

WAR IN ISLAMIC LAW: MUSLIM JURISTS' THEOLOGICAL ARGUMENTS FOR ITS OBLIGATION IN CLASSICAL LITERATURE

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Abstrak: Penelitian ini bertujuan menganalisis argumen teologis para *fuqahā`* Ḥanafiyah, Shāfi'iyah, Mālikīyah, and Ḥanbaliyah untuk menopang kewajiban *jihād* sebagai perang permanen melawan komunitas-komunitas non-Muslim, dari perspektif analisis komparatif, epistemologis, dan konteks historis. Artikel ini bersumber dari literatur klasik hukum Islam dan akan dianalisis dengan teori sosiologi pengetahuan Karl Mannheim untuk mengidentifikasi konteks sosial berkaitan dengan hubungan antara konteks dan kepentingan di balik pemikiran, hubungan antara pemikiran dan struktur sosial, dan lokasi sosial serta pengalaman historis. Artikel ini berkesimpulan bahwa argumen-argumen teologis tersebut memiliki persamaan dalam tujuan akhir untuk membangun masyarakat ideal untuk menerapkan hukum Islam secara benar dan dalam hal konsepsi eksklusif tentang kekafiran (*kufr*) dan *shirk*, dan memiliki perbedaan tentang *jihād* sebagai rukun Islam dan sebagai sarana mencari rejeki. Secara epistemologis, argumen-argumen tersebut didasarkan atas al-Qur'an, namun kemudian ditafsirkan dari sudut pandang teologis eksklusif untuk membangun masyarakat Islam yang ideal, penerapan ide tentang universalisme Islam, dan secara historis, dipengaruhi oleh kesadaran tentang perang-perang Nabi dalam sejarah. Perspektif eksklusif fiqh klasik tentang perang ini perlu direkonstruksi secara sistematis dengan melucuti beban-beban historis ideologi dan konteks spesifiknya dan disesuaikan dengan semangat kemanusiaan.

Kata-kunci: *dār al-Islam*, *dār al-kufr*, *jihād*, *fiqh al-jihād*, argumen teologis

Abstract: This article aims to analyze the Ḥanafiyah, Shāfi'iyah, Mālikīyah, and Ḥanbaliyah jurists' theological arguments to support the obligation of *jihād* as a permanent war against non-Muslim communities, from a comparative, epistemological, and historical context perspective. The sources of the this study are classical literature of Islamic law, and would be analyzed through Karl Mannheim's theory of sociology of knowledge to identify social context concerning the relations between contexts and interest behind ideas, the relations between ideas and social structure, and social location and historical experiences. This article concludes that the theological arguments have similarities in the ultimate goal to build the ideal society to implement Islamic law properly and in the exclusive conception of disbelief (*kufr*) and polytheism (*shirk*), and have differences on *jihād* as a pillar of Islam and as a means for fortune seeking. Epistemologically, these arguments are based on the Qur'an, but then interpreted from an exclusive theological point of view for building an ideal Muslim society, implementing the idea of Islamic universalism, and influenced by the consciousness of the Prophet's wars in history. This exclusive perspective of the classical Islamic law of war should be reconstructed systematically by removing its historical burdens of ideology and specific context and adjusting it based on the spirit of humanity.

Keywords: *dār al-Islam*, *dār al-kufr*, *jihād*, *fiqh al-jihād*, theological argument

INTRODUCTION

Jihād as war against unbelievers is one of the key issues in Islamic law. It has still been a subject that has attracted much attention from Muslim jurists since the classical era of Islamic history. Undeniably, old thoughts might shape the modern conception of relations between adherents of religions. Muslims' perception of others not only becomes more exclusive when the formal prescription of Islamic law, which relates to practices, such as the obligation of war against non-Muslim communities, has been made "sharper" or more exclusive by theological arguments. An example of classical formulation of the *jihād* as war against them was the statement of al-Rāfi'ī (d. 623 AH), a prominent jurist of the Shāfi'īyah school, "*Jihād* is a coercive propagation of Islam (*da'wah qabriyah*), and must be carried out depending on ability, so that there is nothing left, except only Muslims or people who undertake peace, not necessarily only once a year, if possible more, the important thing is that the obligation is not ignored."¹ Here, the propagation of Islam, that is, the call to theological beliefs in *jihād*, according to al-Rāfi'ī, has been justified in Islamic law.

The *jihād* as a legal discourse shifts to be theological, owing to the close relationship between Islamic law and Islamic theology. On one hand, Islamic law has been theologized, that is to say, legal opinions are based on theological arguments, as seen in the *fiqh al-jihād*. George Makdisi calls this law-based theology "juridical theology" when he studies al-Shāfi'ī's theology through his Islamic law works.² On the other hand, theology-oriented is "theological law". Theological arguments will shape the theology of *jihād*, or *Kalām al-jihād*.

From the above quotation of al-Rāfi'ī's statement, it can be inferred that the arguments underlying the *jihād* formulation in Islamic law are theological. The Muslim jurists have their theological formulations, which are epistemologically and axiologically, in many ways, different from those of theologians. Unfortunately, so far, theological studies have only focused on the thoughts of the theologians (*mutakallimūn*). The generally accepted standard of classification among experts of Islamic theology is the polarization of theological sects, such as the category of Sunnī-Shi'ī, Sunnī-Mu'tazilī, or Ash'arī-Mu'tazilī. It tends to be an oversimplified classification due to a close relationship and mutual influence between Islamic disciplines, as occurs between theology and Islamic law.

One fact that indicates the insufficiency of such classification, as William Montgomery Watt noticed, is that the term Sunnī arose because of political factors since al-Mutawakkil (ruled in 847-861) blocked the development of the Mu'tazilah until Sunnism consolidated through a process, which included principle formulations of the basic principles of Islamic jurisprudence and the expansion of the area of agreement in the jurists'. The consolidation was begun by al-Shāfi'ī (d. 820).³ That means that only explaining the Islamic

¹ Abū al-Qāsim al-Rāfi'ī, *Al-'Azīz Sharḥ al-Waṣṣ (al-Sharḥ al-Kabīr)* (Dār al-Kutub al-'Ilmiyah, 1997), 11, ed. al-Shaikh 'Alī Muḥammad Mu'awwaḍ and Shaikh 'Ādil Aḥmad 'Abd al-Mawjūd:351; al-Nawawī, *Ranḍat Al-Ṭālibīn wa 'Umdat al-Muttaqīn* (al-Maktab al-Islāmī, 1991), 10:209.

² George Makdisi, "The Juridical Theology of Shāfi'ī: Origins and Significance of Uṣūl al-Fiqh," *Arabica* 19 (1972).

³ William Montgomery Watt, *Islamic Philosophy and Theology: an Extended Survey* (Edinburgh: Edinburgh University Press, 1992), 56–57; Wardani, "Kritik Atas Nalar Politik Aswaja," *Kandil* 1 (2003): 1–18.

scientific connection between theology and Islamic law is not enough, and vice versa. This was once put forward by Harry Austryn Wolfson in his *The Philosophy of the Kalām*, referring to al-Shahrastānī when explaining the emergence of the *Kalām*, that the "*Kalām* method" applied to the interpretation of anthropomorphic verses, which marked the emergence of the Islamic theology, was developed from legal reasoning.⁴

Recent research proves that Muslim figures, especially the Muslim jurists, have their own mode of thought, and even develop their own theological thoughts that are different from the mainstream theology, such as 'Abd al-Jabbār (d. 1025 AH), who has been considered to affiliate with the Mu'tazilah.⁵ Also, al-Ghazalī (d. 1111),⁶ al-Bāqillānī (d. 403 AH),⁷ and al-Juwaynī (d. 438 AH)⁸ are known to affiliate with the Ash'ariyah. Therefore, understanding the theological thoughts of Muslim scholars by general polarization results in a simplification because a figure not only interprets the theological thoughts of his role model figure, but he himself develops theological thoughts. Likewise, understanding the theology of the Muslim jurists by such polarization will lead to simplification.

Interestingly, Muslim jurists developed theological arguments that are different from those of Muslim theologians. For instance, concerning *jihād* as a means of Islamic propagation, is the faith of a non-Muslim who is forced to convert to Islam valid? Al-Bazdawī (d. 482 AH), a jurist of the Ḥanafīyah school, in his work, *Uṣūl al-Bazdawī*, argued that oral recognition of belief in God in the heart is a principle in determining one's faith. Such oral recognition is just an indication of heart recognition, but then becomes a principle applicable in commercial transactions and beliefs. Based on this way of thinking, if a non-Muslim is forced to believe in God, then he declares faith; his faith is legitimate because one of the prerequisites exists, that is, an oral confession, as in Islamic law.⁹ This is different from the imposition on a Muslim to convert from his religion. He is still considered a believer. The logic underlying the arguments in these two cases seems to be inconsistent because, as in the case of apostasy, forced faith should also be invalid, because belief is a matter of acceptance of the heart.¹⁰ Moreover, the argument is simply based on an analogy that equates "religious conversion" with "commercial transactions"; faith is equated with goods.

The *fuqahā*'s theology that underlies the *fiqh al-jihād* becomes urgent to be analyzed because the theological basis seems to be neglected in research that has been conducted so

⁴ Harry Austryn Wolfson, *The Philosophy of the Kalām* (Cambridge, Massachusetts, and London: Harvard University Press, 1976), 20.

⁵ Wardani, *Epistemologi Kalam Abad Pertengahan* (Yogyakarta: LKIS, 2003); J. R. T. M. Peters, *God's Created Speech: A Study in the Speculative Theology of the Mu'tazilī Qadi al-Qudāt Abu al-Hasan Bin Ahmad al-Hamadhanī* (Leiden: E. J. Brill, 1976).

⁶ M. Zurkani Jahja, *Teologi Al-Ghazali: Pendekatan Metodologi* (Yogyakarta: Pustaka Pelajar, 1996).

⁷ Ilhamuddin, *Kalam Al-Baqillani: Studi Tentang Persamaan dan Perbedaannya Dengan al-Aṣ'ari* (Yogyakarta: Tiara Wacana, 1997).

⁸ See Tsuroya Kiswati, *Al-Juwaini: Peletak Dasar Teologi Rasional dalam Islam* (Jakarta: Penerbit Erlangga, 2005).

⁹ 'Alī bin Muḥammad al-Bazdawī, *Uṣūl Al-Bazdawī (Kanẓ al-Wuṣūl Ilā Ma'rifat al-Uṣūl)* (N.p.: Maṭba'at Jāwīd Bārīs, n.d.), 305.

¹⁰ Abdullah Yusuf Ali, *The Holy Qur'an: Text, Translation, and Commentary* (Beirut: Dār al-'Arabīyah li al-Ṭibā'ah wa al-Nashr wa al-Tawzī', 1968), 103.

far. After all, its basis is theology, which is firmly rooted in belief assumptions, which are claimed to be from God. The arguments for the obligation of the permanent *jihād*, regardless of justified reasons, have become a serious issue in interreligious relations.

So far, no research has been conducted on the *fiqh al-jihād*, especially the theological arguments for the obligation of *jihād* as war against non-Muslims. As far as the concern has been given to reconstruction of the so-called “juridical theology”, it was George Makdisi who first wrote on this theme through his article, “The Juridical Theology of the Shāfi’ī: Origins and Significance of Uṣūl al-Fiqh,” but, of course, it does not reveal the theological argument of *jihād*. However, this article has demonstrated that the jurists have developed a distinctive theology that underlies their various views, including on *uṣūl al-fiqh*. According to Makdisi, one of the important works in *uṣūl al-fiqh*, namely Shāfi’ī’s *Risālah*, was written and systematized based on theological views to respond to the rational school (*Ahl al-Ra’y*) during his time, especially Mu’tazilite theology. Makdisi concluded, “Shāfi’ī’s purpose was to create for traditionalism a science which could be used as an antidote to *Kalām*”.¹¹ As a consequence, his thought on *uṣūl al-fiqh* was based on the “approach of the Muslim jurists” (*ṭarīqat al-fuqahā*),¹² which, because it started from the aim of competing with rational *Kalām*, was certainly equipped with theological assumptions from a traditionalist perspective.

The *uṣūl al-fiqh* undoubtedly has been influenced by theological tendencies, because it was born from the context of the response of *Ahl al-Ḥadīth*, especially against some followers of Mu’tazilite and literalists (*Ahl al-Zāhir*). In addition to being influenced by Ibn Kullāb (d. 240 AH/854-855 CE), who equipped *Kalām* to defend traditionalist doctrine and named it *Ahl al-Itbbāt*,¹³ it was also caused by various historical contexts, such as the inquisition (*mihnah*), which influenced Shāfi’ī’s critical response to *Kalām*.

Besides Makdisi, Hamka Haq also attempts to reconstruct the theology of the Muslim jurists. However, both suffer from examining it as a basis for the argument of the obligation of *jihād* among the Muslim jurists.¹⁴ Compared to Muhammad Khalid Mas’ud, who emphasizes “legal philosophy” through the concepts of *maṣlahah*, *dalalah*, *taklīf*, *ta’abbud*,

¹¹ Makdisi, “The Juridical Theology of Shāfi’ī: Origins and Significance of Uṣūl al-Fiqh,” 12. Al-Shāfi’ī said, “There is no incident faced by a follower of the religion of Allāh (Islam), but in God’s scripture (the Qur’ān), there is evidence through guidance about it”. Muḥammad bin Idrīs al-Shāfi’ī, *Al-Risālah* (Dār al-Fikr, n.d.), 10. This statement shows that truth, according to al-Shāfi’ī, is obtained only through an analogical process (*qiyās*) against the text, not an independent rational truth. That means that the central concern is not reason, but the text. ‘Abd al-Wahhāb Ibrāhīm Abū Sulaymān, *Manhajīyyat Al-Imām Muḥammad Bin Idrīs al-Shāfi’ī Fī al-Fiqh Wa Uṣūlih: Ta’ṣīl wa Taḥlīl* (Dār Ibn Ḥazm, al-Maktabah al-Makkīyah, 1999), 93.

¹² The *uṣūl al-fiqh* was written employing one of two approaches: the “approach of the jurists” (*ṭarīqat al-fuqahā*) and the “approach of the kalam experts” (*ṭarīqat al-mutakallimīn*). Christopher Melchert, *The Formation of the Sunni Schools of Law, 9th-10th Centuries CE* (Leiden: E. J. Brill, 1997), 68–86.

¹³ Ibid. Muhammad Zakir Husain, “Religious Moderation and the Development of Multicultural Societies in Indonesia: A Normative-Islamic Legal Study,” *ASEAN Journal of Islamic Studies and Civilization (AJISC)* 2, no. 1 (2025): 27–60.

¹⁴ For further information, see Hamka Haq, *Al-Syāthibī: Aspek Teologis Konsep Mashlahah Dalam Kitab al-Muwāfaqāt* (Jakarta: Erlangga, 2007).

niyyah, *'adah*, *khilāf*, and *shari'ah*,¹⁵ Hamka examines the theological aspect and proves that from al-Shāṭibī's thought on *maṣlahah*, his original theological views are found, and that he is not a follower of Ash'arite or Mu'tazilite, as the two major theological classifications that have often been used to understand the theology of a figure. Shāṭibī's theology, he concluded, is similar to the rational theology of the Samarkand Maturidiyah and the Qadariyyah. He attempted to emphasize that rational theology need not necessarily be Mu'tazilite.¹⁶ Hamka only explains the theological basis of al-Shāṭibī's view on *maṣlahah*, but does not examine how jurists used this unique and distinct theological perspective to justify *jihād* obligation.

Meanwhile, Abū al-Yazīd Abū Zayd al-'Ajamī, through his book, *al-'Aqīdah al-Islāmīyah 'inda al-Fuqahā' al-Arba'ah* (Abū Ḥanīfah, Mālik, al-Shāfi'ī, Aḥmad): *al-Mawqif wa al-Minhāj* (Islamic Creed According to Four Muslim Jurists [Abū Ḥanīfah, Mālik, al-Shāfi'ī]: Response and Method), studied their response and way of thinking toward some fundamental theological issues, but not toward the arguments of the *jihād* obligation. It focuses on their conceptions of "*fiqh*", their approaches to theological issues, and the relationship between their theological thoughts and the debates of their times. The author concluded that, in their views, the *fiqh* was broader than just understanding of Islamic law, rather of Islam in general, and their criticism of the Kalām has been just for the sake of protection of the true creed of Islam, viewed from their understanding of the Qur'ān, the Prophet's traditions, and creeds of the Prophet's Companions, and their Successors. The author claimed that the true belief, as the creed of the four jurists, belongs to the pious early generation of Islam (*Salaf*).¹⁷

The issue of war against non-Muslim people justified by the theological arguments is highly significant for many reasons, mainly because it has been closely related to many interreligious issues, such as the leadership of non-Muslim leaders among Muslim communities,¹⁸ the interfaith marriage,¹⁹ the human right to defense of self,²⁰ the rights of the

¹⁵ For further information, see Muhammad Khalid Masud, *Shāṭibī's Philosophy of Islamic Law* (Islamabad: Islamic Research Institute, International Islamic University, 1995).

¹⁶ Ibid., v. Waheeda Waheeda et al., "The Dynamic Interplay: A Normative-Philosophical Study of Islam and Local Wisdom in Indonesia," *ASEAN Journal of Islamic Studies and Civilization (AJISC)* 2, no. 1 (2025): 61–91.

¹⁷ Abū al-Yazīd Abū Zayd 'Ajamī, *Al-'Aqīdah al-Islāmīyah 'inda al-Fuqahā' al-Arba'ah* (Abū Ḥanīfah, Mālik, al-Shāfi'ī, Aḥmad): *Al-Mawqif Wa al-Minhāj* (Cairo: Dār al-Salām, 2008), 347–48.

¹⁸ For further information on this issue, see, for instance, Abdul Karim Abdul Karim, Dany Miftah M. Nur, and Abi Amar Zubair, "Negotiating Islamic Legal Culture: Muslim Majority Participation under Non-Muslim Leadership in Multicultural Villages," *Al-Manahij* 19, no. 2 (2025): 191–204.

¹⁹ Mochammad Rizky Eka Aditya et al., "The Problem of Interfaith Marriage in Indonesia: A Juridical-Normative Approach," *El-Usrah* 6, no. 2 (2023): 456–70, <https://jurnal.ar-raniry.ac.id/index.php/usrah/index>; Ibnudin Ibnudin et al., "Reconstruction of Interfaith Marriage Law in Indonesia: Relevance of Sociology Knowledge and Maqasid Sharia," *Al-Risalah* 25, no. 1 (2025): 70–86, doi:10.30631/alrisalah.v25i1.1819; Azhari Akmal Tarigan et al., "Islam and Christianity at Rumah Gadang: The Household Characteristics of Minangnese Interfaith Marriage," *Juris (Jurnal Ilmiah Syariah)* 23, no. 1 (2024): 27–39, doi: 10.31958/juris.v23i1.11926; Mohd Norhusairi Mat Hussin et al., "Interfaith Marriage Among Muslims in Singapore," *Al-'Adalah* 22, no. 1 (2025): 1–28, doi: <http://dx.doi.org/10.24042/adalah.v22i1.23667>.

²⁰ See, for instance, Aan Efendi et al., "The Right to Self-Defence: Locke's Philosophical Approach and Islamic Law," *De Jure: Jurnal Hukum Dan Syariah* 17, no. 1 (2025): 72–89, doi: <http://dx.doi.org/10.18860/j-fsh.v17i1.29506>; Emin Najafli et al., "Ensuring Human Rights Under Martial Law: A Qualitative Study in the

minority among the majority of Muslims,²¹ and the issue of religious blasphemy crimes.²² Even the Masyumi's *jihad* that has ever been issued in Indonesia may lie on many Muslim jurists' arguments.²³ The classical arguments have influenced and situated Muslims' understanding of many regulations concerning all issues, even just concerning non-Muslim attributes among Muslims.²⁴ The classical war idea, as it is evident from some of the research conducted so far, has shaped some Muslims' fanaticism and their justification for terrorism against non-Muslims.²⁵ Besides, it is understandable that this problem is a configuration of ideology and power.²⁶ Although a social religious institution in Indonesia like Nahdlatul Ulama (NU), has initiated a program of reconstructing Muslims' understanding of others through *halaqah fiqh peradaban* (religious circle of civilization *fiqh*), the basis for this endeavor, *fiqh al-siyāsah*, has been influenced much by classical Islamic law of war.²⁷ Therefore, the Islamic law of war remains problematic for this close relationship between war and many other concepts in Islam.

METHOD

This article constitutes qualitative research based on literary sources. The classical works of Islamic law from four schools (Ḥanafīyah, Shāfi'īyah, Mālikīyah, and Ḥanbalīyah) are primary sources and other works, such as books and articles that are relevant to the topic, are secondary ones. Unfortunately, despite being an important topic, in fact, the *jihad* has not been discussed in systematic argumentation by every Muslim jurist. Moreover, not every leader of the school of Islamic law responded to this issue. Among the leaders of the four schools, al-Shāfi'ī is the only one who wrote the topic in slightly systematic argumentation. Meanwhile, Abū Ḥanīfah, Mālik bin Anas, and Ahmad bin Hanbal missed the issue. These following jurists have been selected based, first, on their systematic and complete

Context of Ukraine's Contemporary Challenges," *Syariah: Jurnal Hukum Dan Pemikiran* 24, no. 1 (2024): 52–72, doi:<https://doi.org/10.18592/sjhp.v23i2.12304>.

²¹ See, for instance, Nurlaelah Abbas et al., "Theological Impact of Marriage for Religious Minority Families in Bali and Makassar," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 9, no. 1 (2025): 130–47, doi: 10.22373/sjhk.v9i1.21130.

²² See, for instance, M. Ridho Ilahi et al., "Fatwa Institutions in Handling Religious Blasphemy Crimes in Indonesia and Malaysia," *Al-Ahkam* 32, no. 1 (2024): 33–62, doi: 10.21580/ahkam.2024.34.1.18624.

²³ See, for instance, Fajri Matahati Muhammadin and Fairuz El Mechwar, "Masyumi's 'Djihad Dan Qitaal' and Islamic Laws of War: Ahead of Its Time?," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 18, no. 2 (2023): 320–41, doi:DOI: <http://doi.org/10.19105/al-lhkam.v18i1.6187>.

²⁴ Makyun Subuki, Hilmi Akmal, and Syihaabul Hudaa, "Identity and Piety: Critical Discourse Analysis on Indonesian Ulema Council's Fatwa About the Law Using Non-Muslim Religious Attributes," *Ahkam* 23, no. 2 (2023): 423–48.

²⁵ Ahmad Kamaluddin and Iskandar Iskandar, "Islamic Fanatism and Terrorism Cases in Indonesia: The Perspective of Islamic Criminal Law," *El-Mashlahah* 12, no. 2 (2022): 153–63, doi: 10.23971/el-mashlahah.v12i2.4397.

²⁶ Fariz Alnizar, "The Language of Exclusion: Ideology and Power in the Fatwa of the Majelis Ulama Indonesia on Ahmadiyah," *Journal of Islamic Law* 6, no. 1 (2025): 67–88, doi:<https://doi.org/10.24260/jil.v6i1.3338>.

²⁷ Fathorrahman Fathorrahman et al., "Dynamics of Thought in the Fiqh of Civilization Halaqah at Pesantren Affiliated with Nahdlatul Ulama (NU) in Yogyakarta," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 1 (2024): 71–95, doi: 10.18326/ijtihad.v24i1.71-95.

argumentations; second, their based on their different explanations of chronological legislation of *jihād*, that is useful to understand holistically their view on its character in the terms of defensive to offensive: from the Ḥanafīyah school: al-Sarakhsī (d. 490 AH), al-Ḥaddādī (d. 800 AH), and Ibn Nujaym (d. 970 AH); from the Shāfi'īyah school: al-Shāfi'ī (d. 204 AH), al-Māwardī (d. 450 AH), al-Nawawī (d. 676 AH), and al-Bujayrimī (d. 1221 AH); from the Mālikīyah school: Zarūq (d. 887 AH), al-Nafrāwī (d. 1126 AH), al-'Adawī (d. 1189 AH), and al-Ṣāwī (d. 1241 AH); from Ḥanbalīyah: Ibn Qudāmāh (d. 620 AH), al-Mardāwī (d. 885 AH), and Muṣṭafā (d. 1243 AH). Their thoughts on shaping the theological arguments circulating within Islamic law discourse represented mainstream ideas among Muslim scholars, due to the arguments have been cited in a broader range of many Islamic disciplines, such as Qur'an interpretation, Islamic law, and Islamic theology.

The steps are as follows. First, we will trace the views found *fiqh* and *uṣūl al-fiqh* literature of the Muslim jurists regarding arguments on *jihad* based on theological reasoning. Theological arguments here are defined as arguments based on belief in God and related ideas that strengthen that belief, such as the idea of the “best community” (*khayr ummah*), for instance, to form an exclusively Muslim community. Second, we will systematize and categorize their views in terms of the views of *jihād* as individual/collective duty (*farḍ 'ayn/farḍ kifayah*), of defensive/offensive way, and the history of the chronology of war regulations in Islam. Third, we will compare their views in terms of similarities and differences. Fourth, we will analyze their socio-historical contexts in Islamic history.

To analyze these theological arguments contextually, this article applies Karl Mannheim's theory of sociology of knowledge, which examines the relationship between human thought and the social context, and the influence of major ideas on society. This idea has historically deep roots in the thought of Francis Bacon, Karl Marx, Friedrich Engels, Auguste Comte, Friedrich Nietzsche, Vilfredo Pareto, and Sigmund Freud. Later, these ideas emerged in works of Émile Durkheim, Maurice Halbwachs, Lucien Lévy-Buhl, Max Weber, Georg Lukács, John Dewey, and George Herbert Mead. These ideas were further developed by Max Scheler, Karl Mannheim, and Peter L. Berger.²⁸

In principle, the sociology of knowledge seeks to explore the background of a thinker's thoughts, understandings, and theories. This view assumes that science, which is the crystallization of thought and produces theories, is informed by objective conditions. Therefore, Mannheim offers a method in the sociology of knowledge called "socioanalysis." His analysis focuses on the author's life background and its relationship to the theories he or she proposes. Likewise, the social, economic, political, and cultural contexts in which the figure lived.

²⁸ Volker Meja and Nico Stehr, *The Sociology of Knowledge*, vol. 1 (Cheltenham, UK and Northampton, USA: The International Library of Critical Writings in Sociology, n.d.), 1–567. Jauharatul Maknuniah, Sutrisno Sutrisno, and Teguh Arafah Julianto, “Peacebuilding and Humanitarian Crises: The Role of Islamic Humanitarianism in Indonesia’s Conflict Resolution and Disaster Response,” *ASEAN Journal of Islamic Studies and Civilization (AJISC)* 2, no. 1 (2025): 117–33.

As Karl Mannheim wrote, “The principal thesis of the sociology of knowledge is that there are modes of thought which cannot be adequately understood as long as their social origins are obscure. The sociology of knowledge seeks to comprehend thought in the concrete setting of a historical-social situation out of which individually differentiated thought only very gradually emerges. Strictly speaking, it is incorrect to say that a single individual can think out of social contexts. He/she finds him/herself in an inherited situation of thought which is appropriate to this situation and attempts to elaborate further the inherited modes of response or to substitute others for them to deal more adequately with the new challenges which have arisen out of the shifts and changes in his situation”.²⁹

The operational steps of this analysis will be applied to study the classical literature of Islamic law as follows: first, describing Muslim jurists’ “theories” or thoughts, as reflected in their works, on the justification for war against non-Muslim people; second, tracking the background of the authors, and because of the impossibility of doing so for each individual author, we will simply focus on general historical contexts of Medieval Islam; and third, analyzing their thoughts by connecting them to those general contexts.

RESULTS AND DISCUSSION

The Theological Arguments for War Obligation in the *Fiqh al-Jihād*

Theologically-based arguments about the obligation to perform *jihād* in the classical fiqh literature of the four schools can be grouped in the following clusters of arguments.

a. The willingness to shape an Islamic society in which the following ideals are realized. First, to build an ideal society or “best people” (*khayr ummah*). This seemingly ethico-political ideal has been drawn from the Qur’anic verse (Q. 3: 110), which plays an active role in the mission of *al-amr bi al-ma’rūf wa nāhy ‘an al-munkar*, and sustaining belief in God. This idea was originally put forward by al-Shāfi‘ī (d. 204 AH) in *al-Umm*,³⁰ then followed by al-Sarakhsī (d. 490 AH) of the Ḥanafīyah school in *al-Mabsūṭ*.³¹ The uniqueness and originality of the theological arguments put forward by al-Shāfi‘ī are that they provide the foundation of arguments that appear “logical” in justifying the arguments by sequencing them, firstly about the proper purpose of the creation of man, which was intended to worship God, then lead to idealism about an ideal Islamic society in which Islam is a superior religion upon other religions. The advantage in question is that in the context of not only Muslims being rulers, but also Islamic Shari‘ah being perfectly applied in this imagined exclusive community. This idea is drawn from the statement of the Qur’anic verse: “True religion (Islam) is superior to all religions” (*liyunẓhbirahu ‘alā al-dīn kullih*) (Q. 6: 33). From that starting point, he concludes that *kufr* is a deviation from the purpose of creation and becomes an obstacle in building an ideal society. Second, in Muslim jurists’ view, the ideal society is regarded as a possible

²⁹ Daniel Kettler, “Sociology of Knowledge,” accessed March 13, 2025, <https://understandingsociety.blogspot.co.id/2012/01/sociology-of-knowledge-mannheim.html>.

³⁰ Muḥammad ibn Idrīs al-Shāfi‘ī, *Al-Umm* (Beirut: Dār al-Fikr, 1990), 2:167–68. See also Muḥammad ibn Idrīs al-Shāfi‘ī, *Aḥkām al-Qur’ān* (Beirut: Dār al-Kutub al-‘Ilmiyah, 1400 AH), 2:3–7.

³¹ Al-Sarakhsī, *al-Mabsūṭ* (Beirut: Dar al-Ma’rifah, 1989), 10:3.

condition for making Islam a superior religion over other religions and for the implementation of Islamic symbols or doctrines (*shī'ār*), so that, in theological argumentation formulations, “there is no damage (*fasād*) in the sense of *kufr*”. This ideal of *jihād* has been found in the literature of all Sunnī schools of Islamic law, both Ḥanafīyah, Shāfi'īyah, Mālikīyah, and Ḥanbalīyah. All Muslim jurists seem to agree with this religious-political ideal. However, the aim of *jihād* as a means of spreading and carrying out God's law seems to echo clearly in the arguments put forward by al-Māwardī (d. 450 AH) and al-Nawawī (d. 676 AH) among the Shāfi'īyah school. Meanwhile, in the Mālikiyyah school, the same goal has been recognized as the aim of *jihād* by al-'Adawī (d. 1189 AH)³² and al-Ṣāwī (d. 1241 AH).³³ The aim has been expressed as “for glorifying God's words” (*li-i'lā' kalimat Allāh*). In addition, the willingness to create this ideal society, as stated for the first time by al-Shāfi'ī, as a means is similar in substance to the idea of Islamic territory (*dār al-Islām*), as seen in the arguments advanced, for instance, by al-Māwardī,³⁴ al-Nawawī,³⁵ al-Bujairimī (d. 1221 AH)³⁶ from the Shāfi'īyah school, Ibn Qudāmah (d. 620 AH),³⁷ and al-Mardāwī (d. 885 AH)³⁸ from the Ḥanbalīyah school. This idea is not limited to these two schools of thought, but has also been developed by the Ḥanafīyah and Mālikīyah schools.

b. Commanding good and forbidding evil (*al-amr bi al-ma'rūf wa al-nahy 'an al-munkar*). Unlike the above first reason of *jihād*, this command is not an end in itself, but rather becomes a means for the comprehensive implementation of Islamic law in an Islamic region. This doctrine has been regarded as the reason for the *jihad*, based on Muslim jurists' view that disbelief (*kufr*) is a deviation, even the source of evils, as stated “*aṣl al-munkar al-shirk*” because the *shirk* is regarded as one of the *kufr* manifestations.³⁹ According to the Muslim jurists, this deviant belief must be eradicated through the teaching of forbidding evil (*al-nahy 'an al-munkar*). Such arguments appear, among others, in al-Sarakhsī and al-Shāfi'ī's thoughts. This doctrine is not something foreign in every school of Islamic law, because it comes originally from the Qur'anic teachings. Even in Mu'tazilah circles, this doctrine is one of the five foundations of their teachings (*al-uṣūl al-khamsah*). However, the Muslim jurists have used it as the reason that justifies war against unbelievers.

c. Making religiosity and Muslim political power better, in terms of *hijrah*. This term means physical “migration”, and then means changing to become good or better spiritually. The implementation of the *al-nahy 'an al-munkar*, especially if applied in the non-Muslim's

³² Abū al-Ḥasan al-'Adawī, *Ḥāshiyat al-'Adawī* (Beirut: Dār al-Fikr, 1994), 2:3.

³³ Abū 'Abbās al-Ṣāwī, *Bulghat al-Sālik li Aqrab al-Masālik* (N.p.: Dār al-Ma'ārif, n.d.), 2:271.

³⁴ Al-Māwardī, *al-Ḥāwī al-Kabīr* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1999), 14:104.

³⁵ Al-Nawawī, *Rawḍat al-Tālibīn wa 'Umdat al-Muttaqīn*, 10:433.

³⁶ al-Bujairimī, *Tuḥfat al-Ḥabīb 'alā Sharḥ al-Ḥabīb (Ḥashiyat al-Bujairimī 'alā al-Khaṭīb)* (Beirut: Dār al-Fikr, 1995), 4:290; al-Bujairimī, *Tuḥfat al-Ḥabīb 'alā Sharḥ al-Ḥabīb (Ḥashiyat al-Bujairimī 'alā al-Khaṭīb)* (Beirut: Dār al-Fikr, 1995), 3:231.

³⁷ Ibn Qudāmah, *al-Kāfi fī Fiqh al-Imām Aḥmad* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1994), 9:112–13; Ibn Qudāmah, *al-Kāfi fī Fiqh al-Imām Aḥmad* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1994), 10:369.

³⁸ 'Alā' al-Dīn al-Mardāwī, *al-Inṣāf fī Ma'rifat al-Rājih min al-Khilāf* (Beirut: Dār Ihya' al-Turāth al-'Arabī, 1955), 7:121, 351.

³⁹ Al-Sarakhsī, *al-Mabsūṭ*, 10:3–4.

territory (*dār al-kufr*), will certainly be confronted with unbelievers and their disbelief. According to the Muslim jurists, in principle, there are two possible solutions to this, namely: changing conditions through physical means (*jihād*, war) or if Muslim people cannot express their Islamic belief and practice perfectly and cannot change the existing situation, they have migrate to another place that is considered to be more friendly in the aspect of freedom of expressing Islam. Almost all Muslim jurists have adopted the doctrine of migration. As long as it relates to the concept of *dār al-Islām* and *al-amr bi al-ma'rūf wa al-nahy 'an al-munkar*, then the doctrine of *hijrah* is also embraced for meeting the needs of the first two doctrines. Muslim jurists, such as al-Sarakhsī,⁴⁰ al-Māwardī,⁴¹ al-Nawawī,⁴² al-Bujairimī,⁴³ Ibn Qudāmah,⁴⁴ and al-Mardāwī,⁴⁵ discussed it explicitly or implicitly.

d. The disbelief (*kufr*) as the greatest sin. The Muslim jurists consider *jihād* as a means to destroy unbelievers because disbelief is regarded as very bad from the following point of view. First, *kufr* is a great sin, even the greatest, greater than the sin of murder. This concept is no stranger, because *kufr* in the Qur'ān sometimes is identified by polytheism (*shirk*). The term *al-fitnah*, which is interpreted as polytheism (*shirk*), in the Qur'anic perspective, is more cruel than murder (*wa al-fitnah ashaddu min al-qatl*), referring to Q. 2: 191. From such premises, it seems that, according to Muslim jurists, the *kufr* or *shirk* is a more serious crime than murder, even if it becomes the most serious crime. Besides, the *shirk* is also an unforgivable sin. However, this Qur'anic conception of *shirk* has been used by the Muslim jurists as a sole reason for fighting non-Muslim people offensively. Second, *kufr* is also considered to be the source of various evil deeds (*munkar*). That means that *kufr* here is not seen as just a kind of disbelief, but rather as a potential that triggers various crimes. The Muslim jurists' concept of *kufr* was probably inferred from the life of the Prophet Muḥammad, who experienced oppression and violence during his preaching. Unbelievers are finally identical to the group that committed the crime at that time. Third, *kufr* is also regarded as a form of destruction of the order of the universe. The concept of "damage" (*fasād*) here is interpreted theologically, not physically (material damage). The conception of the Qur'ān about "damage" is indeed identical with meaningful damage, because the universe was created by God regularly and balanced, not only based on its cosmic balance, but based on the balance of the laws (unity) revealed by Him. Hence, once again, in the hands of the Muslim jurists, the Qur'anic conception becomes the basis for declaring that the unbelievers need to be fought because they have done damage to the earth. Fourth, *kufr* is considered a deviation from the original purpose of human creation. This view was originally put forward by al-Shafi'ī, so that *jihād* against unbelievers has been regarded as legitimate because they had

⁴⁰ Al-Sarakhsī, *al-Mabsūṭ*, 10:3.

⁴¹ Al-Māwardī, *Al-Ḥānī al-Kabīr*, 14:102–4.

⁴² Al-Nawawī, *Rawḍat al-Ṭālibīn wa 'Umdat al-Muttaqīn* (Beirut: al-Maktab al-Islāmī, 1991), 5:433.

⁴³ Al-Bujairimī, *Tuḥfat al-Ḥabīb*, 3:290; al-Bujairimī, *Tuḥfat al-Ḥabīb*, 4:231. Hjh Norhartijah binti Haji Puteh and Cecep Soleh Kurniawan, "Reforming Islamic Family Law in Southeast Asia: A Comparative Study of Indonesia, Malaysia, and Brunei Darussalam," *ASEAN Journal of Islamic Studies and Civilization (AJISC)* 2, no. 1 (July 26, 2025): 1–25.

⁴⁴ Ibn Qudāmah, *al-Kāfī*, 9:112–13; Ibn Qudāmah, *al-Kāfī*, 10:369.

⁴⁵ Al-Mardāwī, *al-Inṣāf fī Ma'rifat al-Rājih Min al-Khilāf*, 7:121, 351.

deviated from the initial aim of human creation. Therefore, whoever commits to *kufr* must be punished. As mentioned, among the Muslim jurists, some insisted that *kufr* is the most serious crime (*a'zham al-jināyāt*), so that *jihād* must be carried out to fight unbelievers as perpetrators of crime, and the punishment for such crimes is murder or war. Among the Muslim jurists, there also develops the opinion that *kufr* is humiliation (*al-dzillab*), so that its adherents must be humiliated. These views of *kufr* are shared by the Muslim jurists of the four schools, namely Ḥanafīyah, Shāfi'īyah, Mālikīyah, and Ḥanbalīyah, which is evident from arguments of al-Sarakhsī⁴⁶ and Ibn Nujaym (d. 970 AH)⁴⁷ of the Ḥanafīyah, al-Shāfi'ī and al-Nawawī of the Shāfi'īyah, al-Ṣāwī (d. 1241 AH),⁴⁸ as well as Ibn Qudāmah (d. 620 AH),⁴⁹ al-Mardāwī (w. 885 AH),⁵⁰ and Muṣṭafā (d. 1243 AH)⁵¹ of the Ḥanbalīyah.

e. The nature of *jihād*. The views of the Muslim jurists about *jihād* obligation are closely related to their view of its nature. First, *jihād* is regarded as one of the pillars of Islam, as al-Ḥaddādī of the Shāfi'īyah school is convinced.⁵² It means that the *jihād* is considered something essential to Islam. Indeed, such an opinion has circulated among some Muslim scholars, but has been rejected by the majority of them.⁵³ Second, it is considered a great worship (*al-'ibādah al-'aẓimah*), not only because it is rewarded with a great reward among practices that require physical efforts (*taṭanwu' al-badan*), but also because of its virtue from a theological perspective. Besides, it is regarded as a practice that is an important part of the foundation of the religion of Islam (*min al-dīn*), as is the obligation of the five prayers. Both Zarūq⁵⁴ and al-Nafrāwī (d. 1126 AH)⁵⁵ of the Mālikīyah school are among the Muslim jurists

⁴⁶ Al-Sarakhsī, *al-Mabsūṭ*, 10:3–4; Khalid Abou El Fadl, “The Rules of Killing at War: An Inquiry into Classical Sources,” *The Muslim World* 89, no. 2 (1999): 152.

⁴⁷ Zayn Dīn Ibn Nujaym, *al-Baḥr al-Rā'iq Sharḥ Kanẓ al-Daqā'iq* (N.p.: Dār al-Kitāb al-Islāmī, n.d.), 3:141.

⁴⁸ Al-Ṣāwī, *Bulghat al-Sālik li Aqrab al-Masālik*, 2:272. The purpose of *jihād* is to humiliate the unbelievers (*idhlāl al-kafarah*), because *kufr* is considered a deviation. The verses of the Qur'an are referred to strengthen the opinion that the ultimate purpose of creation is the worship of Allāh the Almighty (Q. 51: 56), and that goal is only realized through *jihād*.

⁴⁹ Ibn Qudāmah considered *jihād* as proof of faith. In the theological context, there are differences of opinion about the nature of faith. For more information about Muslim theologians' responses to the issue, see Toshihiko Izutsu, *The Concept of Belief in Islamic Theology: A Semantical Analysis of Imān and Islām*, trans. into Indonesian language by Agus Fahri Husein (Yogyakarta: Tiara Wacana, 1994), 181–218.

⁵⁰ Al-Mardāwī, *al-Inṣāf fī Ma'rifa al-Rājiḥ min al-Khilāf*, 7:350, especially in the context of inheritance between non-Muslims. As commonly argued among Muslim jurists, he argued that it is not compulsory upon non-Muslims to perform Islamic practices (*furū'iyah*). See 'Alā' al-Dīn al-Mardāwī, *al-Inṣāf fī Ma'rifa al-Rājiḥ min al-Khilāf* (Dār Iḥyā' al-Turāth al-'Arabī, 1955), 1:391. However, in their views, this does not mean that an unbeliever is not punished for this mistake.

⁵¹ Muṣṭafā bin Sa'd bin 'Abduh al-Suyūṭī, *Maṭālib Ulī al-Nubā fī Sharḥ Ghāyat al-Muntabā* (N.p.: Beirut: al-Maktab al-Islāmī, 1994), 2:462.

⁵² Abū Bakr al-Ḥaddādī, *al-Jawharah al-Nayyirah* (N.p.: al-Maṭba'ah al-Khayrīyah, 1322), 2:257.

⁵³ Abū 'Ubayd, *al-Nāsikh wa al-Mansūkh fī al-Kitāb wa al-Sunnah*, ed. Muṣṭafā 'Abd al-Qādir 'Aṭā' (Beirut: Dār al-Kutub al-'Ilmiyah, 2006), 162.

⁵⁴ Shihāb al-Dīn Abū al-'Abbās Aḥmad Zarūq, *Sharḥ Zarūq 'alā Matn al-Risālah li Ibn Abī Zayd al-Qayrawānī*, ed. Aḥmad Farīd al-Mazīdī (Beirut: Dār al-Kutub al-'Ilmiyah, 2006), 2: 601.

⁵⁵ Al-Nafrāwī, *al-Fawākih al-Dawānī 'ala Risālat Ibn Abī Zayd al-Qayrawānī* (Beirut: Dār al-Fikr, 1995), 1:395.

who suggested this theologized legal opinion. Third, it is seen as a manifestation of the true faith in God and the recognition of the prophetic message of Muḥammad. The Muslim jurists whose views are examined here belong to the *Ahl al-Sunnah wa al-Jamā'ah* in theological thought in general. However, despite not being an essential part of faith, as they believed, deeds (*'amal*) determine its quality. Probably owing to a literal perspective on dealing with Islamic issues in general, the proof of faith can only be seen from actions. Ibn Qudāmah (d. 620 AH)⁵⁶ and Muṣṭafā (d. 1243 AH) from the Ḥanbalīyah school are two Muslim jurists who embraced this view.⁵⁷

f. Eschatological views. Some Malikite jurists advanced eschatology-based arguments for the obligation of *jihād*. Through the definition of *jihād*, initially suggested by al-Fākihānī (d. 734 AH), Zarūq said that its ultimate goal is “a path to Paradise”. The *jihād* was defined as “trying as hard as possible to tire oneself, totally seeking total submission to Allāh, and to elevate the words of Allāh which He made as a path to Paradise” (*al-mubālaghab fi it'ab al-naḥs, fi dhāt Allāh, wa i'lā` kalimat Allāh allatī ja'alaha Allāh ṭarīqan ilā al-jannah*).⁵⁸ Like Zarūq, al-Nafrāwī considered *jihād* as a means to the virtue of martyrdom (*syahādah*).⁵⁹ He describes in more detail the life of the martyrs in the hereafter, which is filled with pleasure. Their life in Paradise will be very pleasant, as described in the Prophet's ḥadīth. This ḥadīth was presented when he interpreted Q. 3: 169.⁶⁰ Al-Adawī also considered that *jihād* was a means to the virtue of martyrdom (*shahādah*).⁶¹ While Zarūq simplified *jihād*'s goal as “a path to Paradise”, with a statement slightly different, Ibn Qudāmah of the Ḥanbalīyah school argued that *jihād* is “a quick way to Paradise” (*mukhtaṣar ṭarīq al-jannah*) in the sense that *jihad* would be rewarded with such a great reward, and if accompanied by martyrdom, could be a guarantee and a quick way for a Muslim to enter Paradise.⁶² As a follower of traditionalism (*Ahl al-Ḥadīth*), which prefers textual over rational sources in dealing with Islamic issues, Ibn Qudāmah refers to some Prophet's ḥadīth reporting the virtue of *jihād* over other Islamic practices.⁶³

g. “Theology of fortune”. According to al-Bujairimī, in principle, the entire wealth in the universe was created solely for the believers.⁶⁴ A further consequence of this assumption is that if the unbelievers have wealth, then the Muslims must take it, because it basically

⁵⁶ Ibn Qudāmah, *Al-Kāfi*, 1994, 9:192.

⁵⁷ al-Suyūṭī, *Maṭālib Uḥ al-Nuhā*, 2:497.

⁵⁸ Zarūq, *Sharḥ Zarūq*, 2:601.

⁵⁹ Al-Nafrāwī, *al-Fawākih al-Dawānī*, vol. 1, 95.

⁶⁰ Al-Nafrāwī, *al-Fawākih al-Dawānī*, 1:95.

⁶¹ Al-'Adawī, *Ḥāshiyat Al-'Adawī*, 2:3.

⁶² Ibn Qudāmah, *al-Kāfi fi Fiqh al-Imām Aḥmad* (Beirut: Dār al-Kutub al-'Ilmiyah, 1994), 1:5. As far as my tracing of this ḥadīth through standard collections (*al-kutub al-sittah* or *al-kutub al-tis'ah*), such as *Ṣaḥīḥ al-Bukhārī*, *Ṣaḥīḥ Muslim*, *Sunan al-Tirmidhī*, and *Sunan al-Nasā'ī*, this ḥadīth was not found. He did not cite the ḥadīth in the context of explaining the obligation of *jihād* but rather in the context of explaining the use of the word “*mukhtaṣar*” in the ḥadīth. However, I assume that by citing it, Ibn Qudāmah himself certainly agreed with its contents.

⁶³ Ibn Qudāmah, *al-Kāfi fi Fiqh al-Imām Aḥmad* (Beirut: Dār al-Kutub al-'Ilmiyah, 1994), 3:202.

⁶⁴ Al-Bujairimī, *Tuḥfat al-Ḥabīb*, 4:263. Indeed, the Qur'ān (7: 128) states that the earth will be inherited by pious servants of God. However, this Qur'anic statement cannot be automatically the basis of Bujairimī's view that the believers have the right to seize the property of unbelievers.

belongs to the Muslims. Although the argument appears to contain economic motives, it is actually based on theological assumptions. Al-Bujairimī said, "... because wealth (fortune) is not created by Allah Almighty except to benefit believers. When the fortune is still in the hands of the unbelievers before becoming spoils of war (*ghanimah*) or *fay'*, the fortune is as if deposited in their hands, and the way to get it is to be returned to the Muslims. According to al-Bujairimī, spoils of war are the most important business, then after that is industry, then agriculture." From here, then al-Bujairimī justified the *ghanimah* as the main livelihood, supported by the Prophet's ḥadīth that states that the *ghanimah* is a privilege given by God to the people of the Prophet Muḥammad, "*Ghanimah* is just for me, and is never lawful for a prophet before me", and "I feed your people with *fay'* and I never justify it to the people before".⁶⁵

Table 1:
The Theological Arguments of *Jihād* Obligations According to Muslim Jurists of the Ḥanafīyah and the Shāfi'īyah Schools

Schools, Jurists, and Key Arguments	Legal Status of <i>Jihād</i>	The Final Type of War Recommended	Regulation Chronology
The Ḥanafīyah School			
1. Al-Sarakhsī (d. 490 AH)			
Pursuing the ideal of the best people, <i>al-amr bi al-ma'ruf wa al-nahy 'an munkar</i> , and <i>shirk</i> : the most serious sin	Both individual and collective obligation (situational)	Offensive	-Passivism: Forgiving the Meccan non-Muslim oppressors -The propagation of Islam through persuasion -Defensive war -Offensive war
2. Al-Ḥaddādī (d. 800 AH)			
<i>Jihād</i> : the pillar of Islam	Collective obligation	Offensive and absolute (in every situation)	-Passivism (<i>i'rāḍ</i>) -Persuasive propagation of Islam -Defensive war -Temporary offensive war -Offensive and absolute war
3. Ibn Nujaym (d. 970 AH)			

⁶⁵ Ibid.

-‘Cleansing’ the universe from theological ‘damage’ (<i>fasād</i>) - <i>Kufr/shirk</i> : destruction of the order of the universe	Collective obligation	defensive	None
The Shāfiʿīyah School			
1. Al-Shāfiʿī (d. 204 AH), the founder			
-Realizing the worship of Allāh as the true God as the original aim of the creation of all humankind -Pursuing the ideal of the best community whose members are Muslims exclusively, and enjoining good and forbidding evil -Showing the superiority of Islam over other religions -Disbelief (<i>kufr</i>) is a deviation from the purpose of man's creation, and must be abolished	Collective obligation	Offensive	None
2. Al-Māwardī (d. 450 AH)			
-Hijrah: migration from the warfare territory (<i>dār al-ḥarb</i>) to Islam’s territory (<i>dār al-Islām</i>) -Establishing Islamic territory -Propagating Islam	Collective obligation	Offensive	-The propagation of Islam through Persuasion (war forbidden) -Defensive war -Offensive war
3. Al-Nawawī (d. 676 AH)			
-The necessity of the propagation of Islam -The exclusive classification of warfare territory and Islam’s territory -Disbelief (<i>kufr</i>) as the greatest crime	Both individual and collective obligation (situational)	Absolute (no condition for war; defensive or offensive)	-The propagation of Islam through persuasion (war forbidden) -Defensive war permitted -Offensive war (other than the Sacred Month) -Absolute war (defensive, offensive,

			not forbidden in the Sacred months)
4. Al-Bujairimî (d. 1221 AH)			
-The theology of fortune: the wealth deposited by God in the hands of unbelievers to be captured -Quelling original unbelievers -Establishing of the <i>dār al-Islām</i> -Applying the Shari'ah to unbelievers	Both individual and collective obligation (situational)	Conditional offensive war	-The propagation of Islam through persuasion (war forbidden) -Defensive war -Offensive war (other than the Sacred Month)

Source: the author's own table

Table 2:
The Theological Arguments of *Jihād* Obligations According to Muslim Jurists of the Mālikīyah and the Ḥanbalīyah Schools

Schools, Jurists, and Key Arguments	Legal Status of <i>Jihād</i>	The Final Type of War Recommended	Regulation Chronology
The Mālikīyah School			
Zarūq (d. 887 AH) and Al-Nafrāwī (d. 1126 AH)			
-Elevating God's words/command, all human beings worship Him -Unbelievers: enemies of God and Muslims - <i>Jihād</i> : great worship -Martyrdom: a great reward	Collective obligation	Offensive	None
Al-'Adawī (d. 1189 AH)			
-Elevating the words (commands) of God, all human beings worship Him -Martyrdom: a noble purpose	Both individual and collective obligation (situational)	Offensive	None
Al-Ṣāwī (d. 1241 AH)			
-Elevating the words (commands) of God, all	Collective obligation	Defensive, Offensive	- <i>Jihād</i> forbidden -Permitted (defensive)

human beings worship Him -Disbelief (<i>kufr</i>): humiliation -Implementing Islamic Shari'ah			-Permitted (offensive) other than in the Sacred Month -Permitted without conditions
The Ḥanbalīyah School			
Ibn Qudāmah (d. 620 AH)			
- <i>Jihad</i> : the manifestation of belief in God and the Prophet - <i>Jihad</i> : “a quick path to Paradise” -Blocking the flow of unbelievers, strengthening the existence of Muslims - <i>Kufr</i> : mistakes that must be punished -Creating Islam’s territory, for implementing Islamic Shari'ah	Both individual and collective obligation (situational)	Defensive	None
Al-Mardāwī (d. 885 AH)			
-Creating Islam’s territory, for implementing Islamic Shari'ah -Disbelief (<i>kufr</i>): serious sin	Collective obligation	Offensive	None
Muṣṭafā (d. 1243 AH)			
-Disbelief (<i>kufr</i>): most serious crime - <i>Jihad</i> : proof of faith - <i>Jihad</i> : a means of spreading Islam	Collective obligation	Offensive	None

Source: the author’s own table

Table 3:
The Comparison of Theological Arguments

No.	Key Arguments	Schools of Islamic Law			
		Hanafiyyah	Shāfiyyah	Mālikīyah	Hanbalīyah
1.	Ultimate goal: -Building an exclusive and best society (<i>ummah khair</i>) -Superiority of Islam over religions (<i>shī'ār al-Islām</i>) -Avoiding theological damage (disbelief, polytheism) -Implementing Islamic Shari'ah, Islam's territory (<i>dār al-Islām</i>), and elevating God's words/commands	√	√	√	√
2.	Instrumental goals (means): -Enjoining good and forbidding evil (<i>al-amr bi al-ma'rūf wa al-nahy 'an al-munkar</i>) -Changing better religiously (<i>hijrah</i>)	√	√	x	x
3.	Disbelief (<i>kufīr</i>) dan polytheism (<i>shirk</i>): -Sin, source of evil or even crime, which must be punished -Destroying the order of the universe theologically -Deviation from the original purpose of human creation -Humiliation -Unbelievers: God's enemies	√	√	√	√
4.	The nature of <i>jibād</i> : -The 6 th pillar of Islam -A great worship -The manifestation of belief in God and the Prophet -The media of the spread of Islam	√	x	√	√
5.	Eschatological goal: -A means of getting martyrdom (<i>shahādah</i>) -A quick path to Paradise	x	x	√	x
6.	Theology of fortune: -A means of seizing fortune from unbelievers	x	√	x	x

Source: the author's own table

Besides the similarities of the arguments among the *fuqahā'*, there are also unique aspects that are only found in some jurists but are not found in the others. First, within the

Ḥanafīyah school, the argument that *jihād* is the sixth pillar of Islam, as suggested by al-Ḥaddādī, and that *kufr* is the most serious crime, as suggested by al-Sarakhsī. Second, within the Shāfi'īyah school, the arguments which state that *jihād* is based on the needs of spreading Islam, as advanced by al-Māwardī and al-Nawawī, and the argument that *jihād* is an obligation based on economic interests, as proposed by al-Bujairimī.

THE CLOSELY RELATED IDEAS-CONTEXTS: THE IDEA OF THE BEST MUSLIM SOCIETY, THE UNIVERSALISM OF ISLAM, AND THE PROPHET'S WARS

As stated, among the theological arguments underlying the obligation to perform *jihād* against the unbelievers, according to the view of the fuqahā, is an idealism to realize the best and ideal Muslim society, seen from various aspects, among others, the implementation of Islamic law comprehensively. The theological ideas underlying this argument are epistemologically and historically based on various reasons.

First, epistemologically, the idea of the best Muslim society seems to be related to the universalism of Islam adopted by the Muslim jurists. Al-Shāfi'ī, for instance, in *al-Risālah* said, "There is no case that is faced by someone of the adherence to the religion of Allāh the Almighty (Islām), but there will in His scripture (the Qur'ān) be a proof in the way of guidance related to it".⁶⁶ Secondly, this idea of universalism of Islam is closely related to al-Shāfi'ī's discussion of the levels of humans based on their knowledge. According to al-Shāfi'ī, first, people who study must study seriously, be resilient in facing all challenges, be sincere in learning, whether the source of the text is at the clearest degree (*naṣṣ*) or through inference (*istinbāt*), always asking for help from Allāh the Almighty. People who can understand God's laws, both at the level of the *naṣṣ* (clear indication) and the *istinbāt* (inference by logic), and then can apply them, will gain virtue in the world and the hereafter, be blessed with wisdom in their hearts, and become leaders in religion. In this context, al-Shāfi'ī then linked this with the gift given by God to Muslims as the best people, namely, people whose members were able to understand well the Qur'ān, the understanding of *naṣṣ* and *istinbāt*, knowledge, and charity. As stated before, the idea of the best community (*khayr ummah*) was first suggested by al-Shāfi'ī, then followed by some Muslim jurists. He becomes the architect of this Qur'ān-based theological argument.

Second, historically, the Prophet's wars during his life still "settle" in the Muslim jurists' consciousness. This historical moment was interpreted by them by making it the model to be normatively followed by the next generations of Muslims. One piece of evidence for this is their reference to the war regulations during the life of the Prophet Muḥammad. The important moment of the prophetic period was the final phases in Medina, which became the historical setting for the decline of the verses of war and which later formed the thoughts of the Muslim jurists on *jihād*. Wars during the life of the Prophet Muḥammad are

⁶⁶ Muḥammad bin Idrīs al-Shāfi'ī, *al-Risālah*, ed. Aḥmad Shākir (Egypt: Maktabat al-Ḥalabī, 1940), 520.

important moments that "settle" in the consciousness and memory of the next Muslim generations, then affect them differently in their thoughts. The intensity of the wars, for instance, seemed to be a "spoken text" that said that *jihād* had become a pillar of Islam. Abū 'Ubayd revealed a narration of a person facing 'Abdullāh ibn 'Amr ibn al-'Āṣ, witnessed by 'Abdullāh ibn 'Umar. The person mentioned that *jihād* is one of Islam's pillars. This statement caused 'Abdullāh ibn 'Umar to look angry and correct him.⁶⁷

Historically, war was not introduced into the Arab world by Islam. It was known among Arab society as a tribal war. The existing social order governs war, and its rules and procedures are also part of the Arab tradition. Because the tribe became the main political unit, the wars that occurred aimed at fulfilling the necessities of life and defense. Ibn Khaldūn observed this through the Arab spirit in self-confidence, courage, and cooperation among the tribal members.⁶⁸ Considering the climate of tribalism, which had been very strong among Arab society on one hand, and warfare, which has become a "law" on the other, Muslim jurists in the medieval period conceptualized that defensive war cannot be interpreted under normal circumstances, namely only when the Muslims are attacked first, but must also be put in the context of the politics of war in that period.

CONCLUSION

The Muslim jurists' theological arguments for the obligation of *jihād* as the permanent war against non-Muslim communities have similarities in two aspects of the arguments, first, on its ultimate goal that necessitate this doctrine as compulsory, namely to building an exclusive and best society (*ummah khair*), superiority of Islam over religions (*shī'ar al-Islām*), avoiding theological damage (disbelief, polytheism), implementing Islamic Shari'ah, Islam's territory (*dār al-Islām*), and elevating God's words/commands; second, for the sake of these ultimate goal, they conceived the idea of disbelief (*kufī*) and polytheism with an exclusive interpretation as the means to pursue the goal. Besides these similarities, they have different views on some arguments. Exclusively, among the Ḥanafīyah school, the idea of the *jihād* as one pillar of Islam has a unique side that is not found in other schools. Meanwhile, among the Shāfi'iyah school, the idea of *jihād* as a means of fortune seeking is unique, which reflects that *jihād* has also been waged for economic interest. The Muslim jurists' thought seem to depart from the earlier idea that jihad was for enhancing the best Muslim society and the universality of Islamic teachings. Also, the historical moment about the wars during the time of the Prophet is still settled in the consciousness of the Muslim jurists. The best example of this era has been seen as a normative model to be implemented thereafter when facing non-Muslim communities elsewhere.

⁶⁷ Abū 'Ubayd, *al-Nāsikh wa al-Mansūkh*, 162. Zainul Erfan et al., "Politik Hukum Antar Bangsa (Siyasah Dauliyah Indonesia Dalam Perdamaian Dunia)," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 2, no. 2 (2024): 767–87.

⁶⁸ Majid Khadduri, *War and Peace in the Law of Islam* (New Jersey: The Lawbook Exchange Ltd., 2006), 62.

This article reveals that the *jihād*, as Majid Khadduri concluded, was a product of complex factors.⁶⁹ However, in contrast to his conclusion, as seen in these Muslim jurists' arguments, *jihād* has a juridical and theological character. It was justified by economic factors, as also suggested by Carl H. Becker, Henri Lammens, and Prince Caetani,⁷⁰ and William Montgomery Watt,⁷¹ as is evident here in al-Bujairimi's argument, and called here a "theology of fortune". However, this argument has not been advanced by the majority of jurists. It is true, as Khadduri criticized the argument, that this factor cannot explain the *jihād* as a permanent war obligation. There must be universal factors for the *jihād* obligation. The juristic theological arguments are one of these factors. However, Khadduri's conclusion that *jihād* has been intended to create "the divine nomocratic state on an imperialistic basis" to combine Judaism's doctrine on neglecting war as a means of spreading religion because they claimed themselves as the chosen people and Christianity's doctrine of redemptive and non-state religion,⁷² is not totally right. As is evident from this article, Muslim jurists' conception of "the best Muslim society" (*khayr ummah*) does not automatically indicate its being a state, rather a society, or as Khadduri himself translated the term, "brotherhood" or defined by the Prophet himself, "*ummah* in distinction from the rest of people."⁷³ in which the Islamic doctrines will be implemented. Besides, as one motive behind the *jihād*, the economic reason seems not to be a permanent factor or an embryo for a total imperialistic basis for an Islamic state.

In a general perspective, this study also demonstrates Fazlur Rahman's observation of the functional interdependence of law and theology in Islam: "The theologians have been too much preoccupied with God and His nature; they have ignored the nature of man and his function. A science of Islamic morals can be made possible only when man is put at the center of interest, for the Word of God has come to man for the sake of man."⁷⁴ Therefore, in this context, to be relevant to our current global situation, the law on *jihad* and its various theological underpinnings of medieval Islamic thought should be reformulated in terms of Islamic universal humanitarian perspectives.

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⁶⁹ Ibid., 63.

⁷⁰ Ibid.

⁷¹ Azyumardi Azra, *Pergolakan Politik Islam: Dari Fundamentalisme, Modernisme Hingga Post-Modernisme* (Jakarta: Paramadina, 1996), 129.

⁷² Khadduri, *War and Peace*, 63.

⁷³ Khadduri, *War and Peace*, 4.

⁷⁴ Fazlur Rahman, "Functional Interdependence of Law and Theology," in *Theology and Law in Islam*, G.E. von Grunebaum (Weisbaden: Otto Harrassowitz, 1971), 97.

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