being the words of the Supreme, the *Quran* has always provided the most relevant response to all situations. Allah says in Qur'an Chapter 2 that there is 'no compulsion in religion'.[68] And also, all what Allah sent the Prophet to do is calling, and He made it clear for Prophet Muhammad (PBUH) that whether they accept or not is not his concern.[69] Looking from the Islamic perspective of freedom of ideology, it is obvious that the popular '*Ubuntu*'[70] statement has its root from the words of Allah.

Assuming the world see from the perspective of Shari'ah as regards to humans differences which is the basis of conflicts that have drenched the world, the situation would have not been worse like this. Shari'ah looks at human beings from a unique perspective of the common origin of man. The Qur'an provides:[71]"*O mankind, fear your Lord, who created you from one soul and created from it its mate and dispersed from both of them many men and women".*

This is to always remind mankind that all humans are brothers and sisters. Putting this at the back of one's mind, physical fights with another would be discouraged. That brotherhood connotation, assuming it is applied today, would have gone a long way in resolving the conflicts, and promoting the peace.

Putting it in another context, Shari'ah has always been the upholder of peace. Looking into the history, there are instances where Muslims had to compromise for peace to reign. This is because the ultimate goal is not to prove superiority, but to foster peace by whatever means. The likes of these situations is the treaty of *Hudaybiyah*.[72] This treaty based on four terms[73]agreement as dictated by the *Quraysh* which were not favourable to the Muslims. Also, as part of the conditions the Prophet was prohibited to start his statement with *Bismillahi* or refer to himself as the Prophet of Allah. Nonetheless the Prophet signed the treaty for the sake of peace.

Also, despite the persecution suffered in the hand of the idol worshipers of Makkah, the Prophet offered them clemency upon his return to Mecca with victory. And if not for the long chain of revenge that every party keeps pulling in today's world, the conflicts would have been subdued to a reasonable extent. Unlike the Prophet Muhammad (PBUH), no individual or nation is ready to let go for the sake of peace.

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[66] Qur'an 68 (Al-Qolam) verse 4
[67] Qur'an 6 (Al-An'am) verse 38
[68] Qur'an 2 (Al-Bakhora) verse 256
[69] Qur'an 10 (Yinusa) verse 99
[70] African philosophical term roughly translated to mean: humanity towards others <https://www.newworldencyclopedia.org/entry/Ubuntu_(philosophy)>accessed 30 March 2024
[71] Qur'an 4 (An-Nissa) verse 1
[72] A Sultana, 'Digging Islamic Roots of Jihad to Unveil the Truth' <htpps://www.politicsandreligionjournal.com/index.php/prj/article/view/360/407> accessed 21 April 2024
[73]ibid

The foregoing is just a little illustration out of the bulk of related instances where Shari'ah legal system has displayed its craving for peace. And if this system worked then, it still will work today. This is to state that Shari'ah anti-conflict mechanism is a great panacea for the modern conflicts in the world over.

8. Conclusion

This paper showcases that most modern conflicts across the world have been linked with Shari'ah as the background factor. This is owing to the fact that most perpetrators or players in the armed conflicts claimed to the adherent of Shari'ah teachings. However, a number of armed conflicts examined above showed that the rationale behind them is rather political and economic than religion.

The paper admits that the wrong misconception about Shari'ah for serving an impetus for the most conflict was held due to the wrong understanding of Shari'ah history. It is generally believed that Shari'ah legal system was firmly with the aid of sword owing to a number of Holy wars fought by Prophet Muhammad and the Muslims at the earliest period of his Prophethood. To this end, the paper delved into the history and rationale behind those wars. The paper found that those wars were defensive in nature when it becomes important for the Muslims to defend their homes, families and properties from incessant invasions by the idol worshipers. The paper found further that the wars were fought by Muslims as the last resort when the reason to fight to defend was legislated.

It is part of the findings in this paper that despite the legislation for the Muslims to fight to defend their territory, certain rules and regulations were to be upheld with respect to sparing the children, women, disabled, houses and properties, plantations and economic trees of the enemies. This thus showed Shari'ah detests war or conflict in all ramifications except in the case of self defence.

Thus, lack of in-depth understanding of Shari'ah legislation makes people to erroneously believe that Shari'ah stands for war due to its antecedents above. The paper found that there are beautiful anti-conflict mechanism and model that can even be borrowed from Shari'ah to solve the current armed conflict across the universe such as the principles of brotherhoodness, perseverance, sacrifice, resilience as orchestrated above. It is thus recommended that in-depth study and understanding of Shari'ah is the panacea for reconciling the wrong misconception about Shari'ah with respect to the world conflicts.