

Great Books of Islamic Civilization

The Center for Muslim Contribution to Civilization

THE
*Distinguished
Jurist's Primer*

VOLUME I

*Bidāyat al-Mujtabi'd
wa Nihāyat al-Muqta'idi'd*

Ibn Rushd

Translated by Professor Imran Ahsan Khan Nyazee

Reviewed by Professor Mohammad Abdul Rauf

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Following are the names of the late prominent Muslim figures who (may Allah have mercy upon them) passed away after they had taken vital roles in the preliminary discussions of the Center's goals, work plan and activities. They are:

1. Dr Kamal Naji, former General Supervisor, Center for Muslim Contribution to Civilization, Qatar (7 October 1997).
2. Sheikh Jad al-Haq Ali Jad al-Haq, Sheikh al-Azhar, Cairo, Arab Republic of Egypt.
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X THE BOOK OF *JIHAD*

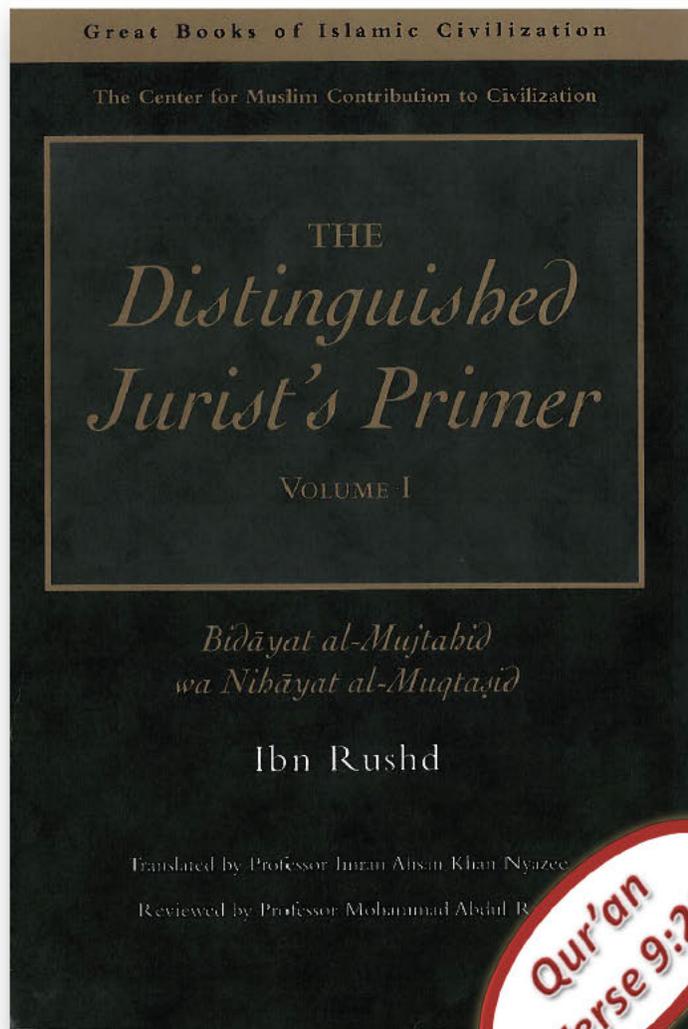
A comprehensive discussion of the principles of this subject is covered in two chapters. The first is about the identification of the elements of war. The second is about the *aḥkām* of the enemy's property when the Muslims come to own it.

10.1. Chapter 1 The Elements (*Arkān*) of War

are seven sections in this chapter. The first is about the identification of *ḥukm* of this activity and the persons for whom it is binding.. The second is about the identification of persons who are to be fought. The third is about the identification of each category of the enemy on whom harm may be inflicted, and those who are not to be hurt. The fourth is about the lawful conditions of war. The fifth is about the identification of the number (of opponents) from whom retreat is not permissible. The sixth relates to whether truce is permissible. The seventh deals with the question: why wage war?

10.1.1. Section 1: Identification of the *ḥukm* of this activity

With respect to the *ḥukm* of this activity, the jurists agreed unanimously that it is a collective and not a universal obligation, except for 'Abd Allāh Ibn al-Ḥasan who said it is voluntary. The majority of the jurists adopted this view because of the words of the Exalted, "Warfare is ordained for you, though it is hateful unto you, but it may happen that ye hate a thing which is good for you, and it may happen that ye love a thing which is bad for you, Allāh knoweth, ye know not".³⁰⁶ Its imposition as a communal obligation, that is, when some undertake it the rest are absolved of it, is based upon the words of the Exalted, "And the believers should not all go out to fight. Of every troop of them, a party only should go forth, that they (who are left behind) may gain sound knowledge in religion, and that they may warn their folk when they return, so



Qur'an
Verse 9:29

10.1.7. Section 7: Why wage war?

ibn Rushd
d. 1198

Section 7: Why wage war?

Why wage war? The Muslim jurists agreed that the purpose of fighting the People of the Book, excluding the (Qurayshite) People of the Book and the Christian Arabs, is one of two things: it is either for their conversion to Islam or the payment of *jizya*. The payment of *jizya* is because of the words of the Exalted, "Fight against such of those who have been given the Scripture as believe not in Allāh or the Last Day, and forbid not that which Allāh and His Messenger hath forbidden, and follow not the religion of truth, until they pay the tribute readily being brought low".³²⁵ The majority of the jurists also argued about the taking of *jizya* from the Magians, because of the saying of the Prophet (God's peace and blessings be upon him), "Establish with them the practice of the People of the Book". They disagreed about the payment of *jizya* from the People of the Book, whether *jizya* is to be accepted from all of them or not. Some said that *jizya* is to be charged from all polytheists. Another group exempted from this the Arab polytheists. Abū Thawr, and a group of jurists said that *jizya* is only to be imposed upon the People of the Book and the Magians.

Scholarly
Consensus

The reason for their disagreement stems from the conflict between the general and the specific implication. The general implication is in the words of the Exalted, "And fight them until persecution is no more, and religion is all for Allāh".³²⁶ And in the saying of the Prophet (God's peace and blessings be

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