



Article History

Submitted:

14-07-2026

Reviewed:

16-07-2026

Aproved:

05-10-2026



Defensive Jihad as an Instrument for Restoring Religious Freedom and Civil Rights: An Analysis of QS. Al-Hajj [22]:39–41: Al-Nasafi and Yusuf al-Qardhawi's Perspectives

Syaifur Rahman

syayfiofficial@gmail.com

Graduate School of UIN Syarif Hidayatullah Jakarta, Indonesia

Misbachul Anam

misbachul@bahasa.iou.edu.gm

International Open University, Gambia

Ulfiatul Muarofah

ulfiamuarofah@gmail.com

PTIQ University Jakarta, Indonesia

Abdur Rokhim Hasan

abdurrokhim@ptiq.ac.id

PTIQ University Jakarta, Indonesia

Moch. Farich Alfani

farichalfani25@gmail.com

PTIQ University Jakarta, Indonesia

Tasya Putri Nurhayat

nurbayattasya@gmail.com

PTIQ University Jakarta, Indonesia

Abstract

This study would find out how the classical doctrine of jihad in QS. Al-Hajj [22]:39–41, according to al-Nasafi's perspective, can be methodologically integrated by reinterpreting maqāṣid al-syari'ah by referring to the thought of Yusuf al-Qardhawi (1926–2022 A.D./1444 H), thus resulting in a juridical-theological framework positioning defensive jihad as an instrument for restoring religious freedom and civil rights. This study answered this through comparative interpretation (muqaran), by tracing the relationship between the two textual reasons for the ability (ibābah) of qitāl in al-Nasafi (461–537 H) in al-Taysir fi al-Tafsir, the restoration of Muhajirin civil rights and protection from military aggression as a form of protection of religious freedom with the operationalization of both into one coherent category through the framework of maqāṣidi al-Qardhawi in Fiqh al-Jihad (2009). This study contributed by offering a comparative interpretive model bridging classical normative affirmations (ta'rif al-minnah) with contemporary operational frameworks-maqāṣidi, as well as being a theoretical foothold for human rights discourse in the study of the interpretation of qitāl verses.

Keywords: *Defensive jihad, religious freedom, restoration of civil rights, al-Nasafi, Yusuf al-Qardhawi.*

URL: <https://e-journal.ningusdur.ac.id/Religia/article/view/16091>DOI: <https://doi.org/10.28918/religia.v29i2.16091>

INTRODUCTION

Fragile understanding of the essential dimensions of jihad often triggers misinterpretations legitimizing acts of violence in the name of religion, thus obscuring its original purpose as an instrument of human welfare. Al-Nasafi himself, in his interpretation of QS. Al-Hajj [22]:39–41, has ruled out the possibility of such misinterpretations from the beginning: he asserts that the ability (*ibāḥab*) to wage war in this verse depends explicitly on the injustices having been experienced and not on differences in beliefs or the will to expand power (Al-Nasafi, 2019, Vol. 10, pp. 505–511). That is, the limitation on the abuse of jihad is not a modern addition grafted from outside the text, but has been contained in the structure of the classical interpretation argumentation itself. Al-Qardhawi reinforces this limitation through the framework of maqāṣid al-shari’ah in *Fiqh al-Jihad*, by pointing out that a legitimate defensive action must meet clear and measurable criteria preceded by real aggression, be limited to the cessation of such aggression, and be subject to the principle of proportionality so that violent acts not meeting these criteria, however in the name of jihad, lose their legitimacy both according to classical interpretations and contemporary reconstructions of maqāṣidi (Al-Qardhawi, 2009, Vol. 1, pp. 425–427).

Among the previous studies having existed in the form of literary research discussing Yusuf al-Qardhawi’s thoughts on jihad, Mohamad Rana’s research highlights how Al-Qardhawi opposes the reduction of the meaning of jihad understood as an arms war, by stating that jihad must be returned to its basic meaning including a broad struggle according to the original goal of tasyri’ (Rana, 2017). In comparison, Meor Hizwani Bin Miyor Mokhtar’s study explores the concept of jihad according to Qardhawi’s view descriptively and finds that jihad, according to him, is general, including jihad against lust, satan, wealth, and education, not just war (Mokhtar, 2018). From the perspective of international relations, Sami E. Baroudi analyzes Al-Qardhawi’s international discourse through themes such as fiqh jihad, wasatiyyah, and the liberation of occupied Muslim lands emphasizing the relevance of defensive jihad to protect the civil rights of cross-border Muslims (Baroudi, 2014). In addition, the methodological implementation of Al-Qardhawi’s hadith understanding in the context of zakat also confirms that the way of jihad

has shifted from a tool of war to support for da'wah and the defense of beliefs (Haq & Kholishudin, 2025). On the classical *mufassir* side, Muhammad Akrom and his colleagues compared Wahbah az-Zuhaili's Tafsir al-Munir with ath-Thabari's Tafsir Jami' al-Bayan, finding text-literal and contextual-holistic differences in interpreting the war verses (Akrom, Erwanto, & Athaillah, 2025). Rochmad and his team's comparative study of Tafsir Al-Mishbah and Tafsir Al-Muharrar Al-Wajiz proved that mufassir, both contemporary and classical, agree that war in Islam is defensive, justice-oriented, and limited by human values (Rochmad, Izzudin, Septrianto, Elatrash, & Syaifullah, 2026).

Although previous studies had mapped the discourse of jihad broadly, both through al-Qardhawi's thought and the study of classical and contemporary interpretations separately, there are four research gaps underlying the need for this study. First, there has been no study specifically comparing the doctrine of jihad *difā'i* in classical Hanafi mufassir such as al-Nasafi with the contemporary maqāṣidī framework that al-Qardhawi constructs within an integrative analysis framework of QS. Al-Hajj [22]:39–41. Second, the study of al-Qardhawi's thought generally focuses on reinterpreting the meaning of jihad in general, or on the aspects of fiqh zakat and da'wah, without exploring in depth how maqāṣid al-syarī'ah bridges the legitimacy of defensive jihad with the protection of religious freedom and the restoration of civil rights of citizens. Third, comparative studies of classical mufassir generally compare two adjacent interpretations in terms of madhhab or period, but none have specifically placed al-Nasafi as a representation of strict classical interpretation within the corridor of *the wasatiyyah approach*. Fourth, no study had explicitly linked the reading of QS. Al-Hajj [22]:39–41 with the instrumentation of the restoration of religious freedom and civil rights in one whole argumentative construction.

This research exists to fill this gap through a comparative synthesis between the authority of the classical interpretation of al-Nasafi in *Al-Taysir fi al-Tafsir* and the framework of maqāṣidī al-Qardhawi in *Fiqh al-Jihad*, framing defensive jihad not as a closed theological discourse, but as an instrument of restoration of religious freedom and the protection of the rights of civilians threatened with oppression. Theoretically, this study aims to build a methodological integration between al-Nasafi's linguistic-textual analysis and the framework of maqāṣidī al-Qardhawi to produce a hermeneutic construct placing defensive jihad as an instrument for the restoration of religious freedom based on *the principle of ḥifẓ al-dīn*, as well as the protection of human honor

and life (Al-Nasafi, 2019, Vol. 10, pp. 505–511). Practically, the contribution of this study is expected to be a foothold for legal and social policies in affirming the civil rights of citizens threatened with oppression, as well as directing the qitāl discourse toward the orientation of public benefits and collective welfare (Al-Qardhawi, 2009, Vol. 1, pp. 425–427).

RESULTS AND DISCUSSIONS

A. Historical Context and Ranking of QS. Al-Haji [22]:39–41 in the Tradition of Tafsir

QS. Al-Haji [22]:39–41 is historically recognized as the first issued *idbn al-qital* of war authorization, marking the transition from the phase of patience in the face of oppression in Makkah to the legitimacy of self-defense in Medina. This legitimacy was not born out of a situation of political expansion, but rather was a response to real tyranny as stated in the phrases *bi-annahum zulimū* (because they had been wronged) and *ukehrijū min diyārihim* (they were expelled from their homeland). Al-Nasafi asserts that this permission to wage war is inherently related to *‘illat* in the form of tyranny and forced expulsion, so that jihad becomes a legitimate instrument for restoring basic rights having been arbitrarily deprived of the mandate of conquest (Al-Nasafi, 2019, Vol. 10, pp. 505–511).

Al-Qardhawi in *Fiqh al-Jihad* rejects the view making jihad a permanent tool of expansion, asserting that war in Islam is essentially sharia to deal with aggression, oppression, and expulsion rather than religious coercion or political domination. The essence of armed resistance, for him, is to restore religious freedom and ensure the safety of places of worship from destruction, as well as to be a *mechanism of tadāfu’* serving to ensure the continuity of places of worship for all believers of the religion (Al-Qardhawi, 2009, Vol. 1, pp. 425–427). Thus, jihad difā’ī in this study is consistently understood as: an action that is defensive (not offensive), oriented toward protecting freedom of religion and houses of worship, subject to the principle of proportionality, and therefore categorically distinct from terrorism targeting civilians without distinction.

With regard to the terms civil rights, human rights, and religious freedom repeatedly used in this study, it should be emphasized from the beginning that its conceptual basis starting from the descent of revelation, throughout its historical development, to the present and in

the future is consistently based on maqāṣid al-syarī'ah, not on the framework of human rights as formulated in the *Universal Declaration of Human Rights* (UDHR, United Nations, 1948) or the *International Covenant on Civil and Political Rights* (ICCPR, United Nations, 1966). The protection in question comes from three *darūriyyāt* directly relevant to this verse: *ḥifẓ al-dīn* (religious protection), *ḥifẓ al-nafs* (protection of the soul), and *ḥifẓ al-māl* (protection of property), as the framework of maqāṣidī is also the basis of al-Qardhawi's analysis in formulating jihad difā'ī as an instrument of protection (Al-Qardhawi, 2009, Vol. 1, pp. 425–427).

Ḥifẓ al-dīn becomes the main basis of the claim of religious freedom in this verse, manifested concretely in the protection of mosques, churches, and synagogues as called in verse 40. It should be emphasized that this scope is limited to the protection of religious communities from external destruction and oppression, and is in no way intended to legitimize the freedom to move out of Islam (riddah) as stipulated in ICCPR Article 18 (ICCPR, 1966, Article 18). *Ḥifẓ al-māl* is the basis for the claim of property ownership rights and the concrete case of residence is the house and property of the Muhajirin who were detained and confiscated by the infidels of the Quraish of Makkah, as identified by al-Nasafi as one of the *'illat* of restoration through jihad difā'ī (Al-Nasafi, 2019, Vol. 10, pp. 505–511). As for *ḥifẓ al-nafs* it is the basis for the right to be a member of a community of a region in classical terms called *ahl al-balad* because the expelled Muhajirin also lost their status as *ahl al-balad* of Makkah, and losing this status in pre-Islamic Arab societies meant losing all the protection of customary laws and guarantees of safety that the community usually gives to its members, so that it is existentially equivalent to a threat to the soul itself.

B. Al-Nasafi and the Interpretation of Defensive Jihad in Al-Taysir fi al-Tafsir

Najm al-Din al-Nasafi Al-Hanafi, a Hanafi scholar born in Nakhshab (modern Uzbekistan) who lived in the 5th to 6th centuries Hijri, wrote *Al-Taysir fi al-Tafsir* as a work of tafsir combining the depth of Hanafi fiqh with the linguistic sensitivity of classical Arabic. Recently, the work was published for the first time in a critical edition based on three manuscripts by Dar al-Lubab, Istanbul (2019). In his interpretive perspective, al-Nasafi emphasizes that the verses of armed struggle must be read in the context of the protection of the continuity of religious teachings in a systematic and measured manner. For him, the

permission to fight in QS. Al-Hajj:39 is not only an affirmation of martial arts, but a legal instrument limiting the use of violence only in emergency situations to respond to aggression threatening the existence of humanity and the sustainability of religious teachings (Al-Nasafi, 2019, Vol. 10, pp. 505–511). Thus, al-Nasafi emphasizes that the *mechanism of tadafu* reflects the ethical responsibility of Muslims to stop tyranny hindering the human right to worship their God. This analysis confirms that al-Nasafi's interpretation is in line with attempts to deconstruct radical understandings often misusing war verses as legitimizing unilateral violence (Nurullah & Taqwiya, 2021).

In interpreting QS. Al-Hajj [22]:39, al-Nasafi pays special attention to the grammatical structure of permission clauses. The word *udẓina* (permissible), according to him, is different from *fardha* (obligatory), meaning that this verse makes room for situational *ijihad*: war is not an absolute obligation but rather an action that is permissible when certain conditions are met, i.e. the existence of real tyranny. This approach is characteristic of the Hanafi madhhab, known for its prudence in permitting violence (Al-Nasafi, 2019, Vol. 10, pp. 505–511). al-Nasafi's interpretation of verse 40 is very rich and is one of the most original points in his work. He interprets the clause *وَلَوْلَا دَفْعُ اللَّهِ النَّاسَ بَعْضَهُمْ بِبَعْضٍ* as a manifestation of the law of divine balance in history. Al-Nasafi identifies two layers of meaning: first, literally “if Allah does not reject some (infidels) with some others (believers who are at war)”; and second, contextually, that without the resistance of believers, pagans and atheists would dominate the entire religious civilization of Heaven. The faithful serve as *daf* (antidote) to the destruction of universal religious structure (Al-Nasafi, 2019, Vol. 10, pp. 505–511).

The most striking of al-Nasafi's tafsir is the use of the *concept of ta'Rif al-Minnah*, the acknowledgment of Allah's gifts. Al-Nasafi emphasizes that this verse contains a message about how Islam, by opening up space for defensive *jihad*, actually benefits all adherents of this religion, not just Muslims. In the original text, al-Nasafi (2019) stated: “*wa fihi ta'rif mannati Allāh ta'ala bimā 'ada 'ala ahli al-adyan kullihā min al-naf'i bi-din al-Islam*” (Al-Nasafi, 2019, Vol. 10, pp. 505–511). This interpretation goes beyond the dichotomy of insider/outside groups often dominating *jihad* discourse and places *jihad* as an instrument to protect cultural diversity. Through this lens, al-Nasafi places the obligation of *jihad* as a form of Muslim universal responsibility in maintaining a social order guaranteeing peace of life for non-Muslim communities. Thus, al-Nasafi's view emphasizes that the legitimacy of war in Islam does not

aim to eliminate differences of belief, but rather is an effort to maintain the stability of an inclusive ecosystem of religious life (Wahab, Hariyadi, & Tahir, 2023).

Al-Nasafi also notes the order of the four places of worship mentioned in verse 40: *shawāmi* (Christian monastic monastery), *biya* (church), *shalāwāt* (Jewish synagogue), and *masajid* (mosque). He interprets this order chronologically in the order in which it existed in the history of heavenly religion. Al-Nasafi adds that the phrase “*wa ladhikru Allāhi akbar*” at the end of verse 40 indicates the uniqueness of mosques in the hierarchy of protection, without denying that other places of worship are also under the protection of defensive jihad (Al-Nasafi, 2019, Vol. 10, pp. 505–511). This approach substantially reconstructs the meaning of jihad often misunderstood by radical movements as an exclusive tool to attack others of different beliefs (Fatih, Taufiq, Zuhri, & Zubairi, 2025). In contrast, al-Nasafi places the protection of the plurality of places of worship as a manifestation of the vastness of the realm of jihad, including efforts to maintain social stability and human rights (Irhamudin, 2021). In interpreting verse 41 about the character of a leader entrusted with survival (*Alladzīna di Makkanahum fi al-Ardh*), al-Nasafi develops an argument about the prerequisites for the legitimacy of defensive jihad. The ability to survive institutionally, reflected in establishing prayer, paying zakat, ordering goodness, and preventing evil, are conditions that must be met before the obligation of defense can be activated (Al-Nasafi, 2019, Vol. 10, pp. 505–511).

C. Yusuf al-Qardhawi and the Reformulation of Defensive Jihad in Fiqh al-Jihad

Yusuf al-Qardhawi in *Fiqh al-Jihad* (2009) produced a work that he himself calls “a comparative study of the law and philosophy of jihad in the Qur’an and Sunnah”. This work is al-Qardhawi’s most comprehensive attempt to separate the concept of jihad from the distortions polluting it, both extremist distortions expanding jihad into offensive global wars and secular distortions completely denying its legitimacy (Al-Qardhawi, 2009, Vol. 1, pp. 89–91). Al-Qardhawi emphasizes that jihad is inherently defensive and aims to defend the existence of the ummah and religious freedom (Khasasi & Salleh, 2015). Referring to broader theological arguments, he classifies jihad not only as a military effort, but also includes the struggle against lust, the temptations of the devil, as well as contributions through wealth and education (Mokhtar, 2018).

Al-Qardhawi begins his analysis of QS. Al-Haji [22]:39 by establishing a strict epistemological categorization: there is a fundamental difference between *difa’i* jihad

(defensive jihad) and *thalabi/hujumi* jihad (offensive/initiative jihad). Defensive jihad is a response to real aggression and has a *fardhu 'ain* (obligatory) law applying to any Muslim individual capable of doing so when his territory is attacked. Offensive jihad, if acknowledged, is only *fardhu kifayah* and is subject to very strict conditions. Within this framework, the verses of Al-Haji exclusively discuss the first category (Al-Qardhawi, 2009, Vol. 1, pp. 89–91). Thus, al-Qardhawi seeks to reconstruct the scope of jihad so as not to get caught up in the reductionism of meaning legitimizing unlimited violence. This approach is in line with the deconstruction of previous fuqaha tendencies often obscuring the pluralistic values of the Qur'an through the legitimacy of territorial expansionism. This intellectual project shows that al-Qardhawi not only carried out methodological reforms, but restored interpretive authority to the revelations of the Qur'an and the Sunnah, having tended to be marginalized by the accumulation of ijtihad fuqaha, loaded with the political content of his time (Khasasi & Salleh, 2015). The firm distinction between the construction of the law born from a specific historical response and the universal principles of the Qur'an becomes the main axis of its reading, so that the categorization of *jihad is fa'i and thalabi* serves not only as a taxonomic device, but as a hermeneutic instrument to dismantle the political distortions having been sneaking into the discourse of jihad fiqh. This move also strengthens al-Qardhawi's position among contemporary Muslim thinkers prioritizing *maqashid al-sharia* as a framework for contextual adaptive interpretation to respond to the challenge of external hostility and aggressiveness toward Muslims (Anshor & Muttaqin, 2020, p. 80).

Al-Qardhawi's analysis of the *word udzina* emphasizes that this permission is given in the context of an attack occurring or having occurred and not a hypothetical threat. He develops the argument that tyranny in this verse includes not only physical violence but also the deprivation of civil rights: the right to residence (*diyār*), the right to faith (*dīn*), and the right to religious expression in public spaces. With this expansion, defensive jihad becomes a response to human rights violations in a very modern sense (Al-Qardhawi, 2009, Vol. 1, pp. 89–91). Through this methodology, al-Qardhawi managed to reformulate the position of jihad as a tolerant and proportionate instrument of humanity without having to get caught up in the confusion of traditional thinking (Khasasi & Salleh, 2015). This approach simultaneously affirms that the legitimacy of war in Islam is closely linked to ethical principles that limit acts of violence only as a last resort to guaranteeing peace and upholding social justice (Umam, 2024). Thus, the redefinition offered by al-Qardhawi effectively deconstructs the narrative of

violence having been associated with jihad in the global discourse ([Elisa, 2025](#)).

al-Qardhawi's discussion of verse 40 yields an important argument for the discourse of religious pluralism. He asserts that the mention of the four types of places of worship is explicit evidence that defensive jihad in Islam operates to protect religious freedom universally. Al-Qardhawi criticizes the view limiting the protection of jihad to Muslims only as an interpretation contradicting the clear text of the Qur'an: a Muslim allowing a church or synagogue to be destroyed without a defensive effort has rejected the mission of defensive jihad (Al-Qardhawi, 2009, Vol. 1, pp. 89–91). Thus, the main mission of jihad in al-Qardhawi's perspective goes beyond sectarian interests and transforms into a theological mandate to ensure stability and harmony for all religious communities ([Jamil & Nidhom, 2025](#)). This interpretation is in line with the view that the protection of houses of worship is an absolute prerequisite for the establishment of *Pax Islamica*, in which social stability is maintained through the recognition of the existential rights of people of other religions (Hasan, 2018, p. 350; Ulfa, 2022, p. 300).

Al-Qardhawi's most important contribution to these verses is the development of the concept of *Tamkin fi al-Ardh* (enforcement/sovereignty on earth) as an institutional prerequisite for defensive jihad. Referring to verse 41, al-Qardhawi argues that the legitimacy of defensive jihad requires not only religious motivation but also organized institutional capacity: legitimate leadership, an economic system guaranteeing welfare (*zakat*), and a commitment to public ethics (*'amr bil-ma'ruf wa naby 'An al-Munkar*). Without these prerequisites, acts of violence in the name of religious defense have no *fiqhiah* legitimacy (Al-Qardhawi, 2009, Vol. 1, pp. 89–91). Moreover, al-Qardhawi asserts that the essence of war in Islam is essentially the last step to reduce tyranny and preserve the glory of places of worship from outside interference. In accordance with this principle, al-Qardhawi integrates the philanthropic dimension into the jihad function, where the responsibility of the ruler includes the fulfillment of the basic needs of the community, such as the provision of food, clothing, and health insurance, for both Muslims and non-Muslims living under the protection of the state ([Arif, 2020, p. 78](#)).

The relationship between the doctrine of jihad *difāʿī* and Article 51 of the UN Charter in this study is understood through three steps of argument having different functions.

First, as a functional analogy: jihad *difāʿī* as interpreted by al-Nasafi of QS. Al-Hajj [22]:39–41 and the right to self-defense in Article 51 of the UN both serve as mechanisms

authorizing the use of armed force only in response to actual aggression having occurred, rather than offensive or preventive actions. This analogy is functional, not historical or formal derivation, the two frameworks are born out of different legal traditions and do not borrow from each other, but lead to parallel normative functions.

Second, as a delimitative reinterpretation: al-Nasafi interprets QS. Al-Hajj [22]:39–41 textually, but never explicitly distinguishes whether the ability (ibāhah) to fight in this verse falls under the category of jihad difāʿī or jihad hujūmī. Al-Qardhawi then explicitly asserts that the verse is meant by jihad difāʿī alone, the two reasons identified by al-Nasafi (the restoration of the civil rights of the Muhajirin and protection from military aggression) are limited and consolidated into this single category, rather than left as the ability to fight openly interpreted. It is this categorical restriction that then proves to be functionally in line with Article 51 of the United Nations, also limiting the right to self-defense only to the response to an armed attack having occurred, not preventive or offensive measures. Thus, the compatibility between the two is not a purely textual coincidence, but the result of a process of delimitative reinterpretation making the category of jihad difāʿī precise enough to be functionally compared with the norms of modern international law.

Third, as a normative extension: the categorically limited understanding of jihad difāʿī (not jihad in general, nor is it hujūmī/offensive jihad) is extended by al-Qardhawi as a concrete explanation of *the universal taʿrīf al-minnah al-ilāhiyyah*. If al-Nasafi interprets this *minnah* in the abstract as limited to the preservation of interfaith places of worship, al-Qardhawi expands its normative scope to show its conformity with the collective protection mechanism specified in Article 51 of the United Nations, so that *the previously* theological-abstract minnah acquires a more concrete operational form and can be structurally compared with the framework of international law.

D. Points of Convergence and Divergence: A Comparative Analysis of Al-Nasafi and Al-Qardhawi

The most fundamental difference between al-Nasafi and al-Qardhawi is actually rooted in the way they view the text itself, not simply in the legal conclusions they produce. Al-Nasafi reads QS. Al-Hajj [22]:39–41 Assuming that the meaning of the verse is completed and closed once the structure of the sentence is understood, the historical context of the expulsion of the Muhajirin serves to lock the meaning of the event, rather than open it in the other direction.

The validity of his argument rests on *the bayānī tradition*: the extent to which the conclusions of the law are in accordance with the linguistic rules and precedents of Hanafi fiqh, with a *tahlīlī-fiqhī* approach deriving the law directly from the structure of the Arabic text (Al-Nasafi, 2019, Vol. 10, pp. 505–511). Al-Qardhawi departs from the almost opposite assumption: the historical context is the starting point, not the end point, the verse must be constantly reread through the great objectives of the sharia maqāṣid, so that its authority does not stop at the Hijrah event alone (Al-Qardhawi, 2009, Vol. 1, pp. 425–427).

This difference in assumptions gives birth to an even more fundamental difference in the determination of the *‘illat* (legal reason) itself. For al-Nasafi, *the ‘illat* of fighting ability is textual and relies on the concrete events mentioned in the verse: the existence of threats and attacks, as well as the expulsion of the Muhajirin from Makkah. The purpose of jihad in its reading is therefore restorative, restoring the ownership of property in the form of houses that have been detained or confiscated by the Quraysh infidels, as well as restoring their national status as the people of Makkah having been abolished. Al-Qardhawi understood *this ‘illat* in reverse as well as more fundamentally: it was not the expulsion itself that became *the ‘illat*, but it was maqāṣid al-syarī’ah that made *it ‘illat* that military aggression was prohibited because it was contrary to the purpose of the sharia to protect religion (*ḥifẓ al-dīn*), then parallel to the protection of the soul and residence/population (*ḥifẓ al-nafs* and *ḥifẓ al-māl*). The practical implications are also in different directions: if for al-Nasafi jihad difā’ī serves to restore what has been lost after the expulsion occurs, for al-Qardhawi jihad difā’ī serves to stem the process of expulsion itself before the national status of a society is completely erased by the occupying nation, a shift from the logic of *post-event restoration* to the logic of *active resistance during the event of aggression*, without changing the basic condition that the aggression must have actually occurred, not just an anticipated threat. With the shift of *‘illat* from textual events to maqāṣid itself, what in al-Nasafi is implied only as the restoration of civil rights and religious freedom, by al-Qardhawi is made explicit a result purely born of the framework of maqāṣidī itself internally, not of comparison with any legal framework outside the sharia tradition.

The difference in *‘illat* in turn requires a different legal methodology. Al-Nasafi uses *the tahlīlī method* in the style of *legal fiqhī* derived directly from the structure of verse recitation to the rules of Hanafi fiqh, without the need for an intermediate stage in the form of an explicit formulation of sharia goals. The procedure is linear: the text is read, the linguistic rules are

applied, the legal conclusions are drawn. Al-Qardhawi follows *the multi-layered method of maqāṣid*: the text is read, but the legal conclusions are only considered valid after their conformity with the major purposes of the Shari'ah (*ḥifẓ al-dīn*, *ḥifẓ al-naḥs*, *ḥifẓ al-māl*, and so on). These methodological differences have direct implications for the authority of the context given by each. For al-Nasafi, the context of the descent of the verse (*asbāb al-nuzūl* in the form of expulsion of the Muhajirin) serves as a definitive and closed boundary of interpretation, then understood as a response to a specific event having been completed, so that the authority of the context stops at the event itself. For al-Qardhawi, the same context serves as an open starting point: the historical event of the Hijrah is not the final limit of meaning, but rather a concrete illustration of the broader principle of maqāṣid, so that the authority of the context extends beyond the original event when the verse was revealed.

This difference in the way of treating maqāṣid is the most decisive distinction between the two. In al-Nasafi, maqāṣid al-syarī'ah has never been operationalized as a stand-alone framework of analysis; it is present indirectly through the normative affirmation *ta'rif al-minnah*, the statement that the benefits of defensive jihad extend to all religious adherents, but this affirmation remains implicit and is not formulated as a category that can be further operationalized. Al-Qardhawi makes maqāṣid an explicit central instrument: the *principle of ḥifẓ al-dīn* is raised as *the 'illat* itself, rather than merely an additional affirmation at the end of the interpretation. An equal tension also appears when the two confront political authority, particularly on the concept of *dār al-Islām*. Al-Nasafi, following the Hanafi tradition, anchored the legitimacy of the implementation of jihad difā'ī to the stability of the state order and the territorial boundaries of *dār al-Islām* as determinants of the scope of defense. Political authority (imamah/state power) is a prerequisite determining the legitimacy of collective mobilization and organization of the ability (*ibābah*) to fight, not to determine the legal status of jihad individually. Al-Qardhawi critically revisits the relevance of this *dār al-Islām/dār al-ḥarb* dichotomy, arguing that such a territorial framework is no longer operational in the reality of the modern nation-state; for him, the obligation of jihad difā'ī is triggered by an attack on the state and a community, both Muslim and non-Muslim, wherever it may be, is not bound to a single territorial entity (Al-Nasafi, 2019, Vol. 10, pp. 505–511; Al-Qardhawi, 2009, Vol. 1, pp. 425–427). This contrast shows that the difference between the two is not merely a matter of interpretive style, but a reflection of a larger epistemological transformation in the way

Muslims understand jihad from classical jurisprudence interpreting it through territorial structures and territorial political authority, to a contemporary discourse releasing that obligation from mere territorial attachments.

Table 1. Comparison of the Convergence and Divergence of Al-Nasafi and Al-Qardhawi on QS. Al-Hajj [22]:39–41

Dimensions	Al-Nasafi (Classical, Hanafi)	Al-Qardhawi (Contemporary, Maqāṣidī)
Hermeneutic assumptions	Fixed meaning, dug out of the structure of utterance (<i>lafẓī</i>); historical context closes the meaning	Meaning is read through the purpose of sharia (<i>maqāṣid</i>); historical context unlocks meaning
Epistemological differences/ <i>'illat</i>	Textual: threats, attacks, and expulsions of the Muhajirin as mentioned in verse	<i>Maqāṣid al-syarī'ah</i> itself: religious protection (<i>ḥifẓ al-dīn</i>) is equal to soul and property
Orientation of the purpose of jihad	Restorative restoring rights that have been lost after the eviction event	Preventive-protective stem the expulsion process during real aggression
Legal methodology	The <i>tablīlī-fiqhī</i> of the law is derived directly from the structure of the recitation	<i>Maqāṣidī</i> law is tested for its conformity with the great purpose of sharia
Context authority	The context of Hijrah is definitive and closed, limiting the meaning to the original event	Open context, extending to situations beyond the event from which the sentence was revealed
Treatment of <i>maqāṣid</i>	Implicit, abstract (via <i>ta'rif al-minnab</i>), non-operationalized	Explicitly, it is used as an analytical instrument as well as <i>the 'illat</i> itself
Treatment of political authorities	The legitimacy of the jihad depends on the stability of the	Criticizing the relevance of <i>dār al-Islām</i> / <i>dār al-ḥarb</i> ; obligations

	state and the territorial boundaries of <i>dār al-Islām</i>	are triggered by aggression against Muslim and non-Muslim communities everywhere, regardless of territory
--	---	---

E. Contemporary Relevance: Defensive Jihad in the Global Human Rights Discourse

In a contemporary geopolitical context in which Muslim communities in different parts of the world are facing pressures on religious freedom, from the Uyghurs in Xinjiang, to the Rohingya Muslims in Myanmar, to the protracted conflict in Palestine, the doctrine of defensive jihad interpreted by al-Nasafi and al-Qardhawi is particularly relevant to apply. Yet this relevance must be understood within the proper framework: not as a justification for unfettered violence, but rather as a theological framework recognizing the right to communal defense while setting its ethical boundaries (Al-Nasafi, 2019, Vol. 10, pp. 505–511; Al-Qardhawi, 2009, Vol. 1, pp. 425–427).

Al-Qardhawi carefully distinguishes between legitimate defensive jihad and acts of terrorism claiming the same name. For him, the killing of innocent civilians, attacks on places of worship of other religions, and the use of violence outside the context of real aggression constitute a betrayal of the Qur'an's doctrine of defensive jihad. Al-Nasafi, although writing in a different context, provides a theological basis for this position through his emphasis on *'illat* tyranny and protectionist universalism (Al-Nasafi, 2019, Vol. 10, pp. 505–511; Al-Qardhawi, 2009, Vol. 1, pp. 425–427).

As the times develop and the structure of human life changes toward a *nation-state* system, this *status of ahl al-balad* in its development also shows functional similarity with the right of *nationality* as stipulated in UDHR Article 15 (UDHR, 1948, Article 15) and ICCPR Article 12 (ICCPR, 1966, Article 12): both serve to guarantee that a person cannot be arbitrarily deprived of membership of his community or state. Similarly, similar functional conformity applies to the protection of civil rights as a whole (life and property) enshrined in the UDHR and the ICCPR, given that both instruments have been applied relatively well in maintaining peace and the survival of humanity to date. This functional conformity is not a one-way reference or derivation constituting the basis for demonstrating the structural conformity

between jihad difā'ī as a result of al-Qardhawi's reinterpretation and Article 51 of the UN Charter in the previous discussion (Al-Qardhawi, 2009, Vol. 1, pp. 425–427).

Nevertheless, this functional conformity is not intended to deny each other, but rather to place the Qur'an in a superior position: civil rights based on maqāṣid al-syarī'ah do not require *itsbat* (confirmation/legitimacy) from the UDHR or the ICCPR in order for its validity to be recognized, just as the formulations of the UDHR and ICCPR themselves were purely born out of modern Western socio-political ideas through the UN (UDHR, 1948; ICCPR, 1966) nor do they take reference to the protection of civil rights from the Qur'an. Both frameworks develop independently from entirely different sources of authority: one stems from revelation having existed since the 7th century AD, the other from 20th-century consensus between countries. The compatibility of the substance of the two at some point is actually proof that the normative truth enshrined in the Qur'an was already present and remains relevant, long before the international community formulated it in the form of modern positive law.

CONCLUSION

A comparative study of Najm al-Din al-Nasafi's interpretation in *Al-Taysir fi al-Tafsir* and Yusuf al-Qardhawi's thought in *Fiqh al-Jihad* on QS. Al-Hajj [22]:39–41 yields three main conclusions, obtained through a systematic comparison on the six dimensions of hermeneutical assumptions, 'illat, legal methodology, contextual authority, treatment of maqāṣid, and political authority as outlined in the section Comparison of Convergence and Divergence. First, defensive jihad in these verses has a clear and limited 'illat: actual tyranny (*ẓulm*), not ideological or belief differences. However, both scholars arrive at this conclusion through different epistemological paths al-Nasafi anchors 'illat to textual events (threats, attacks, and expulsions of the Muhajirin), while al-Qardhawi makes maqāṣid al-sharī'ah itself 'illat, so that its scope is more open to situations outside of the event from which the verse was revealed. This means that there is no purely theological legitimate jihad without an element of demonstrable aggression, regardless of which epistemological path is taken (Al-Nasafi, 2019, Vol. 10, pp. 505–511; Al-Qardhawi, 2009, Vol. 1, pp. 425–427).

Second, the scope of defensive jihad protection in these verses is universal and cross-religious. The explicit mention of monasteries, churches, synagogues, and mosques in verse 40 is the Qur'an's normative statement that defensive jihad operates to protect religious

freedom as a whole, not a monopoly of Muslim interests. Al-Nasafi articulates this through the concept of *ta'rif al-minnah* remaining implicit and abstract, while al-Qardhawi operationalizes it explicitly as a stand-alone category of protection (Al-Nasafi, 2019, Vol. 10, pp. 505–511; Al-Qardhawi, 2009, Vol. 1, pp. 425–427).

Third, the legitimacy of defensive jihad is institutional and conditional. Paragraph 41 stipulates that those given a defense mandate must meet the prerequisites of moral and institutional capacity. This prerequisite is interpreted by al-Nasafi within the framework of territorial political authority (*dar al-Islām*), while al-Qardhawi detaches it from territorial attachment and links it to the protection of Muslim and non-Muslim communities wherever they are located. This difference in emphasis serves as a control mechanism that, in both frameworks, prevents the degeneration of defensive jihad into unstructured and disproportionate violence (Al-Nasafi, 2019, Vol. 10, pp. 505–511; Al-Qardhawi, 2009, Vol. 1, pp. 425–427).

It should be emphasized that the conformity between *jihad difā'ī* as a result of al-Qardhawi's reinterpretation and Article 51 of the UN Charter in this study is limited to the functional analogy of similarities on three concrete criteria (aggression preceding, goals limited to cessation of aggression, and proportionality) and not the claim that the doctrine of defensive jihad as a whole is equivalent to or derivative of international legal norms. This study does not make a thorough jurisprudential comparison between the entire corpus of jihad jurisprudence and all instruments of international humanitarian law; its scope is limited to one surah of the Qur'an (QS. Al-Hajj), several verses in it (39–41), two mufasir, and one additional domain in the form of Article 51 of the UN Charter as the most structurally relevant point of comparison. Therefore, the compatibility claims put forward are specific and limited to the domain having been systematically compared, rather than a comprehensive generalization of the compatibility of jihad and international law in general. Academically, the contribution of this study lies in the provision of an explicit criteria-based comparative model, not merely a textual association that can be replicated to extend the study of this compatibility to the corpus of jihad jurisprudence and other international legal instruments in subsequent research.

BIBLIOGRAPHY

Primary Source

- Al-Nasafi, N. A.-D. U. ibn M. ibn A. (2019). *Al-Taysir fi al-tafsir* (Vol. 10, A. H. U. al-Bakri, ed.). Istanbul, Turkey: Dar al-Lubab li al-Dirasat wa Tahqiq al-Turath.
- Al-Qardhawi, Y. (2009). *Fiqh al-jihad: Dirasah muqaranah li-ahkāmihī wa falsafatihī fi daw ' al-Qur'an wa al-sunnah* (Volumes 1-2). Cairo, Egypt: Maktabat Wahbah.

Secondary Sources

- Adnan, S., & Siregar, S. (2023). Studi Analitis Ayat-Ayat Qitāl dalam Perspektif Tafsir Kontemporer. *Al Fawatih: Jurnal Kajian Al-Qur'an dan Hadis*, 4(1), 1–15. <https://doi.org/10.24952/alfawatih.v4i1.7151>
- Akrom, M. A., Erwanto, D., & Athaillah, M. (2025). The Meaning of War in the Qur'an: Perspectives from Tafsir Al-Munir and Tafsir At-Tabari. *International Journal of Religion and Social Community*, 3(2), 27–44. <https://doi.org/10.30762/ijoresco.v3i2.3586>
- Anand, A. (2022). Repression of Uyghur Muslims and the Freedom of Religious Beliefs in China. *Journal of Social Inclusion Studies*, 8(1), 23–36. <https://doi.org/10.1177/23944811221085680>
- Aniqoh, L. (2021). Penafsiran Kontekstual Ayat Perang dan Pengamalannya dalam Konteks Sosio-Historis Indonesia Kontemporer. *Mudṣarab: Jurnal Kajian Islam Kontemporer*, 3(1), 9–16. <https://doi.org/10.18592/msr.v3i1.4947>
- Ariesta, M. (2024). Mengenal Pasal 51 Piagam PBB, Acuan Iran Serang Balik Israel. *Medcom.Id*. <https://www.medcom.id/internasional/eropa-amerika/1bV952XN-mengenal-pasal-51-piagam-pbb-acuan-iran-serang-balik-israel>
- Baroudi, S. E. (2014). Sheikh Yusuf Qaradawi on International Relations: The Discourse of a Leading Islamist Scholar (1926–). *Middle Eastern Studies*, 50(1), 2–26. <https://doi.org/10.1080/00263206.2013.849693>
- El Farag, M. S. A., & Rashed, T. (2023). The Impact of Maqasid Al Shariah (Objectives of Islamic Shariah) to Obtain Legal Protection of Humans: A Comparative and Analytical Study of the Qatari Laws. *Journal of Law and Sustainable Development*, 11(9), e983. <https://doi.org/10.55908/sdgs.v11i9.983>

- Indriati, A. (2017). Reaktualisasi Jihad dalam Perspektif Perdamaian dan Toleransi. *Jurnal Theologia*, 23(2), 394–411. <https://doi.org/10.21580/teo.2012.23.2.1675>
- Nasution, A. S. (2025). National Law: Sharia Law as an Instrument for Protecting Human Rights (HAM) in Islam. *Jurnal Hukum Kontemporer (JHK)*, 2(6). <https://doi.org/10.61942/jhk.v2i6.463>
- Nurullah, N., & Taqwiya, T. (2021). Konsep Deradikalisasi Pemahaman Al-Qur'an Nasaruddin Umar. *TAFSE: Journal of Qur'anic Studies*, 6(1), 126–136. <https://doi.org/10.22373/tafse.v6i1.9206>
- Putra, D. A., & Sumaryani, N. M. (2021). Terrorism and Jihad in Islamic Perspective. *International Journal of Islamic Khazanah*, 11(2), 78–89. <https://doi.org/10.15575/ijik.v11i2.12483>
- Rahmawati, A., & Laila, A. N. (2019). Qital: Reinterpretasi Pendekatan Humanis. *DINIKA: Academic Journal of Islamic Studies*, 4(3), 413–434. <https://doi.org/10.22515/dinika.v4i3.2062>
- Rana, M. (2017). Reinterpretasi Makna Jihad (Studi Pemikiran Yusuf Qardhawi). *INKLUSIF (Jurnal Pengkajian Penelitian Ekonomi Dan Hukum Islam)*, 2(1), 81–104. <https://doi.org/10.24235/inklusif.v2i1.1523>
- Rochmad, I., Izzudin, M., Septrianto, W., Elatrash, R. J. Y., & Syaifullah, A. (2026). The Concept of War (Qitāl) in the Qur'an: A Comparative Study of Tafsir Al-Mishbah and Tafsir Al-Muharrar Al-Wajiz. *Studia Quranika: Jurnal Studi Quran*, 10(2), 193–208. <https://doi.org/10.21111/studiaquranika.v10i2.5>
- Wahab, A. J., Ishom, M., Farida, A., Yani, Z., Imansah, R. K. S., & Basori. (2025). Theological discourse of jihad operations of terrorism actions in Indonesia. *Cogent Arts & Humanities*, 12(1), 1–18. <https://doi.org/10.1080/23311886.2025.2538719>
- Warren, D. H., & Gilmore, C. (2014). One nation under God? Yusuf al-Qaradawi's changing fiqh of citizenship in the light of the Islamic legal tradition. *Contemporary Islam*, 8(3), 217–237. <https://doi.org/10.1007/s11562-013-0277-4>