

An Open Letter to Waleed Basyouni of Al-Maghrib Institute, Concerning his Two Lectures “Reclaiming Islam from the Jihadists” and “Violence In The Name of God”

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the Name of Allâh, the Most Beneficent, the Most Merciful

From Abus-Saqr ash-Shâmî to Waleed Basyouni, Vice President of “Al-Maghrib Institute”.

As-Salâmu ‘Alaykum Wa Rahmatullâhi Wa Barakâtuh,

I recently came across a video lecture of yours entitled “**Reclaiming Islam from the Jihadists**” and a second entitled “**Violence In The Name of God.**” I noticed that the points you brought up varied in their clarity and style of argument. I am choosing to address a number of them, and this is because a large number of the claims appeared to lack evidence; *Shar’î* (legal) or *Wâqî’î* (in present-day reality), and others, unfortunately, were clearly contradictory to what is indicated by the texts and principles of the *Shar’ah* itself.

The First Issue: Groups or Individuals Performing *Al-Jihâd* Independently From an Established Islâmic Government or Without a General *Imâm* (Leader) or *Khalîfah*

In your lecture “**Reclaiming Islam from the Jihadists**” (0:54:38 - 0:56:18) you stated:

“*Al-Islâm* came to establish a society; a civil society. In this society you will have something called The Justice Department; like what we have... just to make it simple to be understood. We have a system for how the state works... how the Muslim state works. You have a system (for) how the judge practices his job... how the policeman has to work. We call it in *Islâm*, ‘*Nithâm al-Husbah*’. (Likewise) how a financial institution can be built within a country and how it works, which is ‘*Al-Diwân*’ or (rather, how) ‘*Bayt al-Mâl*’ (functions). We have a Defence Ministry known throughout history as ‘*Al-Diwân*’, which is (where) people register to (join) the army and so on. And in order for you to organize the concept of war and peace, it was given to the Muslims in the form of what we call ‘*Tashrîyat al-Jihâd*’. The books of *Fiqh* talk a lot about the *Fiqh*; the ruling(s) related to *Jihâd*. And that’s basically when there is a Muslim state or there is a Muslim country (to determine) how they declare war, when they declare war, what (are) the rulings related to the war... That’s what you read in the books of *Al-Jihâd*.’

“It’s not ever meant for just every individual to claim! It’s not like *Salât* (where) you can go and make *Salât* on your own... so you can go and make *Jihâd* on your own. Exactly (in this same way) you cannot make yourself the judge on your own and say: ‘I will make myself the judge and now I will judge between the people.’ You can’t do that! It’s not up to you! It is part of a whole system. Otherwise, it will be a mess like what we (are) seeing today.”

And later (0:57:20) you quoted *Imâm Ibn Qudâmah* from Volume 10 of his “*Al-Mughnî*” and added:

“Ibn Qudâmah, رحمه الله, he said... and let me quote Ibn Qudâmah, رحمه الله... ‘If the *Imâm* of the Muslims...’ – see, it’s only related to the *Imâm*; the leaders!

And again at (0:58:32 – 1:02:3) you said:

“As I said, it is a part of the society, (which) means it’s in the hand of the governor. It’s (in) the hand of the leader. It’s not in the hand(s) of individuals hiding in caves or in... living in Internet societies or in some apartments here or there! It is in the hand of the Muslim *Khalîfah*, or *Imâm* who (is) in control of his country. Allâh, *subhânahu wa ta’âla*, said:

﴿وَإِذَا جَاءَهُمْ أَمْرٌ مِّنَ الْأَمْنِ أَوْ الْخَوْفِ أَدَّاعُوا بِهِ وَلَوْ رَدُّوهُ إِلَى الرَّسُولِ وَإِلَى أُولِي الْأَمْرِ مِنْهُمْ﴾

“If there is a matter of fear or safety or peace (which) come(s)... a major issue... they have to refer it to the Prophet and to the leaders... to the governors... to the presidents, whatever you call them... the leader! (From) *Sûrat an-Nisâ*, 83. No doubt that one of the most important things to be referred to will be the issue of declaring war or peace. The Prophet, صلى الله عليه و سلم, was asked:

﴿يَا أَيُّهَا النَّبِيُّ حَرِّضِ الْمُؤْمِنِينَ عَلَى الْقِتَالِ﴾

“In *Sûrat al-Anfâl*, verse 65... ‘O Muhammad, encourage people to fight... invite them to fight... so Muhammad, not everybody! And whoever replace(s) Muhammad’s, صلى الله عليه و سلم, role, which are the governors and the leaders of the Muslims. Also, the Prophet, صلى الله عليه و سلم, said about the time when there is Muslims will be (in) so much confusion and divisions and disobedience and so forth... In *Hadîth* Huthayfah, he said: He said: ‘You adhere to the *Jamâ’ah* of the Muslims and their *Imâm*. But if they have no *Imâm*, you avoid all of those groups.’ So he tied the issue to the *Imâm*. He said, صلى الله عليه و سلم, ‘You gather around the *Imâm*...’ in a time when there is so many groups and sects, he said, ‘You hold with your brothers, around the *Imâm*!’ If there is no *Imâm* (did) he say: ‘Go and fight them?’ No. He said you avoid all of them. So the issue is connected to the existence of the *Imâm*. Also, *An-Nabî*, صلى الله عليه و سلم, said: ‘And if you are called out, then go out.’ that if you’ve been called to *Jihâd*, you accept. Who make(s) the call? It is the *Imâm* of *Muslimîn*, as An-Nawawî and Ibn Hajar, رحمه الله, commented... commented on this.’

“Also the Prophet, صلى الله عليه و سلم, said: ‘Whoever fights under a blind banner; calling to group fanaticism or becoming angry based upon group fanaticism, then he is killed, then it is a death of *Jâhiliyyah*.’ ‘those who fight under unknown banners... he (i.e. the one under such banner) doesn’t know who are the leaders... he doesn’t know what is the goal... he doesn’t know what’s going to be established. That would only be if there is a political entity leading the war. And that’s why the war never was... *Al-Jihâd* was never established in Makkah, because there was not yet a political entity. It would be a mess if *Al-Jihâd* were established without a political entity to protect it. *Al-Jihâd* is basically like a giant... a force. It has to be controlled by the government to direct it in the right way. Otherwise it will cause a lot of damage. *Al-Imâm* al-Bukhârî, رحمه الله, said in his *Sahîh*: He said ‘Chapter: The *Imâm* is fought behind.’ ‘Fight(ing) Should Be Behind the Leaders’, behind the *Imâm*, which is the elected leader or the leader of the Muslims.’

“There’s so many quotes from the *Sahâbah*, from the *Tâbi’în*, from the (scholars of) *Ahl us-Sunnah*... it is one of the principles. Read... pick any books in ‘*Aqîdah*... any books of ‘*Aqîdah of Ahl as-Sunnah*. You will read in it: ‘And we fight beneath the tyrannical and wicked, the righteous and wicked leaders’ “And battling continues with the *Amîrs*; righteous and wicked’ and so many quotes like this ‘The Righteous from among them and the wicked’: ‘Fighting and *Jihâd* under the *Imâm*’. It must be an *Imâm*! And this *Imâm* cannot be just somebody who claim(s) that I am *Imâm*. No! The *Imâm* is somebody who has gone through a process where the Muslim community has chosen him to be the *Imâm*. I’m saying that because I have seen people trying to escape this point and to allow themselves to declare war against others without the *Imâm*. The only exception the ‘*Ulamâ* made is when somebody attack(s) you in your home. (In that case) you don’t need anybody’s permission to fight to protect yourself; that will be permissible.”

Similarly, in your lecture “**Violence In The Name of God**” (0:56:28 – 0:56:57), you stated:

“And in the end also... one of the most important point(s) here... that they thought *Jihâd* here... applying the punishment can be done by the hand of individuals. No! It’s only by, as *Imâm* Ibn Qudâmah, رحمه الله, said by the consensus of the Muslims scholars... the only one (who) has the right to declare *Jihâd* is the ruler... is the ruler. Not anybody else, unless you (are) protect(ing) your own home if somebody (is) attacking you.”

In order to address these comments of yours which are related to this first issue, I will divide them into a few categories. The first of these are the errors in terms of the application of several *Fiqh* (juristic) principles and fundamentals:

1. Your failure to acknowledge the obligation of *Al-Jihâd*; either communally or individually

I found it particularly revealing that in your two lectures, which were basically all about the “extremism” of those individuals or groups who attribute themselves to this action today, that at no point whatsoever did you even acknowledge its obligation. Moreover, the only conclusion one listening to these lectures could draw from your presentation is that its obligation has ceased, due to the fact that the Muslim *Ummah* presently has no established Islâmîc government or a general *Imâm*. And how strange it is that you would go to such lengths to emphasize the supposed condition of *Imâmah* for this action, without even mentioning the ruling upon the action itself. Just imagine a major student of knowledge discussing the issue of *Salât* and emphasizing over-and-over the condition of *Wudhû’* for the acceptance of *Salât*, but then failing to even mention that *Salât* itself is even obligatory.

And from the many texts of the *Sharî’ah* which prove this, are the words of Allâh, تعالى, which came in the form of a commandment:

﴿ يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَابْتَغُوا إِلَيْهِ الْوَسِيلَةَ وَجَاهِدُوا فِي سَبِيلِهِ لَعَلَّكُمْ تُفْلِحُونَ ﴾

﴿ **O you who believe! Do your duty to Allâh and fear Him. Seek the means of approach to Him, and make *Jihâd* in His Cause as much as you can, so that you may be successful.** ﴾¹

¹ *Sûrat al-Mâ’idah*, 35

And also His statement:

﴿ يَا أَيُّهَا النَّبِيُّ جَاهِدِ الْكُفَّارَ وَالْمُنَافِقِينَ ﴾

﴿ **O Prophet! Make Jihâd against the disbelievers and the hypocrites.** ﴾²

The obligation of *Al-Jihâd* can take the form of either a *Fardh Kifâyah* (communal obligation) or a *Fardh ‘Ayn* (individual obligation), but the point is that both of these forms are from the classification of obligatory.

Ibn Qudâmah said, “The meaning of *Fardh Kifâyah* (communal obligation) is that when an amount does not suffice in order to establish something, then all of the people are sinful. And if a sufficient amount establishes it, then it (i.e. the obligation) falls off of the remaining people. So the address originally included everyone, just as in the *Fardh ‘Ayn* (individual obligation). Then they differed in that the *Fardh Kifâyah* falls off (others) by some of the people establishing it, whereas the *Fardh ‘Ayn* does not fall off of anyone by the action of other than him.”

Then he said about the evidence that the *Jihâd* is *Fardh Kifâyah*, “And we have the statement of Allâh, تعالى: ﴿ **Not equal are those of the believers who sit (at home), except those who are disabled and those who strive hard and fight in the Cause of Allâh with their wealth and their lives. Allâh has preferred in grades those who strive hard and fight with their wealth and their lives above those who sit (at home). Unto each, Allâh has promised good (Paradise)...** ﴾³ And this indicates that those who sit (behind) are not sinful as long as *Jihâd* was performed by other than them. And Allâh, تعالى, said: ﴿ **And it is not (proper) for the believers to go out to fight all together. Of every troop of them, only a party should go forth, that they may get instructions in (Islamic) religion...** ﴾⁴ And because the Messenger of Allâh, صلى الله عليه و سلم, used to send platoons out, while he and the remaining companions would stay behind.”⁵

Then Ibn Qudâmah said, “And the *Jihâd* is specified (i.e. individually obligatory) in three situations:

“**The First:** When the two groups meet and both sides face one another. It is forbidden for those present to flee and that situation is specified to him, due to Allâh, تعالى, ’s statement: ﴿ **O you who believe! When you meet (an enemy) force, take a firm stand against them and remember Allâh much...** ﴾ – until His statement – ﴿ **...and be patient. Surely, Allâh is with those who are As-Sâbirîn (the patient ones, etc.).** ﴾

⁶ And His, تعالى, ’s statement: ﴿ **O you who believe! When you meet those who disbelieve, in a battlefield, never turn your backs to them. And whoever turns his back to them on such a day - unless it be a stratagem of war, or to retreat to a troop (of his own), - he indeed has drawn upon himself wrath from Allâh...** ﴾⁷

² *Sûrat at-Tawbah*, 73

³ *Sûrat An-Nisâ’*, 95

⁴ *Sûrat At-Tawbah*, 122

⁵ “*Al-Mughnî wash-Sharh al-Kabîr*”, Vol. 10/364-365

⁶ *Sûrat Al-Anfâl*, 45-46

⁷ *Sûrat Al-Anfâl*, 15-16

“**The Second:** If the disbelievers enter a country, then it is specified upon its people to fight them and repel them.”

“**The Third:** If the Imâm calls upon a people, it is upon them to go out with him, due to Allâh, تعالیٰ’s statement: ﴿ **O you who believe! What is the matter with you, that when you are asked to march forth in the Cause of Allâh (i.e. Jihâd) you cling heavily to the earth?** ﴾ – the verse⁸ as well as the verse, which follows it. And the Prophet صلى الله عليه و سلم said, ‘If you are called out, then go out.’” – Agreed upon (i.e. Al-Bukhârî and Muslim).”⁹

And the obligatory nature of *Al-Jihâd*; either *Fardh Kifâyah* or *Fardh ‘Ayn*, is an issue that no one would reject, so I do not need to go into further details, especially with someone with your level of education. But I found it quite surprising that you would choose to stipulate over-and-over your claimed condition of an established Islâmîc state or an Imâm or *Khalîfah* in order for this action to even be valid, without once even mentioning its obligation in the first place.

2. Your failure to acknowledge the continuous, ongoing nature of *Al-Jihâd* within the *Ummah* of Muhammad, صلى الله عليه و سلم

Similarly to what I mentioned regarding your failure to acknowledge the obligation of *Al-Jihâd* was your failure to mention that this obligation will remain in this *Ummah* until the Last Day. Rather, what was implied (and it could even be argued that you explicitly stated this) was that due to *Al-Jihâd* not being necessary today, it is something which is somehow paused or left for an indefinite period. As you said in (0:56:17 – 0:56:49) or “**Reclaiming Islam from the Jihadists**”:

“2. *Al-Jihâd* is a tool; it is not a mean(s). That’s why if, as so many scholars, like Al-‘Izz Ibn ‘Abd as-Salâm and others, said: ‘If what you want to establish by *Al-Jihâd* can be established without fight(ing), you’re not allowed to fight.’ So it is not a goal. That’s why, one of the worst things I’ve ever heard in my life – somebody said: ‘So-and-so is *Kâfir*?’ Why? ‘Because he never partic... because he never declared *Jihâd*.’ *Subhân Allâh!* As if it has to be exist! It is a means... if there is (a) need for it, you use it.”

And among the many textual evidences for the incorrectness of the claim that *Al-Jihâd* will become unnecessary and can therefore be left indefinitely, are those which can be found in the *Sunnah* of the Messenger of Allâh, صلى الله عليه و سلم, as he said:

“*Steeds have goodness tied into their forelocks until the Day of Resurrection; through rewards and the spoils of war.*”¹⁰

Al-Bukhârî placed this *Hadîth* in his chapter entitled: “*Jihâd* Will Continue with Every Righteous and Wicked One.”¹¹

⁸ *Sûrat At-Tawbah*, 38

⁹ “*Al-Mughnî wash-Sharh al-Kabîr*”, Vol. 10/365-366

¹⁰ Al-Bukhârî (#2852) and Muslim (#1,873), on the authority of ‘Urwah al-Bâriqî

¹¹ “*Fat’h al-Bârî*”, Vol. 6/66

Ibn Hajar stated: “He (i.e. al-Bukhârî) was beat to this use of evidence by *Imâm* Ahmad, because he, صلى الله عليه وسلم, mentioned the lasting goodness within the forelocks of steeds until the Day of Resurrection, and he explained it as rewards and spoils of war. And spoils of war accompanied by rewards would only come from steeds within *Jihâd*. And he did not restrict that to whether the *Imâm* was a just one, so this indicated that there is no difference in attaining this virtue whether the battle is with an *Imâm* who is just or tyrannical. And within the *Hadîth* there is an incitement to battle upon steeds, and also within it is glad tidings concerning *Islâm* and its people remaining until the Day of Resurrection. This is because the remaining of *Jihâd* necessitates the remaining of the *Mujâhidîn*, and they are the Muslims. And this is like the other *Hadîth*: ‘There will never cease to be a group of my *Ummah*, fighting upon the Truth.’”¹²

And An-Nawawî stated: “His, صلى الله عليه وسلم, statement: ‘*Steeds have goodness within their forelocks until the Day of Resurrection.*’ Its explanation has come in another *Hadîth* in the ‘*Sahîh*’: ‘*Through rewards and spoils of war.*’ And in it there is evidence for *Islâm* and *Jihâd* remaining until the Day of Resurrection. And what is meant is before the Resurrection by a little amount. In other words, until the Pleasant Wind comes from Yemen which takes the soul of every believing man and woman, as has been confirmed in the ‘*Sahîh*.’”¹³

And on the authority of Mu’âwiyah Ibn Abî Sufyân, that the Prophet, صلى الله عليه وسلم, said: “*Whomsoever Allâh desires goodness for; He gives him understanding of the religion. There will never cease to be a group from the Muslims fighting upon the truth, victorious against those who oppose them, until the Day of Resurrection.*”¹⁴

And Salamah Ibn Nufayl al-Kindî, said: “I was sitting with the Messenger of Allâh, صلى الله عليه وسلم, when a man said, “O Messenger of Allâh! People have left tending to their horses and have laid down their weapons and said, ‘There is no more *Jihâd*, the War has ended.’ So the Messenger of Allâh, صلى الله عليه وسلم, turned to him and said, “*They have lied! The fighting has just begun! There will never cease to be a group from my Ummah fighting upon the truth. For them, Allâh will misguide the hearts of people and make them a source of their sustenance until the striking of the Hour, until the promise of Allâh is fulfilled. Goodness will remain in the forelocks of horses until the Day of Resurrection. It has been revealed to me that I will soon die and not remain long amongst you. After my death, you will split into groups striking each other’s necks. The home of the believers [that day] will be Ash-Sham.*”¹⁵

So the Prophet, صلى الله عليه وسلم, informed us that *Jihâd* will always be present and will never cease. Since any Muslim must believe that the *Sunnah* is from the revelation of Allâh, it is clear that we were informed in the revelation that there will never be a time in which *Jihâd* is not taking place, despite the fact that Allâh, تعالى, knew that we would not have an established Islâmîc state, nor an *Imâm* or *Khalîfah* at this time.

¹² “*Fat’h al-Bârî*”, Vol. 6/67

¹³ “*Al-Minhâj Sahîh Muslim Ibn al-Hajjaj*”, Vol. 7/68-69

¹⁴ Narrated by Muslim (#1,037)

¹⁵ Narrated by An-Nasâ’î (#3,563) on the authority of Salamah Ibn Nufayl al-Kindî and authenticated by al-Albânî in “*Sahîh an-Nasâ’î*”, (#3,563) and elsewhere as well as by al-Wâdi’î in “*Sahîh Dalâ’il an-Nubuwwah*”, (#543) and elsewhere.

3. Your implementing conditions without a clear evidence

What I noticed from both lectures was that you stated very explicitly that the existence of a general *Imâm* or *Khalîfah* is a condition (*Shart*) for *Al-Jihâd*. From the quotes that I have mentioned in the introduction to this letter, this is very clear. However, despite how clear you were in expressing this condition, you failed to substantiate this claim with any clear evidence from the *Sharî'ah* – except for one or two ambiguous texts, which you claimed were evidences, whereas no one from the scholars of *Ahl as-Sunnah wal-Jamâ'ah* did before you, as far as I have come across.¹⁶

And, as I'm sure you are aware, the implementation of conditions (*Shurût*) upon an act of worship, can only be made with a clear evidence, as *Imâm* as-San'ânî stated: "Then, the default ruling (*Asl*) is the absence of (any) conditionality (*Shartiyyah*) until an evidence proves so."¹⁷

And *Imâm* Siddîq Hasan Khân stated: "And the conditionality, the absence of which would result in the absence of what the condition is being placed upon, cannot be proven except with something that indicates that, such as the negation of acceptance, or the likes of 'There is no *Salât* for the one who prayed in a impure (*Najas*) area,' or the forbiddance of praying in an impure (*Najas*) area, due to the forbiddance indicating the invalidity, as the People of *Usûl* have indicated. As for the categorical command, then it is not sufficient to prove a condition."¹⁸

One cannot say: "In order for *Salât* to be obligatory (or even accepted), one must own a home," without mentioning a clear textual evidence for this claim.

If someone claimed this, all we need to do to disprove this is to say "What is the evidence for this *Shart* (condition)?" We don't need to disprove it in any other way.

Again, this is a matter that is from the most basic issues of *Usûl al-Fiqh*, which is known as *Al-Barâ'at-ul-Asliyyah* (Default unaccountability) or *Barâ'at-uth-Thimmah* (Freedom from liability), so I don't need to go into further with someone of your education level.

4. Your failure to differentiate between *Shurût as-Sihhah* (i.e. conditions for validity) and *Shurût al-Wujûb* (i.e. conditions for obligation) in this supposed *Shart* (condition)

As I am sure you know, there are different types of *Shurût* (conditions). One is that something is not obligatory unless certain conditions are met (*Shurût al-Wujûb*), such as the obligation of *Hajj* being conditional upon an individual if he possesses enough wealth to make the trip and not harm himself, his family and those whose welfare he is responsible for. The second type is one which the validity itself, not the obligation, is conditional upon (*Shurût as-Sihhah*). For example, being upon the state of *Wudhû'* (ablution) for the prayer to be valid, or *Tayammum* (ablution with dust) when water is unavailable. However, we don't say that the obligation of the *Salât* is conditional upon *Wudhû'*. Rather, we say the validity of the *Salât* is conditional upon the one praying being in the state of *Wudhû'*.

And in his commentary on "Marâqî as-Su'ûd," *Imâm* Muhammad al-Amîn ash-Shinqîî stated: "And he defined *Shart al-Wujûb* as that which the person becomes accountable due to, such as the beginning of

¹⁶ These ambiguous texts will be addressed in a separate section, *In Shâ' Allâh*.

¹⁷ "Subul as-Salâm Sharh Bulûgh al-Marâm", Vol. 2/120

¹⁸ "Ar-Rawdhah an-Nadiyyah Sharh ad-Durar al-Bahiyyah", Vol. 1/80

the time (of *Salât*), purity from menstruation and being reached by the *Da'wah* of the Prophets. So accountability does not take place without these aforementioned things, on top of the fact that the accountable one is not excepted to achieve them, whether they are within his power or not. And to bring it closer to mind; the *Shart al-Wujûb* is that which accountability is dependent upon and which the accountable one is not held accountable to achieve, whether it is within his power or not.”¹⁹

He then continued: “Meaning that the *Shart as-Sihhah* is that which is taken into consideration for the validity of performing the thing, whether it is (an act of) obedience or something else. Such as purification for *Salât* and knowledge of the value and what is being appraised in order to sell.”²⁰

From your statements, it is clear that you aren't merely saying that the existence of an established Islâmic government and an *Imâm* is a condition for the obligation of *Jihâd* (which would be an erroneous claim in-and-of-itself), rather you have gone even further than that by making the existence of an established Islâmic government and a general *Imâm* (leader) to be a condition for the obligation of the *Jihâd* as well as its very validity.

Therefore, practically speaking, you are not merely telling your audience that any type of *Jihâd* whatsoever (both offensive and defensive) are not obligatory today, in the absence of an established Islâmic government or general *Imâm*, rather you are actually saying that anyone who does fight in our time wherein these institutions are not present, then their actions are invalid and void altogether, in the same way a person's prayers would be void if he failed to perform *Wudhû'* beforehand.

But despite your failure to differentiate between these two forms of conditions, I maintain (and will prove throughout this letter, *In Shâ' Allâh*) that a general *Imâm* or *Khalîfah* is not a condition in either form; *Sihhah* (validity) or *Wujûb* (obligation), when it comes to the participation in *Al-Jihâd*.

5. Your failure to differentiate between *Jihâd ad-Dafa'* (Defensive *Jihâd*) and *Jihâd at-Talab* (Offensive *Jihâd*) in your application of this supposed *Shart* (condition) of *Imâmah*

It would be one thing if you had clearly made a distinction between *Jihâd at-Talab* (Offensive *Jihâd*) and *Jihâd ad-Dafa'* (Defensive *Jihâd*) and then afterwards you placed this condition on Offensive *Jihâd* only. And although we maintain this would be an incorrect view as well (evidences will follow), the fact remains that you failed to make any differentiation between these two categories of *Jihâd*.

In fact, the closest thing you said in regards to a difference between *Jihâd ad-Dafa'* (Defensive *Jihâd*) and *Jihâd at-Talab* (Offensive *Jihâd*) implies that even the offensive *Jihâd* is restricted to a type of pre-emptive action, as you claimed at (1:04:08 – 1:04:32) of “**Reclaiming Islam from the Jihadists**”:

“Does that mean *Jihâd* is (only) a defensive (act)? No. *Jihâd* is to defend the Muslims, and also sometimes you initiate it if you know that this (nation) is a threat (which) can harm the Muslims in (the) future. And based on this you will see the actions that took place by... the war that happened with the Romans and others during the time of the Prophet, صلى الله عليه وسلم, and Abû Bakr...”

¹⁹ “*Nathr al-Wurûd ‘Alâ Marâqî as-Su’ûd*”, Vol. 1/60

²⁰ “*Nathr al-Wurûd ‘Alâ Marâqî as-Su’ûd*”, Vol. 1/61

Yet, despite this semi-acknowledgment by you that *Al-Jihâd* is not strictly implemented as a defensive response to an offensive attack by others, you nonetheless seemed to make even the offensive *Jihâd* conditional upon the existence for some kind of aggression or threat. And by doing so, you have essentially made any type of *Al-Jihâd* conditional upon some kind of defensive goal. And not only did you fail to provide any evidence for this claim, you have contradicted what the *Fuqahâ'* and the scholars in general have stated about the distinction between *Jihâd ad-Dafa'* (Defensive *Jihâd*) and *Jihâd at-Talab* (Offensive *Jihâd*).

Ibn al-Qayyim stated: "So if competition was legislated so that the Believer may learn how to fight, become used to it and become trained in it, then from what is well known is that the *Mujâhid* may intend to repel the enemy if the *Mujâhid* is being sought and the enemy is seeking him. And he may intend to triumph over the enemy through initiating, if he is the one seeking and the enemy is being sought. And he may intend both matters (together). So the categories are three in which the Believer is ordered with *Jihâd*."

"And *Jihâd ad-Dafa'* is more serious than *Jihâd at-Talab*, because *Jihâd ad-Dafa'* resembles the category of repelling an invader. And due to this, it was permitted for the one who is transgressed upon to defend himself."

"As Allâh, تعالی, said:

﴿أُذِنَ لِلَّذِينَ يُقَاتَلُونَ بِأَنَّهُمْ ظَلِمُوا﴾

﴿ **Permission to fight is given to those** (i.e. believers against disbelievers), **who are fighting them, (and) because they** (believers) **have been wronged...** ﴿²¹

And the Prophet, صلى الله عليه وسلم, stated: "Whoever is killed in defence of his wealth, then he is a martyr. And whoever is killed in defence of his blood, then he is a martyr."

"Because repelling the invader away from the religion is *Jihâd* and an act of drawing one nearer to Allâh. And repelling the invader away from the wealth and self is permissible and a concession. So if he is killed during that he is a martyr."

"So defensive fighting is wider reaching than the offensive fighting and it is more general in its obligatory nature. And due to this, it is obligatory upon everyone to wage *Jihâd* in it; the slave with the permission of his master as well as without it. And the child without the permission of his parents. The indebted one without the permission of his debtor. And this is like the *Jihâd* of the Muslims on the Day of Uhud and al-Khandaq."

"And it is not a condition in this type of *Jihâd* that the enemy be two times as many as the Muslims or less. Because on the day of Uhud and al-Khandaq, they were multiples of the Muslims,. So the *Jihâd* was obligatory upon them because at that point it was a *Jihâd* of necessity and defence not a *Jihâd* of choice. And due to this, *Salât al-Khawf* is permitted during it based upon the state during this type (of fighting). And it is allowed during *Jihâd at-Talab* if they fear the fleeing of the enemy but do not fear its assault.

²¹ *Sûrat al-Hajj*, 39

There are two opinions concerning it amongst the scholars, both of which are narrations from *Imâm Ahmad*.”

“And it is well known that the *Jihâd* in which the person is seeking (the enemy) and being sought (by the enemy) is more obligatory than this *Jihâd* in which he is seeking (the enemy) and not being sought (by them). And the souls are more desiring of this from both points.”

“As for the pure offensive *Jihâd*, then no one desires it except for one of two (types of) men: Either one who has great *Îmân* who is fighting so that the Word of Allâh will be the Highest and so that the religion will be all for Allâh, or someone who desires spoils of war and slaves.”

“So the defensive *Jihâd* sought by everyone and no one turns away from it except for the cowardly one who is condemned in the *Shara’* and through intellect. And the purely offensive *Jihâd* is sought by the best of the believers. As for the *Jihâd* in which one is seeking (the enemy) and being sought (by it), then this is sought by the best of people in order to make the Word of Allâh the highest, and the average people seek it in order to defend (themselves) as well as due to love of victory.”²²

And among the many evidences for the category of *Jihâd at-Talab*, is the statement of Allâh (*subhânahû wa ta’âla*) Who said:

﴿ قَاتِلُوا الَّذِينَ لَا يُؤْمِنُونَ بِاللَّهِ وَلَا بِالْيَوْمِ الْآخِرِ وَلَا يُحَرِّمُونَ مَا حَرَّمَ اللَّهُ وَرَسُولُهُ وَلَا يَدِينُونَ دِينَ الْحَقِّ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ حَتَّى يُعْطُوا الْجِزْيَةَ عَنْ يَدٍ وَهُمْ صَاغِرُونَ ﴾

﴿ **Fight against those who (1) believe not in Allâh, (2) nor in the Last Day, (3) nor forbid that which has been forbidden by Allâh and His Messenger (4) and those who acknowledge not the religion of truth (i.e. Islâm) among the people of the Scripture (Jews and Christians), until they pay the Jizyah with willing submission, and feel themselves subdued.** ﴾²³

And the statement of the Messenger of Allâh, صلى الله عليه وسلم, who said:

“I was commanded to fight the people until they testify that there is no deity worthy of worship except Allâh and that Muhammad is the Messenger of Allâh and they establish the prayer (*Salât*) and pay the poor due (*Zakât*). Then if they do that, then they have protected their blood and their wealth from me, except in the rights of Islâm and their reckoning is with Allâh.”²⁴

And as for the numerous evidences for the existence of the category of *Jihâd ad-Dafâ’*, then they would include the statement of Allâh (*‘aza wa jall*):

﴿ يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا لَقِيتُمُ الَّذِينَ كَفَرُوا زَحَفًا فَلَا تُولُوهُمُ الْأَدْبَارَ ﴾

²² “*Al-Furûsiyyah al-Muhammadiyyah*”, pg. 121-124

²³ *Sûrat at-Tawbah*, 29

²⁴ Narrated by Al-Bukhârî (#25) and Muslim (#22) on the authority of ‘Abd Allâh Ibn ‘Umar, and this is al-Bukhârî’s phrasing.

﴿ **O you who believe! When you meet those who disbelieve, in a battle-field, never turn your backs to them.** ﴾²⁵

And also:

﴿ **وَقَاتِلُوا فِي سَبِيلِ اللَّهِ الَّذِينَ يُقَاتِلُونَكُمْ...** ﴾²⁶
﴿ **And fight in the Way of Allâh those who fight you...** ﴾²⁶

Shaykh Al-Islâm, Ibn Taymiyyah, may Allâh be merciful to him, said, “As for the fighting for defence, then it is the most urgent type of repelling the intruder away from the sanctities and the religion. So it is obligatory according to the consensus (*Ijmâ'*). So the invading enemy who corrupts the religion and this (worldly) life; there is nothing more obligatory after faith, than to repel it. So there are no conditions for it, rather it must be repelled using any means available.”²⁷

But despite your failure to differentiate between these two categories of *Jihâd*, I maintain (and will prove throughout this letter, *In Shâ' Allâh*) that a general *Imâm* or *Khalîfah* is not a condition (*Shart*), for either type of *Jihâd*; *Talab* (Offensive) or *Dafa'* (Defensive).

- **An observation about your use of evidences and your methodology of *Fiqh* (jurisprudence) on this point:**

In your lecture “**Violence in the Name of God**”, (0:50:50 – 0:51:19) when you were painting all those who you called ‘terrorists’ with the same brush and criticizing them for only selectively using certain texts to prove their points instead of collecting all the relevant texts to derive rulings in certain matters, you said:

“One of the things that you notice very clearly about terrorist group(s) when it comes to their methods of *Fiqh*... (their) methods of using the evidence they are following: 1. They will not collect all the related evidence to discuss one issue. They only pick and choose. And this is very... shows you that whoever did that... their leaders... either they are very ignorant, or they are doing this intentionally. That they pick and choose the evidence (which) only that supports their ideas. And they will ignore totally any evidence (which) goes against their ideas.”

Similarly, in (1:03:03 – 1:30:58) or your lecture “**Reclaiming Islam From the Jihadists**”, you said:

“There is one thing... or (a) few points very quickly I will mention it in relation to their methodology also in *Fiqh*. I noticed that no... they don’t combine by evidence. So they pick one verse, or one *Hadîth* but they don’t combine all of the evidence together, which is make the picture clear. So if you see one verse talking about, for instance: ‘**Fight the *Kuffâr* wherever they are,**’ you will find another verses (which) would state very clearly: ‘**Fight those who (are) fighting you.**’

²⁵ *Sûrat al-Anfâl*, 15

²⁶ *Sûrat al-Baqarah*, 190

²⁷ “*Al-Ikhtiyârât al-Fiqhiyyah*”, Pg. 309

So is this your methodology in terms of combining the evidences? And is this the methodology of *Fiqh* that you are inviting those who are attributing themselves to the obligation of *Al-Jihâd* today to follow? So you take one text, which itself is an evidence for the category of *Jihâd at-Talab*, which is:

﴿فَإِذَا انْسَلَخَ الْأَشْهُرُ الْحُرْمُ فَاقْتُلُوا الْمُشْرِكِينَ حَيْثُ وَجَدْتُمُوهُمْ وَخُذُوهُمْ وَأَحْصُرُوهُمْ وَأَقْعُدُوا لَهُمْ كُلَّ مَرْصِدٍ﴾

﴿ ***Then when the Sacred Months have passed, then fight the Mushrikûn wherever you find them, and capture them and besiege them, and prepare for them each and every ambush.*** ﴾²⁸

And then you restrict the meaning of that text based upon another text, which is actually an evidence for an entirely different category of fighting; *Jihâd ad-Dafa'*, such as:

﴿وَقَاتِلُوا فِي سَبِيلِ اللَّهِ الَّذِينَ يُقَاتِلُونَكُمْ...﴾²⁹
 ﴿ ***And fight in the Way of Allâh those who fight you...*** ﴾²⁹

I would think that someone at your level of knowledge would immediately recognize that this is a completely false *Fiqhî* (juristic) methodology, both in terms of your reconciling between the Islâmic texts and also with respect to deriving rulings when it comes to the meanings of those texts. And as for your contradiction of the *Fuqahâ'* (jurists) and the scholars in general regarding your making even the offensive *Jihâd* to be conditional upon some kind of pre-emptive, defensive goal, then among the dozens of quotes we could share with you, I will include the following from Ibn al-Qayyim, who said:

“And the goal of *Al-Jihâd* is only so that the Word of Allâh will be the Highest, and so that the religion would all be for Allâh.” And he said, “And included in the religion being all for Allâh is the humiliation of the disbelief (*Kufr*) and its people and in their being subdued and in implementing the *Jizyah* upon the leaders of its people and the enslavement upon their necks as this is from the religion of Allâh. And nothing would contradict this except leaving the disbelievers in their positions of power and to establish their religion as they please so that they would have the power and the (predominant) word.”³⁰

And perhaps the worst outcome of this failure of yours to differentiate between *Jihâd at-Talab* and *Jihâd ad-Dafa'*, is that you have left your claimed condition in place, which is that any type of *Jihâd* (i.e. defensive or offensive) is only valid with the existence of an established Islâmic government, general *Imâm* or *Khalifah*. The closest thing you stated that could even be interpreted as any kind of an exception to this, would be the following statement, which you said in “**Violence In The Name of God**” (0:56:28 – 0:56:57):

“...the only one (who) has the right to declare *Jihâd* is the ruler... is the ruler. Not anybody else, unless you (are) protect(ing) your own home if somebody (is) attacking you.”

²⁸ *Sûrat at-Tawbah*, 5

²⁹ *Sûrat al-Baqarah*, 190

³⁰ “*Ah'kâm Ahl Ath-Thimmah*”, Vol. 1/8

So the only exception whatsoever you offered in your application of this claimed condition of *Imâmah*, would be the case of someone attacking your house. But for a Muslim country to be invaded and occupied, then what? If we have no *Khalîfah* or *Imâm* in this time, then what does your methodology of *Fiqh* and your combining of the evidences permit? It would seem from your statements in both your lectures, that unless your specific house gets attacked, then you must not fight even in defence of the country itself or the region being invaded and / or occupied.

6. Your failure to maintain consistency in your application of this supposed *Shart* (condition) of *Imâmah*

Also, you yourself appear to be unsure of this claim; applying this supposed condition when it suits your argument, but then failing to apply it when it does not. You certainly do not apply this rule for every era and every enemy. You praised the *Jihâd* against the Russians in Afghanistan during the 1980's, despite the fact that there was no established Islâmîc government or *Imâm* of the Muslims or *Khalîfah* at that time.

For instance, you said at 0:33:47 of “**Reclaiming Islam from the Jihadists**”:

“Because the word *Jihâd* is a beautiful word. It is an Islâmîc word. The whole world used to know the word ‘*Jihâd*’ in a very beautiful way (such as) in the 80’s when you hear about ‘the *Mujâhidîn*’, ‘the *Mujhâhidîn*’, ‘the *Mujâhidîn*’, in Afghanistan. But (now) those people who have taken this word and say we are (performing) *Jihâd*; *Jihâd* is far away from what they are doing.”

And then in the Q & A panel at the end of the video lecture (1:20:34), a questioner asks:

“*Shaykh, Jazak Allâhu Khayr.* You touched upon some history in your lecture and you mentioned Afghanistan in the 1970s and 80s was a great thing. Can you differentiate (between) that Afghanistan and today? Is what is happening today also a noble *Jihâd*? Is something happening today also the good type of *Jihâd* that we should all be proud of? Can you please elaborate?”

To which you replied: “First of all, in the 80’s the *Jihâd* was from the Muslims... the Afghanî Muslim groups... even though it was not something we were happy with... pleased with that they were more than seven groups fighting and they (were) not united together fighting against the Russian(s)...”

So it is clear from your remarks about the *Jihâd* against the soviets during the 1980's, that you considered this a valid form of *Jihâd*, and you continued to refer to their efforts as *Jihâd* and to them specifically as *Mujâhidîn*, despite your own acknowledgment that these groups were not fighting under the leadership of a general *Imâm* or *Khalîfah* and were, in fact, fighting in a somewhat disunited way. So what happened to your condition (*Shart*) in this case?

I also noticed that in your lecture “**Violence in the Name of God**” (0:19:55 – 0:20:32) you said:

“Seeing what happened in *Al-Jihâd* in Afghanistan (i.e. in the 80's) and how that beautiful concept of *Islâm*, which is helping your Muslim brothers in Afghanistan to free their country... the Freedom Fighters, as they called them... That *Jihad* that had absolutely attract(ed) a lot of young Muslims... a lot of young Muslims... You might... so many of you don't know that... that so many young Muslim(s) used to fly and to go from New York, from the Muslim country... they would even be given a free ticket to go to fight there.”

And you also mentioned in “Reclaiming Islam from the Jihadists” (1:23:58-1:24:19):

“And maybe it’s a regret talking about the past, but I think this al-Qâ’idah group, Ibn Lâdin group, instead of dragging the Tâlibân to a war against the world, they should put their effort to establish and to strength(en) that young state that was coming up instead of pushing it toward the direction that it get them nowhere, it get them nowhere.”

I’m sure you are aware that the Tâlibân were fighting a war against the Northern Alliance in order to establish *Islâm* within Afghânistân. If so, how is it possible that they should have been supported as they were not under the obedience of the general *Imâm* or the *Khalîfah*? Do you still believe that they should have been supported? If not, make it known that you didn’t support them. Also, were you against the fighting in Bosnia against those who slaughtered Muslims? Do you believe that the Muslims fighting now in Chechnya who have implemented the *Shar’ah* in the lands they control, are wrong in their fighting? If so, tell this to the masses openly. If not, how are they allowed to fight without the *Imâm*?

7. Your failure to mention the statements of the scholars, and their evidences, which specifically contradicts your claim of this condition (*Shart*)

Because the list of quotes I could offer here are so numerous, I will restrict my quotes to just a select few of our scholars and the textual evidences, which they used, in order to illustrate my point here, *In Shâ’ Allâh*. And I am less interested in the names of individual scholars as I am in the evidences they have mentioned. Interestingly, most of these quotes were made in refutation of this same claim you have made about the invalidity of *Al-Jihâd* in the absence of a general *Imâm* or *Khalîfah*:

a) *Imâm* ‘Abd ar-Rahmân Ibn Hasan, رحمه الله, said in refutation of this claim:

“And it is said: With which book and with what proof can one say that *Jihâd* is not obligatory except with an *Imâm*?! This is a lie against the religion and a misguidance from the path of the believers. The proofs to falsify this claim are more than one can mention, from them the general commandment to make *Jihâd*, its encouragement, and the warning against leaving it. He, تعالى, said:

﴿وَلَوْلَا دَفَعُ اللَّهُ النَّاسَ بَعْضُهُمْ بِبَعْضٍ لَفَسَدَتِ الْأَرْضُ﴾

﴿ **And if Allâh did not repel one set of people by means of another, corruption would spread across the earth.** ﴾³¹

“And He said in *Sûrat al-Hajj*:

﴿وَلَوْلَا دَفَعُ اللَّهُ النَّاسَ بَعْضُهُمْ بِبَعْضٍ لَهَدَّمتْ صَوَامِعُ...﴾

﴿ **For had it not been that Allâh repels one set of people by means of another, monasteries, churches, synagogues, and Mosques, wherein the Name of Allâh is mentioned much would surely have been pulled down.** ﴾³²

³¹ *Sûrat al-Baqarah*, 251

“Whoever fights *Jihâd* in Allâh’s Cause has obeyed Allâh and fulfilled His commandment. Actually, the fact is that an *Imâm*’s leadership is not valid without *Jihâd*, not that there is no *Jihâd* without an *Imâm*. The truth is the exact opposite to what you have said. Indeed Allâh has said:

﴿ قُلْ إِنَّمَا أَعْظُمُكُمْ بِوَاحِدَةٍ أَنْ تَقُومُوا لِلَّهِ مَشْنَىٰ وَفُرَادَىٰ ﴾

﴿ **Say (to them O Muhammad): ‘I exhort you on one (thing) only: that you stand up for Allâh’s sake in pairs and singly.’** ﴾³³

“And He said:

﴿ وَمَنْ جَاهَدَ فَإِنَّمَا يُجَاهِدُ لِنَفْسِهِ ﴾

﴿ **And whoever fights *Jihâd*, he does so for his own self. Indeed Allâh is free of all needs from all creation.** ﴾³⁴

“And in the *Hadîth*: ‘There will never cease to be a party...’

“All praise is due to Allâh, the party is present united upon truth, fighting *Jihâd* in the Cause of Allâh, not fearing the blame of anyone. He, تعالى, said:

﴿ يَا أَيُّهَا الَّذِينَ آمَنُوا مَنْ يَرْتَدَّ مِنْكُمْ عَنْ دِينِهِ فَسَوْفَ يَأْتِي اللَّهَ بِقَوْمٍ يُحِبُّهُمْ وَيُحِبُّونَهُ... ﴾ إلى قوله: ﴿ ذَلِكَ فَضْلُ اللَّهِ يُؤْتِيهِ مَنْ يَشَاءُ وَاللَّهُ وَاسِعٌ عَلِيمٌ ﴾

﴿ **O you who believe! Whoever from among you turns back from his religion, Allâh will bring a people whom He will love and they will love Him** ﴾ – Until His statement – ﴿ **That is the Grace of Allâh which He bestows on whom He wills. And Allâh is All-Sufficient for His creatures’ needs, All-Knowing.** ﴾³⁵

...meaning very vast in his favors and bounty, All-Knowledgeable about who is suitable to fight *Jihâd*.”³⁶

And this refutation by ‘Abd ar-Rahmân Ibn Hasan, رحمه الله, was offered against the claim that *Al-Jihâd* is not obligatory without a general *Imâm* or *Khalîfah*. And this is clear from his opening remarks: “With which book and with what proof can one say that *Jihâd* is not obligatory except with an *Imâm*?! This is a lie against the religion and a misguidance from the path of the believers.” But I would remind you that you went even further in your claim to suggest that not only is *Al-Jihâd* not obligatory in the absence of a general *Imâm* or *Khalîfah*, you actually claimed that it is invalid altogether.

³² *Sûrat al-Hajj*, 40

³³ *Sûrat Saba’*, 46

³⁴ *Sûrat al-Ankabût*, 6

³⁵ *Sûrat al-Mâ’idah*, 54

³⁶ “*Ad-Durar As-Saniyyah*”, Vol. 8/199

As for the claim that *Al-Jihâd* is not even valid without a general *Imâm* or *Khalîfah*, then *Shaykh* ‘Abd ar-Rahmân Ibn Hasan, رحمه الله, said, in rebuking Ibn Nabahân (who was one that opposed many aspects of the Najdî Da’wah):

“Another thing which we have been informed of him is that he claims that there can be no *Jihâd* except with an *Imâm*; if there is no *Imâm*, there is no *Jihâd*. This necessitates that the disobedience to the religion of Allâh, which results from the suspension of *Jihâd* is something permissible, due to the permissibility of leaving *Jihâd*. Thus, allying with the idolaters, conforming to them and obeying them also becomes permissible. This conclusion is totally false, and thus everything which leads to this conclusion must also be false. Rather, this matter is exactly opposite [to what he said], as proven from the *Qur’ân* and *Sunnah*, that no leadership is valid except if he wages *Jihâd*.”³⁷

- b) And let us look to what has come in the book “*An-Nawâzil al-Kubrâ*”, which is a collection of *Fatâwâ* issued by the Mâlikî scholars of *Al-Maghrib al-‘Arabî*. Within this book we find the following *Fatwâ* from *Imâm* Abû ‘Abdillâh Sayyidî al-Fâsî al-‘Arabî:

“As for the third point, then the obligation of *Jihâd* is not made conditional upon the presence of an *Imâm* nor his permission in general. And from what is well known and clear is that the *Jihâd* is a goal which the *Imâmah* is a means to, due to the fact that it isn’t usually perfected except with it (i.e. the *Imâmah*). But if it is possible to have it (i.e. *Jihâd*) without it (i.e. the *Imâmah*) then there is no meaning left (to the idea) that it is contingent upon it. So how could it be that the possible goals are abandoned due to the absence of the usual means? Because if the *Imâm* was present, his permission would be sought as a means to preserve organization of the matters, unifying the word and adhering to the *Jamâ’ah* (i.e. the main body of the Muslims). And things may take place which make the matter of not seeking his permission outweigh (seeking his permission), like an opportunity being lost due to the *Imâm* being far away or because he is unjust and it is feared that his desire will overtake him in letting it (i.e. the opportunity) be lost. So if he was unjust and prevented the *Jihâd* for something other than sound opinion, the *Jihâd* would not be prevented if harm coming from him is certain. So the *Jihâd* is not to be lost if the authorities lose it. And the texts from the schools of thought support this.’

“Our *Imâm* Mâlik, may Allâh be pleased with him, said: ‘Allâh, تعالی, has obligations in His earth which He does not abolish; whether an *Imâm* takes charge of them or not.’

“And Ibn al-Qâsim said in his narrations from Abû Zayd concerning a people who live near the enemy, then they go out to them without the permission of the *Imâm* and they perform raids against them: ‘If they have hope for that opportunity and fear that the *Imâm* will prohibit them if they seek his permission or that he will delay his permission until (the opportunity for) what they hoped is lost, that is wide open for them.’

“And Ibn Wahb said in his narrations from ‘Abdul-Malik Ibn al-Hasan: ‘And he was asked about a people who are repelling the enemy; is it allowed for any of them to duel without the permission of the *Imâm*? So he said: ‘If the *Imâm* is just, it is not allowed to duel without his permission, but if he is unjust, then he may duel and fight without his permission.’

³⁷ “*Ad-Durar as-Saniyyah*”, Vol. 8/167

“Ibn Rushd stated: This is as he stated; if the *Imâm* is unjust it is not necessary to seek his permission for duelling or fighting, as he may prohibit it for something other than sound judgment.’

“And the texts of the *Math’hab* (i.e. the *Mâlikî* school of thought) are all similar to this explanation concerning this topic.’

“So if *Jihâd* is allowed without the permission of the *Imâm* due to what was mentioned (earlier) while he is in existence, then how could it not be allowed when he is non-existent?’

“And from what is clear is that if it is contingent upon his existence, it is only contingent upon that due to his permission. Subsequently based on that, if it is not contingent upon his permission, it is not contingent upon his existence.’

“Yes; establishing an *Imâm* with its conditions and gathering the word (i.e. support of the Muslims) upon him is *Fardh* and *Wâjib* (compulsory) upon the creation, just as *Jihâd* is also *Fardh* (obligatory). And establishing both of them together is sought in an obligatory manner. However, losing one *Fardh* from them is less severe than losing both of them together. As for contingency upon the *Imâm* for support, men, wealth and equipment, then it is a customary contingency, not a *Shar’î* (legal) one.’

“This is because it is not obligatory in the *Shara’* (legislation) to abstain from *Jihâd* unless it is with wealth from *Bayt al-Mâl* (public treasury), rather, whoever is able to perform *Jihâd* from his own wealth, then that is better for him and greater for his reward. And if a group of Muslims were able to gather the wealth for that, then the goal would be fulfilled as well.’

“And from what is well known in *Fiqh* (the field of juristic principles) is that the *Jamâ’ah* (main body) of the Muslims take the place of the *Sultân* if he doesn’t exist; and *Furû’* (branches of responsibility), which cannot be counted fall under this subject, like a woman whose husband is absent and she lives in an area where there is no *Sultân* (authority). She is to take her matters to a just person from amongst her righteous neighbours, then he is to investigate her matter and strive in effort on her behalf. Then she is to enter her *’iddah* (post-divorce waiting period) and then get married. This is because the *Jamâ’ah* (main body) of the Muslims takes the place of the *Sultân* in an area where there is no *Sultân*. This was stated by Al-Qâbisî, Abû ‘Imrân al-Fâsî and others from the *Shaykhs* of the *Math’hab*.’

“This is despite the fact that these matters are from the duties of the *Imâm* or his deputy, who is the *Qâdhî* (judge), which no one other than him would get involved in when he exists. Yet despite this, these matters were not made contingent upon his presence. So how about *Jihâd*, which is something that others besides him can actually perform without his permission when he is present, as has passed?’

“And what some of the tongues are raving with in these times, in that *Jihâd* is not allowed due to the absence of the *Imâm* and his permission; then this is a word which the *Shaytân* of the *Jinn* revealed to the *Shaytân* of the humans. Then he established it in his ears and then placed it upon his tongue as an attractive hallucination. This was done as a means of fooling the slaves and holding back the *Jihâd*.’

“And it is sufficient for you (to know) that the one who says that is from the collaborators of the *Shaytân* and from his brothers who are upon error and transgression. And what is supported by the evidence is the fact that *Jihâd* now is greater in reward than *Jihâd* with the *Imâm*. This is because performing now is difficult and it is nearly impossible to find those who support it and performing it with ease is something difficult. So the one performing it now has his rewards multiplied, and his mentioning will be spread

amongst *Al-Mala' al-A'lâ* (The Highest of Company), so one person will have the reward of seventy, and will resemble one who is pointing people to goodness and helping them in it.”³⁸

Additionally, if we look to the biography of Abû ‘Abdillâh Muhammad al-Ayyâshî, we see the context for the above *Fatwâ*. Some people made the same claim in his time that *Jihâd* was not allowed except with the *Amîr*. So in order to stay away from disputes, he asked those who chose him as an *Amîr* to document that they did so, so that no one could claim later that their *Jihâd* was done without the *Amîr*.

- c) In his book “*Al-Istiqsâ Li’Akhbâr Duwal al-Maghrib al-Aqsâ*”, Abul-‘Abbâs an-Nâsirî mentioned the following facts (summarized, as much of it doesn’t relate to the topic):

The elders and masses of Salé came to him (i.e. Al-Ayyâshî) complaining of the situation, and they asked him to take control of the affairs of the Muslims and the *Jihâd* in the path of Allâh. They gave *Bay’ah* to him to fight *Jihâd* and to uphold the truth. He ordered the elders to document the fact that they had chosen him, that they would remain obedient to him, and that they would remain united with him fighting anyone who left his obedience until he returned to the Laws of Allâh. They as well as all the judges and scholars of *Fiqh* of the time from Tamesna to Taza (two areas within Morocco) agreed. The reason he requested this was that he heard that some students of knowledge during his time were saying that *Jihâd* was not valid except with the existence of an *Amîr*, so he did this in order to appease this false claim, even though the scholars of the time, such as *Imâm* Abu Muhammad Abdul-Wâhid Ibn Ashir, *Imâm* Abû Is’hâq Ibrâhîm Al-Kulâlî, *Imâm* Abû ‘Abdillâh Muhammad al-Arabî Al-Fâsî and others had written to him saying that fighting the infidel enemies did not depend upon the existence of the *Sultân*, and that the general masses of the Muslim take his place.³⁹

- d) And although you quoted Ibn Hazm, رحمه الله, in your discussion of the Allegiance of the Northern Alliance to the Americans in what you described as a “civil war” (something to be addressed in a later section), you were quoting him from his book “*Al-Muhallâ*”, yet in this very same book, Ibn Hazm, رحمه الله, stated very clearly:

“The people of *Kufr* (disbelief) are to be fought alongside every evil person from the *Amîrs* (leaders) as well as those who are not evil. Also with the one who usurps power and the one who is *Muhârib* (i.e. one who illegally attacks Muslims and those who are protected). Just as the *Imâm* is to be fought with, and a person may also fight them on his own if he is able.”⁴⁰

And by contrast, I would also like to call your attention to what you stated in your lecture, which I quoted from you in the introduction of this letter:

“It’s not ever meant for just every individual to claim! It’s not like *Salât* (where) you can go and make *Salât* on your own... so you can go and make *Jihâd* on your own.”

As for other quotes of the scholars, and their evidences, which directly contradict this claim of yours, then we will present those in the section ahead addressing your misquoting of their statements and misuse of textual evidences, *In Shâ’ Allâh*.

³⁸ “*An-Nawâzil al-Kubrâ*”, Vol. 3/11

³⁹ Vol. 6/73-74

⁴⁰ “*Al-Muhallâ*”, Vol. 10/99

8. The actions of the scholars being contrary to this claim in times similar to ours

Some may think that our era is the first in which the Muslims have been without a general *Imâm* or *Khalîfah*, so they bring doubts against the *Jihâd*, stating that it cannot be performed without an *Imâm*. If we look into our history, we see that there have been numerous times in which the Muslims have been without a general *Imâm* or *Khalîfah*. However, during these times, the Muslims did not cease their *Jihâd* and say: "How can we fight when we don't have an *Imâm*?" Not only that, one of the greatest battles in Islâmic history took place during these times.

Imâm Ibn Kathîr mentioned that in the year 656 H., the Tartars killed the *Khalîfah*, Al-Musta'sim in Baghdâd.⁴¹ The next *Khalîfah*, Al-Mustansir, wasn't given *Bay'ah* until the year 659 H., as Ibn Kathîr mentioned,⁴² and that was in Egypt. During this three year period, the battle of 'Ayn Jâlût took place.⁴³ This was one of the greatest battles in Islâmic history, and despite all of the scholars who were alive at that time, do we have any narrations of them objecting because there was no *Khalîfah*? Was *Jihâd* across the Islâmic world stopped? You and I both know the answer.

9. Your Misuse of Evidences

a) The *Hadîth* of Huthayfah

As I quoted you in my introduction to this letter, you used the *Hadîth* of Huthayfah Ibn al-Yamân concerning avoiding all of the misguided groups when there is no *Imâm*. And from your remarks about this *Hadîth* itself, it is clear that you are using it as an evidence that when there is no general *Imâm* or *Khalîfah*, then *Al-Jihâd* is not to be performed. Let us look at this use by first quoting the *Hadîth* itself.

Huthayfah Ibn al-Yamân, رضي الله عنه, said, "The people used to ask the Messenger of Allâh, صلى الله عليه وسلم, about the good, and I used to ask him about the evil, due to my fear that it might reach me.'

"So I said, 'O Messenger of Allâh, verily we were in Ignorance (*Jâhiliyyah*) and evil and then Allâh came to us with this goodness. So after this goodness, will there be any evil? He said, 'Yes.' I said, 'And is there, after that evil, any goodness?' He said, 'Yes, and in it is a *Dakhan* (impurity)?' I said, 'And what is its *Dakhan*? ' He said, 'There will be some people who will lead (people) according to principles other than my tradition. You will see their actions and disapprove of them.'

"I said, 'So is there, after that goodness, any (further) evil?' He said, 'Yes. Callers at the gates of Hell. Whosoever answers them (i.e. their call) to it, they will throw him into it.'

"I said, 'O Messenger of Allâh, describe them to us.' He said, 'They are from our skin (i.e. race) and they speak with our tongues (i.e. language).'

"I said, 'Then what do you order me, if that reaches me?' He said, 'Adhere to the group (*Jamâ'ah*) of the Muslims, and their *Imâm*.'

⁴¹ "Al-Bidâyah wan-Nihâyah", Vol. 17/364

⁴² "Al-Bidâyah wan-Nihâyah", Vol. 17/425

⁴³ "Al-Bidâyah wan-Nihâyah", Vol. 17/399

“I said, ‘But, if they have no group and no *Imâm*?’ He said, ‘Then avoid all those sects (*Al-Firaq*), even if you have to bite the trunk of a tree, until death reaches you while you are upon that.’”⁴⁴

This *Hadîth* cannot be used in any way to show that fighting is not allowed or even Makrûh (disapproved of) in the absence of a general *Imâm*. This becomes clear through the following points:

The First Point: Not every group is to be avoided. This is clear for a number of reasons:

The first is in the *Hadîth* itself, in that the groups that we are ordered to avoid are the groups that are upon misguidance. This is clear linguistically, due to:

- i) The demonstrative pronoun (*Ism Al-Ishârah*); “... those...”, (*Tilk*) refers to something mentioned prior to it in the text. So the Prophet, صلى الله عليه وسلم, was saying to avoid the groups that he described earlier meaning “*Callers at the gates of Hell.*” Whose description is that ‘*They are from our skin (i.e. race) and they speak with our tongues (i.e. language).*’
- ii) The ا (Alif) and ل (Lam) in “... *Al-Firaq*...” is for ‘*Ahd* (i.e. they are a definite grammatical article) and indicate something which was previously mentioned and established. And it would be incorrect to say that what is being referred to is the actual category of groups. This is because we would then say that “*The Victorious Party*” (*At-Tâ’ifah al-Mansûrah*) would have to be included in what was ordered to avoid, and this is false according to consensus (*Ijmâ’*). So it is clear that “...*Al-Firaq*...” who it is obligatory to avoid are misguided ones, not every group. Also, if we were to say, for the sake of argument, that it was a phrase of generality (*Sîghat ‘Umûm*); it is from the general (i.e. all groups), which is intended as specific (i.e. all misguided groups).

The Second Point: As is well-known, and you even mentioned within your talks, when there are numerous *Shar’î* (legal) texts on any particular topic, we don’t derive rulings from one or two and leave the rest; we use all of them and reconcile between apparent contradictions, identifying what is specific and what is general, excluding what is abrogated, etc. We must do the same on this topic. We have the *Hadîth* of Huthayfah which you mentioned, but we also have at least two others which you didn’t mention in your talks. We say that the *l’tizâl* (withdrawal), which was narrated in his, صلى الله عليه وسلم, saying, “... then avoid those sects...” despite the fact that we have already shown that it does not encompass every single group, if we say, for the sake of argument, that it is upon its then we say that it is limited as well, by many texts, such as the *Hadîth* of “*The Victorious Party*” (*At-Tâ’ifah Al-Mansûrah*).

- i) Concerning “*The Victorious Party*” (*At-Tâ’ifah Al-Mansûrah*), the Messenger of Allâh, صلى الله عليه وسلم, said, “*There will not cease to be a party from my nation, establishing the order of Allâh. They are unharmed by those who betray them or oppose them, until the Order of Allâh arrives and they are dominant over the people.*”⁴⁵
- ii) And he, صلى الله عليه وسلم, said, “*And this Religion will never cease to be established; a faction (‘Isâbah) from the Muslims will fight upon it until the Hour arrives.*”⁴⁶

⁴⁴ Narrated by Muslim (#1,847)

⁴⁵ Narrated by Muslim (#1,037) from Mu’âwiyah Ibn Abî Sufyân

⁴⁶ Narrated by Muslim (#1,922) from Jâbir Ibn Samurah

So here is a party, which establishes the matters of the Religion, fighting for it; it is promised victory and dominance and given glad tidings that it will not be harmed by those who oppose it, nor by those who betray it; it will always exist from the time of the Messenger of Allâh, صلى الله عليه وسلم, until the last of it fights the *Dajjâl* alongside ʿĪsâ, عليه السلام. So would the Prophet, صلى الله عليه وسلم, order the Muslims to avoid this party (*Tâʿifah*), which establishes the matters of the Religion? And due to that, we say that if his, صلى الله عليه وسلم, saying: “Then avoid all those sects (*Al-Firaq*)...”, were to be held upon its generality, then it becomes restricted by this *Hadîth*, just as it is restricted by the *Hadîth* of “The Saved Sect”.

So if the people separate into sects – in the absence of the general *Imâm* – then the Muslim should look to which sect follows the methodology of “The Saved Sect”, and which fulfils the trusts for carrying this Religion and performs *Jihâd* upon that. (And if they find such a sect), then they should adhere to it, especially when the texts which were narrated regarding “The Battling Alongside the Sinful *Amîr*”, have indicated that the *Jihâd* is constant and will never cease.

One might try to use the statement of Ibn Hajar, in the explanation of the *Hadîth*: “Then avoid all those sects (*Al-Firaq*)...”, “And in the *Hadîth*, it contains that whenever there is no *Imâm* for the people, and thus the people break into different parties (*Ahzâb*) - then he should not follow anyone in the sects and avoid them all, if possible, due to a fear that he might fall into evil.”⁴⁷

But, as mentioned earlier, the *Hadîth* of “The Victorious Party” restricts many *Ahâdîth* concerning the *Fitan* (Tribulations). For example, Ibn Hajar indicated this in the chapter: “**The Changing of the Times, Until Idols are Worshipped**”. He said, “Ibn Battâl said, ‘This *Hadîth*, and the likes of it; they are not intended to suggest that the Religion ends completely, in all of the places of the Earth, until there is nothing left of it. Because it is confirmed that *Islâm* remains until the Hour arrives. But yes, it will become weak and return to being strange as it had began ...’ Then he mentioned the *Hadîth*, ‘There will not cease to be a party from my nation fighting upon the Truth...’ – the *Hadîth*. He said, “So a restriction upon the other narrations becomes clear in this *Hadîth*.”⁴⁸

And as mentioned earlier, you stated: ‘Also, *An-Nabî*, صلى الله عليه وسلم, said: ‘And if you are called out, then go out.’ that if you’ve been called to *Jihâd*, you accept. Who make(s) the call? It is the *Imâm* of *Muslimîn*, as *An-Nawawî* and Ibn Hajar, رحمه الله, commented... commented on this.’

No one disputes the right of the *Imâm* to call for *Jihâd*. Likewise, no one disputes the obligation of obeying the *Imâm* when he calls for it. What has been overlooked here is the situation when there is no *Imâm*, as well as the situation when the *Imâm* exists but doesn’t fulfill his duty. And as I will discuss shortly, in the absence of an Islâmic State, the obligations of the State fall back onto the *Ummah* to implement. Also, even when there is a general *Imâm* or *Khalîfah*; if he orders the abandonment of *Jihâd*, he is not to be obeyed.

So the point of the earlier discussion is that the Muslim is ordered to follow the Truth, and he is ordered to follow the *Imâm* of the Muslims, when he is to be found: “Adhere to the group (*Jamâ’ah*) of the Muslims, and their *Imâm*.” And he must obey him in what is obedience to Allâh and he must not obey him in the disobedience to Allâh. So if there is no *Imâm* for the Muslims, then the Muslim is still ordered to follow the Truth, and the Prophet, صلى الله عليه وسلم, has clarified that there will not cease to be a party

⁴⁷ “*Fat’h Al-Bârî*”, Vol. 13/37

⁴⁸ “*Fat’h Al-Bârî*” (Vol. 13/76-77) and similarly (Vol. 13/19)

from his nation upon the Truth. So in the absence of the *Imâm*, it is obligatory upon the Muslim to adhere to this party, which establishes the Religion with Knowledge and *Da'wah* and *Jihâd*. And Allâh, تعالی, has stated:

﴿وَاتَّبِعْ سَبِيلَ مَنْ أَنَابَ إِلَيَّ﴾

﴿...and follow the path of him who turns to Me...﴾⁴⁹

And by compiling the available textual evidences on a particular topic, I have done what you have advised the student of knowledge to do, and I have avoided what you have criticised, which is taking a single text and using it solely to derive a ruling in a particular issue. If only you had applied the same methodology in this matter, as you have been so critical in others for failing to do so. Rather, what you have done is taken a hypothetical issue, (i.e. "What is to be done in when there is no general *Imâm* for the Muslims and sects start to emerge?") and then you applied a single text to address it (i.e. *Hadîth* Huthayfah), while completely ignoring the other relevant texts, which relate to the same subject, and this was precisely what you criticised the "terrorist groups" for doing.

b) *Sûrat an-Nisâ'*, 83

I also quoted you in the introduction to this letter in your usage of the following Verse:

﴿وَإِذَا جَاءَهُمْ أَمْرٌ مِّنَ الْأَمْنِ أَوْ الْخَوْفِ أَدَّاعُوا بِهِ وَلَوَّ رَدُّوهُ إِلَى الرَّسُولِ وَإِلَى أُولِي الْأَمْرِ مِنْهُمْ لَعَلِمَهُ الَّذِينَ يَسْتَنْبِطُونَهُ مِنْهُمْ وَلَوْ لَا فَضْلُ اللَّهِ عَلَيْكُمْ وَرَحْمَتُهُ لَاتَّبَعْتُمُ الشَّيْطَانَ إِلَّا قَلِيلًا﴾

﴿ **When there comes to them some matter touching (public) safety or fear, they make it known (among the people), if only they had referred it to the Messenger or to those charged with authority among them, the proper investigators would have understood it from them (directly). Had it not been for the Grace and Mercy of Allâh upon you, you would have followed Shaytân (Satan), save a few of you.** ﴾⁵⁰

And again, it is clear from your comments upon this verse, that fighting can only be declared by the leaders, the governors or the presidents, which adds to your claim that if there is no *Khalîfah* or general *Imâm*, then *Al-Jihâd* is not to be performed.

However, there is no direct evidence in this Verse that leadership, especially a *Khalîfah* is even obligatory. On top of that, *Shartiyyah* is completely absent in this Verse, especially for the *Khalîfah*. The mention of leadership in no way makes this a *Shart*.

However, let us say for the sake of argument, that this Verse indicated the obligation of having a leader; it would only be concerning a leader who is present during the fighting, as is clear from the Verse and even more so from the reason it was revealed. And I challenge you to find one front where the Muslims today are fighting in which they do not have a leadership structure.

⁴⁹ *Sûrat Luqmân*, 15

⁵⁰ *Sûrat An-Nisâ'*, 83

Furthermore, if we look to who is specified as “*Ulû al-Amr*”, we see that not only does it include ‘*Umarâ*’ (leaders), but also ‘*Ulamâ*’ (scholars). This was narrated by Ibn Jarîr at-Tabarî from Ibn ‘Abbâs, Mujâhid, Ibn Abî Najîh, ‘Atâ’ Ibn as-Sâ’ib, Al-Hasan and Abul-‘Âliyah.⁵¹

And Ibn Kathîr said: “And what is apparent, and Allâh knows best, is that it is general concerning every person of authority; from the *Umarâ*’ and the ‘*Ulamâ*’, as has passed.” And then he mentioned evidence to show both are to be obeyed.⁵²

Add to this that Ibn Jarîr narrated three opinions on who they are: 1- The scholars. 2- The Amîrs. 3- The Companions of the Prophet, صلى الله عليه وسلم. 4- Abû Bakr and ‘Umar, رضي الله عنهما.

After this, we see that this claim of yours is completely wrong for a number of reasons: 1- Nowhere in this verse is there the mention of the general *Imâm*. Instead, it mentioned the Messenger and those in authority, which shows that it is actually many more than the *Khalîfah*. 2- Much of the *Tafsîr* even goes further and states that this includes not only Amîrs, but scholars, rendering your argument even less rational. 3- Even if it did clearly state “*Khalîfah*”, where does this show that the *Imâmah* is a condition for *Jihâd*?

c) *Sûrat al-Anfâl*, 65

In my introduction to this letter, I also quoted your usage of this verse, in which the Messenger of Allâh, صلى الله عليه وسلم, was commanded by Allâh to urge the believers to fight. You used the fact that it was the Messenger of Allâh, and as you stated: “In *Sûrat al-Anfâl*, verse 65... ‘O Muhammad, encourage people to fight... invite them to fight... so Muhammad, not everybody! And whoever replace(s) Muhammad’s, صلى الله عليه وسلم, role, which are the governors and the leaders of the Muslims.” to be a restricting factor in who is eligible to call for *Al-Jihâd*. And in the context of your comments, it is clear that you are using this verse as an evidence that *Al-Jihâd* today is somehow invalid, due the absence of this position of authority presently in our *Ummah*.

The statement of Allâh (‘*aza wa jall*) is:

﴿ يَا أَيُّهَا النَّبِيُّ حَرِّضِ الْمُؤْمِنِينَ عَلَى الْقِتَالِ إِنْ يَكُنْ مِنْكُمْ عِشْرُونَ صَابِرُونَ يَغْلِبُوا مِائَتِينَ وَإِنْ يَكُنْ مِنْكُمْ مِائَةٌ يَغْلِبُوا أَلْفًا مِّنَ الَّذِينَ كَفَرُوا بِأَنَّهُمْ قَوْمٌ لَّا يَفْقَهُونَ ﴾

﴿ **O Prophet! Urge the believers to fight. If there are twenty steadfast persons amongst you, they will overcome two hundred, and if there be a hundred steadfast persons they will overcome a thousand of those who disbelieve, because they (the disbelievers) are people who do not understand.** ﴾⁵³

There are two issues here:

⁵¹ “*Jâmi’ al-Bayân Fî Ta’wîl Ây al-Qur’ân*”, Vol. 8/500-501

⁵² “*Tafsîr al-Qur’ân al-‘Athîm*”, Vol. 4/136-137

⁵³ *Sûrat al-Anfâl*, 65

- 1- An order to the Prophet, صلى الله عليه وسلم, is an order to his *Ummah*, unless there is an evidence to restrict it to him alone.

Ibn Taymiyyah stated: “So He (i.e. Allâh) ordered His Prophet to say: ‘In Ar-Rahmân is my trust, and to Him will be my return with repentance.’ Just as He ordered him with both in His statement: ‘**So worship Him and put your trust in Him.**’ And the commandment for him is a commandment for his *Ummah*.”⁵⁴

And when speaking about the following verse:

وَلَيْنِ اتَّبَعَتْ أَهْوَاءَهُمْ بَعْدَ الَّذِي جَاءَكَ مِنَ الْعِلْمِ مَا لَكَ مِنَ اللَّهِ مِنْ وَلِيٍّ وَلَا نَصِيرٍ

‘And if you (O Muhammad Peace be upon him) were to follow their (Jews and Christians) desires after what you have received of Knowledge (i.e. the Qur’ân), then you would have against Allâh neither any Walî (protector or guardian) nor any helper.

Ibn Kathîr stated: “In it there is a severe threat and promise of punishment for the *Ummah* concerning following the paths of the Jews and the Christians after they have learned from the *Qur’ân* and the *Sunnah*, we seek refuge in Allâh from that. So the address is to the Messenger, and the commandment is for the *Ummah*.”⁵⁵

Imâm ‘Abd ar-Rahmân as-Sa’dî stated: “And from that which is well known is that the commanding to the Messenger, صلى الله عليه وسلم, is a command to his *Ummah* if there is no restriction narrated.”⁵⁶

- 2- General and Specific Evidence concerning the issue of Inciting and Encouraging Fighting

Ibn an-Nahhâs ad-Dumyâtî stated: “The *Sunnah* of Allâh has always been the inciting and arousing of desire concerning *Jihâd*. And the *Qur’ân* has within it what is not hidden from that, and likewise the Prophetic *Sunnah* is full of that. And from that is this book and all that it contains. And the *Sahâbah*, the *Tâbi’în*, those who followed them, and the *Imâms* of the *Salaf* never ceased to incite the people concerning *Jihâd* in the Path of Allâh and fighting the enemies of Allâh. And what has been narrated from them concerning that is so much that it cannot be counted.”⁵⁷

He then went on to mention a number of incidents in which some of the *Salaf*, including scholars and women, incited the Muslims to fight. And none of these were the governors, leaders or those whom you tried to claim are the ones who replace the Prophet, صلى الله عليه وسلم, to whom this act is restricted.

1. Absence of Evidence and Misuse of the Statements of the Scholars

I would like to first call your attention to what you repeated numerous times throughout your two lectures; which was your criticism against those who oppose your position, in how (as you claimed) they misuse the statements of the scholars in order to substantiate their opinions. For instance, you mentioned at (1:11:33) of “**Reclaiming Islam from the Jihadists**”:

⁵⁴ “*Majmû’ al-Fatâwâ*”, Vol. 14/11-12

⁵⁵ “*Tafsîr al-Qur’ân al-‘Athîm*”, Vol.

⁵⁶ “*Taysîr al-Karîm ar-Rahmân Fî Tafsîr Kalâm al-Mannân*”, Vol. 1/755

⁵⁷ “*Mashârî’ al-Ashwâq wa Masâri’ al-‘Ushâq*”, Vol. 1/211

“It is sad when you look, that sometimes they change, or misquoting the scholars and the ‘*Ulamâ*’, just to deceive others.”

I would like to take this opportunity to agree with you. Such an action is very sad. Having said that, I would like to call your attention to the following points:

a) Ibn Qudâmah, رحمه الله, from “*Al-Mughnî*”

I quoted your statements in the introduction of this letter where you referred to the words of Ibn Qudâmah, رحمه الله, from his famous book of *Fiqh*, “*Al-Mughnî*”, and you have used an ambiguous phrase of his to imply that he had restricted the participation in *Al-Jihâd* to be conditional upon the existence of a general *Imâm* or *Khalîfah*.

I would like to give you the benefit of the doubt that you were unaware of the fact that *Imâm* Ibn Qudâmah, رحمه الله, actually addressed this specific topic in this exact same book in explicit detail, and without any ambiguity, as he stated beneath his chapter title: “***And the Matter of Jihâd is Entrusted to the Imâm and his Ijtihâd***”, Ibn Qudâmah stated:

“Then if the *Imâm* is non-existent, the *Jihâd* is not delayed, because its benefit will be lost by delaying it. And if *Ghanîmah* (spoils of war) are attained, its people (i.e. those who participate in *Al-Jihâd* without an *Imâm*) are to divide it based upon what the *Sharî’ah* obligates. Al-Qâdhî stated: ‘And the division of the slave-girls is delayed until an *Imâm* emerges in order to safe-guard the private areas.’”⁵⁸

Also, as mentioned earlier, you stated: “No! It’s only by, as *Imâm* Ibn Qudâmah, رحمه الله, said by the consensus of the Muslims scholars... the only one (who) has the right to declare *Jihâd* is the ruler... is the ruler. Not anybody else, unless you (are) protect(ing) your own home if somebody (is) attacking you.”

Here I will mention Ibn Qudâmah’s statement in order to show that not only does it not prove what you are claiming, but it refutes your claim, in and of itself.

He stated: “They may not go out except with permission of the *Imâm*, because the matter of war is entrusted to him. (This is the case) unless it is not possible to seek his permission due to the enemy surprising them, so it would not be obligatory to seek his permission, because the benefit necessitates fighting them and going out to them due to leaving them necessitating harm.”⁵⁹

So here, in the exact same paragraph where he states that this matter is left up to the *Imâm*, he states that when there is a need and he can’t be asked for permission, it is not necessary. It seems that you haven’t actually read this chapter and only found statements where the word *Imâm* is mentioned, or you have performed the picking and choosing that you have accused others of doing concerning quotes from the scholars.

⁵⁸ “*Al-Mughnî*”, Vol. 10/375

⁵⁹ “*Al-Mughnî*”, Vol. 10/390

On top of this, numerous quotes will come in section 11 that if the *Imâm* doesn't implement *Jihâd* as he should or orders it to be halted, the people perform it without him. Do you still claim that what is going on today is not allowed because there is *Ijmâ'* that only the *Imâm* can declare *Jihâd*?

- b) The books of '*Aqîdah*, which include fighting behind every *Birr* (righteous one) or *Fâjir* (wicked one)

You mentioned a rule that the scholars have concerning fighting behind every *Birr* and *Fâjir*. Let us look at this rule and its usage. Is there, anywhere in this snt, that fighting behind the *Imâm* is a condition for the validity of *Jihâd* or that the presence of an *Imâm* is a condition for the obligation of *Jihâd*? Of course not. There isn't even any indication that having an *Imâm* or even an *Amîr* is an obligation, let alone a condition. And to imply otherwise, would clearly result from a lack of understanding of linguistics and *Usûl al-Fiqh*. And I state this clearly to you while at the same time I believe that having an *Amîr* over the *Jihâd* and a *Khalîfah* over the *Ummah* is obligatory; but not a condition (*Shart*) for its validity or its obligation.

However, these statements are not evidence, nor do they even indicate what you are using it for. Let us look to what *Imâm* Ibn Abî al-'Izz al-Hanafî mentioned in his explanation of this rule. When speaking about the statement of At-Tahâwî: **"And Hajj and Jihâd continue with the authorities from amongst the Muslims, the righteous and the wicked from amongst them, until the establishment of the Hour. Nothing invalidates them nor abolishes them"**, he said:

"He, may Allâh be Merciful to him, is pointing to the refutation of the *Râfidhah* (*Shi'ah*), as they stated: 'There is no *Jihâd* in the Path of Allâh until Ar-Ridhâ from the family of Muhammad (i.e. their hidden *Imâm* that they are waiting for) emerges, and a caller calls out from the heavens: 'Follow him.'" And the invalidity of this statement is clear enough that no evidence is needed to refute it." ⁶⁰

- **An additional point on this topic:**

And on this note, just as you mentioned, statements like: "And we fight behind every *Imâm*, whether he is righteous or wicked," can be found in many books of '*Aqîdah* from the *Salaf*. We also have the statement of Ibn Taymiyyah in "*Al-'Aqîdah al-Wâsitiyyah*":

"And they see the establishment of the *Hajj*, *Jihâd*, the *Jumu'ah* prayers and the *Îd* prayers with the *Amîrs*; whether they are righteous or wicked." ⁶¹

So in applying your condition (*Shart*) of these things (i.e. *Hajj*, *Jumu'ah* and *Îd* prayers) as valid only with the presence of these authorities, should we likewise consider all of these forms of worship also conditional upon the existence of an *Imâm*? Why not? Didn't they come in the books of '*Aqîdah* in the same form as fighting behind every *Birr* and *Fâjir*? Wouldn't consistency in your usage of this evidence necessitate these other forms of worship take this same ruling?

- c) The chapter of *Imâm* al-Bukhârî in his "*Sahîh*": **"And the *Imâm* is to be fought behind and used as protection."**

⁶⁰ "*Sharh al-'Aqîdah at-Tahâwiyyah*", Pg. 437

⁶¹ "*Sharh al-'Aqîdah al-Wâsitiyyah*", by *Shaykh* Muhammad Khalîl Harrâs, Pg. 257

As mentioned earlier, you stated in “**Reclaiming Islâm from the Jihadists**”, (1:01:32 - 1:01:48):

“*Al-Imâm al-Bukhârî*, رحمه الله, said in his *Sahîh*: He said ‘Chapter: The Imâm is fought behind.’ ‘Fight(ing) Should Be Behind the Leaders’, behind the *Imâm*, which is the elected leader or the leader of the Muslims.”

Again, nowhere in this statement is there the mentioning of a condition for the existence of an *Imâm*. And if we look to the most common explanations of “*Sahîh al-Bukhârî*”, we see no mention of anything like this by the scholars in their explanations. Not by Ibn Hajar in “*Fat’h al-Bâri*”,⁶² nor Ibn Battâl in his *Sharh* (explanation),⁶³ nor Al-Qastalânî in “*Irshâd as-Sârî*”,⁶⁴ nor Badr ad-Dîn al-‘Aynî in “*Umdat al-Qârî*”,⁶⁵ nor Al-Kishmîrî in “*Faydh al-Qadîr*”,⁶⁶ nor As-Sindî in his “*Hâshiyah*”.⁶⁷ And as I’m sure you know, Ibn Rajab only explained “*Sahîh al-Bukhârî*” up until *Kitâb al-Janâ’iz*, so he has no words in his *Sharh* (explanation) of that chapter. The point here is that none of these scholars mentioned this condition or anything resembling it in their explanations. What we do see is them mentioning the obligation of obeying the *Imâm* (assuming one exists) during fighting and that it is obligatory to fight behind him, which is something no one denies. However, this is not being disputed. The dispute is whether *Jihâd* can be performed in his absence or when he does not exist. And there is no evidence whatsoever, for your claim, in this chapter title.

2. Even when there is a general *Imâm* or *Khalîfah*; if he orders the abandonment of *Jihâd*, he is not to be obeyed

Let me make something clear here: In this section, I am not claiming that it is not obligatory to obey the *Imâm*, nor that when he is present, he is not in charge of the *Jihâd*. Instead, I am saying that, not only did the scholars reject the claim that having an *Imâm* is a condition for *Jihâd*, they even stated that he isn’t to be obeyed when present if he refrains from *Jihâd*.

And I will restrict my comments to merely quoting some of the scholars of *Ahl as-Sunnah*, in order to establish this point, *In Shâ’ Allâh*:

Ibn Rushd said: “Obedience to the *Imâm* is an obligation, even if he is a tyrant, unless he orders something which consists of disobedience. One type of disobedience is forbidding people from fighting a type of *Jihâd* regarded as *Fardh ‘Ayn*.”⁶⁸

Ibn Hazm stated: “There is no sin after *Kufr* (disbelief) greater than the sin of someone who forbids people from fighting *Jihâd* against the *Kuffâr* (disbelievers).”⁶⁹

⁶² Vol. 6/135-136

⁶³ Vol. 5/127-129

⁶⁴ Vol. 5/119-120

⁶⁵ Vol. 14/308-309

⁶⁶ Vol. 5/353

⁶⁷ Vol. 2/70

⁶⁸ “*Fat’h al-Aliyy al-Mâlik Fî Fatwâ ‘Alâ Math’hab Imâm Mâlik*”, Vol. 1/390, by Abû ‘Abdillâh Ahmad Ibn Ahmad al-Misrî al-Mâlikî

⁶⁹ “*Al-Muhallâ bil-Âthâr*”, Vol. 5/353

Ibn 'Asâkir ash-Shâfi'î narrated that Wakî' Ibn al-Jarrâh was asked about fighting the enemy underneath a tyrannical ruler, to which he replied, "If he was tyrannical but he still implements *Jihâd* as is obligatory upon him, fight along with him. But if he takes bribes from them (i.e. the disbelievers) and strikes peace, then fight by yourselves."⁷⁰

Muhammad Ibn Abil-'Abbâs ar-Ramlî stated: "Fighting is *Makrûh* (disapproved) without the permission of the *Imâm* or his representative, but in certain cases it is not; (such as when) seeking permission would cause the loss of the opportunity to gain something sought, the *Imâm* does not implement the commandment to fight, and (when) a person thinks that he would not give him permission, according to the research of Al-Balqîni."⁷¹

So if these were the statements of the scholars regarding what to do if the general *Imâm* or *Khalîfah* orders the abandonment of *Al-Jihâd*, then what do you think they would say about times in which no such general *Imâm* or *Khalîfah* even exists?

3. In the absence of an Islâmic State, the obligations of the State fall back onto the *Ummah* to implement

Throughout your lectures, you continued to emphasize how *Al-Jihâd* is the responsibility of the government and its ministers when there is an Islâmic state. Then since there is no Islâmic state, those ministers cannot take that responsibility, and therefore *Jihâd* cannot be performed. This claim, despite its lack of any evidence whatsoever, completely overlooks the fact that when a state-organized activity cannot be performed, due to negligence or to inability or due to the fact that such a state doesn't exist (as is the case today), then these responsibilities fall back upon the individuals and groups to perform them until a state can (or will) do so. And although *Al-Jihâd* is only one of these responsibilities among others (i.e. collecting and distributing *Zakât* etc.) and certainly not the only one, it is included among those responsibilities, just as all the others are. And although this was pointed out very clearly by 'Abd ar-Rahmân Ibn Hasan, رحمه الله, whom I quoted in an earlier section, this specific point has been emphasized by several of our scholars:

For instance, Al-Juwaynî, رحمه الله, said, "And if the people do not come across anyone whom they are satisfied with to take charge of their affairs - then it is impossible that they would be ordered to refrain from what they are able to do of repelling the corruption, because if they refrain from what is possible, then corruption grows to envelop the lands and people..." – until his saying – "... and some of the scholars have stated that if a (particular) era is lacking a *Sultân* (governor), then it is the responsibility upon the intelligent ones in each city, along with the residents of every village; to put forward the people of vision and intelligence along with the people of intellect and strong-mindedness, who they will obey in their directives and orders and refrain from what they forbid and prohibit. Because, if they do not do so, they will hesitate in the performance of the duties and they will differ when issues arise."⁷²

And *Al-Qâdhî* Abû Ya'lâ, رحمه الله, said: "And if the people of a country lack a judge, they must agree upon adherence to a (chosen) judge over them. So we look; if the *Imâm* is present, then this selection is void, and if he is absent, then this is valid and his judgments are held upon them. But if a new *Imâm* arrives

⁷⁰ "Târîkh Dimashq", Vol. 5/22

⁷¹ "Nihâyat al-Muhtâj", Vol. 8/60

⁷² "Ghiyâth Al-Umam", Pg. 387-388

after his judgments, then his judgment does not proceed, except with his (i.e. the *Imâm's*) permission, and what has already passed from his rulings are not nullified. And Ahmad, may Allâh be merciful to him, has stated that when two people take him as their judge, then his ruling is binding upon them.”⁷³

And in case you felt that the aforementioned quote of Al-Juwaynî, رحمه الله, was too general and didn't include the participation in *Al-Jihâd*, then I would invite you to consider what he said elsewhere in the same book:

“And the time has come for me to propose a hypothetical (example) concerning an era which lacks people of authority, who are strict - and it lacks someone who is worthy of leadership (*Imâmah*)...” – until his saying – “As for what the people are able to perform on their own; but proper etiquette necessitates that they seek the council of the people of authority and refer to the important (individuals) of the era. (Examples include) the establishment of the Friday prayers, leading the troops to *Jihâd* and providing the equity in punishment (*Al-Qisâs*) with respect to life and limb [i.e. wounds and injuries (from assaults etc.)]. Then the people must take responsibility during times of the absence (of proper authority).”⁷⁴

And this is because the obligations of *Islâm* don't suddenly cease, due to the negligence or absence of those who are the most eligible and most appropriate institutions to fulfill them (contrary to your claim), as *Shaykh al-Islâm*, Ibn Taymiyyah, رحمه الله, stated:

“Allâh addressed the Believers with *Al-Hudûd* (the Islâmic penalties) and the rights, with an unrestricted address. Such as His, تعالى, saying: ﴿ **And the male thief and the female thief, cut off their hands...** ﴾ And He, تعالى, said: ﴿ **The woman and the man guilty of illegal sexual intercourse, flog (them)...** ﴾ And His statement: ﴿ **And those who accuse chaste women, and produce not four witnesses, flog them...** ﴾ And like that, is His statement: ﴿ **...and do not accept their testimony ever...** ﴾ However, it is known that whoever is addressed with the (performance of an) action; he must be able to perform it, and it is not obligatory on those who are incapable.”

And in case you think these words of *Shaykh al-Islâm* are too general, or that they only refer to the implementation of *Al-Hudûd*, and do not include the responsibility of *Al-Jihâd*, then look to his words, which immediately follow what I quoted above:

“And it is known that this is an obligation upon the community (*Fardh 'Alâ al-Kifâyah*) and it is like *Jihâd*. Rather, it is a type of *Jihâd*. So His statement: ﴿ **Fighting is ordained for you...** ﴾ and His statement: ﴿ **And fight in the Path of Allâh...** ﴾ and His statement: ﴿ **If you march not forth, He will punish you...** ﴾ And the likes of these are obligations upon the community (*Fardh 'Alâ al-Kifâyah*) for those who are able. So 'the ability' (in regards to establishing the penalties) is the *Sultân* (i.e. authority) - so for this reason, it is obligatory upon the person of *Sultân* (i.e. authority), and his deputies, to establish the Islâmic penalties (*Al-Hudûd*).’

“And the *Sunnah* is that the Muslims are to have one *Imâm*, while the rest are his deputies. And if, for the sake of argument, the nation leaves this *Sunnah*, due to sinfulness of some of them, and the inability

⁷³ “*Al-Ahkâm As-Sultâniyyah*”, Pg. 73

⁷⁴ “*Ghiyâth al-Umam*”, Pg. 385-391

of the rest, or such - which results in it having numerous *Imâms*, then it is obligatory upon each *Imâm* to establish the Islâmic penalties (*Al-Hudûd*) and to fulfill all the rights. And for this reason, the scholars have stated that the rulings of the people of unlawful rebellion (*Baghî*) are to be implemented in whatever the rulings of the People of Justice are implemented in. And also, if they share in the leadership and evolve into parties, then it would be obligatory upon every party to establish that (i.e. *Al-Hudûd*) upon the people who obey them. So this is when the *Amîrs* have become divided and are numerous. And likewise, (even) if they do not become divided, but their obedience to the chief *Amîr*, is not absolute obedience, then even if his ability to make that binding upon them disappears, their responsibility of establishing it does not disappear. Rather, it remains (obligatory) upon them (i.e. those people who are away from his authority) to establish it. And likewise, suppose some of the *Amîrs* are unable to establish the *Hudûd* and the rights, or they do not fulfill them; then it would still be compulsory upon whoever is able.”⁷⁵

These were just some of the words of our scholars who took into account the fact that the responsibilities of *Islâm* are foremost obligatory upon the people of authority. However, the comprehensive nature of our scholars ensured that these discussions weren't so simplistic that they neglected to consider the possibility (even the likelihood) that these institutions might fail to implement these responsibilities, either due to negligence or due to the fact that they wouldn't always exist to do so. So unlike yourself, who chose to claim that these obligations can't be performed in the absence of an established Islâmic government, general *Imâm* or *Khalîfah* – due to your allegation that such activities are conditional upon the existence of such institutions – our scholars emphasized how these responsibilities (including *Al-Jihâd*) were still obligatory to be carried out by those individuals and groups who were capable to do so, and they passed these obligations along to those who are able to perform them, regardless if they were official governors or not.

And what I find amazing about these considerations of our scholars was that they were discussing this issue during times when there were established Islâmic governments, with a general *Imâm* or *Khalîfah*. Yet, despite the reality of their time, they did not overlook the possibility (or likelihood) that these institutions would not always be in place for our *Ummah*. You, on the other hand, are living in a time when these institutions are not present for our *Ummah*, so you have the perspective of knowing that this was a reality for our *Salaf*, which is not a reality for us. Yet even with the benefit of this knowledge, you failed to point out (or even acknowledge) that the responsibilities of the state do not simply disappear for the Muslims, just because the state itself fails to remain in place.

And compare these comprehensive discussions of the likes of Al-Juwaynî, *Al-Qâdhî* Abû Ya'lâ and *Shaykh al-Islâm* Ibn Taymiyyah with what you overly-simplistically, and generally stated in the broadest possible terms, in your lecture **“Reclaiming Islam from the Jihadists”**:

“It's not ever meant for just every individual to claim! It's not like *Salât* (where) you can go and make *Salât* on your own... so you can go and make *Jihâd* on your own. Exactly (in this same way) you cannot make yourself the judge on your own and say: 'I will make myself the judge and now I will judge between the people.' You can't do that! It's not up to you! It is part of a whole system. Otherwise, it will be a mess like what we (are) seeing today.”

Conclusion:

⁷⁵ “*Majmû' al-Fatâwâ*”, Vol. 34/175-176

The claim that the existence of a general *Imâm* or *Khalîfah* is a condition for the validity (or obligation) of *Jihâd* is a false claim that is not supported by the *Qur'ân*, the *Sunnah* or the statements and actions of the scholars. Furthermore, the evidence from these sources actually indicates the opposite. In fact, the proof is so evident and overwhelming that it is strange how someone could fail to see it and fall into this error you have fallen into by making this claim.

In reality, an entire book has been written upon this topic, entitled "*Sall al-Husâm Li'Ibtâl Da'wâ lâ Jihâda Illâ Bi'Imâm*",⁷⁶ which was written by the scholar and *Mujâhid*, Khâlid Ibn Fat'hî Ibn Khâlid al-Âghâ, better known as Abul-Walîd al-Ansârî. And I would invite you to read and benefit yourself from this book, particularly with respect to this error of yours. Perhaps you can even translate it for the English-speaking audience to whom you addressed these two lectures, in order to expiate your error in this particular issue. And if it weren't for the popularity of Al-Maghrib Institute and your popularity, in particular, as a speaker among Western, English-speaking Muslims, I would not have digressed into such a lengthy refutation-letter on this one topic alone. However, with this one baseless claim in both your lectures, you have attempted to revive an old and dangerous misconception in order to create an obstacle (among many) in the minds of the Muslims whom you can influence in order to prevent their participation in *Al-Jihâd* today. And although this misconception was actually buried decades ago by the writings and *Fatâwâ* of our contemporary heroes, such as the *Shahîd*, Shaykh 'Abd Allâh 'Azzâm, رحمه الله, your repeated claims of the condition (*Shart*) of *Imâmah* will not be left unchallenged by those of us who know better.

And due to the fact that you are surrounded by the knowledgeable speakers of Al-Maghrib Institute who know better – many of whom I know do not hold this view of the *Shartiyyah* (conditionality) of *Imâmah* for the validity of *Al-Jihâd* – yet despite this fact, these claims of yours have not been retracted publicly. Rather, these lectures of yours, which contain these grave errors, have continued to be promoted for years now. Therefore, these letters will be addressed to you publicly in order to counter the mistakes of your claims and your allegations, which were likewise made publicly and remain in the public domain for anyone to watch or listen to, over-and-over.

And this false claim was the first in a series of errors, which I intend to write to you about publicly in an effort to address what I saw as enormous mistakes in *Usûl* (fundamentals) and the application of the *Wâqî'* (present-day realities) as it pertains to *Al-Jihâd* in our time.

Was-Salâmu 'Alaykum wa Rahmat Allâhî wa Barakâtuh.

Abus-Saqr ash-Shâmî

⁷⁶ **Translation:** "Unsheathing the Sword to Falsify the Claim; 'There Is No *Jihâd* Except With an *Imâm*'"