

***A summary of: A Treatise on the
Impact of the Multiplicity of Islamic
States on the Rulings of Defense,
Allegiance, and Support***

Written by:

Shaykh Karim Hilmi al-Hanbali

(may Allah protect him)

Translated by:

Abu Muhammad and Abu Hashim

(may Allah forgive them)

Translator's note:

A group of brothers (may Allah reward them) summarized the key elements of the Shaykh's treatise to organize and make easy the understanding of its contents and their meanings. Their work was then approved and shared by the Shaykh on his official channels.

We've translated the summary as it is and we've included a few passages from the original treatise as well as direct quotes (limited to only those found in the treatise) from the works of past scholars in the form of annotations in areas where we felt further detail may be needed for the reader to properly comprehend the point being made. We also got it reviewed by multiple students of knowledge (may Allah reward them) to ensure accuracy in the translation.

For any mistakes you find or suggestions you have, you can contact:
<https://t.me/a6umuhammad> on telegram

Introduction:

In this document, we have summarized the key elements discussed in the treatise '(The Impact of the Multiplicity of Islamic States on the Rulings of Defense, Allegiance, and Support)' by the esteemed Shaykh Karim Hilmi.

This summary is organized into several points, aimed at addressing the need for understanding the deep meanings and Islamic legal interpretations it contains. The treatise includes a wide array of texts and statements from Islamic scholars and the Imams amongst them, which serve to illuminate the perspective held by Islamic scholars in their engagement with the various issues and emergent situations that the Islamic nation has encountered.

It should be noted, however, that this summary does not replace the need to refer back to and read the original treatise in order to fully comprehend the nature of this interaction.

1. The existence of numerous states, kingdoms, rulers, and princes is not a phenomenon unique to modern times. Rather, it has been a reality since the era of the Companions, may Allah be pleased with them. This fact was well acknowledged by the Islamic jurists when they were formulating the rulings of the Sharia.

2. The multiplicity of states and independent rulers is a deviation from the origin. It is from the phenomenon that occur naturally, not from the intended objectives of Islamic law. And it is treated as a matter that has involuntarily become dominant, or as a matter of necessity, considered only to the required extent. **However, it is impermissible for this plurality to extend to the aspects of Imaan (faith) and the requirements of Imaan-based brotherhood and allegiance (to fellow Muslims).**

3. The original ruling on Jihad is that it is one of the collective obligations (Fardh Kifaya). And it is similar to other collective obligations, in that when it is viewed from the perspective of an individual, it may become commendable (Mustahabb) once the collective obligation (of performing it) is fulfilled. However, it may become obligatory (Fardh 'Ayn) due to the presence of specific conditions or circumstances. **One such instance is when an enemy seeks to invade or has invaded part of the lands of the Muslims.**

4. Regarding collective obligations that can become an individual obligation like Jihad, a part of the consideration remains tied to the assessment of benefits and interests (Maslahah). For example, the Maslahah may necessitate that some inhabitants of a country (that has been invaded by the enemy and Jihad has become obligatory on its people) engage in activities other than combat, or that not everyone rushes to confront the enemy. It might also be advisable for inexperienced fighters to refrain from participating if their involvement could potentially disrupt or confuse the seasoned combatants. This consideration is especially relevant in our times, given the nature of modern weaponry and warfare.

5. The Imam whose authorization is given consideration, as mentioned in the texts of the Fuqaha (jurists), is the rightfully appointed Imam who truly embodies the interests of Muslims, religious and then worldly. He must be knowledgeable about the affairs regarding warfare and familiar with his soldiers and army.¹ Many Fuqaha have emphasized the

¹ In al Iqnaa' and its explanation: "If the Ameer (leader) is someone who has no view, then dueling the enemy can be done without his permission, this as mentioned by Muhammad Ibn Tamim al Harrani"

Shaykh Karim Hilmi says, "And exactly like this (is considered) in the issue of repelling the invader, if the people of a city know that the leader is cowardly or a betrayer, will not defend the lands of Islam and its people, and he has no consideration for it or strategy, then it's fine for them to appoint from themselves, even if temporarily, someone who will unite their ranks and plot to repel the invader."

Also, in al Iqnaa' and its explanation: "and Jihad is performed with every Ameer, righteous or immoral (as long as they) protect the Muslims. And this is due to the hadith narrated by Abu Hurayrah: {"Jihad is obligatory upon you with every Ameer, whether he is righteous or immoral/wicked (Faajir)." Narrated by Abu Dawud} and in the Sahih: {Verily, Allah will support this religion with an immoral/wicked

consideration of the rightfully appointed Imam's permission over that of a usurper (one who seizes authority by force). The reason is that a rightfully appointed Imam, by default, is expected to be just, with a focus on preserving Islam and considering the welfare of Muslims, in contrast to a usurper.

6. The Fuqaha of the various Madhaahib (Islamic schools of Fiqh) are in agreement on the obligation of providing support - when necessary - in the event of an enemy's incursion into any of the Muslim lands. This

man}. And because leaving it off with the immoral Ameer will lead to leaving it (jihad) off and the kuffar overpowering the Muslims, eradicating them and raising the word of Kufr. And the Ameer should not be a defeatist or one who spreads panic amongst the Muslims confronting the enemy nor one known for defeat and wasting (the lives of) the Muslims, due to the absence here of the objective of him protecting the Muslims”

And it has been narrated from Imam Ahmed that he said: “It does not please me to go out (for jihad) with an Ameer known for defeat or wasting the (lives of) the Muslims.”

When Allamah at-Tawudi al-Maliki was asked by some of the Sultans of Maghreb concerning some of the rulers of Turkey killing some of their population due to them (the people) participating without their (the rulers) permission in defending Melilla (which is still occupied), he responded with a good response, then Allamah Muhammad Bin Hassan al Bannani responded, and some of it was: "That he (the ruler) was from those who had authority over them (those who went to fight)- like the questioner mentioned- doesn't justify this detestable action (i.e. killing them), rather it makes it more detestable and damnable". He said, "And there is no injustice greater than what this oppressor did, and if it said, 'So is there blame upon the killed Muslims for going to jihad without the permission of their ruler?' I say: There is no blame upon them, since he (their ruler) was from the unjust rulers, like it is mentioned in al Utabiyyah, Ibn Wahb said: If the Imam is upright, it is not permissible for anyone to duel the enemy or to fight him except with his (the ruler's) permission. And if he isn't upright, then let them (his people) fight or duel without his permission"

support encompasses everything needed, including financial aid, weaponry, manpower, and strategic planning. This obligation is collective (Fard Kifaya) and becomes specifically binding upon one party following another, from the east and the west and in all regions of the Muslim world, until the Muslim lands are all obligated (to support)². (And this

2 Al-Jassas stated in "Ahkam al-Qur'an": "It is a well-known belief among all Muslims that when the people of the frontier lands fear the enemy, and lack the strength to resist them, and so they fear for their lands, their lives, and their offspring, it becomes a duty incumbent on the entire Ummah to rush to their aid, to repel the enemy's aggression against the Muslims. There is no disagreement on this matter within the Ummah, as no Muslim would say that it is permissible to remain idle when the enemy violates the sanctity of Muslim blood and enslaves their descendants."

Ibn Maazah narrated from Muhammad ibn Hassan that he said, "If a person comes, and he tells the people of the town or the city close to the enemy 'The enemy has come and they are after your lives, your offspring and your wealth', then there is no problem if a man goes out (to confront them) without the permission of his parents. And if they forbid him, then there is no problem in him disobeying them, if he is from those who are capable of Jihad, because fighting in this situation has become an individual obligation. As for if he does not have the strength for fighting or him going out (to fight) does not strengthen the Muslims, then he does not leave except with the permission of his parents, because Jihad, after the general military response, is only obligatory on the capable or the one whose going (to fight) strengthens the Muslims."

Then he spoke about the mobilization and defense: "The individual obligation (Fardh 'Ayn) is only for those who are close to the enemy and are capable of jihad. As for those beyond them, who are far from the enemy, it is an obligation of sufficiency (Fardh Kifayah) and not an individual obligation, so they may leave it if there is no need.

However, if there is a need for them due to the inability of those close to the enemy to resist, or they are capable but negligent and do not perform jihad, then it becomes an individual obligation on those next in line (i.e. the ones closest to the ones on whom jihad is an individual obligation but do not have sufficient strength or are idle), just like fasting and Salah, and they cannot leave it off. This obligation then extends to all Muslims, east and west, in this order and progressively."

Al-Allamah at-Tusuli al-Maliki said, "If an enemy of the religion descends on the lands of Islam, or close to it intending to enter it, then jihad is an individual obligation

on the people of that city, on their Imaam (leader), the old men and young, the free and the enslaved, and even on a woman if she has strength, and their fighting the enemy is not contingent on consultation with their Imaam, especially if he is far away from them, and if they don't have an Imam, it is upon them to repel them (i.e. the enemy) and appoint an Imam. And if the people of that city, along with their Imaam, are not able to resist the enemy, then assisting them becomes an individual obligation on the nearest Imaam to them and his people. And if they also do not have sufficient strength to resist, then it becomes obligatory on those nearest to them, and like this until the obligation becomes applicable upon all of the Muslims. So the region of al-Jazaair, for example, if they are not able to resist (the enemy) due to the absence of someone who would unite their ranks or the absence of strength in them, with the evidence (of this being) that the enemy repeatedly attacks them and takes their cities one by one, then it becomes obligatory on those nearest to them, from the Imaams of the East and the West until Maghreb and Baghdad, and even until Hind, for example, to assist them with armies, resources and numbers, and if the ones nearest to them disobey (in acting upon this obligation) and don't assist, it becomes an obligation on those nearest to them and on it continues." He said, "and this is why my Master (Sayyidi) Shaqroun bin Hibah, one of the huffadh of the later generations, passed a Fatwa (religious verdict) that Jihad in this time is an individual obligation and similar to that in his book (Falak as Sa'aadah) saying 'Jihad today is an individual obligation, because they (the scholars) have said that if the enemy descends on a land of Islam, then Jihad is an individual obligation, and there is no one who differed on this, and today, they (the enemy) have descended on multiple lands, and have infringed on its protections and sanctities, and enslaved tribes and communities."

Abu Abdullah Al-Fasi Al-Arabi, as quoted by Al-Mahdi Al-Wazzani in his (Nawaazil), stated: "Once we recognize the obligation to repel our enemies from seizing any part of Muslim lands before their occupation of them, what then uplifts this obligation after their conquest, especially when the reason for its necessity before the occupation is even more relevant after it? There is no disagreement among the people that a ruling persists as long as its cause remains, and the debate only arises when the cause disappears.

One should not be deluded into thinking that the Muslims leaving the cities of the Muslims in the hands of the disbelievers is an indication of the absence of this obligation, because this is from the negligence of the rulers and they are by this falling into disobedience, and not in the station of emulation or guidance. As the old saying goes: 'Follow the path of guidance and do not be deterred by the scarcity of followers; avoid the path of ruin, and do not be deceived by the abundance of the ruined.'

And there is no difference in the rulings for territories we have experienced being

duty continues) until the utmost is sacrificed to protect Islam and its sanctuaries.

7. It is imperative in matters of Jihad to consider the view of those who possess a correct understanding of the religion and are also experienced in worldly affairs. And not those who are primarily focused on worldly affairs, who will have a predominantly shallow consideration of the religion (when formulating their views); their opinions are not taken. Similarly, the views of the people who possess religious knowledge but who lack worldly experience should not be considered, as affirmed by Abu Al-Abbas Ibn Taymiyyah, may Allah have mercy on him.³

taken, like Larache and Al-Ma'murah, even if they are uninhabited, and for those we have not, like Ceuta and Tangier because this obligation is related to the Muslims, and not restricted by time or place. It becomes specific to those who are present in that time and place. And if they fail to act, whether due to a (valid) excuse or not, the obligation then extends to others. As Al-Mazari said: 'If those present are unable, the obligation falls on those that come after them.' This is evident in terms of place and also true in terms of time. Muslims are not absolved of this responsibility except if they have reached the level which constitutes being excused and they have exhausted all means in fighting against the disbelievers' fortresses taken from Muslims, in attempting to open them up and reclaim them from the disbelievers, and in returning them to Islam. If they engage in battle repeatedly and fail to conquer them, they are obligated to retry every time they are able to until Allah the Almighty grants victory."

³ Shaykh Al-Islam Ibn Taymiyyah said: "What is obligatory to consider in affairs regarding jihad is the views of the people who possess a correct (understanding of) religion who (also) have experience in the worldly affairs, not the people of the worldly affairs who will have a predominantly shallow consideration of the religion, their view is not taken, and neither (the view of) the people of religion that have no experience in worldly affairs."

Shaykh Karim Hilmi said, commenting on his statement; - "(And this is because) the people of the worldly affairs who have only a shallow knowledge of the religion, their (interest in) the Dunya will overwhelm them. They are stingy with its

8. If an enemy besieges a group of Muslims who then request assistance in the form of food, drink, and weapons, then those who, despite having the ability to help them, fail to do so and the besieged then perish, they have to pay recompensation for this⁴, analogous to a passerby who neglects to save a believer from dying while capable (of doing so), or to someone who refuses to provide food to a person in dire need until he dies.

9. Providing the people in the frontier areas and similar groups with food, medicine, equipment, and other necessities to strengthen them by all possible means is an obligation and a duty and it falls under the general command of Allah the Almighty: 'And cooperate in righteousness and piety' (Surah al Maaidah). And the greatest act of righteousness is to wage jihad against the enemies of Allah, the Exalted.

10. The primary addressee when it comes to the obligation of providing support lies with the Imam, starting with the one who is closest (to the

adornments, and they will be cowardly in spending their wealth and lives, and will not be patient upon the truth. So, they chirp with some of what they know from the apparent of the religion to clothe their incapability under the thobe of religion and wisdom, either intentionally out of hypocrisy or unintentionally out of ignorance. As for the people of religion that have no experience in worldly affairs, then they are not skilled at navigating the nuances of the Masaalih (Islamic interests) and their situations, and so because of their ignorance in these affairs, they become a plaything for the people of worldly affairs and the rulers."

⁴ In the treatise, the shaykh mentions that this is the view of some of the Malikiyyah.

invaded Muslim land in proximity) and then to those closest to him. It is binding upon him to exert all possible means of defense that can achieve the greatest possible benefits, whether this involves deploying armies, sending reinforcements and supplies, intimidating and disorienting the enemy, disrupting their interests, and similar strategies. If the rulers refuse to protect the Muslims (being invaded), then what is correct is the view that the Hanafi scholars held, which is that the individuals from the populace are generally not considered sinful, especially when the desired support is contingent on the availability of numbers, resources, weaponry, armies, and overall influence.

11. The absolution of the general populace from sin due to the refusal and inaction of their leaders **does not exempt them from the other levels of support.** Jihad, like the act of forbidding evil, has multiple levels. If one level is unattainable for an individual, it does not negate the obligation of the other levels. **And this makes binding (on the individual) several things:**

- Renewing the intention to participate and support when it becomes possible, and constantly reminding the self of this intention, as indicated in the Hadith.⁵
- Believing in the sinfulness of these rulers and their perpetration of wrongdoing, then exerting efforts to utilize Islamically legislated and beneficial means to change this wrongdoing.
- Engaging in every possible way to support the struggle, defense, and

⁵ Abu Hurayrah (may Allah be pleased with him) reported that the Prophet ﷺ said: "Whoever dies without having fought (in the cause of Allah) or having thought of fighting (in the cause of Allah) will die while having one of the qualities of hypocrisy." [Muslim]

support; this includes da'wah, argumentation, speech, opinion, strategic planning, and craftsmanship.

12. Anyone who thoroughly examines the sources of Islamic law and the actions of the Fuqaha (jurists) will understand that there is a consensus among them that the basis of treaties and truces is grounded in the interests of Islam and Muslims. It aims to strengthen the resolve of the believers in their Jihad against the disbelievers and oppressors, not to abandon this Jihad and combat.

13. According to the majority of jurists, an indefinite truce without a specified duration is not permissible as it leads to the complete abandonment of Jihad. Even the Hanafi scholars, who permit (making) it for an unspecified duration of time, do not permit (making) it perpetual. Furthermore, they (the Hanafiyyah) consider such a **truce as permissible (to uphold) but not obligatory**, subject to renewal yearly based on what is most beneficial for Islam and its people.

14. Jurists unanimously agree that it is not permissible to establish a truce that involves Muslims paying their enemies to cease hostilities against them, except in cases of extreme necessity. And such a treaty (where wealth is paid) should be for the preservation of the religion. **They are unanimous that, generally, Shari'i legislated truces made due to necessity are meant for the protection of religion and the safeguarding of Islam.** It is not for the purpose of accumulating worldly gains, indulging in its adornments, spreading immorality, altering religious

beliefs, or allowing kuffar to dominate the minds and hearts of the faithful so applying the rules of truce in such situations is a form of playing with the Sharia' and a betrayal of Allah, His Messenger, and the believers. **And if the agreements are made under these conditions, they are considered null and void in the eyes of the Sharia' and those who follow it.**

15. The utmost extent to which peace can be established with polytheists is the cessation of combat from both sides. However, if the polytheists, despite this, proceed to disparage Islam, mock its sanctities, slander the Prophet, peace be upon him, or encroach upon the beliefs of the faith, then no covenant or assurance of safety remains valid under these circumstances.

16. The obligation to adhere to treaties and covenants applies in the context of offensive Jihad, not defensive Jihad. The permissibility of a truce with the enemy is applicable when Jihad is a collective duty (Fard Kifaya). However, if Jihad becomes an individual obligation (Fard 'Ayn) in a particular situation, it is not permissible to abandon it under the pretext of a peace treaty or truce.⁶

⁶ al Wanshirisi narrated in (al Mi'yaar) that a few of the Fuqaha of Tilmisaan were asked about a Khalifah that made a peace treaty with Christians that had invaded a few of the lands of the Muslims and he forbade (the Muslims) from fighting and repelling them, and from what they responded was, "Whenever Jihad becomes an individual obligation in an area, it is not permissible (for the ruler there) to make a peace treaty (with the invading enemy), like if the enemy was going after the Muslims or had suddenly confronted them in their (the Muslims) positions, and they (the enemy) were twice the number of Muslims or lesser, not in strength or preparation as is well-known among the scholars, then repelling (the enemy) would become an

individual obligation on the Muslims in those positions and those near to them. ... He said," and when this principle has been established from the texts of the Imaams (major scholars), then it is understood that Jihad is an individual obligation (Fard 'Ayn) in this issue, and this prevents (there being) a peace treaty in any case especially if the time period (of the treaty) is lengthy... The mentioned peace treaty must be annulled as, according to the Sharia', it is not valid; its ruling is not binding on anyone who has deeply understood the principles of Sharia through scholarly insight." He then said, "It cannot be argued that the peace treaty in question falls under the exceptions mentioned by Qaadhi Abdul Wahhaab (and a peace treaty from Islam usually arises only out of necessity) that it is considered it a judgment of Ijtihad (independent reasoning) by an Imam and hence not subject to annulment.

Because we say: The occurrence of that peace treaty in the aftermath of the great calamity - where the enemy, may God destroy them, seized the opportunity in the lands of the Maghreb despite the prevalence of Islam, and the enemy, may God annihilate them, had no respite there, and the Muslims were not lacking in number, let alone their enemy being twice their number - is either due to the fear of the disbelievers annihilating the remaining Muslims, or due to fear of the combatants. The first is invalid, as it is implausible, and the second also (is invalid), as the fear of the enemy in an obligation where the numbers between the two parties are comparable, and the Muslims can be reinforced by reinforcements, so combat is obligatory. And even if the enemy is resilient and has a large number, peace treaty does not fall under the exceptions of Qaadhi Abdul Wahhaab's statements. And the judgment of Ijtihad is nullified if an error is discovered in it, as reported from Sahnoun, and the prolonged duration of the mentioned peace treaty is an error, so the peace treaty is annulled. The evidence for this also is that the mentioned peace treaty involves abandoning obligatory Jihad, and abandoning the Jihad that has become obligatory is not permissible, so the mentioned peace treaty is not binding and not enforceable. Thus, Jihad in the mentioned place has remained obligatory from the time of the first aggression until now. Ibn al-Qasim said: If a group sees an opportunity against a nearby enemy and fears that informing the Imam would lead to them being prevented, their going out (to confront the enemy) is allowed, and I prefer that they seek his permission. Ibn Habib said: I heard scholars say that if the Imam forbids fighting for a Maslahah (benefit), disobeying him is forbidden unless the enemy attacks them. Ibn Rushd said: Obedience to the Imam is obligatory, even if he is not just, as long as he does not command an act of disobedience. And from the acts of disobedience is forbidding obligatory Jihad, as mentioned earlier. And Allah knows best." This fatwa was also reported by at-Tusuli and Alyush, two Maliki scholars in their (Responses to Amir Abdul Qadir)."

Amir Abdul Qadir Allamah Muhammad Alyush, the Mufti of Misr and the Shaykh of the Malikiyyah there was asked about a Sultan who had a treaty with an

17. The rulings on allegiance and support are not contingent upon the aggressors' motivation being religious when Kuffar attack Muslims. This obligation remains, whether the motivation is political, economic, racial, or otherwise. This is based on the generality of Allah's saying: 'If they seek your help in religion, it is your duty to help them' (Surah al-Anfal); and the phrase 'in religion' relates to seeking help, not to the nature of the combat. It means: if they seek your assistance for the sake of the bonds of Islam and the right of brotherhood in faith.

18. The rulings of support and allegiance **are not contingent upon the Muslims in question being free from sins and innovations.** Either their innovations amount to kufr that expels them from the fold of Islam, in which case they are not entitled to allegiance or support. Or they are less severe than this, then they still retain the status of Muslims and **are entitled to support and allegiance as a general rule by Ijma'**⁷

enemy kafir (state) that had invaded some of the lands in alJazaair, and who was helping them by participating with them in trade and the like, and tightening the siege against the Mujahideen, and so he responded with a lengthy response, and from it was: "Yes, it is prohibited for the Sultan mentioned- may Allah rectify his situation- all what you have mentioned- a prohibition known from the religion by necessity." And he said, "and selling cows, and other animals and food and commodities and everything that can be benefited from in the mentioned situation is haram definitively, by consensus, and no Muslim doubts this, whether in a situation where the Muslims are besieging them or not, since fighting them (the kafir enemy mentioned) is an individual obligation on everyone capable, even from women and children from (the invaded) city and the ones near it, like the people of the Sultan, so how can a Muslim imagine that transacting with them in what would benefit them and strengthen them in remaining on the lands of Islam would be permissible?"

⁷ Ibn Hani said in his Masaail: "I asked Abu Abdullah about the people who are in Tarsus, who sit idle and do not participate in raids, and they justify this by saying:

19. It is not permissible to suspend the obligation of Jihad (let alone defensive Jihad) due to some of the imperfections and deviations that may occur within it.

20. Some have mentioned a Shubhah (doubt/misconception), its essence being that the **rulings of supporting (the Muslims) are restricted to when there is no covenant between the Muslim state and the aggressor state.** And they (the ones pushing the shubuhaat) then apply this to the jihad ongoing today, using **five evidences** for their claim. Here is the response (in summary) to their evidences **(disregarding the issue of the validity of the covenants themselves when considering the principles of the sharia')**:

20.1. That (the obligation of) supporting fellow Muslims came restricted to when there is no covenant with the enemy

'Whenever we raid, we only increase the spoils for the descendants of Abbas (referring to the Abbasid Khilafah)!' Abu Abdullah said: 'These are a wicked people, these are the al Qa'adah (those who sit back from Jihad), they are ignorant, even if they do not know that, and they have no knowledge even of knowledge itself. It should be said to them: Consider if Tarsus and the people of the frontier regions sat idle as they do, wouldn't Islam have perished? These are (truly) a wicked people.'

Shaykh Karim Hilmi said, commenting on this: "This is based on what is widely known about the Imam's view on the Abbasids and their corruption. The point here is that he, may Allah be pleased with him, condemned using the mentioned corruptions or others as an excuse to abstain from jihad, seeing that such reasoning leads to the disappearance of Islam, and he was right. If people refrained from jihad except in cases free of any imperfection, this aspect of religion would have ceased since the later periods of the era of the Companions, may Allah be pleased with them."

{ But if they seek your help 'against persecution' in faith, **it is your obligation to help them, except against people who there is a treaty between you and them.** Allah is All-Seeing of what you do.} Surah al-Anfal.

The Response: The evidence here indicates the opposite of what is claimed. Because the ayah made complete alliance (wilaayatun taammah) for the Muslims who did Hijrah, and an incomplete alliance (wilaayatun naaqisah) for those who didn't- due to them committing the major sin of not performing Hijrah. And the mentioned exception (that extending help to the Muslims is not obligatory if there is a treaty) cannot be applied to those who have complete alliance - **rather, the exception here establishes the opposite** (that helping those who have wilaayatun taammah is obligated even if there is a covenant with the enemy).⁸

20.2. The agreement the Prophet ﷺ made with the polytheists in the Treaty of Hudaibiyah to return to them (the polytheists) whoever comes (to the Muslims) as a believer, so (this indicates) the permissibility of surrendering a Muslim (to the kuffar), abiding by the treaty.

The Response: This issue is different to our issue (the rulings regarding

⁸ Allamah Ibn Nur ad Deen al Mawza'ii as-Shafi'i said in Taysir Bayaan li-Ahkaam al Qur'an, commenting on this ayah: Supporting the weak (Muslims) against every people is obligatory, whether or not there is a treaty between us and them (i.e. the group of kuffar), because they have the ruling of believers, due to the completeness of their Imaan, and they are excused.

As for those who aren't weak, then they are not excused, so it would be obligatory to support them against the Kafir Harbi (the Kafir with whom there is no treaty between us and him), and it's not obligatory against the Kafir with whom we have a treaty, due to the deficiency of their (i.e. the Muslims who aren't excused) Imaan.

supporting Muslims under the authority of a different independent Muslim state) from multiple perspectives:

The first: The condition was on not preventing (the kuffar from) taking back someone who was living in Dar-al-Kufr and had left it for Dar-al-Islam, and it (the treaty) **wasn't on abandoning supporting the Muslims who live in Dar-ul-Islam**, or not defending Dar-ul-Islam itself.

Secondly: This condition is specific to men, and not women, according to the majority of scholars.

Thirdly: The (permissibility of this) condition is abrogated in the Hanafi Madhab, and some of the scholars of the Maliki Madhab considered it to be specific to the Prophet ﷺ. And in the Shafi'i Madhab, it is restricted to only when the man is returned to his kinsfolk who seek him since they will be more merciful to him or if he is returned while it is strongly believed that he will be able to overwhelm them and flee from them. And among the Hanaabilah and others, this condition is not permissible except in cases of severe hardship where there is a specific Maslahah and (on the apparent) safety of life is guaranteed.

Fourth: The Prophet ﷺ considered the treaty violated due to Quraysh helping Bani Bakr against Bani Khuza'ah (who had an alliance with the Prophet ﷺ and (were a tribe) in Makkah **outside the governing authority** of the Prophet ﷺ). **And there is no covenant in the Dunya stronger than the covenant of Islam and the brotherhood of Imaan.** Qatadah said: "The Muslims were forbidden from (attacking) those with whom they have covenants. And by Allah, your Muslim brother is greater than that, in sanctity and (his) right (upon you)

20.3. The Prophet ﷺ made his protection and the protection of those with him in Madinah distinct from the protection of Abu Basir and his group. And this indicates that aggression against one of the multiple Muslim states does not break the treaty (that is made) with another Muslim state.

The Response: This and (arguments) similar to this is also outside the scope of our issue. For what is obligatory on a Muslim ruler in these kinds of treaties is to safeguard the one with whom the treaty is made from himself and the Muslims under his authority - and if another party of Muslims were to attack that kafir state (i.e. wage offensive jihad against them), he is not allowed to participate with them as long as the treaty exists, but this doesn't obligate him to repel or hand over the attacking Muslims. As for if the polytheists were to attack a group of Muslims in their own land (that is not under the governance of the ruler who has a treaty), then he (the ruler) is obligated to help the Muslims by repelling the invaders, and this is (a matter) outside of his treaty with the polytheists, **and if he were to make an agreement with the polytheists to not support the Muslims, this condition would be invalid.**⁹

20.4. That the Prophet ﷺ didn't support Abu Basir and his companions in their fight against the polytheists, despite the lack of numbers and strength of this Muslim group.

The Response: This again is outside of our issue from a number of perspectives, the most significant and apparent one being that **the party of Abu Basir were the ones on the offensive, not the ones being attacked.** So how does this compare to the polytheists taking control of Muslim lands and their wealth and their rights?

⁹ The wording in the treatise is, "This condition would be invalid, and would nullify the contract, or would be dropped, while the (rest of the) contract remains."

20.5. The covenant the polytheists took with Hodayfah bin Yaman and his father when they were leaving Madina on that they would not fight with the Prophet ﷺ against them (the polytheists), and the Prophet ﷺ abiding by that (i.e. he did not order them to break their agreement).

The Response: The most that this amounts to is that the Prophet ﷺ (who was the Imam of the Muslims) permitted the two to leave off jihad (in this instance) so that it doesn't spread around that the Muslims transgress on their agreements. And Allah had promised the Prophet ﷺ victory, and the victory was not contingent on two men, one of who was an old man. So, the Maslahah here was to allow them to abide by what they had promised, despite them being coerced (and a coerced's agreements isn't valid as per the majority of scholars)

And whatever the reason may be far for the Prophet ﷺ permitting them in this, it's not valid to use it to (justify) abandoning supporting oppressed Muslims. **al Bayhaqi** said: And this was at the beginning of Islam, before the rulings were established. As for today, if someone were to take an oath to leave off fighting the polytheists, **we would command him to break it and fight the polytheists.**

And Allah is the Highest, and the Most Knowledgeable and the One
who guides to the Straight Path