In The Name of God, The Compassionate, The Merciful

Legal Fatwa

This is the reply to the (religious) inquiry presented by Mr. Muhammad Abdur-Rashid, the most senior Muslim chaplain in the American Armed forces. It concerns the permissibility of the Muslim military personnel within the US armed forces to participate in the war operations and its related efforts in Afghanistan and elsewhere in other Muslim countries.

In his question he states that the goals of the (war) operations are:

1) Retaliation against those "who are thought to have participated" in planning and financing the suicide operations on September 11th, against civilian and military targets in New York and Washington (he then detailed the consequences of these operations.)

2) Eliminating the elements that use Afghanistan and elsewhere as safe haven, as well as deterring the governments which harbor them, sanction them, or allow them the opportunity for military training in order to achieve their goals around the world.

3) Restoring the veneration and respect to the US as a sole superpower in the world.

Furthermore, he concludes his inquiry by mentioning that the number of the Muslim military personnel, in the three branches of the American armed forces, exceeds fifteen thousand soldiers. Hence, if they refuse to participate in fighting, they will have no choice but to resign, which might also entail other consequences. Finally, he asks if it is permissible, to those who can transfer, to serve in different capacities other than direct fighting.

The reply:

Praise be to God and peace and blessing be upon the messengers of God. We say: This question presents a very complicated issue and a highly sensitive situation for our Muslim brothers and sisters serving in the American army as well as other armies that face similar situations. All Muslims ought to be united against all those who terrorize the innocents, and those who permit the killing of non-combatants without a justifiable reason. Islam has declared the spilling of blood and the destruction of property as absolute prohibitions until the Day of Judgment. God (glory be to He) said: " Because of that We ordained unto the Children of Israel that if anyone killed a human being - unless it be in punishment for murder or for spreading mischief on earth- it would be as though he killed all of humanity; whereas, if anyone saved a life, it would be as though he saved the life of all
humanity. And indeed, there came to them Our messengers with clear signs (proofs and evidences), even then after that, many of them continued to commit mischief on earth." 5:32

Hence, whoever violates these pointed Islamic texts is an offender deserving of the appropriate punishment according to their offence and according to its consequences for destruction and mischief.

It's incumbent upon our military brothers in the American armed forces to make this stand and its religious reasoning well known to all their superiors, as well as to their peers, and to voice it and not to be silent. Conveying this is part of the true nature of the Islamic teachings that have often been distorted or smeared by the media.

If the terrorist acts that took place in the US were considered by the Islamic Law (Shar'iah) or the rules of Islamic jurisprudence (Fiqh), the ruling for the crime of "Hirabah" (waging war against society) would be applied to their doers. God (Glory be to He) said: "The recompense of those who wage war against God and His Messenger and do mischief on earth is only that they shall be killed or crucified or their hands and their feet be cut off from opposite sides, or be exiled from the land. That is their disgrace in this world, and a great torment is theirs in the Hereafter. Except for those who (having fled away and then) came back with repentance before they fall into your power; (in that case) know that God is Oft-Forgiving, Most Merciful." 5: 33-34

Therefore, we find it necessary to apprehend the true perpetrators of these crimes, as well as those who aid and abet them through incitement, financing or other support. They must be brought to justice in an impartial court of law and punish them appropriately, so that it could act as deterrent to them and to others like them who easily slay the lives of innocents, destroy properties and terrorize people. Hence, it's a duty on Muslims to participate in this effort with all possible means, in accordance with God's (Most High) saying: "And help one another in virtue and righteousness, but do not help one another in sin and transgression." 5:2.

On the other hand, the source of the uneasiness that American Muslim military men and women may have in fighting other Muslims, is because it's often difficult- if not impossible- to differentiate between the real perpetrators who are being pursued, and the innocents who have committed no crime at all. The authentic saying by the prophet states: "When two Muslims face each other in fighting and one kills the other, then both the killer and the killed are in the hell-fire. Someone said: we understand that the killer is in hell, why then the one who's being killed? The prophet said: because he wanted to kill the other person." (Narrated by Bukhari and Muslim.)

The noble Hadith mentioned above only refers to the situation where the Muslim is in charge of his affairs. He is capable of fighting as well as capable of not fighting. This Hadith does not address the situation where a Muslim is a citizen of a state and a member of a regular army. In this case, he has no choice but to follow orders, otherwise his allegiance and loyalty to his country could be in doubt. This would subject him to much harm since he would not enjoy the privileges of citizenship without performing its obligations.

The Muslim (soldier) must perform his duty in this fight despite the feeling of uneasiness of
"fighting without discriminating." His intention (niyya) must be to fight for enjoining of the truth and defeating falsehood. It's to prevent aggression on the innocents, or to apprehend the perpetrators and bring them to justice. It's not his concern what other consequences of the fighting that might result in his personal discomfort, since he alone can neither control it nor prevent it. Furthermore, all deeds are accounted (by God) according to the intentions. God (the Most High) does not burden any soul except what it can bear. In addition, Muslim jurists have ruled that what a Muslim cannot control he cannot be held accountable for, as God (the Most High) says: "And keep your duty to God as much as you can." 64:16. The prophet (prayer and peace be upon him) said: " when I ask of you to do something, do it as much as you can." The Muslim here is a part of a whole, if he absconds, his departure will result in a greater harm, not only for him but also for the Muslim community in his country - and here there are many millions of them. Moreover, even if fighting causes him discomfort spiritually or psychologically, this personal hardship must be endured for the greater public good, as the jurisprudence (fiqhi) rule states.

Furthermore, the questioner inquires about the possibility of the Muslim military personnel in the American armed forces to serve in the back lines - such as in the relief services' sector and similar works. If such requests are granted by the authorities, without reservation or harm to the soldiers, or to the other American Muslim citizens, then they should request that. Otherwise, if such request raises doubts about their allegiance or loyalty, cast suspicions, present them with false accusations, harm their future careers, shed misgivings on their patriotism, or similar sentiments, then it's not permissible to ask for that.

To sum up, it's acceptable - God willing- for the Muslim American military personnel to partake in the fighting in the upcoming battles, against whomever, their country decides, has perpetrated terrorism against them. Keeping in mind to have the proper intention as explained earlier, so no doubts would be cast about their loyalty to their country, or to prevent harm to befall them as might be expected. This is in accordance with the Islamic jurisprudence rules which state that necessities dictate exceptions, as well as the rule that says one may endure a small harm to avoid a much greater harm.

And God the Most High is Most Knowledgeable and Most Wise.

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