Al-Qaeda’s Strategy
Flaws and Perils

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Dedication

To everyone who loves Islam and wants to furthering its standing and spreading its truth,

To everyone who feels distressed by the present conditions of our Islamic nation, and is grief-stricken by its long-standing crisis,

To everyone who firmly believes that the Islamic nation is a nation of dialogue and open debate, and not of confrontation and conflict,

To all those who are dedicated to the reconstruction of this nation and the regaining of its role of leadership; and,

Finally, we dedicate this book to all the members of al-Qaeda who are also our brothers and with whom we would like to share whatever divine benefits have come our way; and it is our hope that one day their sacrifices will be at the right place and at the right time.

Indeed, we pray that this work will be a light, among others, that will show to the Islamic nation the right path for the future.

The authors
All praise is due to God, whose succour and forgiveness we seek, and in whom we take refuge against the evils of our souls as well as those ensuing from our ill-guided actions. Indeed, whoever God has guided to the truth, no one will be able to cause him to err, and whoever God has led astray, no one save Him will be able to bring back to the straight path. I hereby proclaim: There is no god save God, the Unique who has no associates, and Muhammad is His servant and Messenger.

“O you who have believed, fear God as He should be feared and do not die except as Muslims [in submission to Him]” (3: 102)

“O mankind, fear your Lord, who created you from one soul and created from it its mate and dispersed from both of them many men and women. And fear God, through whom you ask one another, and the wombs. Indeed God is ever, over you, an Observer” (4:1)

“O you who have believed fear God and speak words of appropriate justice. He will [then] amend for you your deeds and forgive you your sins. And whoever obeys God and His Messenger has certainly attained a great attainment” (33:71-2)

The successive bombing campaigns which began in Kenya and Tanzania in August, 1998 and which were then followed by the attacks on the Twin Towers in New York, in 2001, the Bali bombing, in Indonesia, in 2002, and bombing of Riyadh and Casablanca in May, 2003, all contain a very strategic significance. Indeed, each of these attacks tells the story of how al-Qaeda has envisioned turning around the fortunes of the Islamic nation and getting it out of the quagmire in which it finds itself today. Beyond reflecting a strategy, this bombing campaign is also a way of putting into practice the infamous fatwa of Bin Laden, which has permitted the slaying of American civilians anywhere in the world. This fatwa, it needs to be noted, has been, for all intents and purposes, the manifesto of ‘The International Front for Jihad Against the Crusaders, the Jews and the Americans’ and has formed the very basis upon which such a front was founded.

Through this International Front and strategy, the leaders of al-Qaeda had hoped to provide the solution to the crisis which has befallen the Islamic nation, and most importantly they had hoped that these together would compel its enemies to leave the Islamic nation decides its destiny without interference.

However, in the long run, it became clear even to those who were heedless of the flaws and perils of this strategy of al-Qaeda, that instead of relief and of a breakthrough to the crisis, the bombings and the myopic decisions of al-Qaeda have only added insult to injury and have made the conditions of the Islamic nation far worse than they were already: now all of its enemies have rallied together again after they had began to go their separate ways, and all are avidly awaiting to take a share of its spoils, nay they have began already.

Indeed, this strategy of al-Qaeda has put many a Muslim country in an unprecedentedly precarious situation. Both Afghanistan and Iraq have been subjected to military invasion at the beginning of these centuries, when all believed that military occupations were a thing of
the past that ended in the middle of the last century, and all Muslims, whether they are political leaders or simple individuals, have found themselves, as a result of this strategic debacle, between the hammer and the anvil. Given that this strategy is still in place and is still being acted upon, and bearing in mind that the Islamic nation continues to suffer from its dire consequences, it behoves us to examine it through the lenses of the Sharia to ascertain the degree of its validity and suitability.

Our critique of al-Qaeda’s strategy is not a personal attack on the leadership of the organisation. There are of course those who accuse its leaders of acting as America’s fifth column, others accuse them of having betrayed the nation, and others still of acting as mercenaries, but we do not want to go down that path because those accusations are actually baseless. Rather, our approach revolves around two main principles:

**Firstly**, our essential differences with al-Qaeda in terms of our conceptual and practical understanding of jihad should not be seen as an indictment against their intentions or a way of calling into question their love for Islam; we maintain that although they are devoted to Islam, but also they have certainly committed mistakes and made errors of judgement. **Secondly**, our critique of al-Qaeda’s strategy should not suggest to anyone that we are oblivious to the reasons which have driven to adopt the strategy they have. As a matter of fact, we believe it is crucial to determine those reasons if we are going to undertake a thorough analysis of this strategy: How could anyone ignore the unjust policies of America towards the Muslim world, in Palestine in particular, which are the main factor behind such bomb attacks and behind such a strategy?

Thus, as endeavour to shed light on the rationale behind the appearance of such misguided jihadi phenomenon, we think it is crucial to first point to the errors behind such violent practices, and the various levels at which they take place. We, for instance, notice the following:

- A Misconception of a fundamental landmark of Islam, namely, jihad, as well as, its related Sharia rulings
- A defective cognisance of the Sharia rulings and the principles controlling their legitimacy
- A defective analysis of reality and the inevitable defective application of the Sharia rulings to this reality.

The recent bomb attacks in Riyadh and Casablanca in May, 2003, highlighted the defectiveness of al-Qaeda’s strategy, particularly at the level of conception of jihad and at the level of applying the Sharia rulings related to it.

Since these two recent bombings, the need to confront the vision and the strategy of al-Qaeda has never been so great, and we think it is high time we pass it under the microscope for a thorough examination and evaluation, and so in compliance with the Qur’anic command: “You must make it clear to the people and not conceal it” (3:187), and the hadith of the Prophet (pbuh): “Religion is sincere advice”, our aim is to discuss that strategy and bring to relief its flagrant shortcomings.
This book contains an introduction, and is then divided into two parts containing two chapters each and finally a conclusion. It has been organised as follows:

**Introduction:** Two Visions: Initiative-based Jihad Versus Jihad *a la* Qaeda

**Part one:** The Strategy of al-Qaeda: A Defective Understanding of Reality. This part is divided into two chapters:

- **Chapter One:** The Strategy of al-Qaeda: A Defective Interpretation of Reality
- **Chapter Two:** The Strategy of al-Qaeda: Jihad Misinterpreted

**Part Two:** From 9/11 to Riyadh: Al-Qaeda’s Bombings and their Aftermath. This part is also divided into two chapters:

- **Chapter One:** The Legal Principles Controlling the Legitimacy of the Application of the Sharia Rulings
- **Chapter Two:** From 9/11 to the Bombings of Riyadh and Casablanca: A Legal Perspective. This chapter revolves around two issues, discussed in two different sections.

  - **First Section:** The Fatwa Permitting the Killing of American Civilians: An Exposition and a Critical Review
  - **Second Section:** From 9/11 to Riyadh: A Legal Perspective

As we embark on exposing and evaluating the strategy of al-Qaeda, we obviously do not share the view of those who prefer to steer clear from mounting any critique or performing any appraisal of al-Qaeda or the Mujahedeen in general, for fear that such a critique or evaluation may turn out to be a defamation against them or end up striking a blow to their resolve, or distracting them from their goals or aiding the enemies of Islam against them. It is as if, by taking such a stance, these dearest brothers are saying: ‘If you are not a mujahid, leave these mujahedeen to their own business!’.

We would have had no hesitation joining such a logic had it been firmly established that the jihad in question had complied with all the legal requirements, and its potential consequences and gains had been widely accepted, but we beg to differ with our brothers on this score because we cannot see that such conditions apply to the jihadi actions attributed to al-Qaeda today. Moreover, how can we give in to this logic of viewing the problem, when these violent attacks have caused the death of so many innocent lives and have put into jeopardy the future of the whole Islamic nation? The Islamic Sharia which has rallied the believers under the banner of belief and has urged Muslims to communicate with one another, and to give support and advice to one another refuses that sort of logic: indeed, God- may He be exalted- says: “I swear by Time, Indeed, Man is in loss, Except for those who have believed and done righteous deeds and advised each other to truth and advised each other to patience” (103:1-3). How can we pursue that logic and forgo the benefit of mutual advice between us?

Also, this logic which refuses to pass under review the strategy and the actions of al-Qaeda collides with the Sunna of the Prophet (pbuh), which has made it incumbent on every
Muslim to give advice to every Muslim without exception. Did not the Prophet (pbuh) say: “Religion is Sincerity and sincere advice”? And when asked ‘to whom O Messenger of God?’ he replied: “To God and His Book, and His messenger, and to the leaders of the Muslim community as well as their common folk.”? Again, how can we relinquish the practice of mutual advice when the Prophet (pbuh) has made it such a cornerstone of our religion?

Indeed, the logic to which some of our brothers cling to ignore a fundamental Qur’anic truth, namely that no one is above criticism and evaluation. In spite of the fact that he was the seal of prophecy, did not God- may He be exalted- say to his Prophet (pbuh): “May God pardon you, [O Muhammad]; why did you give them permission [to remain behind]? (9:43). No doubt, this logic of exoneration, when looked at critically, has just about conferred some kind of infallibility to the actions of people who do not count among the infallibles. Moreover, it entails that we do not reveal the truth and that we should keep quiet about what is clearly wrong. If this logic is pursued we will be perpetually in error, and we will never have a chance to realise our errors and correct them. If that happens we will find ourselves in a perilous situation as we would no longer be in a position to contain the dangers around us even when we finally decide to address them.

As for the contention that this type of critique strikes a blow at the confidence of the Mujahedeen, we find no better way to debunk it than to refer it to the Qur’anic verse in which God- may He be exalted- has said: “And God had certainly fulfilled His promise to you when you were killing the enemy by His permission until [the time] when you lost courage and fell to disputing about the order [given by the Prophet] and disobeyed after He had shown you that which you love. Among you are some who desire this world, and among you are some who desire the Hereafter. Then he turned you back from them [defeated] that He might test you. And He has already forgiven you, and God is the possessor of bounty for the believers”? (3: 152). Did the Qur’an mean to dishearten the Mujahedeen when it said to them: “… until [the time] when you lost courage and fell to disputing about the order [given by the Prophet] and disobeyed (3:152)? And was the Prophet (pbuh) in any way, shape or form reviling them as he raised his hands in prayer, saying: “O my Lord! Absolve me from the action of Khalid!”, after news had reached him about what his general had done to Banu Judhayma?1 The truth of course is that neither the Qur’an was causing the fighters to lose heart nor was the Prophet (pbuh) reviling them -God forbid- rather, they were in these instances a source of instruction, guidance and truthfulness.

It is on the basis of Qur’anic teachings and prophetic counsels like these that we envisage to discuss the strategy of al-Qaeda: our aim is to review this strategy from a legal and political viewpoint that attempts to link reality as it is experienced along with our religious obligations, in conformity with the Qur’anic verse: “O you who have believed, be persistently standing firm in justice, witnesses for God , even if it be against yourselves or parents and relatives” (4:135), and also: “O you who have believed, obey God and obey the Messenger and those in authority among you. And if you disagree over anything, refer it to

1 Related by Bukhari, No: 4339, on the authority of Abdullah Ibn ‘Umar- May God be pleased with him
God and the Messenger, if you should believe in God and the Last Day. That is the best [way] and best in result” (4:59).

Finally, we should stress that it is our hope that this book acts like an advice to the believers, a counsel to the devout, an elucidation to the Mujahedeen and an appeal to all those who are dedicated to Islam but are saddened by the present state of the Islamic nation and are fearful for its future. We sincerely pray that all will find in this book at least a sparkle of light which will enable them to see clearly the difference between right and wrong and between what is false and what is true, particularly with regards to the issues which are the subject of this book.

Hence, whatever good it contains, that is certainly from God Most High, and whatever is not, that is certainly from our evil-commanding soul and the deceiver, Satan. We ask God—may He be glorified—to bestow on us success and perseverance on the right path, and we also ask Him to bestow on our Islamic nation the means of awakening from its slumber and resurging from its quagmire in order that it may launch again towards the heights of human civilisation; He is indeed all-Hearing, always near and ready to answer.

“Our Lord, accept [this] from us. Indeed You are the Hearing, the Knowing” (2: 127)

“I only intend reform as much as I am able. And my success is not but through God (11: 88). Finally, our last cry is: all praise is to God, the Lord of the worlds.

The Authors
Introduction

The Jihad between Two Opinions

Opinion of the Revisions\(^2\) and the Opinion of al-Qaeda

Few years before the onset of the twenty first century, two different visions of jihad at both the theoretical and practical levels had gained currency. It did not take long before each of these visions were expressed so manifestly, particularly at the practical level, that they became common knowledge among the people. Indeed, it soon became clear to all those who have been attentive to matters concerning Islam in general and the jihadist movement in particular, that we were beginning to witness two distinct theses and two contrasting visions.

The first is expressed in the Revisions of Egypt’s al-Jamaáh al-Islamiyyah (Islamic Group) and it’s Initiative for the Cessation of Combat Operations. The Initiative was launched in Egypt on July 7, 1997, and was followed by numerous announcements calling for that course of violent Jihad to be upheld inside and outside of Egypt.

As for the second vision, it is expressed in the proclamation of the “International Front for Jihad against the Crusaders, the Jews and the Americans”, which served as an umbrella to various Islamic groups from various countries, and was headed by Osama Bin Laden. This international front chose Afghanistan as a base for its operation and the Taliban regime as its shield.

The Egyptian al-Gamaáh al-Islamiyyah (Islamic Group)’s refusal to join this “International Front” led by Bin Laden set into concrete the real differences between the two opinions or visions, and these were perceived at various levels:

- They differed in their understanding of the Sharia rulings and the application of these rulings to actual reality
- They differed in their understanding of actual reality and their grasp of the many challenges associated with it.
- They differed in the way each set their priorities

\(^2\) The word Revisions here refers to al-Gamaáh al-Islamiyyah (Islamic Group) reviews of all its ideas and conceptions for which it was established. Based on these Revisions, this Islamic Group renounced violence of all types and forms. These revisions were checked and approved by al-Azhar Academy who advised that these Revisions to be published. These Revisions were then published in a number of books and the present book is one of them.
As a result of these differences, the two visions were finally bound to have a different mode of engagement vis-à-vis the various data emanating from the texts and from the context.

In the wake of the successive events in which al-Qaeda got involved those differences became even more entrenched, reaching their pinnacle on the occasion of the 9/11 attacks. Not surprisingly, the Egyptian al-Gamaáh al-Islamiyyah (Islamic Group) opposed those attacks as they did not fully comply with some of the Sharia rulings. These attacks led to the devastation of many public interests recognised by Islamic law, which resulted in a myriad of social harms, ranging from the demise of the Islamic state of Afghanistan to the relentless eradication of all the manifestation of Islam which is being pursued everywhere under the guise of the strategy of the “War on Terror” or the “Green Threat” as the Americans call it.

While the main aim of our book is conduct an exhaustive examination of the strategic vision of al-Qaeda, it would nonetheless be useful to also explore in depth the strategic vision of the Egyptian al-Gamaáh al-Islamiyyah (Islamic Group) and it’s “Initiative”, mentioned above, in the following section.

What does the Initiative for the Cessation of Combat Operations Represent?

When the first announcement of the “Initiative” was proclaimed in 5/7/1997, during one of the sessions of a Military Court trial that was deliberating on case No 235, it gave rise to various analyses and interpretations:

- Some believed that it emerged as a result of a deal struck between the government and the Islamic Group
- A second party held that it was a ploy (Taqiyya) and a tactical ruse
- A third party imagined it to be a form of declared repentance
- A fourth party claimed that it was a deliberate attempt to undermine jihad. Hence, for the proponents of this view, the “Initiative” was no more than a treason against the martyrs
- A fifth party, which we consider the even-handed party, insisted that the “Initiative” constituted a vision, which deserved to be given a chance.

To begin with, it is unconceivable to view the “Initiative” as some sort of a deal as a result of which the government was going to offer the Islamic Group some of the privileges of this

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3 Afghanistan under Taliban was called Islamic Emirate.
world in return for occulting some of the landmarks of this religion: neither religion nor its rulings can be bought or sold in such market of bargaining. Moreover, at no point did the Initiative engage from far or from close the government; it confined its address to the members of the Islamic Group in Egypt and abroad, urging them to halt all combat operations unconditionally. It needs to also be stressed that the government of the time had no need of people to suppress the landmarks of religion or work towards that end. It certainly does not make sense also to view the Initiative as a ploy or a tactical ruse because the Islamic Group is characterised by a Sunni way of thinking, which is in contrast to the practice of Taqiyya, typical of the Shiite way of thinking. Besides, the leadership poles of the Islamic Group had repeatedly declared that to them the Initiative represented a strategic vision, which had nothing to do with any state of incapability or the waning of combat operations in Egypt. Indeed, the many attempts carried out by the historical leadership of the Islamic Group to put a stop to military confrontations when these were in full swing and at their peak is ample proof for that. Perhaps one of the most significant efforts deployed for that purpose were exemplified in what came to be known in 1993 as the “Council of the Wise” for Mediation headed then by Sheikh Muhammad Mutawalli al-Sha‘rawi, Sheikh Muhammad al-Ghazali and other luminaries from among the religious scholars, the thinkers, the journalists and the lawyers of which Egypt boasts of.

It is equally very erroneous to suggest that the Initiative amounted to a declaration of repentance, particularly that such declarations of repentance were often extracted from prisoners in exchange for setting them free from their prolonged incarceration, regardless of whether that repentance was genuine or not. But the Initiative is nothing like that: it had been launched in order to rectify the errors consolidate what is true, and to shed light on the areas of agreement and the areas of contention with the government, on the basis of a clear and lucid legal vision and a conviction which it had endeavoured to inculcate to others. Nor did the Initiative contain anything which undermines jihad and constitutes treason against the martyrs. How can it do so when it had clearly stated that jihad is a duty which will last until End Times? What it did say about jihad, however, is that it is a duty that is regulated by principles controlling its legitimacy and that these need to be considered if we want to conduct it properly. How can the Initiative stand accused of nullifying jihad or undermining it, when all it does is to highlight that its legal conditions have not been fulfilled or that it is not applicable in Egypt today?

How can the Initiative be described as a reason against the martyrs, when the real treason against the martyrs consists actually in our betrayal to this faith, namely, when we endorse a jihad the legal conditions of which have not been fulfilled or the legal impediments of which have not been overcome? Has Khalid Ibn al-Waleed, famously known as ‘the sword of God’, committed treason against the martyrs of the Battle of Mu’tah, when, instead of fighting the Byzantines, he decided to retreat to Medina? Does it not matter that this very act of his earned him the praises of the Prophet (pbuh)? If we grant that it does, when this was in relation to a confrontation between Muslims and disbelievers, why then all the fuss

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4 See Serat Ibn Hisham, vol. 5, pp, 22-34
about this Initiative, which has actually come to the fore only to stop the bloodshed among the Muslims themselves?

Given that the Initiative is neither a deal nor a tactical ruse, and it is neither a declaration of repentance nor an annulment of jihad or treason against the martyrs, what is it then exactly?

As many fair-minded observer concluded, the Initiative is, in reality, but an endeavour which represents a legal conviction and a realistic vision, which deserves to be given an opportunity. This conviction and vision of which the initiative has become the catalyst are of many dimensions. Chief among these are:

1. To usher the end of a long series of collisions and violent confrontations, which Egypt had endured from the summer of 1992 until the launch of the Initiative, providing thus a preliminary basis for solving the unsettled issues between the sons of the Islamic movement and the state, such that they are prevented to reoccur and are dealt with in a radical manner, and to the degree that would make these measures worthy of a model to be followed in this regard in the future.

2. The Initiative has also served as a launching pad from which it was possible to resume the work of reviewing the progress and the direction of the Islamic Group’ s activism during the last twenty years. A work necessary for any movement, since without it would not be possible for it to discover what things it is doing right and how best to maintain that, and what things it is doing wrong, or what are its weak point, and how best to attend to and avoid that. This review has shown that the movement has accomplished a great deal of good for Islam and its cause, but it has also shown that there were also a number of aberrations committed, which required attending to. Hence, our recent four publications and others which have appeared recently.5

3. The Initiative has given the Group an opportunity and a forum through which it could proclaim the correct and legal position regarding a number of issues, and repudiate what was wrongfully attributed to it concerning them. It is indeed owing to this concern for the truth and for the need to clarify our position before the great number of Muslim activists that during the court trials which saw the birth of the Initiative several announcements dealing with such issues were made. For instance, one announcement declared its support for the government position which purported to review the laws governing the leasing of agricultural land such that they are in keeping with the rulings of the Sharia. Another declared its support for the Palestinian Uprising until the liberation of Jerusalem and the Occupied Territories in Palestine, and highlighted the need to work in unison with all the currents that stood by that brave uprising, regardless of their of their political predilections and even if they were governmental institutions. Announcements like these were meant to initiate a shift and a new logic of dealing with the state, and other political trends: they aimed to lend support them whenever their stances were compatible with the illustrious Sharia.

5 Please refer to the ‘Revision Series’, published by Maktabat al-Turath al-Islamiyy, Cairo
4. The Initiative was a fruit of a thoughtful and hard-nosed look at the reality in which Egypt and indeed the world around it found itself. At the end of this contemplative process, we came to the conclusion that we were on the verge of being confronted with many challenges. By announcing the end of military confrontations and the end to violence, the Initiative sought to prepare the ground required for responding to such challenges. Among the most important and most threatening of these, we can list the following:

a. The threat which comes from the attempts which aim to make western civilisation dominate the Muslim world to the extent of wiping out its Islamic identity. Chief among these attempts are the thesis of ‘The End of History and the Last Man’ and ‘The Clash of Civilisations and the Remaking of World Order’. The ongoing military confrontations in Egypt were certainly fuelling these attempts and were unwittingly contributing to the empowerment of the values of western civilisation at the expense of the Islamic values.

b. The threat coming from the politics of blockade, which often leads to the politics of eradication of the Islamic manifestations, be they a government, a movement, or a minority, as a strategy to be followed by all the international powers which are against Islam. The continuation of the military confrontations would have provided the ideal environment for the completion of this eradication or at least the consolidation of this blockade, under the pretext of combatting terrorism and the need to wage a preventive war to defeat it.

c. Israel’s keenness to lead the region and realise the dream of the Great Israel through enticing the whole world against fundamentalism in the Islamic world. The protraction of the military confrontation in Egypt and elsewhere would have helped Israel achieve two things: to get rid of a fundamentalist movement that was giving it a real headache, and to weaken the capabilities of Egypt and thus its pole position in any future confrontation with Israel.

d. The threat emanating from certain Coptic circles overseas that have been eager to use international pressure against Egypt to achieve unwarranted and illegal gains, on the pretence that the government was turning a blind eye to the attacks perpetrated against them by members of the various Islamic movements. Had the military confrontations continued, and some of these have indeed targeted the Copts, they would have used this pretext to persist with their pressures and extortions, particularly at a time when we witness in international politics a deliberate attempt to flame up the minorities against the governments of the countries in which they live. So much so, some Copts overseas have asked the United Nation to intervene in Egypt to protect their coreligionists, and others have approached the American government to enforce the Freedom of Religion.

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6 This is a title of a book authored by Francis Fukuyama and published in 1992. In this book Fukuyama argues that the Western liberal democracy is the final form of human government. For further details also see page 27 at footnote 9 here in this book.

7 This is a title of a book written by Samuel P. Huntington and published in 1992. In this book Huntington proposes that the source of conflicts in the post-Cold War will be the cultural and religious identities of the peoples.
Act and apply it to Egypt for the same reason. Thus, it was imperative to uncover the objectives of these people and prevent them from impacting negatively on the majority of the Copts who are at peace with Egypt.

e. The threat emanating from the combustion slowly building up as a result of the fierce and ongoing conflict between the proponents of Islamic ideology and those of the secularist ideology. Such is the adversity that some of the opponents of Islamic ideology, not all of them we should insist, began to use these combat operations to entice the authorities against anything that is Islamic in the hope to get the better of the proponents of Islamic project once and for all. Seeing this challenge, it was incumbent on us to deprive them of this opportunity.

f. The threat emanating from the increasing instability in Egyptian society which has manifested itself in the rise of several negative social phenomena like thuggery, and all sorts of other libertine practices, such as devil worship, the spread of drugs, illegal marriage, the yawning gap between rich and poor, shocking levels of extravagance and so forth. Had those combat operations persisted, these social plights, in our view, would have worsened in that climate of instability and as a result of the absence of religious preachers able to inject in the conscience of the members of society the ethical values without which that social balance would not be achieved.

This in a nutshell has been our view of the challenges and threats surrounding us, and it is in their light that we have endorsed the Initiative, regarding it as a most healthy response.

Turning to the situation in which the Group has found itself, we have realised that the prolongation of these combat operations were only going to make the crisis it was battling with worse, for there was not much in the horizon for its members who were under arrest, and those who were sentenced as well as their families, nor were there any prospects or progress noted in its field of action. On the contrary, we have actually noticed that these operations and climate of confrontation has allowed certain devious notions of religion to infiltrate into the minds of some elements affiliated with the Group. Such was the deviation, the Islamic Group gain notoriety for being jihad enthusiasts, when in reality the Islamic Group is a movement which has a much wider view of Islam, which is not restricted to jihad.

Seeing that this was the reality in which the Group has found itself, it was only logical that its very legal vision would lead it to declare the continuation of those combat operation and military confrontations haram.

5. The Initiative reflects the correct understanding of jihad: it conceives it as obligatory when the conditions for its implementations have been fulfilled and void when the legal impediments which prevent its implementations have not been overcome. It also
understands as having to be consistent with the aims for which it was decreed, which obviously requires that it achieves the interests recognised by the Sharia, and these cannot be attained without an astute knowledge of the priorities, which in turn requires a perspicacious analysis of reality and its challenges.

6. The Initiative has brought to relief a variety of Islamic approaches with which to engage reality and has revealed that confining these to jihad is a flagrant error. Indeed, the Sharia has, for instance, permitted Muslims to make peace covenants with any party as a way of ensuring that the sacrosanct symbols of God and His sacred rites are honoured, and a way of precluding social harms and securing the attainment of public interests. In the same vein, this Sharia of ours has also permitted Muslims to establish cooperative relations and allegiances in order to spread kindness and moral responsibility, and stand against evil-doing, injustice and aggression.

Thus, the Initiative has in fact served to express several key and novel issues, among them:

- The need to overhaul our entire ideas and conceptions
- The true and correct jurisprudence of jihad
- Knowledge of reality and its challenges as a necessary prerequisite for an appropriate jurisprudence that is aptly applied
- A jurisprudence that gives primacy to public interest, social harms and their balancing
- A correct ordering of the priorities
- A variety of lawful approaches and ways of engaging the facts and reality on the ground

These issues that characterise the Initiative stand at the antipodes of al-Qaeda’s vision in which jihad constitutes the only response to the challenges of the real world. Indeed, whenever there are tensions, al-Qaeda is predisposed to throw the gauntlet and act in the spur of the moment, rather than deal wisely with the situation at hand, it is thus prone to act bellicosely with its enemies, and stirring their ire instead of looking for ways of conciliating them. Furthermore, it looks to establish an Islamic state by destroying an Islamic state already in place, and it rushes to flare up a crusader warfare at a time when the Islamic nation is at its weakest point and least able to sustain such a war. As a consequence, all of the actions of al-Qaeda are completely at variance with Islamic jurisprudence; a jurisprudence which always takes account of public interests, social harms, priorities and their balancing in its deliberations.

For now let us submit that al-Qaeda’s vision is one which aims at nothing other than doing jihad for the sake of jihad, and let us proceed with the next chapters to see how that is so true of that organisation.
Chapter One

The Strategy of al-Qaeda

A Tale of Misconstruction and Misreading of Reality
Introduction

When Osama Bin Laden announced the establishment of the *International Islamic Front for Jihad against the Crusaders, the Jews and the Americans*, during the summer of 1998, as coalition between al-Qaeda and other organisations, all of those who are devoted to Islam and are concerned for its standing were bemused by such a development. Indeed, that announcement has raised several questions in their mind; questions which have had no answer to this day. Among these questions we cite the following:

A. Are the initiators of such a Front aware of the flagrant disequilibrium in the balance of power between the Islamic camp and its western and American counterpart?

B. Is it really wise and beneficial to wage a war on a religious basis at a time when the Islamic nation is truncated from its roots, dismembered and still backward?

C. Is it really wise to opt for the strategy of simultaneous confrontation with the whole world?

D. Is it really conceivable that America would relinquish its presence in the Gulf under the pressure of dispersed and disparate operations against its citizens here and there?

E. Rather than launching this Front, would it not have been more profitable to focus on the construction of the Islamic state of Afghanistan, given that there was a rare historical opportunity to achieve that?

F. Would it not have been wiser to look for ways of conciliating the enemy instead of stirring up his ire?

G. Should we not set our priorities right given that the Islamic nation is weak and the challenges facing it are too great?

H. Since the Islamic nation faces great challenges in more than one front, could we not find in the Islamic Sharia other alternatives to deal with them, apart from violent conflict as a modus operandi?

Each time al-Qaeda mounted one of its operations, these questions resurfaced but, as we said earlier, they have remained to this day unanswered, due to the fact that only those who were very close to the pole figures of that organisation knew the answers to them. Indeed, those who know the leading figures of al-Qaeda and are highly acquainted with their thinking method can certainly tackle the questions above without difficulty.
To begin with, let us make it clear that the leaders of al-Qaeda are fully aware of the predicament in which the Muslim nation is in, but they only one way of dealing with it: violent conflict and confrontation, sacrifice and jihad.

They also know perfectly well that the balance of power at the international level is not on the side of the Islamic nation, yet they obstinately maintain that the gap in wherewithal can be surmounted through the youth and their martyrdom. That this gap and deficit may, with patience, be surmounted at the end of this generation or the next generations is of little concern to them and is not part of their considerations; what matters to them is to fight and fight now.

Because the rise of the Muslim nation against its enemies has the potential to flare up the flame of jihad, they would rather that fire of jihad catches across the globe in order to fight in so many fronts at the same time.

Also, because they associate every act of cooperation and every search for peaceful coexistence with the enemy with surrender, treason, and disloyalty, they reject all covenants, negotiations and measures that have to do with establishing peace. These are in brief some of the salient features of the thinking of the leadership of al-Qaeda. A cursory look at them is enough to explain how their conception of reality is flawed and prone to misguidance: its strategy revolves around conflict as a modus operandi, and on expanding its scope, regardless of the capabilities to sustain such a conflict, the consequences, the public interests and the costs associated with it.

Pondering further on this strategy, however, we will find that it is undermined by two main flaws:

1. A misconception of the duty of jihad: jihad to them is something to be sought for its own sake and as an end in itself, and it constitute in their eyes the only of addressing the challenges on the ground.

2. A misreading of reality that has led them to set their priorities and their objectives in a disorderly fashion, and from there to ill-conceived strategies.

Since our overall aim to make an assessment of al-Qaeda’s strategy, we propose to tackle it by focussing on both of these topics separately.

The first we shall title: ‘The Strategy of al-Qaeda: a Misreading of Reality’.

The second we shall title: ‘The Strategy of al-Qaeda: a Misconception of the Duty of Jihad’
The Strategy of al-Qaeda: A Misreading of Reality

The al-Qaeda Organisation came to the scene in the wake of the dramatic upheavals the world had witnessed during the beginning of the nineties of the last century. These upheavals had led to major transformations in the international arena, notably to the collapse of the Soviet Union as a result of which the world had moved from the bi-polarity of the Cold War to a unipolar world dominated by America for an indefinite period. In light of this new international paradigm, the al-Qaeda Organisation designed a strategy which basically aimed at defying and confronting the sole superpower of the world, America, and at starting a religious war, which could engulf the whole world. Once this strategy was put into practice, it became manifestly clear that it major flaws, which were all in the main due to a misreading of reality and of the facts on the ground. Since our objective in this study is to appraise this strategy, looking at its pros and cons, as it were, it would be useful to begin by determining the ultimate goals which inspired this strategy and which this strategy was supposed to achieve.

1. The Strategy of al-Qaeda: the Ultimate Goals

It would not be far-fetched to say that al-Qaeda was a by-product of the Afghani jihad, and to argue from there that its objectives were in the first place in keeping with the objectives of that jihad or were Afghani objectives, if you like. However, after the withdrawal of the Soviet Union from Afghanistan, and the Mujahedeen got victory over the pro-Moscow regime, al-Qaeda began to review its role. But this was not obvious immediately: the ongoing clashes between the Mujahedeen factions, which erupted after the withdrawal of the Soviets left al-Qaeda with no choice but to remain involved in the Afghani affairs, so much that a strong alliance developed between the organisation and the Taliban Movement, which was in a very short time able to control 90% of the territory of Afghanistan, and were, with backing from Pakistan, in power, in 1996. Due to the strong link between the two, al-Qaeda began to gradually set for the nascent emirate goals which were outside the Afghani jihad framework. We may indeed present the objectives of al-Qaeda according to two different periods:

The First Period:
This first period stretches from the time when the Taliban were just about to gain power in Afghanistan to the very date when the International Islamic Front for Jihad against the Crusaders, the Jews and the Americans was declared. During this period the objectives of al-Qaeda consisted of lending continual support to the Taliban to ensure that the Movement had total control over all of Afghanistan, and looking for ways to exercise military pressure on America in order to make it leave the Gulf region, particularly Saudi Arabia, where the Inviolable Places of Islam are.
The Second Period:

This period stretched from the time the International Islamic Front for Jihad against the Crusaders, the Jews and the Americans was declared in 1998, to this day. The objectives of al-Qaeda during this period consist of compelling America to submit to the demands of the organisation not only in the Gulf, but also in Chechnya or Kashmir or Dagestan or Palestine. The keen observer would certainly detect that this period of al-Qaeda’s history is rather opaque and lacking clear direction.

2. The Strategy of al-Qaeda: the Salient Features

The strategy designed by al-Qaeda to achieve its goals has several salient features and they are as follows:

a. To defy America and wage a war of attrition against it and its allies by inflicting on them painful blows, even if infrequently

b. Internationalising the conflict

c. To win the sympathy of the Muslim masses by presenting the conflict with America as if it was a religious conflict, and thus declaring the war against the Crusaders and the Jews. Although, al-Qaeda has, as part of its strategy, regarded America as its primary enemy, recent developments have led al-Qaeda to enter into conflict with the vast majority of the countries of the world, either directly or indirectly at least

d. To encourage its far-flung affiliates and cells throughout the world, whether these are organically linked to it or have adopted its strategy, to grow independently, as was illustrated by the recent communiqué of Dr Ayman al-Zawahiri, the second in command in al-Qaeda Organisation.8

e. To avoid targeting the existing governments in the Muslim world, and focus only on the battle against the Jews, the Crusaders and the Americans.

3. The Strategy of al-Qaeda: the Practical Bases

Apart from the objectives and the salient features of the al-Qaeda strategy, there remains one significant lurking question among the observers, and that is what are bases upon which this strategy reclines. There are in fact two types of bases for this strategy: legal (shar‘iyya) and practical. Since we intend to deal with the legal bases for this strategy in many chapters of this book, let us devote this coming section to the most fundamental practical bases. We

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8 See the newspaper Al-Qahira, issued on 21/01/2003, p, 3, and also the newspaper Al-Hayat, issued on 14/01/2003
shall focus on two central issues, which al-Qaeda consistently resorts to in order to justify its strategic choices, to bring these bases to light.

a. The American strategy vis-à-vis the Muslim world in general, and in particular vis-à-vis the Islamic Emirate of Afghanistan ruled by the Taliban and al-Qaeda, is marked by injustice and a will to dominate which are fuelled by a deep seated enmity towards all that is Islamic. This enmity, according to the vision of al-Qaeda has become even more pronounced after the demise of the red threat, since it was now Islam that took its place. Based on this, the al-Qaeda saw fit to confront this American strategy and to fight it with its very logic and with whatever else would push it to desist from that strategy. If this worked, they thought, then all good, and if not, we would not have lost anything.

b. There is a sense that a religious war is being waged against Islam under different names. Sometimes, it is called the war on terror, at other times; it may be waged for the sake of the rights of minorities like in the south of the Sudan, or it may be waged under the pretext of human rights like in Iran and Afghanistan. America and Europe are perceived to play a pivotal role in this religious war, and thus it is incumbent on the Islamic nation to unite in the face of this belligerent religious coalition. As governments in the Muslim world have failed to rise up to this challenge, al-Qaeda has launched its International Front for the Jihad against the Crusaders and the Jews precisely to fill that gap and call for that much sought after union.

These two elements are the most important practical bases upon which the strategy of al-Qaeda has been founded. We think it is crucial to now examine the implications of these bases as they vital for an objective assessment of al-Qaeda strategy the overall.

The American Strategy vis-à-vis the Issues of the Muslim World:
An exposition and an Appraisal

The al-Qaeda Organisation raises a number of questions concerning the American strategy, among the most typical questions we find:
Was it not the American strategy which targeted the Muslim world first?
Are we not simply defending ourselves and defending the Islamic state of Afghanistan?
Is not America the reason behind the perpetuation of our problems in Palestine and elsewhere in the Muslim world?
These questions are often raised in order to hammer home the idea that American strategy leaves al-Qaeda with no other alternative except the course of actions it now adopts
But is this reading of the American strategy precise and objective or is it actually a misreading of that strategy, at least in part, if not entirely?
We submit that this interpretation of the American strategy is fraught with flagrant and glaring flaws. But before we discuss in detail the characteristics of the American strategy in relation to the Muslim world in general and to al-Qaeda and the Taliban movement in particular, we would like to make it absolutely clear that we regard the American strategy
towards the Muslim world as unjust and biased, and this is a fact known to everyone, so we do not to delve in it any further.

However, we maintain that any fair observer of the developments American policies have undergone vis-à-vis the Muslim world since 1945 and to this day, will not fail to disagree with al-Qaeda’s reading of that strategy. That is because American strategy has never been motivated by the religious factor; rather its primary concern is the promotion of the interests of America. And the best proof for that is the American support towards some of the Islamic causes, like the support given to the Afghani jihad against the Soviet Union, in 1979. Indeed, if we want to be fair, we would have to recognise that al-Qaeda has played a major role in reshaping the American strategy towards the Muslim world, particularly after the momentous event of 9/11. Let us have a closer look at the American strategy and the key turning points in its development to make this argument clearer.

The Evolution of the American Strategy towards the Muslim World

In order to make an objective and precise assessment of the American strategy vis-à-vis Islam and the Muslim world, it is necessary to distinguish between the various periods during which this strategy has undergone changes in response to developments taking place on the international, Islamic, and the American scene itself. Thus, in view of the last sixty years, for instance, it is possible to divide these developments according to various distinct periods.

First Period:
This period stretches from the end of World War II in 1945, until the end of the Cold War in December 1991, which saw the demise of the Soviet Union. This we may call: *The Period of Securing American Interests in the Muslim world against the Threat of Communism.*

Second Period:
It stretches from 1991 to the time when al-Qaeda declared the establishment of the International Islamic Front for Jihad against the Crusaders, the Jews, which saw the beginning of operations targeting Americans throughout the world. This we may call: *A Shift in Focus: From a Commitment for a New Strategy to Conflict Escalation and Tit for Tat Strategy*

Third Period:
This one stretches from September, 11th, 2001, which saw the attacks with hijacked planes on the twin towers of the World Trade Centre in New York, all the way to this day. This we may call: *The Strategy of Restoring America’s Prestige and Acting Proactively against Looming Dangers*
This cursory depiction already reveals an important truth regarding, in particular, the quality of evolution and developments typical of all sorts of strategies and policies, but which many of us may easily overlook.

Let us now examine each one of these distinct periods in as much detail as possible.

**First Period: The Period of Securing American Interests in the Muslim world against the Threat of Communism (1945-1991).**

When the Second World War came to an end in the summer of 1945, countries, which were hitherto strong, like Britain and France, found themselves weakened, only to leave their place of dominance to new emerging powers. This shift ushered a new era in international relations: the Cold War, between the Western liberal camp, led by the United States of America and its military wing represented in the Atlantic Coalition, on the one hand, and on the other, the Eastern communist camp, led by the Soviet Union and its economic and military wing represented in the Pact of Warsaw.

Ever since that Cold War was declared, the world witnessed an extraordinary race for the domination of zones of influences and strategic positions across the globe and its surrounding space. In this context, foremost in the list of goals of the American strategy was the containment of the communist threat and its prevention from extending to the free world or to the regions which have great strategic importance for America.

This policy of containment implied first of all maintaining a blockade around the Soviet Union such that it is unable to reach the warm waters of the Indian Ocean, the Arab Gulf or the Mediterranean Sea. This blockade required the establishment of a sort of a belt comprised of pro-American countries whose borders would be coterminous to the Soviet Union in the south, the east and the west. And here, it is worth noting that many of the countries who were given that role, were actually part of the Muslim world, and this has led to a situation where American strategic objectives and those of the Muslim world converged because Islam as a religion also deplores ‘godless’ communism. Based on this convergence of objectives and particularly after the discovery of important reserves of oil in the Gulf region, America has proposed to construct several alliances with a number of countries in the region. One of the most important of these is no doubt the **Alliance of the Islamic States** which was proposed to Pakistan, Iraq, Turkey, and Egypt, but ended up falling apart after Egypt had refused to take part in it, and so from the mid-fifties no such grand project resurfaced.

As the Cold War continued, and as America became increasingly reliant on Israel to prevent the expansion of communism into the Middle East and to protect its strategic interests in the region, it became clear that America had begun to steer in a direction which opposed to Islam and its causes. This hostile position was confirmed after America had taken a series of negative stances towards the Israeli occupation of Arab land after 1967, and following its virulent confrontation with the Iranian Revolution which had brought the Shah, Muhammad Reza Pahlavi, the ally of America par excellence in the region, in 1979.
However, once the armies of the Soviet Union had invaded Afghanistan to lend support to the beleaguered communist regime there, American strategy reversed course and was once again putting its interests above any religious consideration, as became clear with its indefatigable support to the Islamic Afghani Jihad, which was pouring through Pakistan, Saudi Arabia, and the Arab Emirates. And it is for reasons that are fairly similar that America backed the regime of General Zia-ul Haq in Pakistan, and had hardly raised an eye brow when he took steps to implement the Islamic Sharia.

Indeed, the American support to the Afghani jihad did not relent until the Soviet Union withdrew from Afghanistan. However, after that ten year long conflict had sapped all of the energies of the Soviets, and quickened their demise in 1991, the page of the Cold War was turned; the world entered a new phase, and we began to see the earliest glimmerings of yet another American strategy.


After the demise of the Soviet Union, the world has moved from the paradigm of bi-polarity which depends on the existence of two poles of equal powers, to a unipolar world led by America as a sole superpower, so much that this era is called the American era. The American dominion was to remain absolute until the resurgence of potential rival powers such as China, United Russia, the European Union or Japan. Indeed, America was feeling gradually that it was the only superpower over the world; it began to realise that nothing could stand in its way except perhaps in those regions close to those countries that could rival it in the future. As this reality began to take shape on the ground, American thinkers and politicians started to look for a new strategy adequate for this new state of affair. This second period may be divided further into two phases:


During the start of that period, America found itself deeply involved in the region of the Gulf in order to put an end to the adventures of Saddam Hussein who had invaded Kuwait in August 1990. This was primarily to consolidate its supremacy on oil, which it has always considered as an important strategic commodity.

From the American vantage point, American decision makers had no other choice but to intervene militarily in that conflict, but this was also the harbinger for this new strategy which basically consisted in looking for a new enemy that would substitute communism. The earliest signs of this new direction were seen under the presidency of George Bush senior, though not without trepidation, in that the Soviet Union had only just collapsed and America had barely became the sole superpower of the world. However that may be, the
then American president still announced a new world order based on equality and liberty. He tried to set this vision into concrete by taking a lead in the affairs of the Middle East, urging the parties involved in the Arab-Israeli conflict to sit around the same table of negotiation in the Madrid Conference on Peace. This new vision was also evident in the American intervention in Somalia which aimed at stopping the civil war raging then in that country. But that intervention ended swiftly, as America retreated disgracefully after it had suffered some casualties among its soldiers. As soon as Bill Clinton was in power, in 1992, which coincided with the rise of the new democrats, the new administration had begun taking concrete steps towards putting to application this new strategy, in compliance with several theses which were advanced by a number of American thinkers and academics. Three books in particular and three authors stood on top of the pile in the nineties, however, and these captured succinctly the vision the new American strategy was to follow in the subsequent years.

The first book was authored by Richard Nixon the ex-president of America, under the title, *Seize the Moment: America’s Challenge in a One Super-Power World*. The basic argument of that book revolves around the fact the victory America had over the USSR had given it an unprecedented opportunity to flex its hegemony over the world and do away with its fiercest rivals once and for all. Much of the book is thus devoted to envisaging the possible threats that could undermine that total hegemony, and he did make mention of the Muslim world in that regard. He argued that it was necessary to differentiate between the moderate Islamic governments with which it was possible, according to him, to cooperate, and the extremist fundamentalist movements, which required to be dealt with decisively, though, he explained, that even with these it was possible to converge and sit together if America’s interest called for it. Thus, Nixon had announced the thesis of the new strategy which basically consisted of grabbing the opportunity of achieving total and lasting victory over the world.

Then, there was the contribution of Francis Fukuyama, a Professor of political economy at Hopkins University, through his famous book, *The End of History and the Last Man*, published in 1992. The basic argument of that book is premised on the notion that history, understood as the evolution of human societies through various forms and systems of governance, has reached its pinnacle in liberal democracy and capitalism, and that entails that humanity is no longer required to produce any other ideology or system. Hence, what is meant by the end of history here assumes that the human intellectual project of producing ideologies has reached the end of its historical development with the triumph of western democracy over all the rest. Such a thesis then argues that it is the values of democracy as they are applied in the west, which should prevail in the world, and that any other ideology which does not conform to it should give way to it rather than confront it.

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9 The genesis of this book may actually be traced back to a lecture Fukuyama had delivered at the John M. Olin Centre in 1989, which was later published as a paper under the title of “The End of History?” *The National Interest*. Summer, 1989. See also the Introduction to the Arabic translation, *Nihayat al-Tarikh*. Markaz al-Ahram li al-Tarjama wa al-Nashr wa al-Tab’, 1993.
What is worth mentioning about this book is that it also described Islam as a totalitarian system, arguing that on that basis that there be would no country in the Muslim world where democracy could take hold, to the exception of Turkey, which has extirpated itself from its Islamic heritage. Clearly, what the author aims to convey is that Islam is simply in conflict with the advanced concepts of liberalism.

As to the third book, it was authored by the American political thinker and professor at Harvard University, Samuel Huntington, under the title, *The Clash of Civilisations and the Remaking of World Order*, in 1996. In this book the author mainly argues that there are various civilisations in this world that have differences among which cannot be reconciled. This state of affair, it is argued, would inevitably lead to clashes between these civilisations in those areas where they differ with one another, and when this happens, the author advises, the supporters of western civilisation should meddle in these clashes, except in the case where there is a perception that the national interests are in danger. What is striking in Huntington’s thesis is his claim that Islam is the only civilisation which can put into question the future existence of the West, since it has threatened it at least twice in the past, in reference to the initial Islamic conquests and the Ottoman inroads into Europe later on. For Huntington, the problem is not so much Islamic fundamentalism, but Islam itself: modernity is simply anathema to it.

The arguments presented in these three books have compelled the American decision maker to develop a foreign strategy that aimed at achieving a decisive and final victory over other ideologies and civilisations and at making democracy prevail. Thus instead of the New World Order, the discourse has shifted to globalisation. But even though globalisation was being presented as a multipolar system devised by diverse countries, a system where goods and services circulated freely between borders in accordance with the principles of a globalised economy, where ideas and information were being shared in accordance with a globalised information society, and where democracy, human rights, liberty for women, the rights of minorities and so forth, were being universalised, globalisation meant most of all the Americanisation of the world. Indeed, if anything, globalisation has meant universalising a particular set of values and practices to promote a system conducive to the free flow of goods, services, information technologies and ideas that only serves to propagate the values of western civilisation and secure the interests of America and the west. Unsurprisingly, this reality has led some critics to view globalisation as a new form of colonialism, commensurable with the culture of the twenty first century.

Be that as it may, this is how the vision of the American thinkers, as outlined above, has been applied on the ground: a globalisation project which allows America to consolidate its hegemony over the world, and secure its interests for decades to come. The strategy that

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10 The main thesis of that book germinates from an article published by the author in the journal *Foreign Affairs*, in 1993, under the title, “The Clash of Civilisation”.

America followed to achieve these aims, it needs to be said, relied on the use of ‘soft’ power rather than the use of force: it has used mechanisms like the World Trade Organisation, the International Monetary Fund, the World Bank, and the Multinational Companies, as well as its clout in the United Nations’ Security Council, which has become in fact the American security council.

What do all of these developments imply? To be sure, from 1991 to 1997, America has definitely been the scene of intense debates over the direction of the new strategy and determining the new enemy, but also over Islam and what to do about the green threat as they like to call it. Apart from the ideas and thoughts of the American thinkers, what intensified the debates over Islam were certainly the bomb attacks against the World Trade Centre in February, 1993, in which some of the members affiliated to the Islamic movement were the prime suspects.

Yet, despite all of these significant developments, the American strategy had not radically changed towards Islam and as such we did not witness an escalation campaign against everything Islamic at that stage. Rather, during that period, America had taken a number of positions which were entirely in keeping with its pragmatic, expedient and utilitarian vision.12 It had, for instance, supported Bosnia Herzegovina gain independence from Yugoslavia, and interfered militarily to prevent the rampant ethnic cleansing that threatened the Muslim community there. Also, it had put before the Taliban regime a proposal which offered to back its movement in order to achieve mutual strategic interests. Yet, it was this very utilitarian logic which has prompted America to adopt a negative stance vis-à-vis Iran and the Sudanese regime, and to oppose also their Islamic ideology.

Pragmatism has characterised American policy until the dawn of the second phase of this period, to which we now turn.

The Second Phase: Conflict Escalation and Tit for Tat Strategy (1991- 9/11/2001)

This phase saw the rise of al-Qaeda operations in Saudi Arabia, which aimed at bringing an end to the American military presence in the vicinity of the inviolable zone. Not long after these operations, the leader of al-Qaeda had proclaimed the establishment of the International Islamic Front for Jihad against the Crusaders and the Jews, and then came the fatwa which permitted the killing of American civilians wherever and whenever they may

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12 The American philosophers William James and John Dewey are the originators of American Pragmatism, a philosophy, according to which things or actions are deemed true or sound on the basis of their utility or expediency. In his book, Tafik Amrika, the author Ridha Hilal wrote: “The American civilisation has produced no philosophy, except Pragmatism which was a school of thought founded by William James and adopted by his student John Dewey, in America. Pragmatism is essentially a systematic rejection of all a priori judgement and fully-fledged readymade theories. Hence, according to William James, Pragmatism consists of shifting our gaze from the origin of things: first principles, nomos, and axioms, to the end of things: their outcome, practical consequences, and their correspondence to reality, and to him what is considered ‘real’ is that which is useful for thought, whereas ‘sound thinking’ is only that which is utilitarian in its approach
be found. As a result of these developments, there were a number of violent attacks against American targets in the Yemen, Saudi Arabia, Kenya and Tanzania, and it was becoming increasingly clear that the al-Qaeda threat was gaining an unprecedented momentum. The escalation of operations against American targets had prompted the United States to react: both the Sudan and Afghanistan came under attack, the former saw the bombardment of one of its factories, which was funded by Osama Bin Laden and was believed to produce chemical weapons, and the latter saw the bombardment of many of its positions, which were believed to be al-Qaeda training camps.

In this fashion, America had begun to follow the strategy of conflict escalation and tit for tat with the Taliban Movement, particularly as the Afghani regime of the time had refused to surrender Usama Bin Laden to the Americans. America had used a variety of pressures against Afghanistan, and they were mainly of an economic nature. Through the United Nations, for instance, America was able to push the Security Council to issue resolutions preventing all states to give permission to Ariana Afghan Airlines aircraft to land, take off or overfly their territory, as well as, shipping any armament to the Taliban regime.

Hence, the end of this period witnessed the protraction of the strategy of tit for tat and of mutual pressures between the two protagonists. We also witness at the end of this period that the objective of combating international terrorism had become an issue of concern in the American administration, due to the continuation of al-Qaeda operations, and also due to the pressures Israel, backed by the American Jewish lobby, was able to exercise against Islamic fundamentalism; not to mention the fact that a number of Middle eastern countries were increasingly demanding that an end be put to the spread of terrorism.

At this conjunction, we should not forget the role of the fundamentalist Christian right, which has known a resurgence in the United States recently, and whose influence on the American administration concerning the direction of both foreign and internal policies has increased significantly. Furthermore, we have actually witnessed recently an alliance between the Jewish lobby and the fundamentalist Christian right, which has weighed heavily on the Arab-Israeli conflict, as well as, a manifest will to interfere in the internal affairs of the rest of the world, the Muslim world in particular, under the pretext of protecting oppressed minorities worldwide. This last issue requires further discussion, and that is what we shall do shortly.

The Third Period: From September, 11th, 2001, to this day.

The Strategy of Restoring America's Prestige and Acting Proactively against Looming Dangers

At its beginnings, this period is marked by the utter shock and horror which had overwhelmed both the American general public and the American political class, following the attacks in which certain al-Qaeda cells had used hijacked planes against a number of targets on American soil, resulting in the total destruction of the twin towers of the World
Trade Centre, and significant damage to the building of the Pentagon, at the ministry of defence.

These attacks, we should highlight, came in the wake of the advent of the Republicans to power after their candidate George W. Bush had won the elections in what seemed to be very dubious circumstances. As the attacks took place, George W. Bush had wasted no time declaring that the word was about to witness “a new Crusades”, though he later on appeared to make an effort to qualify his comments, affirming that what he meant by that declaration was that he was resolute to conduct a just war against terrorism.

The events of 9/11 were indeed momentous and thus they have triggered all sorts of questions at so many levels: never in the history of the United States has the country been subject to attacks of such dimension; the Soviet Union, even at the height of the Cold War, had never dared taking such an aggressive action against America.

So unprecedented were these attacks, there were so many reactions, analyses, and interpretations given to those events, and they kept pouring for years. In the following we shall review a sample of these:

Former-Mayor of New York City, Ed Koch said:

“I don’t know of any other religion- certainly not Judaism or Christianity- which rewards those who kill others with the prize of seventy two virgins: the real problem resides in Islam and nowhere else.”

We have previously looked at the ideas of Francis Fukuyama and Samuel Huntington in order to trace how the events of 9/11 affected these. We now would like to see how the 9/11 events helped to consolidate their negative views on Islam. Let us begin by reviewing what Fukuyama wrote in an article published by Newsweek (Issue Dec 2001-Feb 2002), under the title, “Islamic Fascism”, and in which the author is bent to show that the thesis he argued in his book, “The End of History and Last Man” had been vindicated.

Once again, he was quick to highlight that Islam was by its very nature at variance with modernity, and that it needed to make itself amenable to its demands if it wanted to coexist peacefully with it. Thus, Fukuyama had reiterated in this article that Islam should, for instance, accept the reality of secularism, freedom of religion, and also the fact that it ought to reform its Islamic religious curriculum in a manner that would prevent the resumption of hostilities between the West and Islam in the future.

This is what he wrote:

“I may be argued that Islam is the only world civilisation which has some fundamental problems with modernity. Indeed, despite all the wisdom that we may be able to find among Muslim societies, it is impossible to find among these a working democracy, except in Turkey”.14

13 These statements were translated and published by al-Ahram Newspaper on 29/12/2001, p, 12
14 We include here some of the ideas stated by Fukuyama in this article to give the reader a sense of how the arguments of the author have been instrumental in the direction which the American strategy had taken subsequently. He says: “The Muslim world today differs from the other civilisations of the world in one major aspect: it is the only part of the world that has repeatedly over the last several years given rise to
Also, in the Newsweek magazine, Samuel Huntington wrote an article entitled, “The Age of Muslim Wars”, in which he has reiterated that ingredients for a clash of civilisations were still existent and that the age of Muslim wars had just taken the place of the Cold War as the principal form of international conflict. Quoting The Economist, he stated that Muslims were responsible for 11 to 12 terrorist attacks out of the total of 16 major attacks which had occurred during period between 1983 and 2000, and then went on to claim that five Islamic states out of the seven that the ministry of foreign affairs had classified under the category of states which sponsor terrorism, were involved in these attacks.

He says: “The age of Muslim wars has its roots in more general causes; it has to do with the Islamic belief system and the religious convictions in Islam. Indeed, the nature of faith and religious convictions in Islam are reminiscent of how things were during Christianity in the past, when it was up to the followers of one faith or another to use the belief system or religious convictions to justify peace or its opposite war. Yet, the causes for Muslim contemporary wars have a lot more to do with the policies being followed than with a belief system that appeared in the seventh century”.

As he analysed the causes for the rise of violence in the Muslim world, Huntington traced them back to the governments’ failure to respond to the economic needs of their population, and to their oppressive practices, all of which, according to him, entice these populations to turn to the use of violence not only against their own regimes, but also against the western governments that support them. In addition to these factors, he also made mention of certain of non-Muslim countries like India, Russia, and Israel whose repression of Muslims aspiring to gain independence from them, may also be a contributing to the rise of violence. In an interview which is more illustrative of Huntington thought, he maintained that the events of 9/11 had served to unite America and Europe at a time when differences were
beginning to appear between the two, and that now the time was opportune for the Western powers of the United States and Europe to work together to achieve greater political, economic and military integration and coordinate their policies.

This according to him requires that Western Europe be assimilated to Central Europe and Japan, that Russia is recognised as a regional power, and that technical, technological and military supremacy, both conventional and non-conventional, over the other civilisations be maintained through the imposition of restrictions, particularly on Muslim countries and China. He says, at the end of that interview: “Since Judaism, Christianity and Islam are all monotheistic religions, the practical question is whether they are all monotheist and tolerant of other religions or monotheist and intolerant. The truth is that all of these religions have behaved differently in different times. Tolerance was hardly a quality of Christianity during the Crusades, but it was the quality of Islam in Moorish Spain. At the moment, Islam is the least tolerant civilization of the monotheistic religions.”

Hence, the American administration that was close to the Christian right, under the presidency of George W. Bush, followed a new strategy the main elements of which were:

a. Terrorism and al-Qaeda are not going to be combated with doctors and ambulances which can only address the after-effects of the terrorist operations. Rather the combat against terrorism consists of deploying the superior military capabilities of the United States.
b. In this fight, the rest of the world is either with us or against us, and whoever is against us is with the terrorists.
c. In the future, America will face all potential threats, whether their origins is terrorist organisations, the states that form the axis of evil or those that harbor terrorism, by following the strategy of pre-emptive war. By taking this step, America had decided to confront its potential aggressor outside its borders, and to that end, its intelligence services had in fact determined the characteristics of its most immediate enemies and most likely to attack it. They are as follows:

**Terrorism:** these services have issued a list of organisations thought to be terrorist organisations, and they have put al-Qaeda on top of that list.

**States Sponsors of Terrorism and the Axis of Evil:** under this heading are included countries like Iran, Syria, North Korea, Libya, the Sudan, Iraq and Cuba. According to America all of these countries belong to this category either because they sponsor terrorism or they possess weapons of mass destruction, usually understood to be chemical and nuclear weapons.

As part of it new strategy, America has announced that in the future America will act unilaterally in order to spread liberty and the values of democracy in the world, as well as, in its combat against terrorism and all other potential threats. The landmarks of this new

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15 Samuel Huntington. Interviewed by Nathan Gardels; *Global Viewpoint*. The interview was translated into Arabic and then published by the Saudi newspaper *al-Shahraq al-Awsat*, on 23/10/2001, issue no: 8365, p, 7
strategy were crystal clear in the document of the USA Patriot Act which was signed into law by President George W. Bush in 21/9/2002, approximately one year after the events of 9/11/2001.16

We propose to look closely at one of the paragraphs of this document to get a sense of the landmarks of this new strategy. It goes as follows:

“Providence has bestowed on America the responsibility of providing the world with security that ensures liberty, nay providence has seen to it that America is the sole source of these values. We accept this trust and we will endeavour to spread the belief that such liberty is the universal endowment of all humanity through a comprehensive political, economic and social action.

The United States of America will not accept that any other nation rivals its worldwide military supremacy. Hence, it will always ensure that its military capabilities are of the magnitude that can prevent any potential competitor from acquiring the military prowess which could surpass or even match its military might. Also, America will not hesitate to act unilaterally, if necessary, in order to exercise its right of self-defence, by means of pre-emptive strikes to ward off any potential aggression”.

Concerning the Muslim world, some quarters in the American administration were keen to differentiate between Islam and terrorism, but this has hardly been the position taken by the many key players in the world of ideas and politics, outside and inside America, nor was that distinction highlighted in the back corridors of the ruling American administration or on the other side of the Atlantic.

This is how in the final analysis, Islam has become the cornerstone of all those engaged in drawing the strategy of the new American administration whose vision ended up being highly influenced by the most prominent thinkers and politicians on the scene, like Fukuyama and Huntington as we saw earlier. We may indeed shed further light on the dimensions of this new strategy by examining the statements of Condoleezza Rice, the United States Secretary of State in the administration of George W. Bush. She said: “Once America accomplishes its mission in Iraq, it will focus all of its effort to bring liberty to the rest of the Muslim world in order to promote democracy, and the march of freedom. America has the military capability that no other nation in history has been able to acquire, and this puts in a position to invest this superiority to provide an environment conducive to the prosperity of American values all over the world.”

So the title of this new strategy is, “the liberation of the Muslim world”.

However, the first question that comes to mind in this regard is liberating from what? Are there any colonialist forces that we should chase out of our lands? Or are there any

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tyrannical occupying forces that we should crush? If there is neither the former nor the latter, what is exactly meant by the “liberation of the Muslim world”?

Thus, the ‘liberation of the Muslim world’ strategy advanced by Condoleezza Rice revolves around the following essential features:

1. To destroy the Taliban Movement and prevent al-Qaeda from securing for itself a safe haven.
2. To launch a worldwide security operation against the al-Qaeda Organisation, and any other Islamic organisations that America considers a threat to its interests and to its allies
3. Compelling the governments of the Muslim world to adopt the values of America and those of the West, and to rid themselves of the shackles of the traditions of Islamic culture which are, according to the new American administration, the source of violence. To this end, these governments are urged to reform their existing education curricula, which are perceived to be promoting the culture of extremism in their societies, exactly as envisaged by Fukuyama in our earlier discussion
4. The ‘turkification’ of the Muslim world, to use a phrase repeated by some heavy weights of the American administration. This implies generalising the Turkish model which allows for the existence of an Islamic current in the political scene, though this current will be in practice closer to secularism than it would be to Islam. Yet, such a political current will give its adherents a forum from which they could express their aspirations, and with that semblance of political freedom the carpet will be drawn from underneath the feet of the Muslim fundamentalists
5. Compelling governments of the Muslim world to adopt policies which not only facilitates the tracking of terrorist activity, but also gives the Islamists the opportunity to participate in political life
6. To play an active role in finding solutions to some of the political problems existing in the Muslim world in order to improve the image of America in the Islamic public opinion and not jeopardize American interests

Thus, we can clearly see that this strategy in its final phase has begun to aim for inducing a profound change in both the general direction of the Islamist political currents and in the identity and Islamic values of Muslims through gross interference in the affairs of the countries of the Muslim world, at times under the pretence of defending democracy, human rights, children and women, and other times under the pretence of fighting terrorism. Behind all of these moves, all that America aspires to achieve is total hegemony over the entire world.

Having provided a detailed exposition on the evolution and developments of the American strategy vis-à-vis the Muslim world and its issues, let us now briefly outline the most important conclusions that can be drawn from this review.
1. The American strategy towards the Muslim world and its issues does not always follow the same pattern, rather it is one that changes in accordance with the evolution of American interests.
2. The directions which the American strategy has taken in relation to the Muslim world, during the last sixty years have been in the main negative and unjust.
3. Inadequate engagement with the American strategy in some instances has led to the loss of valuable opportunities that could have been used for the interest of the peoples and governments of the Muslim world.
4. The strategy adopted by al-Qaeda vis-à-vis America, the Crusaders, and the Jews has served to precipitate an American strategy which is even more negative towards the Muslim world.

**Conclusion**

In referring to the negativity of the American strategy towards the Muslim world and its issues in order to justify its own strategy, al-Qaeda had in fact committed a fallacy; it was the other way around: it is the organisation’s strategy itself which had prompted that negative American strategy to come to the fore in the first place. Indeed, al-Qaeda had failed to take advantage of the opportunities which were available to it in a favourable international climate, namely during the period when American strategy was ready to find a settlement in central Asia that would have secured both its interests and those of the Afghans. Instead of capitalising on that, al-Qaeda had opted for the strategy that led to the demise of the Islamic State of the Taliban. We shall deal with this issue in more details shortly.

But before concluding this section, we should highlight another blunder of al-Qaeda: was the Islamic nation really about to witness yet another Crusader warfare unleashed against it, and to the degree that required such a strategic riposte from al-Qaeda?

When the major figureheads of the al-Qaeda Organisation announced the establishment of an international front to fight the Jews and the Crusaders, some have deduced that al-Qaeda was on the verge of waging a religious war reminiscent of the Crusades, a military confrontation that would pit the Muslim world, spearheaded by the *International Islamic Front for the Jihad against the Jews and the Crusaders*, against the Judeo-Christian world. Indeed, not long after that announcement was made, al-Qaeda had conducted many operations and had issued many statements, which seemed to confer some validity to those deductions. Arguing in defence of al-Qaeda some have argued that its strategy is nothing more but a riposte to a Crusades campaign, both hidden and open, against the peoples, minorities, and movements of Islam, though sometimes it may appear under the guise of the war on terror, and at other times under the guise of the protection of minorities or the protection of human rights.

But if we go back to the middle of the nineties of the last century, when al-Qaeda had put out its strategy against America, can we really say that a Crusader war was clearly declared against Islam then?
There are admittedly many indications attesting that that was the case, but there are certainly just as many at least, which would debunk the view that such a Crusades war was being waged against Islam and Muslims at that time.

Let us now turn our attention to the evidence of these conflicting arguments.
A Crusader War against Islam
Conflicting Indications

The indications supporting the thesis which argues that there is hidden war being waged against Islam may be presented as follows:

1. A growing tendency, especially in America, to appeal to Islam as an alternative enemy in place of the communist threat at the end of the Cold War

2. The rise of religious revivalism and of the fundamentalist Christian right in western Europe and America, and their increasing manifestation at the societal and cultural levels as well as in the media.

In America, for instance, it is possible to perceive the rise of this religious revivalism through the statistics, provided by Ridha Hilal, in his book, *Tafkik Amrika*. He says:

“According to a Gallup Poll released recently, there are about seventy million Americans who watch Christian television, a sort of ‘Virtual Church’, played across 104 stations, in addition to 1002 cable TV channels. In the wake of that evangelical revival, the number of publishing houses specialising in Christian literature has risen to 1300, and with that the number of book distribution companies committed to the spread of Christian literature has reached 7000, while the turnover of these companies has climbed to seven billion dollars per year approximately. Religious revivalism has also given rise to a throbbing Christian music industry, which include a variety of musical trends, ranging from Pop and Rock n’Roll, to Rap and Heavy Metal, and whose turnover has also reached about one billion a year. There also emerged a number of Evangelical periodicals like *Christianity Today* and *The World*, which are issued weekly, and *The Preachers Journal*, *Christian Papacy* and the magazine *Christian History*, which are issued monthly, not to mention the significant number of Evangelical institutions of learning. Indeed, there are now, in America, twenty thousand primary and secondary Christian schools, in addition to a thousand Christian colleges at least. Evangelism has also been able to make its presence felt through the market place, and this it has done by producing a variety of Christian paraphernalia such as T-shirts, hats, Kitchen utensils, travel kits and computer programs. Indeed, Christian fundamentalism has taken great advantage of the information technology revolution to the extent that Christian teachings are readily made available online, and many churches are easily accessible via the world web.

Seeing that their movement has reached such a critical mass, the Evangelist fundamentalists took the decision to enter the political field as they first did in the presidential campaigns of 1964. It is worth mentioning that in 1976 Jimmy Carter, who considered himself a New Born Christian, could not have been elected president without their vote. As such that year was considered the year of the Evangelists; it marked their entrance into the arena of American politics”.

17 *Tafkik Amrika*, p, 123
abortion, the Evangelist right was very active at the local level rather than the national level in order to gather support for congressional candidates and state senators, resulting in the formation of a national network under the name of The Moral Majority, in 1979, which was able to harness three million voters to advance their conservative point of view in the 1980 presidential elections. Indeed, by then the Evangelists had organized a series of voting drives registering millions of voters to act on behalf Ronald Reagan, and some members of the Congress like Jesse Helms.

Also, in 1992, the Evangelist right movement has thrown all its weight in order to take control of the US Congress, as was confirmed by a survey of the Republican National Committee, in 1993, which had showed the domination of the agendas of the Christian right among its members. Indeed, the survey had revealed that 92% of them supported the conduct of prayers at school, while 93% of them opposed sexual perversion and the use of federal money for the funding of schools.

During the Congress re-elections of 1993, the Republicans were in control of the Congress for the first time after more than forty years, and after this fashion the Evangelists had become state governors, members of the Senate and of the Congress and were re-elected in the congressional and state elections of 1996, and have become since then a significant force in the American political scene, one that is strong enough to influence the course of the foreign and defence policies of America.

3. The issue of the US Freedom from Persecution Act, which came about following the great support of the Christian right and the Jewish Lobby, which were keen to see it come through to use it as a pretext to interfere in the internal affairs of countries like Russia, China and the Muslim world, under the pretence of protecting Christians from persecution

4. The unlimited support which America and the West provide to non-Muslim actors in their clash with Muslims in places like Palestine, south Somalia, Kashmir and Chechnya

5. The use of all sorts of pressures against the countries which adopts Islam as a system of governance, like the Sudan, Afghanistan and Iran, in order to deter them from such a choice

6. An organised media war against the Islamic values and concepts under the guise of promoting women’s rights, reproductive health, children’s health and so forth

7. Statements issued by some politicians and thinkers on the nature of the relationship between Islam and the West, the kind of which were epitomised by George W. Bush when he said in the aftermaths of 9/11 that the two civilisations were about to embark on a ‘new Crusades’. In addition to this, the current American administration headed by Bush is comprised of a significant number of pro-Christian right elements, which makes it inclined to adopt a crusader outlook in its relations with the Muslim world.

18 The newspaper al-Ahram al-Misriyya has reviewed a collection of American books that shed light on the views of the Americans about Islam and Muslims. Please refer to Ridha Hilal. Al-Ahram al-Misriyya, 17/01/2003, p, 13
The aforementioned points represent the most important indications adduced by the proponents of the thesis which argues that we are witnessing a religious war being waged against Islam and Muslims both openly and behind the curtains.

But are these indications enough to depict before us the full picture? We need to ask this question because there are other indications which need to also be mentioned and taken in consideration, if we are seriously after the complete picture, and not after some half-truths or fakeries.

Is there a Religious War being waged against Islam?

As for those who have doubts about the existence of a religious war being waged against Islam, they put forward other indications; chief among these are:

1. During the nineties, the American forces were involved in several international conflicts, and yet they consistently intervened militarily on the side of the Muslims in these armed conflicts, and of these instances, there are many examples:
   - The support given to Kuwait and Saudi Arabia against the Iraqi Baath threat, in the wake of the Iraqi invasion of Kuwait on the 02/08/1990
   - The American intervention in Bosnia Herzegovina, which put an end to the Serbian onslaught against Muslims that had lasted for four years and resulted in the death of 250 thousand of them by 1995. The conflict formerly ended with the signing of the Dayton Accord, which the United States had sponsored that same year
   - The intervention of the NATO forces, led by America, against Serbia, on 23/03/1999, which had put an end to a campaign of ethnic cleansing in the region of Kosovo, the population of which was mainly Muslim. The relentless air attacks against Serbian targets which lasted 79 days, Serbia had finally been compelled to cease its hostilities, accept the Rambouillet Agreement and sign an accord with NATO on 10/06/1999, after three difficult years; a period during which both Europe and the Security Council had failed to halt the crisis
   - The American intervention in Somalia which had aimed to bringing an end to the civil war that was taking place there.

All of these armed conflicts in which America had intervened, whether these were against a Christian country, as was the case in ‘Orthodox Yugoslavia’, or in support of an Islamic party against another, as was the case in Kuwait and Saudi Arabia, or for the sake of putting an end to a destructive civil war, as was the case in Somalia, indicate that the claim stating that there a religious war conducted by the West and America against Islam does not stand. Had America really looked to follow such a strategy, it had, in all of the aforementioned conflicts, a golden opportunity to achieve that end and occupy the Islamic lands in question.
At least, it could have not lifted a finger in Central Europe, and let the Muslim presence there simply dissipate. Concerning this point, the priest, Ikram Lam’iiyy has said:

“The claim that American policy today is dominated by religious fundamentalism lacks credibility and objectivity for the simple reason that this policy is motivated, above all else, by American interests. If anything, these religious movements may play a secondary role, but they can never be the crucial and decisive force in the American political game. Had Christian fundamentalism really enjoyed the influence ascribed to it, where was it then when the United States of America stood against the Serbs in Bosnia and Albania, and where was it again, when the United States sided with the Catholics against the Protestants in Ireland? In all of this, there should be no doubt that the primary factor was the vital interests of America”.

2. The claim that Christians, today, form one homogeneous religious block in which they are all united under the banner of the cross, has no reality in the outside world; it exists only in the minds of its proponents, and it cannot be accepted because those who maintain it are, in fact, oblivious to a number of things, among which are:

- Most of the conflicts that occurred during the last century were actually among Christian themselves: the parties involved in World War I and II were in the vast majority Christians, and during the Cold War which lasted from 1945 to 1991, you had on the one hand, America and its Western camp that was primarily Catholic and Protest, pitted against the Soviet Union and its Eastern camp that was primarily Orthodox. The repercussion of that war were still at play, even after the demise of the Soviet Union in 1991, since the two camps were still at each other over the Balkans, and the disintegration of Yugoslavia, which resulted in the appearance of three separate countries after heavy fighting broke out between Orthodox Serbia and Catholic Slovenia and Croatia. This is not to mention the armed conflict which took place between Serbs on the one hand, and on the other, the Croats, the Muslims and the Albanians, over the future of Bosnia and Herzegovina; a conflict in which the Croats fought alongside Muslims against the Orthodox Serbs, after they had themselves been subjected to an ethnic cleansing which came to an end only after NATO, spearheaded by American forces intervened as they did in Kosovo. As we review these events ad conflicts, it is hard to see how it can be claimed the Christians of the West and the East are acting in unison against Islam.

- The claim that Christians, today, form one homogeneous religious block in which they are all united under the banner of the cross is oblivious to the schism within the Church and the extent to which such a division prevent the kind of unity they are referring to. To begin with Christianity is divided into three major divisions: Roman Catholicism, Protestantism, and Orthodoxy. Moreover, the differences between these branches of the Church are doctrinal unlike the differences, which exist

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between the four Sunni legal schools of Islam. Hence, Roman Catholicism, Protestantism and Orthodoxy are much like independent sects, and the conflict between them can at times be sharper than with any other religion. We only need to look at Northern Ireland where the conflict between Protestant and Catholic has been going on for years now, to realise how true this observation is.

- The claim that Christians, today, form one homogeneous religious block in which they are all united under the banner of the cross, is also forgetful of the conflict which began to unravel in the wake of the disintegration of the Soviet Union, between America and some of centres of power in Europe, like France and Germany, particularly as each side was jockeying for position in the economic race and competing to get the biggest slice of the world market. Such was the disunity and rivalry between America and Europe until recently, Samuel Huntington stated that one of the benefits of the events of 9/11 was that they have brought America and Europe closer to one another at a time when they were on the brink of damaging their relations indefinitely. In his famous interview published in the Global Viewpoint, he says: “There is no denying the terrorist actions of Osama bin Laden have reinvigorated civilizational identity. Just as he seeks to rally Muslims by declaring war on the West, he has given back to the West its sense of common identity in defending itself (…) The Western powers of the United States and Europe need to achieve greater political, economic and military integration and coordinate their policies so states from other civilizations cannot exploit our differences. Before Sept. 11, Europe and America were moving apart on a whole series of issues from genetic foods to missile defence to a European military. The events of Sept. 11 have for the moment changed that dramatically… in this sense Osama bin Laden has given back to the West its common identity.”

3. The claim that Christians, today, form one homogeneous religious block in which they are all united under the banner of the cross is unmindful of the role religion plays realistically in directing the lives of people in the Western world, whether in America or in Europe. In western societies where the notion of secularism is so prevalent, the influence of religion had actually been dwarfed for centuries now, especially since temporal authority became separate from religious authority or ever since religion had been separated from the state, to put it otherwise. This state of affair is part of a cultural heritage which may in fact be traced back all the way to the period of western philosophers like Hobbs (d.1679), John Lock (d. 1704) during which time these separation of powers had already been robustly discussed.21 These ideas were later on revived during the French Revolution and were expressed by the earliest presidents of the United States like Thomas Jefferson who contemplated that the first amendment to the constitution should: “make no law respecting an establishment of religion, or prohibiting the free exercise thereof, thus building a wall of separation between Church

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20 Interview with Nathan Gardels
and State.”

This proposal of Jefferson was in effect reflected in the first amendment of the American constitution in 01/12/1797, where it is stated that: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech”. Hence, it would not be too far from the truth to argue that it is this cultural heritage which had driven Howard Bloom to assert in his book, *The American Religion: the Emergence of the Post-Christian Nation* (1992) that: “American Christianity is born out of an American Pragmatic experience, and the American Christ is more American than he is Christ.”

Now all of the preceding points to a very important reality about religious life in the Western world; whoever is oblivious to it has essentially ignored a pillar which remains central to western civilisation to this day. So central it is that a thinker like Fukuyama considers it one of the most essential prerequisites that Muslim need to fulfil before they can join the age of modernity and co-exist peacefully with the West. This pillar or prerequisite consists in coming to terms with the principles of secularism as it is embodied in the West.

4. It is true that the Western world is witnessing a wave of religious revivalism, but one should not exaggerate its influence on the political orientations in that part of the world. Up until today, the Christian fundamentalist right is still in a period of gestation; at times it is successful but often it fails: its agendas have been confined to the social realm, barely rising to the political sphere. And this applies not only to the American Christian right, but also to similar religious movements in Europe, in countries like Austria and France, for example. Besides, it needs to be said that the Christian right, whether in America or in Europe, does not represent than a small portion of the body of the Church in these countries. For instance, the followers of the Evangelical Church in America, the bulk of whom is thought to uphold the beliefs of the fundamentalist Christian right, count no more than 10% of the overall number of Protestants in America, while the Protestants themselves represent no more than 60% of the American population whose number is in the vicinity of 267 million people according to the 1998 census. Thus, granted that the supporters of the Christian right have an influence on politics, that is due to their activism and their ability to rally voters to their conservative agenda; for their impact is indeed disproportionate with their actual population size.

We certainly should note that the fundamentalist Christian right had failed to continually failed to bring a Republican to the White House from 1992 till 2000, as the Democrat Bill Clinton was able to remain president for two successive terms, and we should also concede that during that same period they had been able to get a number of Republican

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23 *Tafkik Amrika*, p, 95
24 Ibid., p, 108
25 Please refer to *Tafkik Amrika*, p, 100, and *Mawqif al-Yamin al-Masihiyyy wa al-Kana’is al-Amrikiyya min Qadhaya al-Sharq al-Awsat*, p, 3
candidates elected into Congress, securing thus a comfortable majority for the party. But this is exactly what we meant earlier when we said that the Christian right is still in a period of gestation, for it still puts one step backward each time it puts a step forward. This was true of the American Christian right for much of the nineties, only when the events of 9/11 had occurred; the movement was presented with a golden opportunity to penetrate deep inside the administration of George W. Bush and from there direct its policies in accordance with its agendas.

5. Even if we grant, counterfactually, that there is a religious war being waged today against some Islamic country somewhere in the Muslim world, it would not have been correct to claim that there was such a war during the last decade of the last century, particularly in relation to Pakistan and Afghanistan. Indeed, the American support for Pakistan had been going on for decades, as is known to everyone, whereas in Afghanistan, American support had been constant throughout the period of the Afghan Jihad and even after the withdrawal of the Soviet Union in 1989. As mentioned earlier, when the Taliban Movement was finally in power, America had expressed its desire to reach an interim agreement with the Taliban regime that will provide a basis for a permanent accord which will secure their vital interests in Central Asia, and that is also no secret. How then can anyone claim that there really was a Crusader war being waged against Pakistan and Afghanistan?

These were the most important indications adduced by the other protagonists to debunk the thesis which argues that there was a Crusader war being waged against the Muslim world in the nineties, which was incidentally a central claim of al-Qaeda.

**Policies with a Religious Dimension, Not the Crusades**

Given that the indications which we have reviewed in the previous section appeared to give credence to the thesis claiming that there is a Crusades war being waged against Islam in some instances, while they seem to debunk that thesis entirely in others, and since we cannot arrive to the truth of this matter by accepting to consider some of these and ignoring others, we think that the full picture cannot be drawn before us unless we find a way of reconciling these indications, and that means taking stock of all of them: in the beginning of the nineties of the last century, the Islamic nation was not about to face another Crusades, yet, at the same time, it would be unwise to ignore that religious motives were instrumental in the conception of some Western policies towards it.

What leads us to this viewpoint are many reasons, among them are:

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1. It is fair to say that the claim which speaks about the existence of a Christian monolithic block bent to wage a Crusader war against Islam, under the banner of the cross cannot be maintained, particularly in light of the conflicting indications about the existence of Crusader war against Islam in the early nineties. To our view, those conflicting indications are best reconciled if we are able to explain that America and western Europe have adopted policies with no other consideration in mind apart from their vital interest, and nothing else, not even religious considerations. This logic had prevailed during the Cold War, and has continued to prevail especially as America looked to impose its hegemony further at the end of that period, away from any idealist or ethical considerations, and principles.\(^{27}\) We need to distinguish between those indications that pertain to the period preceding the events of 9/11 and those that relate to the subsequent period in order to appraise them more objectively, as can be shown through the examination of the following issues:

**A. The Attitude and Outlook of the Western World and America towards Islam**  

For a considerable time, the main topic of discussion among the intellectuals, the researchers and the decision makers, in the West, has revolved around Islam and what stance to take vis-à-vis that religion\(^{28}\). In the end, these long debates have given rise to two different and disagreeing outlooks: The first one held that Islam is the enemy par excellence, while the second held that Islam and the West could enjoy a harmonious co-existence.

The first camp, which sees in Islam the foremost enemy, entertains a confrontational discourse, which relies primarily on the thesis that a clash between Islam and the West is inevitable, and argues, on that basis, that America has no other alternative but to adopt the strategy of confrontation and combat the Islamists. Among the proponents of this outlook, there are historians, academicians, researchers and journalists, like Bernard Lewis, Samuel Huntington, Daniel Pipes, Judith Miller, and Steven Emerson. This group is often referred to as ‘The New Orientalists’ in that they continue to espouse the theses of European Orientalism in their attitude to Islam, which is regarded in that scholarship not only a historical enemy of Christian Europe, but also an object of Western hegemony.

As for the thinkers, researchers and journalists who hold that Islam and the West can co-exist harmoniously, they obviously reject the thesis of the inevitable clash between Islam and the Western world, in that in their eyes, neither the notion of Islam’s perennial enmity towards the West nor the notion of Islam’s incompatibility with democracy, which are both crucial premises of the confrontational thesis, can be maintained. What characterises the

\(^{27}\) Hala Mustafa. “Al-Siyasa al-Amrikiyya bayna al-Mithaliyya wa al-Waqi‘iyya”. Cairo: Markaz al-Dirasat al-Siyasiyya wa al-Istratijjiyya Bi Jaridat al-Ahram, issue no: 4, p, 12

\(^{28}\) Please refer to Ridha Hilal. *Al-Ahram al-Misriyya*, 17/01/2003, p, 12
discourse of this group is its insistence on making a distinction between the extremist Islamists, who form the minority, and the moderate Islamists, who form the majority. Among the proponents of this outlook, we find a number of prominent personalities like, John Esposito, Leon Hadar and Graham Fuller. This group is often called the ‘Post-Orientalist School’ because it has moved away from the heritage of European Orientalism and has opted instead for the empirical approach which focuses on understanding Islam as a lived reality, in the political and social spheres, for instance, and not just within the prism of religious studies in which Islam is studied strictly as a religion within and beyond the purview of the Abode of Islam.

This equation, however, no longer held ground after the events of 9/11: the voices of the first camp became louder and the voices of the second camp became virtually inaudible. Graham Fuller, who opposed the thesis of the inevitability of the clash between Islam and the West, was quick to observe this new state of affairs. In one of his articles, which he entitled, with much rhetorical humour, “Bravo Osama”, he wrote:

“Bravo Osama! If by these attacks of yours you have aimed at undermining the relations between the Western and the Muslim world, then you have succeeded in that with flying colours: never in recent history have the tensions between the two sides been as sharp as they are today, and if by these attacks you have aimed at creating a clash between the Muslim world and the United States you have also succeeded in that.”

Commenting on the rise of the current which was calling for a clash with Islam and Muslims, Fuller also wrote:

“Recently, the position of the groups that support Israel, including the Christian Zionists, and the imperialist Neo-Conservatives has gained in strength because the actions of Bin Laden have provided them with a very powerful weapon. Hence, the intellectual and political attacks against Islam and Muslims have risen, while people like me who try to illuminate the American people on the actual position of the Arab-Islamic world are experiencing difficulties in finding opportunities to explain that point of view in the media”.

Let us now turn our attention to the rise of the fundamentalist Christian right in the wake of these developments after 9/11

B. The Fundamentalist Christian Right: The Period of Consolidation

Prior to the events of 9/11, the fundamentalist Christian right in America had a chequered career, especially that the decade or so preceding that momentous development, American politics had been dominated by the Democrats. However, no sooner had George W. Bush entered the White House in 2000, several neo-conservative elements, close to the Christian right, had occupied crucial positions in the American administration. To be sure, their closeness to that religious movement was not at all obvious at the beginning, and there was not much evidence then that the Christian right influenced their policies, but after 9/11 things changed.

Let us pay attention to what the American thinker, Walter Russel Mead, had to say in his book, The Jacksonian Tradition. He writes:
“From the onset, it appeared as if the terrorist attacks of September 11th were like an act of providence destined to coincide with the mission of this group’s members. All of a sudden, they were handed a unique historical opportunity to revive their ideology, and press ahead with the execution of their political program after it had been in the doldrums. Indeed, from that point onwards, they no longer needed to fear the resistance or opposition of the various political currents and schools in the United States which traditionally have either contested their political ideology or rejected it all together. Even, public opinion, once under the shock of these attacks, had rallied strongly behind their policies which condoned the use of hard power, and thus the drums of war were being banged once again and they became increasingly louder in time. And it was no wonder that certain executive leaders who played a crucial role in the running of the foreign affairs of the country became known as the war lobby or the war party.

Indeed, it was not long before it had become clear that the political strategy advocated by the architects of foreign policy since 9/11, in both the White House and the Ministry of Defence, and as it was embodied the US Patriotic Act document of 20/09/2002, was hardly different from the one advocated by the Jacksonian tradition a hundred and ninety years ago, particularly with reference to the notion of pre-emptive war and the militarisation of foreign policy. For this new administration too considers war the soul of American foreign policy and the only efficient way to confront evil and its deputies, and it, too, thrives in a world dominated by chaos, violence, a world in which it is permitted to commit acts of political assassination and destroy the governments of alien countries without being bothered in the slightest about the say of international law and international institutions in the matter”.

This, in a nutshell, is how the members of this group, once entrenched inside the administration of Bush junior, had seized on the opportunity to execute their vision, a vision, which had in fact already been put together in one of their reports, in 1997, under the title of The Project for the New American Century.

And this is how the events of 9/11 had allowed the fundamentalist Christian right to strengthen their hold on American politics, enough to execute its vision concerning Israel and the new foreign American strategy.

In order to have an idea on the extent to which the members of that group had permeated the political system, we propose to briefly review the profiles of the most eminent figures of that political current in the administration of George W. Bush, where it will be noticed the group of the neo-cons, in particular, is comprised of a great number of elements who enjoy decision-making responsibilities at all levels.29

29 On the rise of the fundamentalist ideology of the Christian right and its supporters among the members of the Bush administration, please refer to Tafkik Amrika and Mawqif al-Yamin al-Masih wa al-Kana’is al-Amrikiyya min Qadhaya al-Sharq al-Awsat, op.cit. Also, are considerate useful in this regard, the articles of Jihad al-Khazin, which he published in his daily column of the newspaper Al-Hayat al-Lundoniyya, since 24/5/2003. Concerning the religious roots of George W. Bush, please refer to: “Alam Bush al-Sirriyy: al-Din, al-A’mal, al-Shabaka al-Khafiyya”. Jaridat al-Hayat, 20/07/2003, p, 16
On top of the list is the U.S President George W. Bush, who is known for his strong penchant towards the values of conservatism

Dick Cheney, the Vice-President of the United States

Donald Rumsfeld, the Minister of Defence

John Ashcroft, the Minister of Justice

Condoleezza Rice, the United States Secretary of State

Paul Wolfowitz, the United States’ Deputy Secretary of Defence, and undoubtedly the most hawkish

Richard Pearl, member of the Defence Policy Board Advisory Committee, and of the most active supporters of Israel

Elliott Abrams, Special Assistant to the President and Senior Director on the National Security Council for Near East and North African Affairs.

These names, which are in fact part of a long list of names of other neo-cons, is truly indicative of how deep the Christian right in America has been able to penetrate inside the administration of George W. Bush.

Hence, the events of 9/11 have certainly paved the way for the emergence of an unprecedented alliance in American politics. Commenting on this new coalition, Jihad al-Khazin wrote:

“Thus, the events of 9/11 have engendered an alliance between the neo-cons, among which are a great number of Jews, the war hawks, as they are identified traditionally, the Christian right and finally influential assistants to the U.S President like Karl Rove. Certainly, not all neo-cons are Jewish, and not all who are Jewish in the American administration would necessarily count among the neo-cons; this much at least need to be made clear. But, there is no doubt that the old guard in the conservative movement have worked tirelessly at selling a raft of policies which have for years been articulated in several of their reports, plans and programs, before they have finally become the policies of George W. Bush. Among these, we can cite the following:

- The defence Planning Guidance written by Paul Wolfowitz and Lewis Libby, and handed in 1992, to the then minister of defence, Dick Cheney. That document had insisted on the use American military might, and the use of military force pre-emptively in order to abort any potential threat, all of which was considered extreme when it first appeared

- The report “A Clean Break: A New Strategy for Securing the Realm”, which was prepared in 1996 by an Israeli-American team, comprising of Richard Perle, Douglas Feith, and the couple David and Meyrav Wurmser, among others, and which was presented to the President of Israel, Benyamin Netanyahu. This report has called for a
redrawing of the map of the Middle East, the toppling of Saddam Hussein, the appeasement of Syria, the hunting down of the Palestinians and for the need to occupy the Arabs and Muslims with something bigger than what they can cope with, all of which has now become part of the policies pursued by the current Bush administration.

- **The Project for the New American Century**, which was prepared in 1997 with the behest of Paul Wolfowitz, Dick Cheney, Donald Rumsfeld and others, and the aim of which was to showcase the ideology of the neo-cons. The national security strategy announced by George W. Bush in July, last year, is in fact testament of the permeation of the neo-cons’ ideology and its impact on the strategic thinking of the administration.

“What is the secret of these extremist elite and why does it behave the way it does?” wonders Saeed Mahyou. “The answer to that question is simple”, he says. They are, according to him, “but an extremist nationalist group who looks at everything that happens in the world and that has anything to do with the United States, with alarm and suspicion, and whose sole ideology is ‘America first and foremost’.

In the past, these elite used to participate in power only partially and only from time to time, but after the advent of George W. Bush to the White House, in 2000, it was in full control, and this control increased with the evolution of the personality of the American president himself. There is no doubt that the events of 9/11 were a decisive turning point in that evolution, particularly for a president who did know much about the outside world and one whose Christian fundamentalist faith tallied completely with the foreign policy agendas of the neo-cons. Indeed, when George W. Bush had launched his presidential campaign, he used to warn against the strategy of ‘nation construction’ and military intervention for humanitarian purposes, but he quickly abandoned that position after 9/11: from that point onwards, he has become fully committed to the program of the neo-cons elite, which prides itself on its ability to effect regime change and conduct pre-emptive wars, and he has been brandishing, ever since, the slogan of “spreading freedom and justice as well as the American way of life across the world”, as a strategy of foreign policy.

It is this pervasive influence of the Christian right during this period which has led us to maintain that religion, in some instances at least, plays a crucial part in the orientation American and western foreign policy in general, particularly in relation to issues like the Palestinian issue.

After this brief historical review and analysis, let us now assess the overall strategy of al-Qaeda during that period.

It is clear from the outset that al-Qaeda’s strategy of instigating a religious war between the Muslim world and the West was flawed because there was in fact no Crusader war being declared on the other side at that time; on the contrary, things on the ground looked quite the opposite, particularly in the case of Afghanistan. Ironically, however, we cannot fail to notice that this strategy of al-Qaeda did
contribute to the strengthening of the Christian fundamentalist movements in both America and Europe, to the extent that the voices calling for a comprehensive war against Islam grew louder and found an ideal climate for being heard.

Now some people might still argue that the fact that there has been no Crusader war being waged against Islam during that period, does not necessarily entail that the strategy of fomenting religious war, adopted by al-Qaeda, was deficient, particularly if we were consider the fact that such a measure would have mobilised the Islamic nation, and thus aborted the plans of the enemies, nipping their aspirations in the bud.

We beg to differ with this view of things, not only because the nation is not in a position to go down that path, but also because we firmly believe that for our nation to awaken from its deep slumber and resume its civilizational role does we should rather be doing our utmost to avoid falling into the trap of ‘the clash of civilisations’, which means that we should be taking concrete steps to building bridges with other civilisations, while maintain our Islamic identity and our right to jihad particularly in the face of aggressions against the immutable values of our shari’a, and the higher interests of religion, the country and the nation.

Why can’t we instead go down that path, especially that Islam allowed Muslims to establish relations and channels of communication with all non-Muslims and with all the other civilisations, on the basis of mutual cooperation and benefit and for the sake of establishing justice? This is an important issue about which we will say a lot more in many other parts of this book.

But for now, let close this section which has been devoted to the practical bases of al-Qaeda’s strategy with some concluding remarks.

**Concluding Remarks:**

Had al-Qaeda assessed objectively the American strategy vis-à-vis Afghanistan during the beginning of the nineties of the last century, it would not have easily adopted the strategy it chose for itself; for during that period, was certainly not facing or about to face a Crusader war. It is safe to say also that it was in the end al-Qaeda with its myopic strategy, which consolidated the positions of the enemies of Islam and thus precipitated the belligerent foreign policy adopted by America and the western world in its relations with the Muslim world lately. This has surely hurled the Islamic nation into a confrontation it could not withstand and did not wish to be part of in the first place.

Now that we have shown the flaws of the practical basis of this strategy, which we maintain were central to the overall vision of that organisation, let us now assess some aspects of that strategy in more details.
4. The Strategy of al-Qaeda: An Appraisal

Having presented the aims, the salient features, and the most important bases of this strategy, we may now assess this strategy to the degree that will allows us to plumb its depth, determine its real dimension and shed light on its dangers and drawbacks. When we look at this strategy, particularly from the vantage point of the objectives which were central to its vision, it is possible for us to assess it by examining the following points.

1. The Strategy of al-Qaeda: A Misreading of Reality
2. The Strategy of al-Qaeda: Unattainable and Vague Objectives
3. The Strategy of al-Qaeda: The Art of Fighting Multiple Enemies on Multiple Fronts
4. The Strategy of al-Qaeda: In defiance of the Priorities
5. The Strategy of al-Qaeda: Waywardness and Opinionatedness

Let us discuss each of these aspects of the strategy in more details.

1. The Strategy of al-Qaeda: A Misreading of Reality

The strategy of al-Qaeda is based on a flagrant misreading of reality and its various manifestations. This alone has compromised its chances to discover the many opportunities which were open before it, and has driven it to make choices based on wishful thinking rather than on a critical assessment of reality and facts. This flagrant misreading stems in all likelihood from the fact that those who were at the helm of the organisation at the time espoused a number of assumption that proved to be wrong in the end.

If we just take as an example one of the strategies of al-Qaeda which aimed at standing up to and confronting the Americans, the Jews and the Crusaders to name but these three fronts, it is clear that such a strategy would not have been envisaged, let alone pursued, if there had not been, prior to that, a serious flaw in al-Qaeda’s conception of reality and its multiple dimensions, as is obvious from its total disregard of the facts and the day-to-day realities of international politics. Furthermore, calling for a religious war between the nation of Islam, on the one hand, and the Jews and the Crusaders on the other, or for a war between the ‘tent of belief’ and the ‘tent of disbelief’, to borrow one of Bin Laden’s turn of phrase, can only ensue from a very short-sighted estimation of the nation’s capabilities at present.

- An Overestimation of the Nation’s and of al-Qaeda’s Capabilities

What capabilities does the Islamic nation have that will enable it today to confront the American, Jewish and Crusaders alliance, al-Qaeda is so bent on fighting against? Has anyone ascertained that there is parity between us and this alliance at the military, technological, economic levels and even at the level of political will, such that we can at least maintain there is a chance of coming victorious out of that confrontation?
Given that the Islamic nation is far from having the wherewithal, the adequate preparation and predisposition to be a warring party in such a grand scale religious war, does the al-Qaeda or the International Islamic Front for Jihad against the Jews, the Crusaders and the Americans have these qualities? Whoever claims that the odds for victory are on his side in such an unequal confrontation is like that person who hopes to get the better of his enemy with his sword, while is enemy, having just discovered gunpowder, prepares to fight him with a rifle.

Indeed, to foist such a religious war upon the nation and at a time when the Muslim world has never been so weakened and dismembered can hardly be described as wise or realistic: it is wrong to thrust the Islamic nation and its sons into a battle in which they are armed with Kalashnikovs, while their enemy is equipped with satellites, nuclear weapons and intercontinental missiles.

The strategy of al-Qaeda on this score is so out of step with reality, none of the governments of the Muslim world warmed to it, and none of the Islamic movements backed it, and yet, on the ground, it was the enemies of al-Qaeda who were persecuted and whose renditions were sought.

Even if we may concede that al-Qaeda had been able to draw the kind of sympathy it anticipated from among certain sections of the Muslim population, what we are not ready to accept is the suggestion that this favourable response is, somehow, a mark of the strategy’s success, while what needs to be asked imperatively is whether this strategy can actually achieve the much sought-after military victory.

Undeniably, al-Qaeda may have indeed won the sympathy of some Muslims owing to the injustices suffered by their coreligionists at the hands of the Americans and the Jews in this or that part of the Muslim world. Hence, no one doubts that it is well-positioned at times to recruit from the ranks of these sympathisers individuals who could perform on its behalf certain roles and missions, ranging from providing material and logistical support to committing the ultimate sacrifice and giving up one’s life, particularly when there is a prevailing sentiment that there is no other solution nor end in sight to these injustices and to the crisis facing the Muslim nation today. But while this reality cannot be denied, it is important to be aware of the fact that this sort of sympathy is actually not unlike the sympathy showed to Imam Hussein the son of Ali by the people of Iraq: asked by Imam Hussein about the Iraqi loyalty to him at the time, al-Farazdaq replied: “Their hearts are ardently with you, but their swords vacillate”. Indeed, despite the People of Iraq’s show of outpouring sympathy, when push came to shove, they had to abandon Hussein and abide by the realities on the ground as well as the balance of power on the day of the confrontation. Just as the sympathy of the drumbeaters for Hussein had turned taciturn before turning into a lament and a crippling despair, so do the sympathisers of al-Qaeda expect to face the same ordeal and go through the same emotions particularly as it will dawn on them that the strategy in question is bound for failure and that the al-Qaeda project is finally going to the wall.

Al-Qaeda’s inability to assess accurately its own capabilities, those of the enemy as well as those capabilities and predispositions of the Islamic nation, makes its strategy looks like that
of a person who wants to sow his seeds in the air, instead of panting them in the soil, and during the wrong season, to make matters even worse.

How is it that such a misconstrual of reality occur at a time when the facts are crystal clear?

If we want to tackle this question squarely, it will not do to confine our blame to al-Qaeda’s inability to follow the rapid evolution of political events or to simply assume it is incapable of analysing a changing world and predicting the policies and strategies of the enemy. I would like to submit that one of the main factors behind this debacle and this erroneous interpretation of reality reside in the fact that a number of fallacious assumptions and premises have made their way into the reasoning of many an Islamist, and not just those members who are affiliated with al-Qaeda. I would venture to say this plight has in fact affected the entire body of Islamic activism.

The Strategy of al-Qaeda: The Wrong Assumptions

It is worth mentioning from the outset, that some of these assumptions may be sound in some situations, but they cannot retain that quality all the time and under all circumstances. Indeed, it is when we approach them as such that we will be induced into making grave errors of judgment and into misunderstanding the nature of the events occurring around us.

Among the axiomatic assumptions that function like ultimate postulates in the vision and strategy of al-Qaeda, we may cite the following as being the most representative:

Axiom One: The international plot against Islam and the Islamic movements is unrelenting regardless of the actions that al-Qaeda or any other organisation takes against America and its allies. Since that is the case, we have nothing further to lose if we attack them on their soil.

This axiom al-Qaeda accepts as true, in spite of the fact that this international plot which aims at eradicating the Islamists, as they see it, did not exist before 9/11, and in spite of mounting evidence suggesting that there had been no international consensus over such a plot prior to that date, as we have already shown in our analysis of the practical bases of al-Qaeda’s strategy

Axiom Two: the vital interests of America can never converge with those of the Islamic world. Enmity between these two poles is, therefore, deeply rooted and their clash is also inevitable.

Although this axiom may have been valid during certain periods and in some places, it has not always stood the test of history and has not always tallied with the facts. No doubt, the leaders of al-Qaeda still vividly remember the American support, via Saudi Arabia, Pakistan
and the United Arab Emirates, to the Afghan Jihad against the Soviet army throughout the
eighties of the last century; that is a fact that cannot be forgotten.

There was also the proposal put by the Americans before the Taliban regime, mentioned
earlier and which we will tackle in more details shortly. That was a great opportunity
offered to the Taliban to ensure that their interests and those of the Americans converged.
And this overture that was shown by the American at the time is certainly another example
which proves that this axiomatic assumption cannot be accepted unconditionally: vital
interests were and still are the ‘official religion’ of America, and will always be the
cornerstone of its policies and foreign relations

Axiom Three: any peaceful agreement, negotiations, or alliance with America is
tantamount to treason and betrayal: between us and America there is only war.

It is obvious that this axiom is oblivious to the teachings of Islam, which has permitted to its
followers to adopt any of the above choices or strategies without any blame on them.
Indeed, during his prophetic career, the Messenger (pbuh) has contracted a peace treaty with
the disbelievers of Quraysh, and he has forged alliances with the Jews in order to defend the
city of Medina without incurring the ridicule of others or any reprimand for that matter.
This is a crucial point to which we shall give more attention shortly.

Axiom Four: In its confrontation with al-Qaeda, America will not be able to withstand the
loss of human lives among its soldiers. Just as the loss of American lives had pushed
America to withdraw from Vietnam in the seventies and from Somalia in the nineties,
during the last century, it will compel it also to withdraw from the Gulf and Saudi Arabia.

While this axiom may have been valid in the case of Vietnam and Somalia, it would be
erroneous to make draw an analogy between these two cases and the situation in the Gulf,
owing to the significant disparities between them. In the case of Vietnam, for instance, the
Vietnamese resistance had enjoyed the support of a great superpower; such that it was able
continuously drain on the American military resources, while America had other options
open before it in this confrontation; it could consolidate its presence in the Philippines to
counterbalance the Soviet influence in South East Asia. As or Somalia, it did not have any
resources which were of the magnitude that would have lured America, nor did it represent
any zone of influence that would have compelled America to remain there and stay the
course. But when we talk about the Gulf, the matter is entirely different. Suffice to say that
during the First Gulf War in 1990, when America wanted to oblige Iraq to withdraw from
Kuwait, it had sent five hundred thousand soldiers to the region, along with ten thousand
empty coffins for the repatriation of its dead soldiers in that war. If these figures are any
indication, they clearly demonstrate that America is prepared to pay the highest price when
it comes to its vital interests, which were in this case the oil reserves of the Gulf region.
Indeed, this observation was further consolidated in March, 2003, when America had sent
four hundred thousand soldiers to remove Saddam Hussein from power. But what America
had been really aiming for was above all the oil reserves of Iraq, and giving itself the opportunity to set foot permanently in that vital region.

**Axiom Five:** from among the wrong assumptions that are based on a valid axiom is to say: “we care little if the whole world is against us, and we do not give much importance to the disparity in military capability between us and America, because we do not rely on our numbers and our military means to secure victory over them, but on our devotion to God, and if God is with us what is there to fear?”

This is most likely what Mullah Omar thought when the American bombardment of Afghanistan began after 9/11: in a rare interview, when he was asked by one of the journalists if he was confident about victory, he replied: “yes, because God is with us”. Now while no one should doubt that devotion and obedience to God are a fundamental condition of victory, availing oneself of the means that God has created in order to secure victory is equally an act of devotion and obedience to Him, and is, therefore, as a fundamental condition of victory, particularly when these acts abide by His norms which determine all the actions of the cosmos. Indeed, any disregard of these prescribed means of the Sharia and any action taken that are counter to the universal divine norms, on account of God’s providence, amounts to fulfilling one condition of victory in the hereafter and abandoning all the conditions of victory in this world. Thus, whoever takes this path is bound to fail no matter how great is his reliance on God: success hinges on both reliance on God and on procuring for oneself the means to secure it, in conformity with the hadith: “Strive to attain that which will benefit you and seek God’s help, and do not feel helpless”.31

May God have mercy on Ibn al-Qayyim who said:

“Relying on God’s providence without exerting oneself to gather the necessary means prescribed by the Sharia is sheer helplessness, and that kind of reliance can only be described as the reliance of the helpless. No true servant of God should let his reliance on Him turn into an act of helplessness, nor should he allow the situation in which his helplessness stand for his act of reliance on God; rather he should ensure that his reliance on God is but one of the causes and means prescribed by the Sharia, which are all necessary for achieving the objective sought… Reliance on God, therefore, consists of availing oneself of the necessary means, and the perfection of that reliance consists of counting on God’s providence in those means… As for the reliance of the helpless and the self-indulgent, it has no effect whatsoever and God will not be sufficient for him, for God is sufficient for those who are conscious of Him, and that consciousness can only come about when the servant of God is mindful of the means he is commanded to procure and exerts himself to that end, and not when he is oblivious to them”.32

I have noticed that those who are active in the field of jihad, in particular, often ignore the means and causes, so much that some of them might go as far as to look at them derisively.

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31 Related by Muslim (2664/34), on the authority of Abu Hurayra- may God be please with him
In their eyes, any consideration of the means and the causes constitute a lack of reliance on God and a lack of resolve, accusing those who pay heed to them as spineless and cowards. This attitude amounts to a flagrant disregard towards the need for empowerment and for gaining aptitude, and constitute a total neglect towards reality, all of which can only lead to a misreading of the facts on the ground.

Such a misreading of reality leads to the squandering of opportunities which may present themselves again, as was the case in 1997. Indeed, had the Taliban Movement known how to take advantage of the American overtures at the time, things would have taken a completely different course and the demise of the Taliban regime could have then been avoided. This was such a golden or rather such a squandered opportunity, it deserves that we devote to it a special section:

**The Strategy of 1-Qaeda: A Tale of Missed Opportunities**

As the Taliban Movement rose to power in 1996, by which time it had, through the support of Pakistan, control over 90% of the territory of Afghanistan, it was presented with a golden opportunity to galvanise further the nascent state, which it was at the time. Indeed, not after the Taliban’s advent to power, America, through the good offices of Pakistan and other mediators, has waisted not time in putting forward a proposal before the leadership of the movement, indicating thus its readiness to undertake a course of action that would look to secure the mutual interests of the two countries. This was a rare opportunity because at the core of this proposal, the Taliban Movement was set to gain significant military and economic support in return for its commitment to reaching a strategic agreement that would protect the economic and geostrategic interests of America in Central Asia. As such the American proposal offered to provide Afghanistan with three billion dollars in aid, and three hundred million dollars annually, in order to facilitate the construction of pipelines that would carry natural gas, from the Caspian Sea (Turkmenistan), across Afghanistan all the way to Pakistan, from where it find its way to the American, European and Japanese markets.

Had this strategic agreement been reached, it would have brought a number of benefits to both countries. As far as the Afghans are concerned, we can at least cite the following benefits:

1. The rental pipeline arrangements were going to represent a considerable economic return, and that would have certainly contributed to the construction of a strong state

2. The military aid would have enabled the Taliban to give a decisive blow to the Northern Alliance, which had still control over 10% of the Afghani territory at the time
3. The agreement was going to lead to a formal strategic alliance with Pakistan, and that would have protected the Movement from any of the challenges arising from its neighbours.

As for the Americans, they would have secured the following benefits:

1. The existence of a Sunni Islamic power in Central Asia would have served as a counterweight to Shi’i Islamic power, and would have reinforced the embargo around Iran, preventing it thus from contemplating to extend its influence to the East.

2. The strategic agreement with Afghanistan would have given great defensive depth to one of America’s most important ally in the region, namely, Pakistan.

3. Afghanistan would have constituted a great ally to recline on, particularly in that part of Central Asia, with China on the West and United Russia on the South.

4. The agreement would have helped put an end to the al-Qaeda Organisation in Afghanistan, which had by then become a significant threat to the United States and had been increasingly endangering its presence in the Gulf region.

Everything indicated that America was ready to reach a permanent strategic agreement, and thus it did not put any conditions on the Taliban, which related to the Sharia and the implementation of its rulings, as practiced then in Afghanistan. So what went wrong?

The Taliban Movement and the al-Qaeda Organisation were meant to respond positively to the American proposal and in a manner that would have secured the vital interests of Islam and corresponded with the principles of legitimacy set out in the Sharia. However, and against all expectations, that logic did not prevail in the handling of such a proposal. And so instead of putting the interests of the nascent Islamic State of Afghanistan above all else, the Taliban Movement went against the trend and declined the American offer, on the basis that it could not agree to deport the members of al-Qaeda from its territory, arguing that such a step, if it were to be taken, would amount to an act of ingratitude and would constitute an affront to Muslim brotherly relations and the rights of a Muslim not to be surrendered by his brother to the enemy and not to be let down when in need of his protection. We have to say that although we admire the nobility of character shown by the Taliban in this regard and respect its mindfulness of the demands of the Sharia in such a situation, it was still possible for them, one would have thought, to find a solution that would have protected the rights of the members of al-Qaeda and secured their safety, and would have, at the same time, secured the vital interests of their state, its survival and advancement. Indeed, it was also possible for the leaders of al-Qaeda to put the interest of the Islamic state above that of their organisation as well and accept to either shift their activity and bases outside the borders of Afghanistan and stick to their strategy if so they wished or dismantle the organisation and accept to melt inside Afghani society for the sake of constructing the state and becoming soldiers for the nation and a reservoir upon which the Islamic Emirate of Afghanistan can
draw in its hour of need. Either way, that would have been far more efficient, rewarding and wiser.

But, the course al-Qaeda chose to pursue in the end was to cling to Afghanistan as a centre from which to launch its operation and as a safe haven. In turn, the Taliban Movement clung to al-Qaeda, in spite of the fact that such choices were suicidal to both them in the long run. Hence, just when it was expected that Taliban would show a modicum of wisdom and decide for instance to prevent al-Qaeda from taking any significant action in Afghanistan, the latter had pressed ahead with the proclamation of the *International Islamic Front for Jihad against the Jews, the Crusaders and the Americans*, on Afghan soil. Not only that: al-Qaeda had even gone ahead with the execution of its plans soon after that proclamation, killing in the process that golden opportunity, and paving the way for the direct attack of both the Taliban and al-Qaeda by the Americans. Thus, instead of a golden opportunity, the end result for Afghanistan was a period of harsh trials and calamities, which were in fact but the logical outcome of an improvident and misconstrued outlook on reality.

### 2. The Strategy of al-Qaeda: Unattainable and Vague Objectives

The experts in strategy consider efficient that strategy which is based on realistic, and clearly defined rather than obscure objectives.

If we were to apply this rule on the objectives which served as a cornerstone for the strategy of al-Qaeda, we will not fail to notice that these objectives were at the opposite of these requirements, as some of them were virtually impossible to attain, and the rest of them were shrouded in opacity.

Thus, the objective of chasing the American forces out of the Gulf and Saudi Arabia is certainly one that can be included among the ‘unattainable objectives’, particularly in light of the disparity in power between al-Qaeda and America, and also in light of the fact that such presence is vital for the strategic interests of America in the world. America is not in the Gulf just for mere play and amusement; rather, its presence in the Gulf reflects its realisation that the region of the Gulf constitutes one of the most crucial centres around which the highest interests of America revolve. It is not surprising, therefore, that when James Baker, the minister of foreign affairs in the Administration of President Bush Senior, was asked about the motive behind sending five hundred thousand soldiers to the deserts of the Gulf, during the First Iraq War in 1990, he replied: “We are there for the sake of three letters: OIL”. This rational was enough to convince the U.S Congress to back Operation Desert Storm for the liberation of Kuwait.

Samuel Huntington, the author of the Clash of Civilisation, has most aptly conveyed the principle America abides by when it comes to protecting its national security. When he was asked to explain some of the statements he made after 9/11, particularly in relation to his suggestion that America and the Western world should abide by the principle of refrain
from interference, for fear that interfering in any of the internal conflicts of other civilisations might lead to a clash with them, he answered:

“I have caveated that principle of refrain with a reminder that it can be breached whenever our vital national interests are in jeopardy. That is precisely what happened on the eve of the First Persian Gulf War, for instance. We certainly could not just sit there and watch Iraq take control of the vast majority of the world’s oil reserves. Besides, our values were also under threat: we could not tolerate that a country invades another and annex it to its territory, in defiance of international law, all of which made our intervention lawful.”

Indeed, a cursory look at the evolution of events since 1990 shows that the American presence in the region is in the increase rather than the decrease, and this strongly indicates that America is jockeying for a permanent presence, using the increasing threats against its strategic interests after 9/11 in particular, as an alibi to reach that goal.

While the objective of chasing America out of the Gulf region, which was central to al-Qaeda strategy, was quasi-impossible to attain, the other objectives, particularly those announced in the wake of the proclamation of the *International Islamic Front for Jihad against the Jews, the Crusaders and the Americans* were characterised by obscurity and haziness. So imprecise was the mission of this international front, many understood that it was going to confine its combat operations, for instance, to inflicting pain on the enemy, and cause it maximum damage.

Against this background, we feel the need to ask the following questions, however:

What is the objective behind such operations today: is it to oblige America to withdraw from the whole world and drift back to isolationism and self-sufficiency? Or is it to oblige America to adopt the demands of al-Qaeda and strive for their implementation in all the issues which relate to the Muslim world, from Kashmir in the east to Palestine in the west?

Is the objective behind these operations to impel America and Europe not to interfere in the internal matters of the Islamic countries or is to impel them not to side with the regimes in those countries against the Islamic movements that usually form the opposition there?

Is the objective behind all this to enter into a religious war against the Jews and the Crusaders, at the end of which the last word and the upper hand will be for Islam and Islam alone?

If any of the above or all of them constitute the objective behind these operations, can any one of them be considered possible?

Some might argue that the real objective behind these operations consists of liberating Afghanistan from the current American occupation, and reinstating the Islamic state in that country.
We say, in response to the holders of this thesis, the strategy of al-Qaeda in question was designed before the demise of the Taliban regime and the occupation of Afghanistan. In fact, the present occupation they are now deploring is but one of the sour fruits of that strategy.

Others might argue that the objective was to push America to fight on many fronts and intervene militarily in various parts of the Muslim world, in order to drain its human and economic resources and thus hasten its demise, as was the case with the Soviet Union after its intervention in Afghanistan.

If we assume that there is such an objective, we are then led to believe that al-Qaeda was bent to ensnare America into the trap of Afghanistan even if that military intervention was going to lead to the occupation of Afghanistan and the annulment of the Islamic regime in that country. But this thesis can hardly hold water: it is hard to see how the leaders of al-Qaeda could consent to be associated with it, and neither can we, for that matter, consent to associate them with it.

Rather, what have actually happened was that al-Qaeda had surmised, somehow, that the American military response to its attacks, even those of 9/11, would, in the worst case scenario, be limited to some missile attacks on some of its bases and camps in Afghanistan, as had happened in 1998, in the aftermaths of the attacks on the American embassies in Kenya and Tanzania. Otherwise, there was no obvious need to allure America to intervene in Afghanistan: America has spread its tentacles all over the place, and it was possible to drain its resources from a myriad of other fronts and regions of the world.

Those questions that we raised earlier do actually arise from the murkiness of the objectives of al-Qaeda. They also reveal the extent to which this murkiness undermine their feasibility.

Now some might ask the following question:

Given that al-Qaeda had set for itself objectives which were unattainable and shrouded in opacity, what objective or objectives should it have set for itself?

Although we are not in a position to act as a mouthpiece for any of the protagonists in this issue, we nonetheless feel we can advance that al-Qaeda had the possibility to set for itself realistic objectives that can at least achieve some of the desired outcomes and alleviate some of the harms, and hence abide by the adage, ‘Do not abandon all, if you cannot have it all’. Al-Qaeda had also the possibility of lending support to some Islamic liberation movements in places like the Philippines, Kashmir or Chechnya and did not need to launch its operations from Afghanistan.

It had the possibility to do all of that and avoid dragging the nascent Islamic state of Afghanistan into a confrontation with America, at a time when America had become the sole superpower of the globe.

Al-Qaeda had the possibility to choose the objectives it desired to achieve, but without having to put into jeopardy a nascent Islamic state or involving the Islamic nation in a clash it was neither prepared for nor desired. Indeed, it could have set for itself objectives that...
would have acquiesced some of the enemies of our nation, instead of opting for a military clash with the entire world.

It had the possibility to opt for all kinds of other objectives but it went for none of them, choosing instead a course of action which was bound to engulf it and Afghanistan, in a war of multiple fronts and against multiple enemies the world over.

Hence, al-Qaeda’s inability in determining clear and attainable objectives has led not only to the demolition of an existing Islamic state but also of the dream of seeing one evolve in our days, and that is certainly the saddest thing of all in this misadventure.

3. The Art of Attracting Multiple Enemies on Multiple Fronts

Al-Qaeda was given to an art which was not sought after and one the effect of which could not be sustained. This was the art of attracting multiple enemies in order to fight them on multiple fronts. Even though al-Qaeda had proclaimed ubiquitously that its principle nemeses were the Americans, the Jews and the Crusaders, the above observation remains true because these enemies alone represent half the population of the world. In addition to this, al-Qaeda had also managed to clash with a number of other nations for two main reasons:

1. Its ongoing support for the Islamic movements against their regimes in countries and regions like Chechnya, Dagestan, Kashmir, and the Philippines

2. Its conduct of combat operations which were aimed at America, even though these operations occurred not on American soil. While these operations took place outside U.S territory, they had undermined the stature and the safety record of the countries in which they occurred, not to mention the fact that these sorts of attacks had often led the death of nationals from a variety of countries. As a consequence, both the countries which were the theatre of such violence and those who had lost their citizens in those operations had now a stake in the fight against al-Qaeda

We need to make it clear that we fully support all of the Islamic movements who strive for independence, but we would like to reserve the right to question the wisdom of such actions of resistance, particularly when these movements exhibit a clear incapacity to secure victory over their enemies and instead only endanger the existence of an Islamic state.

In what follows, and in order to get a sense of the extent to which al-Qaeda has unified the world against it, we will provide a list of countries it had, wittingly or unwittingly, drawn to the ranks of its enemies.

- The United States of America, a nuclear superpower
- The Crusaders, which pertains to all of the Christians of Europe, the Americas, Asia and Africa
The Jews

United Russia, another nuclear superpower (this is due to al-Qaeda’s support for the militants in Chechnya and Dagestan)

India, a great power among the nations of Asia, and a country with well-known nuclear capabilities (this is due to al-Qaeda’s support for the Muslim militants of Kashmir)

France (due to the activity of some of the cells of al-Qaeda on its soil and the attack which targeted its oil tanker near the coast of the Yemen)

Kenya and Tanzania (due to the attacks on its soil against the American embassies)

Australia (due to the attacks on its citizens, in Bali, Indonesia)

The Philippines (due to the support provided by al-Qaeda to the Group Abu Sayyaf in the Island of Mindanao)

A host of Arab and Islamic countries whose soil has been the theatre of al-Qaeda’s operations, like Saudi Arabia, the Yemen, Kuwait, Algeria, Morocco, Indonesia, Pakistan, and Tajikistan

To these countries we can also add Iran, which was not on god terms with the Taliban and also the Northern Alliance, which represented the opposition in Afghanistan, under the leadership of Burhan al-Din Rabbani

Now should there be among the objectionists those who would still maintain that al-Qaeda did not intend to arouse the ire of all these countries after all, we say to them that attracting multiple enemies in this fashion to end up fighting them on multiple fronts as al-Qaeda did, constitute a fatal error, whether this was intended or not: it is said, ‘if you did not have knowledge of what you have done, that is a problem, but if you knew, there lies the catastrophe’.

Know that this strategy of al-Qaeda had not only run counter to the logic of strategic thinking and to the basic requirements of wisdom, it had also run counter to the divinely guided conduct of the Prophet, which is the font of the principles of divine government indispensable for any Muslim ruler.

The Divinely-Guided Policies of the Prophet and the Art of Winning over One’s Enemies: while al-Qaeda has excelled, willingly or inadvertently, in the art of attracting multiple enemies and the fight on multiple fronts, to the extent that the nascent Islamic state of Afghanistan was engulfed, due to its strategy, in a war against all the major powers of the world, the Messenger (pbuh) has left us with a rich heritage in strategy that was completely opposite to that of al-Qaeda’s. Indeed, in the person of the Prophet (pbuh), not we find the perfect guidance on how to manage conflicts and win over the enemies, but also on how to build a state and not involve it in risky adventures as do those who are willing to roll the dice with the future of their country.
Indeed, it would not be hard to liken the enlightened city of Medina, which was the first Islamic state ever built, after the Prophet (pbuh) and his Companions had migrated to it, to what Afghanistan was under the control of the Taliban: the state run by the Prophet (pbuh) had borders that did not exceed the environs of Medina, while inside the city and its immediate and far flung surroundings, there were scores of enemies waiting for their chance to attack it and bring the Islamic state to an end. Among the enemies of the time, we may briefly cite the following:

1. **The Internal Enemies**

There were many lurking enemies lying in wait for the Prophet (pbuh) and his state in Medina.

- **The Jews:** there were three subdivisions of Jews in Medina; the Banu Qaynuqa’, the Banu Nadir and the Banu Quraydha, and they were all green with envy that a Prophet had arisen from outside their nation, as attested by the Qur’an. Concerning their feelings about the new Prophet, God- may He be exalted- says: “Many of the People of the Scripture wish they could turn you back to disbelief after you have believed, out of envy from themselves [even] after the truth has become clear to them. So pardon and overlook until God delivers His command. Indeed, God is over all things competent” (2:109)

- There was also the person of Abdullah Ibn Abu Salul and his entourage. He was burning with anger because the Messenger (pbuh) had come to Medina at a time the Medinese were about to appoint him king over them. Even after his conversion to Islam, Abdullah Ibn Abu Salul continued to plot secretly against the Prophet (pbuh), and was by far the most prominent among the hypocrites, about who God- may He be exalted- has said: “And among those around you of the bedouins are hypocrites, and [also] from the people of Madinah. They have become accustomed to hypocrisy. You, [O Muhammad], do not know them, [but] We know them. We will punish them twice [in this world]; then they will be returned to a great punishment” (9:101). It is they who said: “"If we return to al-Madinah, the more honoured [for power] will surely expel therefrom the more humble." And to God belongs [all] honour, and to His Messenger, and to the believers, but the hypocrites do not know” (63:8)

- There was also in addition to these two opposing forces, all those Medinese who had not converted to Islam yet

2. **The Enemies inside the Arabian Peninsula**

The Quraysh were certainly the most important menace to the nascent state of Medina. Among the other tribes, the Quraysh had every reason to believe that the conflict with Medina was its own to manage, particularly in view of the fact that what was taking place represented, in its own eyes, a rebellion against its belief system and an act of insubordination vis-à-vis its authority. Next to Quraysh, there were of course all the other
tribes which had at least expressed their unwillingness to side with the Prophet (pbuh), if they had not declared their opposition to him openly, as they repeatedly refused to come to his aid in his hour of need in Mecca.

3. The Enemies beyond the Arabian Peninsula

When the nascent Islamic state in Medina first emerged, the International scene was marked by the fierce and ongoing conflict which opposed two of the greatest empires of the time, namely, the Persia and Byzantium. The Qur’an has indeed alluded to some historical aspects of this conflict, when it said: “The Byzantines have been defeated in the nearest land. But they, after their defeat, will overcome within three to nine years. To God belongs the command before and after” (30:2-4).

God’s will has pre-ordained that the birth of Islamic state in Medina come at a time when the conflict between those twin titans was at its peak, such that neither of them could divert its attention to the Islamic state and nip it in the bud, as it were.

This was briefly the sketch of the challenges before the Prophet (pbuh): it clearly shows that the nascent Islamic state was much like a small island surrounded by a sea of enemies from all sides. The question is what did the Prophet (pbuh) do in the face of such an ordeal?

Did the venerable Prophet (pbuh) hasten to declare jihad against the Jews and the Crusaders, which were at the time represented by the Byzantines and the polytheists on the hand, and the tribe of Quraysh and its allies, on the other?

Or did the wise Prophet (pbuh) leave the internal front in Medina, which was still dicey, to its own device, hastening instead to instigate wars against Quraysh and all the surrounding polytheist tribes?

Did the Prophet (pbuh) hasten to send one of his cavalry squadrons to the capital of Persia or Byzantium in order to warn them, spite them or bleed their energies?

Know that the Prophet (pbuh) was a master in strategy, policy planning, setting objectives, and in using resources efficiently. He (pbuh) has thus left us with a unique model, which demonstrates to us how to draw a visionary policy, how to set priorities and objectives, and how to seize our opportunities.

For instance, the Prophet (pbuh) has adopted the strategy of determining which among his enemies he needed to prepare to fight and the rest, towards which he had always taken practical steps to win over or at least appease. Moreover, he (pbuh) had never initiated a confrontation with any of his enemies, since all of his attention was focused on preparing the right conditions for the construction of a strong state. Such was his desire that his blessed conduct with others throughout his prophetic career was characterised by being first in extending the hand of friendship so as to install good will, by keeping his pledges and pacifying the enemy, and all of this in conformity with the words of the Most High: “And not equal are the good deed and the bad. Repel [evil] by that [deed] which is better; and
thereupon the one whom between you and him is enmity [will become] as though he was a devoted friend” (41:34).

Once he was at the helm of the state of Medina, the Prophet began his political career of a statesman by taking the logical step of moving fast to secure the internal front. Hence, he did not hasten to pick a fight with the Jews of Medina, but acted swiftly to enter with them into a covenant that would govern the relations between the two parties. This was the covenant known as the Medina Charter, and which stated in one of its clauses that: “The Jews must bear their own expenses (in War) and the Muslims bear their expenses. If anyone attacks anyone who is a party to this Pact the other must come to his help. The parties to this Pact must seek mutual advice and consultation, and avoid treachery.”

Even with the hypocrites, the Prophet’s stance is worth our attention. When he was urged to give permission for the lynching of one of their most prominent figures, his reply was: “I will not consent to that, because I do not want people to think that Muhammad kills his friends”. Even when the son of the hypocrite in question, Abdullah Ibn Abdullah had volunteered to kill himself his father, the Prophet (pbuh) was not about to change his decision, saying to the son: O Abdullah! I do not want to kill him and so I will not give that order. We prefer to cherish his companionship for the time he was among us”.

As for his dealings with the surrounding tribes of Medina, one can highlight the truce he entered into with the Banu Dhumra at the beginning of the eleventh month since his migration to Medina: by the terms of that truce, the Prophet (pbuh) promised that he would not invade the territory of the Banu Dhumra, and they in return pledged that they would not invade him, or allow any of their members to fight alongside any of his enemies, or lend any form of support to these in their confrontation against him.

At the beginning of the sixteenth month after his migration to Medina, he (pbuh) entered into a similar treaty with the Banu Madlaj.

We should also point out that even with Quraysh, the Prophet (pbuh) did not instigate any war against them and he did not venture to attack them in their territory before he had finished with the Battle of the Confederates; only then he said: “Now is the time to raid them, for they can no longer invade us”.

Equally, on the international front, he (pbuh) stayed clear of any confrontation with both the Byzantine and Sassanid empires for some time. Indeed, the Muslim armies did not set out for the Levant before the Month of Rajab of the ninth year of the Hijra, to take part in what was known as the Conquest of Tabuk, during which no fighting actually took place, though it was preceded by skirmishes between Byzantines and Muslims in the Battle of Mu’ta. As

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35 Ibid.,
36 Majmu’at al-Watha’iq al-Siyasiyya fi al-‘Ahd al-Nabawiyy wa al-Khilafa al-Rachida, p. 144
for Persia, the Muslim armies did not orient themselves in its direction before the period of the Rightly-Guided Caliphs.

Now how does that strategy of the Prophet (pbuh) compare with that of al-Qaeda, one might ask?

Having chosen the strategy of attracting multiple enemies, al-Qaeda had driven the state of Afghanistan into confrontations and put it under pressures that were clearly unwarranted. Just imagine the kind of predicament Afghanistan had found itself in, having to fend off arrows aiming at it from every direction, at a time it had barely put order in its own house, as the spectre of the Northern Alliance was still looming. And just try to imagine how daunting a task it would have been for a nascent state like Afghanistan to have to face up to a sole superpower, America with its nuclear clout, to United Russia, another nuclear giant, to India, one of the greatest powers in Asia, not to mention the governments of Tajikistan, Iran, Europe and the Jews that were also all against it. How daunting that would have been, particularly if we bear in mind that while all this rallying against it was taking shape, Afghanistan saw a degradation in its relations with its friends in Pakistan, Saudi Arabia and the United Arab Emirates? I am afraid you need to imagine all of that if you want to have an idea on the true proportions of the predicament al-Qaeda had thrust Afghanistan into and the extent to which it had jeopardised the present and the future of both that country and the Taliban Movement.

Know that the strategy of al-Qaeda which has led it to face up to this great number of enemies, is not so much a display of irrationality as it is a display of ignorance of the divinely-guided policies of the Prophet (pbuh). It is because of that they were like those sailors who when the winds blew against their wishes, they lost control of the helm, and their ship began to sink.

4. The Strategy of al-Qaeda: In defiance of the Priorities

It is commonly known that a good strategy is one that sets its priorities in an orderly fashion and that once it has done that, it has every chance of achieving success at different levels. Thus, as the Prophet (pbuh) settled in Medina and began the task of building the Islamic state, he drew his strategy based on the conditions of that city and its surrounding environment, prioritising his objectives in an orderly fashion and in perfect keeping with his capabilities. He (pbuh) knew that a nascent state cannot confront all its enemies, but, more importantly, he also knew that these enemies were not of the same degree of menace: while some were lying in wait, others were hidden and hesitant and still others were absorbed by their conflicts with their foes. In light of the meagre capabilities of the Muslim community at the time and the kinds of challenges it was facing, the wise thing to do was to pursue a strategy that aimed most of all at pacifying the enemies and to set for the community priorities and objectives, which reflected that strategy. Thus, these were ordered in the following manner:
1. To erect and maintain a tenacious and cohesive internal front that is conducive to the building of a powerful state, which is strong enough to withstand the threats arise within the country and those coming from outside. To this end, the Prophet (pbuh) had taken a number of measures and these include the promotion of a brotherly bond between the Meccan migrants and the Medinese helpers, refraining from killing the hypocrites, and concluding a covenant with the Jews as indicated to earlier.

2. Securing the city of Medina against all the possible threats arising from the coterminous regions. To this end, the Prophet (pbuh), had, as we saw earlier, concluded a truce with the Banu Dhumra, and the Banu Madlaj.

3. To prepare to ward off any offensive coming from Quraysh, while taking steps to pacify the enemies which may be contemplating to take actions against the city.

This ordering of the priorities of the Prophet (pbuh) was instrumental in preparing the ground for the success of the Islamic state at the eleventh hour. But how does the strategy of al-Qaeda fair in comparison?

When we examine the strategy of al-Qaeda we can’t fail but notice that it run contrary to the one we have just outlined. For instance, al-Qaeda had hastened to involve itself in conflicts which had increased the number of its enemies and had put it and the Taliban and further pressure, instead of opting for consolidation of the position of the Taliban and provide it with the necessary support to win its battle against the dissenting forces in the north. Similarly, instead of promoting the principle of building a strong state, al-Qaeda had preferred to behave as a secret organisation in the way it chose its objectives and the way it went about achieving them. Also, rather than setting its own priorities in the conduct of its conflicts and deal with them incrementally, it got involved in a confrontation with the majority of the world’s states, and that did confine it and the Taliban Movement to a very hostile environment. And finally, instead of limiting its confrontation with one enemy, which would have been in keeping with its capabilities and would have maximised its chances of achieving victory, it forgot it was a mere secret organisation, and behaved as if it were a superpower, declaring war against America and attacking it on its own soil, a feat even the Soviet Union did not dare do during the Cold War. The follies of al-Qaeda did not stop here: it also threw its weight behind the cause of many Islamic movements in Chechnya, Kashmir, Dagestan and the Philippines, opening thus a front against all of the countries where these resistance movements were active. The question is what were the priorities of al-Qaeda in all of that? What capabilities did it have that would have enabled it to withstand a conflict of this size?

Al-Qaeda had long striven to fuel a religious war against what it called the Crusaders and the Jews. This move does certainly raise an important question: does such a war represent a priority at this point in time, and do the capabilities necessary for securing victory in such a war exist?

Some might argue that it is the Taliban who should be held responsible for this confusion of the priorities, and not al-Qaeda. The problem with this view of things is that it does not pay
attention to the true nature of the relationship between the Taliban Movement and al-Qaeda, ignoring the fact that the former was in many of its policies following the ideas and visions of the leading figures of the latter.

There is no doubt that the strategy adopted by al-Qaeda, which has neither set the priorities in an orderly fashion nor taken stock of its limited capabilities, is bound to lead to disastrous results.

**Waywardness and Stubbornness**

Anyone who examines the strategy of al-Qaeda carefully will not fail to notice that it persistently cleaves to one type of solution to solve all the conflicts it is involved in: al-Qaeda only believes in the use of force, and that will in the long bleed it to death. This stubbornness and adherence to a single strategy has deprived it of the flexibility necessary for the realisation of its objectives, of reviewing the order of its priorities or recalibrating the strategy in a way that creates a consonance between performance and capabilities.

Thus, just as al-Qaeda has been oblivious to the guidance of the Prophet (pbuh) in matters pertaining to strategic thinking, it had also not given enough consideration to the necessity of engaging the reality on the ground with flexibility, even though this was the quality in which the Prophet (pbuh) excelled. Indeed, throughout his exemplary life, the Messenger had at times exhibited forbearance, concluded peace treaties, pacts of mutual protection and truces, and he also forged alliances and cooperation, while at other times, when the conditions of jihad were fulfilled and its legal impediments were overcome, he fought.

Who would have taken issues with al-Qaeda if it had chosen for instance to conclude a truce with certain nations, forbear the trespasses of others or had indeed forged alliances with some of them in order to isolate or neutralise others, and then fought against those who deserve to be fought, particularly if that fighting had proved to be in keeping with its capabilities and priorities and did not accrue any social harms and costs? The answer to that is no one, because in all of these situations those actions would have been in line with the principles controlling legitimacy in Islamic law.

Where is the blame if al-Qaeda had striven to end its conflicts with its enemies, by declaring a unilateral cessation of hostilities? Where is the blame if it decided to suspend its operation for a given period, and invited the other parties to engage in dialogue and fruitful negotiations?

Sadly, al-Qaeda was not in a position to do any of that because it was bound and committed to only one strategy, the strategy of confrontation, and it had thus relied on only one way of achieving its objectives, and that is jihad. This is certainly an issue which requires more attention and it will be dealt with in more details in the coming section.
5. The Strategy of al-Qaeda: The Outcomes

So far we have looked into several aspects of the strategy pursued by al-Qaeda, but this assessment cannot be completed without examining the outcomes which ensued from that strategy once it has been executed.

Although we concede that outcomes do not show us who has been right and who has been wrong in a clear-cut manner, due to the possibility that falsehood might take the better of what is right in some instances, it remains the case generally that negative outcomes constitute a strong indication that something somewhere has gone wrong and that this error is of a magnitude that is significant enough to hinder success.

In our assessment of the outcomes of the strategy of al-Qaeda, we think it is proper to do so by taking in consideration the consequences and the challenges which followed from the devastating events of 9/11, for indeed, beyond that momentous date, the world has no longer been what it was previously.

Thus, these outcomes are bound to be of a different nature, and their repercussions on Islam as a religion, jihad as a concept, and on Muslim society as a state, a movement, a minority or a migrant community, will also in all likelihood be diverse. No doubt that these outcomes are also bound to have repercussions on strategic thinking in America and other great powers, as these countries will be pushed to reconsider the balance of power in certain zones of influence and vital regions of the world.

The Negative Outcomes

A quick perusal of the outcomes and the repercussions of that strategy clearly show that the strategy in question has put the Muslim nation at a flagrant disadvantage.

1. The Collapse of the Nascent State of Afghanistan

The attacks of 9/11 have given a strong blow to America’s prestige in the world, as the attacks on the World Trade Centre and the building of the Pentagon clearly amounted to an attack on its most prominent symbols of financial wherewithal and military might. The impact of these attacks was such that America had wasted no time in mounting the strongest of retaliation in order to put an end to the regime of the Taliban in the Islamic Emirate of Afghanistan and install in its stead a regime that is amenable to its vision. This outcome is directly linked to al-Qaeda’s choice of executing its strategy from within the territory of Afghanistan, and it certainly constitutes one of the most disastrous repercussions of al-Qaeda’s policies: it shattered the dream of many Muslims who had long aspired to see an Islamic modern state take shape and partake in its construction. What is really strange in all of this, is that all the while al-Qaeda’s strategy purported to dislodge the American from the Gulf, and provide support for the Muslims in Chechnya and Kashmir in their campaign to set up an Islamic state there. How ironic it is that it should gamble with the future of an existing Islamic state in order to achieve these other objectives, which were never certain
and were not achieved in the end?! Neither has America left the Gulf and nor has there been an Islamic state set up in Kashmir, Chechnya or Dagestan. This adventure has only ended with the loss of the state of the Taliban, and so this strategy has neither regained what was lost nor has it retained what was gained, and this is by all means a woeful outcome.

2. **Hot Pursuit Operations against al-Qaeda and the Islamic Movements as Part of the Global Security Framework**

The strategy of al-Qaeda has, since the attacks of 9/11 in particular, led to the formation of a global security network whose aim was not only limited to hunting down al-Qaeda and its operatives, but many other Islamic movements across the world, which have recently been declared terrorist organisations by the United States Secretary of State. Thus, al-Qaeda has been deprived of its safe haven in Afghanistan, and the international chase after its members began.

3. **Conflating Resistance Movements and Terrorism: A Deliberate Attempt at Undermining the Position of the Islamic Minorities**

After the events of 9/11 in particular, many governments have found the conditions favourable to do away, once and for all, with the Muslim minorities that were striving for their independence or their human rights, under the pretence that these resistance movements do in fact represent terrorist organisation much like al-Qaeda. This is exactly what Russia has done in the case of Chechnya: it asked the international community to either back it under the umbrella of the global war on terror, or to turn a blind eye on its heinous crimes, which were against all the human conventions and values. Equally in Kashmir India has found the terrain opportune for following the very example of Russia in Chechnya, and in the Philippines things were not much different either, as the government there has launched a worldwide campaign against the Abu Sayyaf Group which is striving to gain independence for the Island of Mindanao, and has just received the backing of the Americans as a reward for its effort in the fight against global terrorism. This is how this strategy, with the help of preconceived malice and opportunism, has led to the blurring of the defining line that separated resistance against occupation, which is rightful and terrorism.

4. **Paving the Way for Israeli Objectives and Aspirations**

The events of 9/11 were like a Christmas present for Israel. Indeed, Israeli politicians viewed them as the best possible opportunity that can be used to make the case against the Islamic resistance movement in Palestine, and present it as a foe whose practices against
Israel are not much different from those that America had just been subjected to. One only needs to read those comments made by the Israeli Prime Minister, Benjamin Netanyahu, to see how swiftly Israel has moved to capitalise on these attacks. He says:

“I feel sorry that the free world had to suffer this great number of casualties before it was finally able to understand the kind of struggle Israel has to lead in the Middle East, on behalf of Western civilisation and the Enlightened world, against the forces of evil and darkness, represented by Islamic extremist elements bent to turn the world back to the Middle Ages. The aim of these people is clear and manifest: they want to take advantage of the freedom guaranteed to them by Western democracies in order to attack and exterminate them. But soon you will realise that Israel is actually the one which is at war against these forces on behalf of the Western world, in defence of its values and principles.”

As for Meyer Chetrit, the previous Israeli justice minister, he said:

“Very soon, the countries of the free world will come to realise that it is Israel which at the forefront of the fight against Islamic extremism, because it is in the frontline in a region whose peoples are still dreaming of the bygone days, when the Arabs and Muslims used to impose a tax levy on the Jews and the Christians.”

This is how as a result of that woeful strategy, Israel has, with one single stroke, been able to make many gains: it has consolidated the political embargo on the Palestinian resistance movement, it has ended the Iraqi menace, it has subdued Hezbollah, it has compelled Syria to make hurtful concessions and finally it has put Iran, Libya and the Sudan under immense American pressure.

5. America Embraces the Agendas of the Christian Right and Espouses the Thesis of the Clash of Civilisation

The events of 9/11 have brought the debates over the direction of the American strategy in the post-cold war era to a close. From then onwards, the strategy of the United States has taken its cues from the reports of the neo-cons, known for their affinities with the Christian right, and that meant that a clash with the Islam and the Muslim world was in the offing. The notion of pre-emptive war was a typical understatement for that new direction and it has manifested itself against Islam in many ways, such as the following:

- Lending support to Israel in its conflict with the Islamic Palestinian resistance, and ensuring that the situation in the region evolve in a fashion that fulfils the prophecies of the Torah, such as the return of the Messiah, the reconstruction of the Temple and the victory of the Jews over the heathen Muslims in Armageddon
• Accusing Iraq of owning Weapons of mass destruction in order to have a grip on its oil reserves

• The Islamic governments that pose a threat to Israel will see their states included among those representing the ‘axis of evil’, as can be seen now with Iran and Syria as well as Libya and the Sudan to a lesser degree

• Adopting a new policy in Central Asia whose main aim is to contain the Iranian menace, and lay siege to the Islamic movements in the region by means of the American military bases there. This has led some observers to wonder whether “the American military presence is in fact aimed at combatting the Islamic movements active in Central Asian societies, the West of the Philippines and Kashmir, curtailing Iran and putting an end to an independent Pakistani nuclear program.”

6. The Rise of Racism against the Muslim Communities and the Tightening of Emigration laws of and political asylum in Europe and America Islam is Under Attack

In the aftermaths of 9/11, Islam has been widely and consistently presented as a religion prone to violence, and as an immense danger to be taken seriously as the new rising enemy. The American minister of justice has said for instance that “the God of Islam asks you to send your son so that he dies for His sake, whereas the God of Christianity sends you His son so that he may die for your sake”. In Italy, Prime Minister Berlusconi has gone even further. He said:

“I have read a few things on Islam, and I must admit that I have read amounted to absurdities which cannot be compared or put at the same level of our civilisations which is clearly superior. We should be conscious of the superiority of our civilisation, which consists of a value system that has given people widespread prosperity in those countries that embrace it, and guarantees respect for human rights and religion. This respect certainly does not exist in the Islamic world, which has remained a conundrum for the last fourteen hundred years. You only need to look at the condition of women to have a sense of what I am trying to say… Islam and those who oppose globalisation oppose the lifestyle of the

38 “In a report prepared by the Council on American-Islamic Relations (CARE), it was stated that after the events of 9/11, the authorities in that country had arrested 728 Arab Muslims, who were verbally and physically abused during their incarcerations and were prevented from contacting their families and their lawyers. Moreover, the American Justice Department has during that period brought for interrogation eight thousand Arab Muslims, making it compulsory for about fifty thousand Muslims and Arabs to register at the Immigration Department and in the weeks leading to the war against Iraq, the American authorities has conducted interrogations with eleven thousand Arab migrants. Among the states that are most discriminating against Muslims, California tops the list with 11%, followed by Florida and Virginia”. Al-Ahram, 17/7/2003, p, 4 )
West, and thus we should extend our hands to the moderate Arab states and offer it assistance by taking certain initiatives that will enable it to overcome religious fanaticism.”

And then, he went on to add:

“The West will continue to conquer peoples, even if it means a confrontation with another civilization. The Western world has actually done that in relation to the Communist world and parts of the Muslim world, but there are still parts of this Muslim world, which are still firmly entrenched where it was 1,400 years ago.”

Also, as a result of the strategy of al-Qaeda Muslim identity has been subjected to a rigorous operation which aims at altering its characteristics by substituting its basic constituents and values with those that belong to the West. This can be seen clearly in the malicious attempts that some are pursuing in order to change our educational curricula or in those instances where ideas that so obviously emanate from a western worldview, particularly those relating to women, are thrust upon the governments of the Muslim world.

7. The Strategy of al-Qaeda has led to a Rapprochement Between Europe and America

The strategy of al-Qaeda has made Europe and America see eye to eye on issues over which they had greatly differed in the past. As examples of these we can cite the issues of the Missile Defence System, Genetically Modified Food, and their competition in the global market.

These in brief were the most important outcomes and repercussion following from the strategy of al-Qaeda; a strategy which some like to summarise in these words:

“Al-Qaeda has destroyed two towers and America has invaded two countries (Afghanistan and Iraq)”

Are There any Positive Outcomes?

Have we been too harsh in our evaluation of the strategy pursued by al-Qaeda? Indeed, some people might be wondering whether this strategy may have been envisioned in a way that still have some merits and its execution may have led to some positives outcomes after all.

In answer to this question, we would like to state clearly from the outset that in matters like these, notably those in which costs and benefits rival one another, the question that we ought to be asking ourselves is whether we should evaluate an action or a strategy for that matter, in view of its overwhelming benefit or in view of its overwhelming harm; for it seems that is the crucial factor in determining whether it is positive or not. The leaders of al-Qaeda can claim today that their strategy has achieved some benefits, but none of these benefits have any value one we take in consideration the overwhelming costs and harms we have just outlined.
Yes, we do recognise that al-Qaeda had for instance exerted its influence to refrain the Islamic movements from entering into a collision course with their governments, and that is a positive that cannot be denied. But the reality is that al-Qaeda did actually, albeit indirectly, bring these movements into conflict with their authorities, when it has targeted the Americans, the Jews and the Crusaders residing in their territories.

Yes, we do recognise that the strategy of al-Qaeda has embraced the call for jihad and sacrifice, leading by example on many fronts. But, it needs to be said that in their conception of jihad they have actually kicked themselves loose of all the Sharia principles controlling its legitimacy, and have not abided by the principle of favouring public interest and welfare over costs and social harms, nor have they given much thought to its potential repercussions or whether their capabilities were fitting for such an undertaking or not. Indeed, we are of the view that jihadi activity today is need of guidance; otherwise this noble duty may very well turn into a celebration of sacrifice but in the wrong battlefield and a lament for casualties before the decisive hour.

Yes, we do recognise that America acts maliciously in relation to some Islamic issues, feigning sympathy only in order to shore up Muslim public opinion and withdraw the carpet from underneath al-Qaeda’s feet. But let there be no mistake that whenever America does that, it is always mindful of its own interests and so it will never allow the situation where its positive relations, however malicious they might be, become an advantage to any of the Islamic trends found in Muslim societies. Rather, there is every chance as is often the case that these Islamic movements would become the whipping boy in this type of American realpolitik.

Indeed, there is no preventing America from exercising pressure on despotic regimes that curtail the freedoms of individuals and persecute the Islamic members of the opposition, ensuring thus that these oppressed elements are given a breathing space and do become time bombs ready to explode in the face of America, but we need to caution that these pressures are not restricted to these ends: in due time, these regimes will also be pressured to take concrete steps at effacing the hallmarks of our Islamic identity.

We cannot conclude this section in which we have presented and assessed the strategy of al-Qaeda, before addressing one final objection: there might some people out there who would still like us to be more sympathetic towards the brothers of al-Qaeda, in compliance with the principle: “Give assistance to your brother, whether he is an oppressor or oppressed”. I wonder if these individuals are referring to this principle as it was understood during the pre-Islamic period, or as it was later understood and implemented by the Prophet (pbuh)? For indeed, there people who expect us to lend our blind support to al-Qaeda, regardless of whether it is oppressing or being oppressed, and they really feel that anything short of that support is tantamount to an affront on the mujahedin and to a cooperation with the enemy.

I am afraid this logic does not hold water, for the principle “Give assistance to your brother, whether he is an oppressor or oppressed”, was actually refined and set right by the Prophet (pbuh) when in answering the question: “How do we give assistance to an
oppressor?”, he said: “By deterring him from committing oppression”. 39 I have to also say that this logic, which seems to animate the thinking of these people, is actually in breach of the principle, “Religion is sincere advice”, as stated by the Prophet (pbuh). How can we give sincere advice, though? Surely, it is not by keeping silent!

Finally, it also does not comply with the words of God—may He be exalted: “You must make it clear to the people and not conceal it” (3:187). How can anything be made clear with this undeveloped logic?

We firmly believe that courage does not only consist of showing audacity in the face of adversity and speaking our mind in the face of rulers or in defiance of American and Israeli policies, but consists also in speaking our minds against the Islamic camp, particularly if that criticism constitute an advice aiming at guiding our action and correcting our mistakes.

Given that we do not doubt the members of al-Qaeda’s sincerity and their true commitment to religion, as well as their desire to elevate the status of Islam, we would like to make it clear that we have actually written the previous and forthcoming lines of this book as an advice to the believers, a counsel to the pious, a clear exposition to the mujahedeen, and an appeal to the devout, who are truly concerned about the current state of the Muslim world and the future of Islam, in the hope that from these pages a light would emerge that would enables all those Muslims to see they have erred in relation to those issues and where the right course of action to be followed is.

39 Related by Bukhari, no: 2444, and Tarmidhi, no: 2255, on the authority of Anas Ibn Malik—may God be pleased with him.
Chapter Two

The Strategy of al-Qaeda:
A Defective Interpretation of the Duty of Jihad
The Strategy of al-Qaeda: 
Jihad Misinterpreted

When the *International Islamic Front for Jihad against the Jews, the Crusaders and the American* was proclaimed, Osama Bin Laden, who seemingly had some reservations about such a move, fearing its impact not only on the organisation but on the Islamic movements, in general, quizzed one of the leaders in al-Qaeda over the practicality and feasibility of such a project. In response to his queries, this is what he was told in gist:

“These peoples (the Jews, the Crusaders and the Americans) understand only the language of force. I know that this choice is fraught with difficulties, and I am fully aware that achieving victory in this conflict is far from easy, as it may require the sacrifice of a whole generation if not generations after us. But if we are able to at least kindle the flame of jihad such that the others who will come in the future are also committed to continue down that path, then we will have succeeded.”

If we examine this statement closely, we will no doubt discover that it contains a major flaw in its conception of the duty of jihad. Here, we have a model of jihad that is sought for its own sake and as an end unto itself, one in which jihad is conducted regardless of our capacities, and regardless of the social benefits and social harms and costs that may ensue from such an undertaking.

This defective interpretation of jihad requires a deeper discussion because it constitutes the very prelude to all the other misguided choices and practices of this organisation. To this end, we have divided this chapter into four sections each one of which deals with a particular issue. They are as follows:

1. Jihad: the Forgotten Truth
2. Jihad as one of the Duties in Islam
3. Jihad: A Means to an End Not an End Unto Itself
4. Jihad: A Means Among Others

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40 This exchange was related to the authors by one of the leaders of the Egyptian Jihad Group during a meeting they had with him in one of the Egyptian prisons after his rendition to Egypt from one of the countries in Asia.
1. The Forgotten Truth about Jihad

Islam’s View of War

Islam as a religion has never lost sight of the fact that it came for the purpose of guiding and putting in order human society, and hence its message is primarily addressed to humans, with all of their predilections for good and evil, and not to angels.

Indeed, Islam has never lost sight of the true nature of human beings and their rational predispositions: while it did praise the quality of forbearance and patience in the face of enmity and adversity, it never indulged in idealism, asking its followers to turn the other cheek whenever they have been clearly wronged.

And never has Islam had anything to do with those horrible wars in which people engage in the most horrific sorts of killing, torture, slaughter and destruction, under the façade of love, freedom, brotherhood of men and peace.

Islam has certainly always been realistic in its outlook on life, and was conscious all the time of the potential for conflicts, disputes and wars, which it regarded as inherent to human nature and human society. Hence, Islam has consistently viewed war as a fact of life that cannot be denied, but it strove to turn it into a means for warding off aggression, curtailing tyranny and halting the sprawl of corruption.

Islam has recognised the reality of war because it knows full well that quarrel, oppression, defiance, aggression and irreligion are intrinsic to human nature and human societies, and bearing these facts in mind, the Islamic Sharia has always exhibited practicality and has always leaned towards improving our ethics rather than extirpating our primordial nature; for that is a flight from reality to the world of the unreal. Furthermore, had Islam not affirmed the reality of war and not recognised the possibility of it being a means of resistance against aggression, and against the impediments that were put on its path as it set out to spread the universal good, evil and corruption, which had always enjoyed the backing of the forces of aggression and obdurate defiance, would have overwhelmed this message during its infancy, and humanity would have been deprived of its blessed fruits which are necessary for its worldly and other-worldly existence.41

God- may He be exalted- has said: “Indeed in that is a sign for you, if you are believers. And when Saul went forth with the soldiers, he said, "Indeed, God will be testing you…” (2:248-9).

And He also has said: “And were it not that God checks the people, some by means of others, there would have been demolished monasteries, churches, synagogues, and mosques in which the name of God is much mentioned” (22:40).

From the above, it is clear that Islam has decreed the duty of jihad in order to fend off those perils and for the sake of realising those aforementioned aims. In so doing, it announced a concept of warfare that was unknown hitherto: before Islam, the world used to be the theatre

41 Mahmud Shaltut. Maqalat Mahmud Shaltut. Cairo: Majallat al-Risala, issue no: 414, 415, and 416
of wars that were so tyrannical and barbarous they defied even the logic of aggression and oppression. But all of a sudden it was infused with a new paradigm; one based on the notion of justice, imbued with mercy, forgiveness and charitability. This was particularly surprising because this new model emanated from a people who used to eulogise war and conflict in the most telling words. One of their poets would say:

*We can prevent anyone from roaming anywhere when we want*

*And we can raid anyone and set camp anywhere we want*

*We are the ones entitled to pure drink*

*Others, are entitled only to sullied and muddy waters*

*We own the world and everything therein*

*And when we strike, we do so devastatingly*

*We are bent on aggressing and are never aggressed*

*Because we always aggress before being aggressed*

*And so whenever one of our infants is weaned away from its mother*

*You will see the mightiest of all bowing to him in prostration*

The Future of Jihad at the Hands of its Usurpers and Detractors

Despite the glaring difference between jihad and the notion of warfare in Islam and other worldviews, there are still some who would want today to obscure the shining lustre of this concept, either because they are animated by preconceived malice and opportunism or by religious fervour, anger and the sentiment of revolt. Now whether this obscuring of the hallmarks of jihad comes from its detractors, those who would like to see jihad annulled, or from its usurpers, those who not seize the right to interpret it but are mistaken in their interpretation, the result is the same, because both contribute to putting forward an erroneous conception of jihad, which, if left unchecked, will inevitably be even more entrenched than what it is already. It is high time we shed light on the forgotten truth which seems to evade both the usurpers and the detractors of jihad.
Jihad: The Forgotten Truth

Because no nation in the world can dispense with the need to fight, Islam has reconciled itself with this truth, and hence it was said that “Jihad will continue until End Times”\(^{42}\). Given that jihad is a reality which is ongoing until End Times, it is imperative to shed light on it to the extent that its aims, meaning and substance are manifest to all. That is because jihad in Islam contains deep philosophical teachings on humanity, a noble aim, various meanings, principles that are at once wise and rigorous, and a great heavenly and worldly reward. Let us broach this truth about jihad through the following:

1. Jihad: Abundant and Expandable Meanings

Nothing is more unfair than to confine the meaning of jihad for the sake of God to fighting and reacting to enemy sabre rattling. Nay, the meaning of jihad is much wider than that even though it may no doubt include in its semantic field such a notion. Hence, just as we refuse a definition of jihad which omits fighting, we also reject that definition which reduces jihad to its military connotations. Any person who ponders seriously on the linguistic signification and the legal significance of jihad for the sake of God will not fail to notice that it contains within it a variety of meanings, although, as Ibn Rushd observed, the meaning of jihad that is strictly associated with fighting the disbelievers seems to have gained currency among the common folks. (Ibn Rushd has said: “Any person who exerts himself for the sake of God has actually performed jihad for the sake of God; only whenever that word is uttered these days, people associate its meaning strictly with fighting the disbelievers until they convert to Islam or accept to pay the tribute (jizya) readily, being brought low”\(^{43}\).

Indeed, etymologically the word jihad derives from *juhd*, which means effort or striving and in the context of Islamic law, it pertains to exerting oneself for the sake of God and for the sake of furthering the truth of His religion, which God has chosen for the salvation of mankind. It also pertains to exerting oneself to establish an Islamic society and thus exerting oneself in fighting for the sake of God is understood to fall under the meaning of jihad. There are in fact many hadiths demonstrating that jihad contains an abundance of meaning, which cannot be confined to fighting. Here are some examples:

\(^{42}\) Bukhari said that jihad will continue until the Last Day, based on hadith in which the Prophet (pbuh) is reported to have said: “All the good will be woven into the forelocks of the horses until End Times”. Sahih al-Bukhari, no: 3119, and it was also related by Muslim with the wording: “All the good, the heavenly rewards and the gains of this world, will be woven into the forelocks of the horses until End Times”. Sahih Muslim, no: 98/1873, on the authority of ‘Urwa al-Bariqi- may God be pleased with him.

\(^{43}\) For further discussion on this point see, Muqaddimat Ibn Rushd’ ala al-Mudawwana al-Kubra li al-imam Malik, vol.1, p, 379, the entry of *Juhd* for the definition of *jihad* in Lisan al-’Arab, vol. 1, p, 710, as well as, Hashiyat Ibn ’Abidin, vol. 4, p, 121, and Fiqh al-Seera, p, 134
• “Perform Jihad against the idolaters with your wealth, your lives and your tongues”.  

• “The best jihad is speaking the truth in the court of a tyrannical ruler”.

• It is narrated on the authority ‘Abdullah b. Mas‘ud that the Messenger (pbuh) has said: “Never a Prophet had been sent before me by God towards his nation who had not among from his people disciples and companions who followed his ways and obeyed his command. Then there came after them their successors who said whatever they did not practise, and practised whatever they were not commanded to do. He who perform jihad against them with his hand was a believer: he who performs jihad against them with his tongue was a believer, and he who performs jihad against them with his heart was a believer and beyond that there is no faith, not even as small as mustard seed”.

• It is also narrated by ‘Umar- may God bee pleased with him- he said: “a man came to the Prophet (pbuh) and asked for permission to partake in jihad, he asked him, ‘Are you parents alive’, he said: ‘yes’, and he (pbuh) said, ‘Devote yourself to them; that will be your jihad’.”

• Also on the authority of Abu Hurayra- may God be pleased with him- the Prophet (pbuh) has said: “Someone who strives to provide for widows and the poor is like someone who does jihad in the Way of God or the one who stands in prayer at night and fasts in the day”.

It is clear from the hadiths above that jihad pertains to striving in the way of God with one’s wealth, with one’s tongue and for the sake of one’s parents, making sure they are not abandoned, in addition to striving in the battlefield and giving up one’s life for the sake of God. Furthermore, it is only obvious that the forms of jihad change in accordance with the type of enemies one is fighting against: there is a jihad against the disbelievers, which one needs to perform either with one’s hands, tongue or heart, as there is a jihad against the transgressors which can be performed in the same way, but there is also the jihad against the deceiver, the devil, which needs to be performed by striving against the doubts and the desires he puts in our hearts, as well as the jihad against the evil-commanding soul, which we need to do as we strive to cleanse ourselves from wickedness and turbidity in order to progress ethically, spiritually and intellectually.

There is no doubt that if we consider all of these shades of meanings of jihad in light of God’s words: “And prepare against them whatever you are able of power and of steeds of war by which you may terrify the enemy of God and your enemy and others besides them

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44 Related by Abu Dawud, no: 2504, and deemed sound by al-Albani
45 Related by Abu Dawud, no: 4344, and Tarmidhi, no: 2174, and deemed sound by al-Albani
46 Related by Muslim (50/80
47 Related by Bukhari, no: 3004, and Muslim no: 2549/5
48 Related by Bukhari no: 6008, and Muslim no: 2982/41
49 Abu Bakr al-Jaza’iri. Minhaj al-Muslim. Publisher unknown, n.d, p, 300
whom you do not know [but] whom God knows. And whatever you spend in the cause of God will be fully repaid to you, and you will not be wronged” (8:60), we will normally come to the conclusion that true jihad in the way of God, begins with a comprehensive plan to harness a variety of faculties and capabilities, in the economic, societal, political, technological and spiritual spheres. For no nation that honestly desires victory in the battlefield, would spare any effort in mobilising its members for a jihad which consists in the renewal of religious discourse, as well as in technological, economic, political, social, media and spiritual progress.

Moreover, since jihad in the way of God is at the origin a collective duty, not obligatory for Muslims individually, and it is incumbent upon the community to perform it only in specific contexts, and these apply to the situation of an enemy invasion, in which case Muslims are commanded to defend their land, or when Muslims are witness to a battle, from which if they were to withdraw, they would become deserters or when jihad is declared by a Muslim ruler, in which case they cannot but obey to honour their commitment to the Sharia, it is then safe to deduce that the jihad, in its widest sense, is the one that ought to constitute the greater preoccupation of the Muslim community. For indeed it is that comprehensive jihad, which will enable it to build its ramparts and strengthen its fortifications to the extent that it would be immune against enemies’ aggression and be better equipped to fend for itself and achieve its goals and aspirations.

2. Jihad: A Means to Achieving the Lofty Aims of Islam

Jihad, understood as fighting, has never been sought as an end unto itself, and the Sharia has not decreed it only for the sake of slaughtering the obdurate enemies and the aggressors. On the contrary, it has consistently viewed it as a means towards the realisation of the lofty aims of Islam. Highly important issues and consequences result from the fact that jihad is a means among others and not an aim in itself.

Firstly, the fact that jihad is a means for the realisation of a specific aim, implies that whenever it is established that the aim in question cannot be realised through jihad, it becomes prohibited to resort to it.

Secondly, the fact that jihad is considered a means, among others, for the realisation of the aims of Islam, implies that at any time, the believers might choose to resort to other means, which they deem are more suited to their conditions and more efficient in achieving their objectives.

Thirdly, the above implies that whenever it is established that means, other than fighting, can secure the objectives of the believers, they are under obligation to pursue these, and relinquish all others.

Fourthly, it implies that Islam does not consider the logic of confrontation, and military conflict as central to its policy, nor did it consider it as an ineluctable choice. Rather, it has opened before its followers a number of other avenues and alternatives, ranging from the
forging of cooperation, alliances and the conclusion of peace treaties to the taking up of arms in self-defence. In all of these situations, it has set for the believers regulations and guidelines, ensuring that in all events they were neither to incur blame nor sin. Concerning this point, al-Buti wrote: “As such, the legality of jihad does not hinge on the fact that it is a military offence or defence, but from the fact it was envisaged in the Sharia with the aim of elevating the standing of God’s religion and His word, as well as, building a healthy Muslim society, and establishing the rule of God on this earth. Any of the means, therefore, which lead to those objectives, are the ones that must be followed in the eyes of the Sharia.”

It follows from the preceding that in some circumstances our means might prove to be the pursuance of peace, giving advice, imparting knowledge and offering guidance, and in those situations that would be no other way of performing jihad except by exerting oneself in those activities. While in other contexts, we would have no other alternatives but to take up arms in defence of our land, besides also having to continue with the tasks of giving guidance and good counsel to the believers, and in those circumstances, too, that would be the way to perform jihad and no other way would count. Still in other cases, we might find ourselves compelled to conduct a military offensive in circumstances where that would the epitome of jihad and one of the most honourable way to conduct it.

This is really where the responsibilities of a true Muslim leader lie; for it is only a leader who is sincere to God, His Messenger and the Muslim community who can take the required and nuanced decisions concerning these circumstances, means and these objectives.

For indeed all of these three means may be pursued legally, but the crucial factor is to discern the public interest in each of the three options in accordance with the requirements of each situation, as no single set of solutions may be repeated irrespectively. This is certainly an important point which we will wake up again in other parts of this book.

3. The Lofty Aims of Jihad

Since the dawn of history human beings have engaged in wars and conflicts, which were waged for a variety of reasons and for a variety of objectives, other those commanded by the revealed Sharia.

It is true that some of these wars were fought for noble ends, but in the main they had merely reflected mankind’s proclivity for evil, and have rarely been conducted for the sake of a rightful cause, honour, the oppressed, in support of the weak, or for reasons to do with nobility and dignity, as one would expect it at times.

Hence, human beings have often engaged in wars only to satisfy their vile desires and whims, such as their love for power and authority and their eagerness to crush others and oppress them or due to their jealousy, greed, and their tendency to be corrupt and wanton.

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50 Fiqh al-Seera, p. 324
Islam was sent to do away with these cheap wars, and remove any ignoble objective, which
is not worth dying for and killing people. Thus Islam has confined the reasons for going to
war to one comprehensive objective, which would become the basis of any other lofty aim,
in one Qur’anic verse, namely: “Fight them until there is no tumult and [until] the religion,
all of it, is for God. And if they cease - then indeed, God is seeing of what they do” (8:39).
That is precisely where the highest aim of jihad lies.

This aim is too lofty to be attached to some earthly gain, and too noble to be restricted to
some lowly human aspirations; nay it is high form of worship and an act of devotion for the
sake of God’s pleasure alone. That is why when the Prophet (pbuh) was asked: “Some men
fight to show their courage, others are motivated by fanaticism, and still others fight for
glory; which of these is performing jihad in the way of God?”, his reply was: “Whoever
fights in order that the religion of God prevails, it is he who is doing jihad in the way of
God.”51 And thus all kinds of worldly objectives were extirpated from fighting, and the
objectives of jihad from that time onward revolved around one universal aim which
branched out into several others of the same kind. That universal and fundamental aim was
to strive for the sake of God in order that the religion of God may prevail.

In view of this universal aim, fighting is devoted to the promotion of the values God has
commanded; values without which the universe would lose its compass. This truth is
alluded to in the Qur’an where God- may He be exalted- says: “Indeed, God orders justice
and good conduct and giving to relatives and forbids immorality and bad conduct and
oppression. He admonishes you that perhaps you will be reminded” (16:90)

4. Jihad is Liberation not Enslavement, it is Freedom of Choice not Coercion

As such, jihad represents a form of liberation to human will from all kinds of human
enslavements. The Companion Rub’i Ibn ‘Amer- may God be pleased with him- was
certainly aware of this intricate meaning. Asked by the Persian Army General: “What have
you come here for?” he replied: “God has sent us to liberate mankind from the worship of
men that they may worship the Most High, God, the Creator of men, and also to liberate
them from the tyranny of religion that they may enjoy the largesse of Islam, and liberate
them from the stifling atmosphere of this narrow world that they may experience the
expanses of the hereafter.” We have indeed, in these most profound remarks of the
Companion Ibn ‘Amer, the proclamation of the very objectives of Islam and for the role of
jihad within them: the aim of jihad is the liberation and self-determination of the people, not
their enslavement and repression, it is for the implementation of justice and the promotion
of human dignity, not for the spread of oppression and treading underfoot human
aspirations. Hence, jihad has for an aim the betterment of our human condition, serving thus
as a bridge to the hereafter in such a way that we are not engrossed in the pleasures of this

51Related by Bukhari, no: 2810, and Muslim, no: 1904/150), on the authority of Abu Musa al-Ash’ari- may
God be pleased with him.
world and oblivious to the reality of the world to come: in short, jihad has been decreed with the aim of creating a balance between the human aspirations in this world, and the requirements of the hereafter, in conformity with the Qur’anic verse: “But seek, through that which God has given you, the home of the Hereafter; and [yet], do not forget your share of the world. And do good as God has done good to you. And desire not corruption in the land. Indeed, God does not like corrupters” (28:77).

It is clear then that war in Islam has been instituted with the objective of protecting the freedoms God has guaranteed to His servants; it can neither be waged as an aggression against other fellow humans and the repression of their rights, nor can it allow for the situation where people are subdued to the will of other regimes, kingdoms or political convictions. Hence, Islam refuses to be a despotic creed that people must follow willy-nilly, promoting instead freedom of choice such that people can choose between following its teachings or those of others in all liberty and in accordance with their own will and convictions: if they choose to remain non-Muslim and live under the Islamic state, they are only required to respect the laws of the country, which is a right that all legislations worldwide and across history have reserved to themselves.

It follows that the objective behind fighting in Islam is to end all of forms of worship to beings other than God, and to free the human intellect from the shackles and constraints it has been subjected to, in order that no party, individual or power can prevent people from following the course of what their intellect has been convinced of and what their hearts have felt at peace with.

Calling people to God and conversion to Islam, therefore, is certainly not through the exercise of oppression and coercion, but through the presentation of arguments and proofs. Indeed, if these arguments and proofs were allowed to reach the intellects of the people without hindrance or interference, the calling of Islam would have won over the minds and hearts of humanity without a drop of blood having to be spilled in jihad for the sake of God. It is in fact for this reason that, when calling people to its message of peace and reason, Islam has followed the methods and norms prevalent among mankind in both the way it has promoted its principles and the way it defended them, highlighting their value and merits through public sermons, correspondences to kings and rulers or through the immaculate reception it reserved to the various delegations, which came to the abode of Islam. Thus Islam has decreed jihad in the context of “There is no compulsion in religion” (2:256), a verse revealed by God- may He be exalted- when some of the Medinese helpers approached the Prophet (pbuh) to seek his support- which they were denied- to compel their sons, who had followed the ways of Judaism since their youngest age, to convert to Islam. This is because Islam represents a movement for liberation, which cannot be associated with coercion, and this principle continued to govern Muslim behaviour in all of their conquests throughout history. There is no better proof for this reality of jihad and its noble objectives than the existence of various religious communities and their priests in the Abode of Islam from the dawn of Islamic history to this day.52

52 It is narrated by Ibn ‘Abbas- may God be pleased with him- that “The women of the Helpers, whose boys always died in infancy, used to vow to bring up their boys as Jews if they were to live. When the people of
5. Jihad is a Sharia Ruling

“Jihad is the pinnacle of Islam”\(^{53}\) and its cornerstone because it plays a crucial role in protecting its edifice from enemy attacks and in ensuring that people come to Islam in all liberty and without any compulsion.

Indeed, jihad in the way of God was decreed to complete a series of legal rulings, which Islam has brought about in order to improve the world in which people lived and bring some order to their lives. That jihad is a Sharia ruling, has an immediate and an important consequence, namely that the principles controlling its legitimacy, its scope, its detailed rulings, its causes, conditions and legal impediments would all have to derive their significance from the light of revelation and not from divans of overzealous poetry, the revolts of the frustrated souls or from the whimsical desires of a prankish heart. Indeed, the fact that jihad is a Sharia rulings entails a number of issues, chief among these are:

a. Jihad counts among the collective duties of Islam; meaning that if some members of the Muslim community step forward to carry it out, the rest of the community is absolved of that moral responsibility and of sin. This is in perfect agreement with the Islamic worldview and its vision of managing the capabilities of the Islamic nation, and it is also in perfect conformity with the Qur’anic verse: “And it is not for the believers to go forth [to battle] all at once. For there should separate from every division of them a group [remaining] to obtain understanding in the religion and warn their people when they return to them that they might be cautious” (9:122).

It is rather astonishing given all of the above that there are people today who not make jihad an obligation upon the entire Islamic nation, but they go as far as making military training obligatory for every single Muslim man and woman.

b. Jihad may indeed be prescribed in situations, which were well defined by the scholars of Islam: Muslims are indeed to take part in jihad when a non-Muslim enemy threatens to overwhelm the territory of Islam, when they are witness to a battle involving other Muslims, when the ranks of the Muslim fighters need to be consolidated, when asked by the Muslim ruler to join the fighting and finally when they need to free their captives.

c. Being a Sharia ruling, jihad in the way of God lends itself to the five rulings that binds or burdens one to perform an act, and thus falls in either the category of obligatory, Banu Nadir were driven out, they had among them children of the Helpers. The Helpers said: ‘We will not leave our children!’ upon which God may He be exalted-revealed: There is no compulsion in religion.” (Related by Abu Dawud, no: 2682 and deemed sound by al-Albani, by Ibn Habban whose transmission was deemed sound by al-Arna’ut, and also by al-Nisai in his Sunan al-Kubra (6/304/11049)

\(^{53}\) Related by Ahmed in his Musnad(5/234), and its transmission has been deemed weak by al-Arna’ut
meritorious, haram, reprehensible, or permitted. These rulings do indeed apply in both defensive and offensive jihad and in both the contexts where jihad is a collective duty and an individual duty, all of which are determined by the legal conditions set by God in His Sharia regarding the implementation of jihad, and by the ensuing public interests that are sought from its implementation.

d. Before jihad is declared, a number of pre-conditions must be fulfilled, and these are 1) the existence of a legal cause which makes it permissible 2) the fulfilment of the legal pre-conditions necessary for its implementation 3) the absence of all legal impediments which would make its implementation unlawful. The non-fulfilment of any of these three legal conditions will prevent the implementation of jihad, making it non-obligatory, and even prohibited.

e. To jihad applies the legal maxim which states: “Just as God has ordained the rulings, He has also ordained their invalidating and their exempting factors”. Hence, God has ordained the implementation of jihad in some instances, while in others, such as when a protection contract has been concluded between Muslims and the People of the Book, He has seen to it that it be annulled.54

f. The detailed rulings of jihad vary according to the types of enemies we are entitled to fight against in Islam. Because it is not right to deal with all of our foes as if they are all disbelievers, the Sharia has enacted rulings befitting each of these types of enemies. Thus, we find in the treatises of Islamic jurisprudence chapters devoted to fighting against the disbelievers, and others devoted to fighting the apostates, the People of the Book, the aggressors and so forth.

g. Jihad in the way of God is intimately linked to two crucial issues:

1. It is necessary to ascertain that one has the capability of performing jihad before engaging in it, because without establishing this certainty performing jihad will be tantamount to venturing into an adventure the costs of which will be paid by the Islamic nation and its sons to no avail.

2. It is also necessary to ascertain that jihad is capable of achieving benefits, and easing off all of the existing harms, including precluding all of the potential ones. What is meant by benefit here does not include the personal interests however noble they might be, such as gaining martyrdom. Rather, benefit here pertains to the public interests of the community of Muslims, which should not be squandered or

jeopardised for the sake of some individuals even if that involves their martyrdom, because that too can result in social harms that can have a serious impact on the present and the future of the entire nation. 

It is clear from the above indications that knowledge of the rulings of jihad and their application in actual reality is strictly of the domain of the ulema and the people of ijtihad. And this we should accept, if we want our jihad to be performed according to the norms, achieving the public interests of the Muslim community and precluding the harms to which it may be subjected, and if we want to ensure, as mujahedeen, that it will attracts God pleasure and not His ire.

6. Jihad is a Sacrifice and an Act of Self-abnegation for the Sake of the Hereafter and the Interests of Religion

The link between jihad and sacrifice is rather obvious and is therefore hardly a subject of contention: nothing is dearer to human beings than their lives, wealth, the benefit of their hard work and time, and yet these are precisely the things that the mujahid relinquishes wholeheartedly and resolutely for the sake of God. This sacrifice does indeed reflect a profound faith in the Islamic worldview, an act of self-abnegation for the sake of the hereafter and constitutes in itself a victory over the evil-commanding soul and Satan. And this victory of the mujahid over his evil-commanding soul does in fact constitute for him the introduction he needs to have before proceeding to fighting the enemy in the battlefield.

That jihad is most naturally associated with sacrifice, however, should not lead us to think that we are talking about any sacrifices; for what is meant by sacrifice here has nothing to do with those acts that borders on gambling with one’s future or those of others, and misadventure, nor do they account among those acts which consist in enticing people to die without achieving any good or public interest in return. We should, therefore, be in no doubt that the concept of sacrifice we find in the Islamic conception of jihad is intimately dependent of the general interests of the nation and of its capabilities, and hence they have an objective and are based on rigorous calculations. In light of this, we can say the person who has decided to devote himself to jihad has not only renounced the benefits of this world for those of the hereafter; he has also renounced his personal interests and desires, for the sake of his nation’s and country’s public interests: jihad is neither goalless nor can it be take place without a showdown. Indeed, it is a fact that while most people in moments of crisis opt for their own interests, proclaiming: ‘Me and only me!’ the mujahid, in all selflessness, proclaims: “My nation! My nation!” echoing the feeling of that young fighter who launched towards the enemy saying:

*Be happy with the good news from your Lord
The day you’ve waiting for has come*
O garden of houris! Steer clear of our path
We fight not and die not for your sake
Nay, we long for our Master
He who knows what we conceal and what we reveal

Then as he got closer to his target, he added:

I had long wished that my toil and hard work not be wasted
And thank God, I have not been disappointed
O You who has filled those fantastic castles with merriment and joyful play
If it were not for you, all those celebrations would’ve been dejected

And he kept on fighting until he was killed. Indeed, the mujahid we have in mind would be following the footsteps of the great Companion, ‘Abdullah Ibn Rawaha who said as he faced the enemy:

O my soul! I swear by what is dearest to me that you will come to battle
Like it or not, you will come
Everyone had gathered rattling their swords
How come you’re reticent about paradise?
Look! How close it has drawn
And how nigh is its sweet and fresh drink
O my soul! If you don’t prepare to kill, you will be killed
This is the furnace of death, it is already burning
Today, you will be given according to what you had wished
The time for action has come

7. Jihad is Justice, Mercy and Magnanimity

The rulings of jihad in the way of God and its objectives reflect justice, mercy and magnanimity and are in fact woven to these values in the most unique and marvellous way, in spite of the fact that wars and fighting are usually characterised by violence and are rarely

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free from aggression, transgression and tyranny. Indeed, these rulings of jihad spring from the words of the Most High, as He said: “Be just; that is nearer to righteousness” (5:8), and from the words of the Prophet (pbuh): “He who does not show mercy to mankind, God will show no mercy towards him”.56

Owing to this heightened sense of justice and Mercy in Islam, God-exalted is He-has said about jihad against the aggressors: “Fight in the way of God those who fight you but do not transgress. Indeed, God does not like transgressors” (2:190).

Also, owing to the place that justice and mercy occupy in Islam, jihad has been ordained for the defence of the weakest and those who have been oppressed. Thus God- may He be exalted has said:

“And what is [the matter] with you that you fight not in the cause of God and [for] the oppressed among men, women, and children who say, “Our Lord, take us out of this city of oppressive people and appoint for us from Yourself a protector and appoint for us from Yourself a helper?” (4:75)

And again, it is because of this sense of justice and mercy in Islam that jihad has been ordained to end persecution in the land. Thus God, the Most High has said: “And fight them on until there is no more tumult or oppression, and there prevail justice and faith in God. But if they cease, let there be no hostility except to those who practise oppression” (2:193)

So just has Islam been, it has always insisted on the need to invite the opponents to its fold before any steps may be taken towards confronting it militarily. And How merciful it has been: it has consistently forbidden targeting women, children, the monks, the farmers, the elderly and the terminally ill during fighting, and has strongly warned its followers against mutilating the bodies of the dead and of killings their fathers, even in battle.

Islam has also been so magnanimous; it has never coerced anyone to embrace it, leaving people free to maintain their faith and their beliefs if so they wished. Indeed, it has consistently chosen to pardon its foes rather than crush them, and forgive even when it has the upper hand. It is this justice, mercy and magnanimity which enticed one of the orientalists to concede that “only Muslims have been able to combine in their behaviour a total devotion to their religion and a rare spirit of tolerance towards the followers of other faiths at the same time, for even though they were always ready to put their bodies on the line for the sake of spreading their religion, they always left those who chose not to embrace it free to follow their own faiths and religious teachings.”

And since this is not the context of examining those detailed rulings of jihad which have translated those values of justice, mercy and magnanimity into reality, we will simply quote that most telling hadith of the Prophet (pbuh) in which he has said: “Conquer in the name of and for the sake of God, and fight against those who have disbelieved in God. But do not be

56 Related by Bukhari God be pleased, no: 7376 and Muslim (2319/66), on the authority of Jarir Ibn ‘Abdullah- may with him.
excessive, and do not be treacherous and do not taunt your enemies, and neither kill women nor the elderly”.57

The World between Two Models: The Jihad of Mercy and the War of Cruelty

Indeed, Islam has given birth to a jihad which boasts of mercy and justice, a jihad model which the Prophet (pbuh) has eventually translated into a lived reality, and which one generation of his followers after another, who have chosen to be guided by his light and his honourable Sunna, have inherited and abided by, while for the rest of the world, war was synonymous with tyranny and cruelty. Hence, the world in general knew two prevalent models: that of a merciful jihad and that of a merciless and unconscientious fighting. Perhaps, we should give examples about each model, to illustrate better the type of jihad that we are seeking to highlight.

Examples from the School of Merciful Jihad

As examples of this merciful school, we will focus on two great Muslim leaders who were formed in its system and followed the pattern of their great master and Messenger- may God’s blessings and peace be upon him.

Let us start with Saladin, to whom God granted victory over the Crusaders, and subjugated to him Jerusalem. How did he deal with its inhabitants, particularly the Crusaders among them?

To begin with, Saladin was not about to take revenge, though he was perfectly entitled to do that, and it did not cross his mind to taunt and humiliate them, though no one would have found that shocking, but instead, he chose to do something utterly unexpected:

- He decided to grant every member of their population of over one hundred thousand individual a pledge of security which protected them and their property
- He decided to allow anyone from among them to leave Jerusalem safely for a fee that was paid by those who had the means to do so and from which were exempted those who could not afford it
- He granted the Crusaders a period of forty days to leave the city of Jerusalem. As a result of this overture, eighty four thousands of them left and joined their relative and co-religionists in the city of Saur ‘Akka and Saida, under his guard protection
- As Sultan, Saladin, also took the decision to set free many of the poor Franciscans without any ransom being paid in return. As for his brother al-Malik al-‘Adil, he ransomed about two thousand men from among them. In one of the ironies of

57 Related by Tabarani in his Mu’jam al-Sagheer (1/142/332), and the root of this hadith is traced back to that related by Muslim in (1731/3)
history, it is reported that some of these poor Crusaders had approached one of their princes in their Antioch to come to their rescue, but he refused, so they roamed in the desert before being taken in by the Muslim populations of the region. Those who went on to Tripoli who was then at the hand of the Crusaders of the Latin Empire, were not only refused sanctuary; they were also robbed of all the goods that Muslims gave them for their journey.

- Then there was his most compassionate stance vis-à-vis the women of the Crusaders: in his meeting with them, they all beseeched him saying: “each one of us is either the wife, the mother or the daughter of the knights and soldiers who have either been imprisoned or killed during the war, and we have no one to look after us.” As they cried, Saladin was so moved by their plea, he ordered for the immediate release of their husbands. As for the windows, he provided them along with all the other women with large sums of money and allowed them to leave the country, and so they hailed his name and sang his eulogies wherever they went.

Why wouldn’t they? Is there a more merciful treatment than this? Is there a more dignifying act to the human race than this?

Let us now look at another representative of this merciful school of jihad, namely at the Ottoman Sultan, Muhammad al-Fatih whom God had aided in subduing the city of Constantinople in 1453. He entered Aya Sophia in which the men of the Church had taken refuge, and made a promise that he would protect them. Then he assured the Christians among the population who were stricken with fear at the advent of the Muslim armies that they were able to go back to their houses. He also asked for all the belongings of the priests which were plundered on the days of the conquest to be returned to the churches and the monasteries, and he gave the Christians the freedom to follow their faith, their laws, and their traditions which pertained to their personal statute laws, and all that related to their religious freedoms. Worth mentioning also is his gathering the head of the Churches to choose a Patriarch. Georgios Scolarios was named patriarch of Constantinople at the end of that process, and the Sultan Fatih had celebrated his election with the same pomp that usually marked those celebrations during Byzantine rule. He gave him full authority over his community in matters pertaining to civil and criminal law, appointing for that task a committee comprising of the most senior staff of the Church, a privilege which he extended to the archbishops and priests of the various provinces of the Ottoman states.

Nothing in the compassionate conduct of Saladin or Mehmet the Conqueror should come to us as a surprise: their hearts and their conscience had been engraved with the words of the Prophet (pbuh), ‘You are free’, which he proclaimed to the people of Mecca upon his return, when were completely in his mercy, and in spite of the fact that they had previously wronged him, chased him out of his native city and fought him constantly.

Indeed, these men had drunk from the guidance of the noble Prophet who had always warned against the killing of women, children, the elderly, the monks, the croppers and the terminally-ill, and had commanded that covenant be respected and that contracts of
Examples from the School of the Tyrannical Wars

If we first take the example of the Jews, we will be awash with instances of hardheartedness and brutality which characterises their feelings and attitude towards others. Jews really believe they are God’s chosen people, and their religious teachings proclaim, “Not a living being that breaths we shall leave alive” (Deuteronomy: 120-121), and also “Now, slain all the boys from among the young” (Numbers). With these sorts of religious teachings, it is not at all astonishing to find Rabbis like Shimon Weiser enticing their followers for brutality and using the cruellest language. Asked by one Israeli soldier, in a correspondence, if it was permissible to kill unarmed Arab men, women and children, and if Arabs should be treated like the Amalekites, meaning that one is permitted to murder them until their remembrance is blotted out from under heaven. Or perhaps one should do as in a just war in which one kills only the soldiers, the Rabbi’s answer came as follows:

“This matter will take some time, for I will need to copy out some of the sayings of our sages and then interpret them. The non-Jewish nations have a custom according to which war has its own rules, like those of a game, like the rules of football or basketball. According to our sages, war for us is not a game but a vital necessity and only by this standard must we decide how to wage it. That is why I say, in compliance with a golden rule concerning the purity of weapons: ‘the best of Gentiles - kill him; the best of snakes - dash out its brains’.

"After the soldier had read the reply of the Rabbi, he wrote to him again:

“I have received your letter and I have understood it as follows: In wartime I am not merely permitted, but enjoined to kill every Arab man and woman whom I chance upon, if there is reason to fear that they help in the war against us, directly or indirectly. And as far as I am concerned I have to kill them even if that might result in an involvement with the military law. I think that this matter of the purity of weapons should be transmitted to educational institutions, at least the religious ones… I do hope that you shall be active in this, so that our boys will know the line of their ancestors clearly and unambiguously.”

It is in fact very possible that it is this Halaka rule regarding the ‘purity of weapons’, which drove the Israeli army to bury thousands of Egyptian soldiers alive in the desert of Sinai, during the 1967 War, and it would not be too farfetched to imagine those teachings were on the mind and in the heart of every Zionist who partook in the massacres of the Palestinians in places like Diyar Yacine, in 1948, Sabra and Shatila, on September 14th, 1982, not to mention the daily massacres against Palestinian men, women, the elderly and children as a
result of the ongoing Intifada. The Zionist poet Chernovsky captures the impact of this religious doctrine well. He says:

\[\text{Hand me my sword, so I can overcome my enemies}
\text{I will cut them like the cropper and I will uproot all of their roots}
\text{I will brandish my right and powerful hand, I will slaughter my enemies}
\text{I will let my sword quench its thirst in dignity from their blood}
\text{As I step amongst the dead, my feet will be drenched in blood}
\text{And I will trample on their hair and on their head}
\text{I will harvest them all, left right and centre}^{58}\]

If we now proceed to examine another school of the school of Tyrannical wars, we will find that they too are an example of peerless brutality and cruelty. Let us take for instance the Crusader Wars, which may be considered as one of the best illustrations of this school, and focus on some of its facets, in order to have an idea on how violent these wars were and how hardhearted were the Crusaders.

Indeed, as the Crusaders’ armies had set out for Jerusalem, during the Medieval Period, they stopped at the outskirts of Ma’araat al-Nu’man in Syria and laid a siege so firm on the town, its inhabitants were compelled to surrender, particularly after its notables received assurances that the lives, properties and dignity of the population were going to be protected. But as soon as the Crusaders entered the town, they had committed therein crimes of unparalleled proportions, so much that some of the Franciscan chroniclers who accompanied these campaigns estimated the number of men, women and children killed in those massacres to reach one hundred thousand approximately.

The Crusaders then proceeded to Jerusalem where they laid another harsh siege on the city and its inhabitants. As the population of Jerusalem felt unable to withstand the siege and felt they were bound to fail in their ordeal, they sought assurances for their own safety and that of their property from the leader of the Crusader campaign at the time. The latter had handed them a flag and asked them to mount it on top of the Aqsa Mosque to where they could retreat in all safety. However, no sooner had the Crusaders entered the sacred city, they began to systematically kill and massacre the men, women and children, including the religious scholars, the devout and the ascetics who had taken refuge in the mosque. So brutal was that event, their knights were up to their knees in blood, and the streets were littered with skulls, dismembered legs and arms, and bodies that were utterly disfigured. Historians estimate that only inside the mosque, the number of people slaughtered during

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that massacre had reached seventy thousand; a record that Franciscan historians do not dispute and are in fact often proud of.

We can also cite in this context, the huge trials Muslims went through in Seville, in 1002, when the Church had declared that all Muslims, being the enemies of God, must leave the city if they did not accept to be baptised and threatened to kill them if they left the city in the direction of a Muslim country.

Muslims will also never forget the brutal treatment they suffered in Russia at the hands of Ivan the Terrible, who launched a total war of extermination against them: they had to either fight on to the last men or leave their countries behind. Things were not much different for Muslims during the era of Communist Russia. From the reign of Stalin and his grip on the Islamic republics, the invasion of Afghanistan in 1979 and the ongoing slaughter of the Chechens these days, we witness the same level of brutality and the most indecent and immoral repressive practices humanity has ever known.

If we turn our attention to the region of Kosovo whose population is mainly Muslim Albanian, it was subjected to the most aggressive ethnic cleaning led by Serbia, as attested by various testimonials:

- Sandy Blyth, the spokesman for the Organisation for Security and Co-operation declared that its mission in Europe had gathered 1400 testimonials proving the existence of human rights abuses, ranging from the killing of civilians, torture and rape, to the forced eviction of the population, demolition of their property and plunder.

- Javier Solana, the NATO secretary general has revealed that there were some disturbing evidences showing that the Serbian forces had engaged in ethnic cleansing, which means that they were killing the Albanian Muslim inhabitants regularly and systematically.

- The British Foreign Minister, Robin Cook, stated that: “The Serbian forces were in the habit of using Albanian Muslims as human shields when they were attacked by NATO aircraft.

- The US Secretary of Defence, William Cohen, had declared in an interview to the American network CBS that about a hundred thousand Albanian Muslim of fighting age, in Kosovo, are among the disappeared, and that they are in all likelihood been killed by the Serbian forces.

- Again, Sandy Blyth, the spokesman for the Organisation for Security and Co-operation in Europe, affirmed that there are presently 841 children looking for their families, while 6382 couples are still looking for their children.
Where’s America in all of that?

Listening to American politicians these days, one quickly notices how ubiquitously they make mention of the just or clean war, and of their sacred mission in the world, which consist in spreading the values of freedom and democracy, through the use of all the available means, including smart weapon technology.

Many a critic and observer were mesmerised by these beautiful words but they were soon awakened to reality by the thundering sounds of the bombs, and the smart Tomahawk and Cruise missiles as they fell incessantly on the heads of innocent civilians in Afghanistan and Iraq, with more to come.

Indeed, a keen observer of American politics today, and of its major trends, particularly the one which reflects the current power in Washington nowadays, will easily discover that any talk of a just or clean war is just a myth, and that America is in reality engaged in a dirty and oppressive war. He will also quickly realise that we are not dealing with smart weapons but with unintelligent and utterly destructive weapons, and that the mission of American is not spreading the values of liberty and freedom but about consolidating American hegemony indefinitely.

Thus, American wars today are pre-emptive and preventive by nature; they are waged in order to protect American interests, even though these interests may be beyond its borders and they are also waged in order that American values are thrust upon the whole world willy-nilly. In his address to the State of the Union, the American president said: “America will lead by defending liberty and justice because they are right and true and unchanging for all people everywhere”.59 Yet, there are among American politicians and academics those who work hard at spreading the notion of a ‘just war’, arguing that America fully abides by its guidelines and principle.

In a statement addressed to the American nation and the international community, which appeared under ‘What We’re Fighting For: A Letter from America’, and which was prepared by sixty leading American academicians, among whom where Francis Fukuyama, the author of ‘The End of History’, and Samuel Huntington, the author of ‘The Clash of Civilisation’, we read that a ‘just war’ must abide by two guidelines:

1. A just war can only be fought by a legitimate authority, which is charged with the responsibility for public order.

2. A just war can only be waged against persons who are combatants; non-combatants are immune from deliberate attack… Although in some circumstances, and within strict limits, it can be morally justifiable to undertake military actions that may result in the unintended but foreseeable death or injury of some non-combatants, it is not morally acceptable to make the killing of non-combatants the operational objective of a military action.60

But how do these guidelines apply to Iraq? Does the War on Iraq enjoy such legitimate authority that it can qualify as a ‘just war’? How can it be said that the War on Iraq enjoys any legitimate authority, when there is clear international public outcry against it, and it is not backed by the United Nation’s Security Council?

And what about the commitment not to harm non-combatants during armed conflict? How can there be talk of a ‘just war’ when bombs weighing ten tons each are launched from American B 52’s on the defenceless civilians residing in the various districts of Baghdad?

This type of behaviour is in fact expected: this is after all the same American state that was up to its knees in Vietnam, and this is the same American state that bombarded Hiroshima and Nagasaki with nuclear bombs during the Second World War, which ended in 1945 after causing the death of fifty five million persons, thirty million of which were civilians, thus exceeding the number of casualties registered during the First World War, which had reached 38 million, including the injured and the missing. 61

The above is a brief illustration of the school of the shameful and tyrannical war. We gave examples of it in the hope that it would bring to relief the glaring difference between the Islamic and compassionate conception of jihad and fighting and those followed by other nations, for as the saying goes: “things are revealed by their opposites”.

Conclusion

After this exposition, we are now finally able to see where the forgotten truth of jihad lies: it is one which is multidimensional and at the same time complementary to the extent that it cannot be abstracted from any of its dimensions.

Indeed, the ‘forgotten truth’ of jihad is one which provides us with a comprehensive view of jihad; it encompasses the political, economic, social, missional and of course the military levels. When we become fully cognisant of its reality, we rediscover that jihad is no more than a means that Islam has nurtured in order for religion to attain its loftiest objectives. Also, as we ponder on this ‘forgotten truth’ of jihad, we learn that jihad and its aims are intimately linked with the much sought after interests of the nation, and with its capabilities, and that it never departs from the Sharia rulings which ultimately regulate it, nor from the universal objectives of Islam which effectively serve as a guidance for it.

Finally, this ‘forgotten truth’ is promotive of a spirit of jihad that combines justice, mercy, and magnanimity; a spirit that ought to imbue the mind of every devout prior to his undertaking the path of self-sacrifice and encountering the enemy.

This has been the ‘forgotten truth’ of jihad, which we hope has now been reinstated manifestly and without blemish.

II. Jihad as One of the Fundamental Duties of Islam

No Muslim has any doubt whatsoever that jihad constitutes one of the most virtuous actions in the sight of God and is therefore considered as one of the best means of drawing closer to our Lord. Did not God Himself say: “The believers are only the ones who have believed in God and His Messenger and then doubt not but do jihad with their properties and their lives in the cause of God: It is those who are the truthful” (49:15). Indeed, how can anyone question the high virtues of jihad in the way of God, when the Prophet (pbuh) himself had so eloquently praised it? A man had once asked him (pbuh): “[O Prophet!] Can you recommend to me an action, which would be equal to jihad in virtue?” He (pbuh) said: “I cannot”, and then added: “Unless, instead of going to fight like the mujahid, you are able to enter your mosque and pray constantly without resting your feet and your able to fast without ever breaking your fast”. The man then said: “I do not know that anyone can actually do that.” Indeed, as is made clear from the above, no Muslim entertains any doubt that jihad constitutes one of the most virtuous actions. And when we say “one of the most virtuous” we do not say it lightly but with the strongest of intent, because we are resolute in making it clear that jihad is but one of the many religious duties of Islam, and that it is a great act of piety, but alongside other acts of piety that Muslims have been ordered to perform. And this resolve we have because we are keen in dismissing all thoughts that jihad is tantamount to Islam or vice versa, as some would have us believe.

An interjector might at this point assert that those who hold such views on jihad and Islam do not necessarily ignore the other religious duties and that they may very well eagerly uphold them and perform them.

I say in response to that interjection that this is valid only theoretically. Yes, it is true that they may very well uphold the other religious duties and are keen to perform them, but in reality and at the level of practice Islam to them amounts only to jihad. This vision of theirs is reflected in their actions, objectives and in the way they set their priorities, even to the extent that many religious groups are founded on the basis of that understanding of religion. Thus, their program is jihadist and their approach to knowledge is heavily influenced by jihadi concerns, resulting in the militarisation of the culture of the individual within that group and of the group itself. And the more people are educated and reared in that culture the more likely they are to be heedless of the other duties of Islam, or to take them casually at best.

When it comes to knowledge of the Sharia, for instance, what they deem absolutely necessary for them to cognisant of in that vast domain is confined to knowledge of the rulings regulating fighting, as if anything else was of no use. As such you find among members of these groups those who will talk at length about rulings related to booty and how it ought to be divided, but are totally oblivious to those rulings which govern the obligatory acts of worship or the appropriate social transactions. Moreover, da‘wah to them

62 Related by Bukhari, no: 2785, and Nisai, no: 3128, on the authority of Abu Hurayra- may God be pleased with him
does not mean calling people to the religion of God with all the various rites that Islam entails; it is limited to the call for jihad and enticing others to join the mujahedeen and their training camps. Hence, admonishing those who have erred from the path, those who abandoned their prayers and those who cut their family ties do not figure among their priorities when they call on people to religion, and they never will. Rather, if anyone among them dares pay attention to those things, it is very likely that he would be reprimanded, be the subject of disdain and disparagement or even be accused of cowardice, insensitivity and apathy. Given that da’wah among them is restricted to these notions of religion, it would not be surprising that their activity hardly extends to the type of social action which contributes to solving the problems that people encounter in their everyday life and assisting them in surmounting the various and daily challenges, arising from the lack of health and educational services and so forth. Why should they put in the effort in providing services like these to their community when they consider that such activity is but a waste of time and energy and those engaged in making such services available as imbeciles?

**What are the details of this argument?**

Those who reduce Islam to jihad hide behind several arguments as well as a peculiar view of reality to make their case.

Among the most widespread legal proofs which they rely on in the hope that it would bolster their position is the verse “Have you made the providing of water for the pilgrim and the maintenance of al-Masjid al-Haram equal to [the deeds of] one who believes in God and the Last Day and performs jihad in the cause of God? They are not equal in the sight of God. And God does not guide the wrongdoing people. The ones, who have believed, emigrated and performed jihad in the cause of God with their wealth and their lives are greater in rank in the sight of God. And it is those who are the attainders of success” (9:19-20), as well as the hadith of the Prophet (pbuh) who when asked which action was most virtuous, he replied: “To have faith in God and His Messenger”. And when asked: “what comes next? He replied: “jihad in the way of God”, before adding: “A Pilgrimage accepted by the grace of God”. 63

It is quite common for them also to adduce the hadith in which the Prophet (pbuh) has said: “When you begin to engage in ‘aynah transactions [in order to circumvent the prohibition on riba] and you start to take hold of the tails of oxen and are content with tilling the fields instead of taking up jihad, then God will send upon you humiliation that will not be dispelled until you return to your religion” 64

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63 Related by Bukhari, no: 26, Muslim (83/135), on the authority of Abu Hurayra- may God be pleased with him

64 Related by Abu Dawud, no: 3462, on the authority of ‘Umar- may God be pleased with him, and was deemed sound by al-Albani. It was also related by Ahmad whose transmission was deemed sound too by Sheikh Shakir
In discussing the arguments on which these jihadi groups rest their case we are going to limit ourselves to the above textual proofs, for in spite of the fact that other evidences may be relied on by those who adopt this religious viewpoint, they tend to be not much different in essence. We intend to critique these textual proofs from a variety of angles:

1. These textual proofs do not go beyond affirming that jihad constitute one of the most virtuous acts of devotion and means by which a Muslim can draw nearer to God. As for the verse mentioned earlier, it makes it clear that jihad is better in the sight of God than providing of water for the pilgrim and the maintenance of al-Masjid al-Haram, whereas the first hadith confirms that jihad is one of the most praised acts of devotion after belief in God, but neither proofs negate the fact that there are others acts of devotion, which are also virtuous and as binding by law, like the performance of hajj and showing obedience to one’s parents, among others. The second hadith also does not confine the reasons for the humiliation and oppression of the believers to the abandonment of jihad, but equally to accepting to engage in ‘aynah transactions. Hence, there would be no ground for annulling acts of piety and devotion which are binding in the Sharia, or for not taking concrete steps in promoting them in our religious life under the pretext that jihad constitute a more virtuous act.

2. The ulema have consistently placed jihad in a position immediately after the position of the obligatory religious duties in their order of priority and not before. Thus Ibn Qudama al-Maqdisi would say, for instance: “After the obligatory religious duties, I know of no acts of devotion that is more virtuous than jihad.” The ulema have reached that conclusion by relying on the hadith in which Ibn Mas’ud asked the Prophet (pbuh): “O Messenger of God! Which is the most virtuous act of devotion in the sight of God?” He said: “To perform the prayers on time”. I said: “What is next?” He said: “Showing obedience to one’s parents”. I said: “And then what?” He said: “Jihad in the way of God, and then I refrained from asking the Messenger of God- peace and blessings be upon him- further, feeling that if I had done so, he would have kept on answering me” (Related by Bukhari, no: 2782).

Indeed, Ibn ‘Abidin al-Hanafi has stated: “No one should be under any illusion that applying oneself diligently to the performance of prayers on time is better in the sight of God than the performance of jihad because the ritual of prayers is a confirmed individual duty in the Sharia, whereas jihad has been decreed only for the sake of establishing faith and the prayers, and so it follows that jihad is virtuous by virtue of the objectives it serves to achieve, while the performance of prayers is deemed virtuous in itself, and constitutes one of its objectives. The proof for that was equally provided by al-Sarakhsi in his commentary on the Sayr al-Kabir, in which he, on the authority of Abu Qatada, stated that ‘the Prophet (pbuh) had on one occasion pronounced a sermon during which he praised God and thanked Him and then spoke so highly of jihad that no action appeared to be more virtuous, except for
the requisites of Islam. 65. By requisites of Islam, Ibn Qatada was making reference to the religious obligations considered individual duties in Islam, such as the five pillars, in that the obligatory status of these duties is higher than those considered collective duties, and their reward is more important because of that. And this precisely why he said, ‘except the requisites of Islam.’ 66

3. To reduce Islam to jihad is tantamount to ignoring many prophetic alternatives which were backed by revelation, like the peace treaty of Hudaybiyya which the Prophet (p.b.u.h.) had concluded with Quraysh, and also the Qur'an in which it was revealed in this regard: And if they incline to peace, then incline to it [also] and rely upon God. Indeed, it is He who is the Hearing, the Knowing” (8:61). It is worth noting that in commenting on this verse, Ibn Kathir wrote: “Thus if the forces of the enemy are of a considerable size, it is permissible to conclude a truce with them, as has been indicated by this noble verse, and as the Prophet (p.b.u.h.) had done on the day of Hudaybiyya. I really cannot see anything that suggests that this interpretation is in any way in contradiction with the objectives of religion nor do I see how this verse is abrogated or understood to be specific in its import, and God knows best.” 67

Furthermore, the Prophet (p.b.u.h.) has spoken most eloquently about the position of jihad in relation to the other pillars of Islam. He said: “The entire structure is Islam, prayers are its pillars and jihad is its pinnacle”. From this it is clear that just as a building structure has foundations, pillars and a rooftop- and there are no standing rooftops without proper foundations and pillars- so does the concept of Islamic education in Islam rests on inculcating the requisites of Islam and establishing their truths firmly in the souls; for without such preliminary travail that structure of Islam will not stand upright, and reaching its pinnacle will prove to be unachievable.

Why do you want to undermine the position of jihad? Aren’t you aware of the harsh reality surrounding Muslims nowadays? Do you not see that the law of Islam is being pushed aside, that Muslim identity is on the verge of being obliterated, and that those who call people to Islam are being subjected to all sorts of repressive measures and all forms of torture? How can you, in light of all these conditions, ignore that jihad is the only means we can have recourse to in order to get the nation out of this catastrophic situation?

These are in gist some of the questions and reservations that some readers might have about our argument so far. Thus, at this conjunction, I wish to make it clear that my aim is not undermine jihad or belittle the position it occupies in the hearts of the believers. God forbid!

65 Aisha- May God be pleased with her- said: “I asked the Messenger of God, ‘Do let us join your conquests and jihad’. He replied, ‘But the best and most beautiful jihad is striving to perform an accepted hajj’. Aisha then said, ‘ever since I heard that from the Prophet- peace and blessings of God be upon him- I have never failed to perform it.” Related by Bukhari, no: 1861, and Ahmad in his Musnad (679), on the authority of Aisha- may God be pleased with her.


No Muslim is worth his salt who is not ready to elevate jihad to the rank it deserves. Rather, our aim has been all along to put jihad in the position God has intended for it. All we said is that jihad, which is one the most virtuous acts of devotion, can either be an obligatory duty or prohibited, depending on whether the causes and conditions for its implementation have been fulfilled and the legal impediments preventing its implementation have been surmounted. Otherwise, we have consistently maintained that it is an obligatory duty, among other duties, and a pious act among others that draw the believer nigh unto God. Equally, we have maintained that in some circumstances the virtues of jihad may very well surpass the virtues of other pious acts, but that the contrary was also true. And we have also affirmed that jihad in certain contexts, and whenever the legal conditions have been fulfilled, may indeed be a source of a great good, but that in other contexts, it may very well turn into a source of great misery, particularly if those who decide to engage in it then do not have the aptitude to act in accordance with the rulings which regulates it.

The Position of Jihad in the Scale of Islamic Virtues

In order for us to determine once and for all how our various acts of worship and piety rate in the excellence scale, so that a Muslim is then in a position to know which of these is higher in priority and which of them becomes binding for him, we have chosen to turn to the great Imam, Ibn al-Qayyim, who has devoted a formidable chapter of unparalleled benefit to this issue, in his book Madarij al-Salikin. In this chapter, the author has sought to find the right scale by which one is enabled to establish which of the devotional and pious acts of Islam is loftier than the other and thus guide the believer to the actions that he ought to implement before any other. Hence, after reviewing the various approaches that people had put forth on this issue, Ibn al-Qayyim concluded that: “the most excellent of virtues is to seek God’s pleasure at all times and in all circumstances, and to be devoted to the imperatives arising out of those times and circumstances, willing to implement them and acting in accordance with their requirements”. To understand how Ibn al-Qayyim arrived at this ‘scale of excellence’, and explore further the depth of his thoughts on this subject, we may seek the assistance of ‘Abd al-Mun ‘im Saleh, the commentator on the Madarij al-Salikin. He says:

“As for the people who are at the station of ‘It is You we worship’ (1:5), they see four ways in which worship is most excellent, most beneficial and worthiest of preference, and hence they are of four categories:

The First Category

According to this category, the most beneficial and excellent acts of worship are those which are the toughest and most arduous, in that these are most vexing to the evil-
commanding soul and that there lies the reality of worship according to them. Thus they further argue that divine reward is according to the degree of hardship experienced during the performance of the acts of worship, and they have adduced in this regard the baseless hadith: “The best actions in the sight of God are the most strenuous”\(^{70}\) to buttress their position. This view belongs to those who have committed their lives to striving against the whims and desires of their souls and the people of self-mortification, who maintain that only by subjecting the soul to a harsh and arduous discipline can the believer rid his self of laziness, vileness, and love of this world.

**The Second Category:**

According to this category, the most excellent acts of worship consist in withdrawing from this world as much as possible, and barely giving it importance or having any attachment to it. The people belonging to this kind are actually divided into two groups. The common folk among them took this admonition at face value and applied themselves to it assiduously. They have thus called people to renounce the world, professing that this form of worship was better than the pursuit of knowledge and devotional practice. Indeed, to them the ascetic practice was the epitome of worship and the objective behind all sorts of devotional and pious acts. As for the second group, which represent their elite, they saw that withdrawal from the world was a religious practice which was peculiar to them, and not one that anyone could engage to. Hence, they understood withdrawal from the world to mean the heart’s total immersion in the recollection of God, to the extent that nothing but God, His love, repentance to him, reliance on Him and the mention of Him occupies the heart of the believer and his tongue, and all that which distract the heart from that focus is shunned.

**The Third Category**

This category is of the view that the most virtuous acts of worship and piety are those actions that are altruistic and are of benefit to others rather than those whose benefit is limited to their doers. Thus, they have maintained that giving assistance to the needy and devoting oneself to resolving the difficulties of others is the best form of worship, and it is to these sorts of action that they have dedicated their lives. They have found a basis for their position in the hadith in which the Prophet (pbuh) has said: “All human beings are dependent on God and the best among them are those who are most helpful to their dependents”\(^{71}\). And it is because people of this group see that the virtues of the altruistic act far exceed the virtues of acts whose benefits are limited to their doer, they have often said that “the preference of the scholar over the worshipper is as glaring as the excellence of the

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\(^{70}\) This hadith was mentioned in Kashf al-Khafa’ authored by al-‘Ajalouni (no: 459) with a slightly different wording. According to al-Zarkashi, it is unknown, and al-Maziyy deemed as part of the gharib, which was not mentioned in the six collections of hadith. As for al-Qari, he affirmed that its meaning was sound based on the hadith related by Aisha in the Sahih of Bukhari and Muslim, which says: “The amount of strain determines the level of reward”. Also in the Nihaya of Ibn Kathir, it is reported that: “the Prophet (pbuh) was asked, ‘which act of devotion is most virtuous?’ and he said, ‘the most arduous’

\(^{71}\) (Related by Abu Ya’la in his Musnad (6/66/2315) on the authority of Anas Ibn Malik- may God be pleased with him
moon over the other planets”, and they have also often cited the hadith in which the Prophet (pbuh) has said to Ali- may God be pleased with him: “By God, for one man to be guided by you is better for you than having red camels.” They have also argued for the preference of these actions adducing the hadith in which the Prophet (pbuh) has said: “If anyone summons other to follow right guidance, his reward will be equivalent to that of the people who follow him, without their rewards being diminished in any respect on that account.”

Also among their arguments is their saying that the believer who is devoted to ritual worship will see the reward of his actions come to an end with his death, whereas those whose lives have been dedicated to benefitting others will find that their rewards will continue to accrue so long as people continue to benefit from their good deeds.

In the same vein, they have maintained that God had sent the Prophets out of His grace, with the sole purpose of guiding people to the straight path, and of benefitting them in this world and the next; they were not sent to withdraw from the tumults of the world and from their communities. To them, this withdrawal is precisely the type of ascetic renunciation that the Prophet (pbuh) deplored, when he blamed that group of people who have shunned the world in order to flee their society and devote themselves entirely to worship.

The Fourth Category

According to this category, the most virtuous of all acts of devotion and piety and the most excellent form of worship consist in seeking God’s pleasure in all circumstances, in accordance with the exigencies and conditions required in each of these circumstances. Thus, following this logic, they have maintained that the most excellent form of worship when it is time for jihad consists in fighting for the sake of God, even if this action were to leads us to relinquishing the supererogatory prayers during the night and the supererogatory fasting during the day; nay even if it were to leads us to discontinue a canonical prayer, as happens during fighting when safety is not assured. Following this line of argument, they also have argued, for instance, that the best act of devotion when a guest is around consists in being devoted to his comfort, and in being hospitable, rather than being occupied with the meritorious, albeit non-obligatory, recitation of the daily litanies, and this they maintained is

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72 Related by Muslim (16/2684), and Abu Dawud, no: 4609, on the authority of Abu Hurayra- may God be pleased with him
73 This statement refers to the hadith related by Muslim, on the authority of Abu Hurayra- may God be pleased with him- who narrated that the Prophet (pbuh) has said: “When a man dies, all of his good actions will cease to accrue rewards, except three: an ongoing charity, a beneficial knowledge, and a pious offspring who continues to pray for him after his death.”
74 This statement is in reference to the hadith related by Bukhari, no: 5063, and Muslim (1401/5), on the authority of Anas Ibn Malik- may God be pleased with him- who narrated that: “A group of three men came to the houses of the wives of the Prophet, may God bless him and grant him peace, to ask about how the Prophet worshipped. When they were told, it was as if they thought it was little and said, ‘But where are we in relation to the Messenger of God -may God bless him and grant him peace- who has been forgiven his past and future wrong actions?’” He said, “One of them said, ‘I will pray all of every night.’ Another said, ‘I will fast all the time and not break the fast.’ The other said, ‘I will withdraw from women and never marry.’ The Messenger of God -may God bless him and grant him peace- came to them and said, ‘Are you the ones who said such-and-such? By God, I am the one among you with the most fear and awareness of God, but I fast and break the fast, I pray and I sleep, and I marry women. Whoever disdains my Sunna is not from me.’
just as true in the case of the wife and the children who also have a right on us and require our attention. Indeed, according to this category, the most virtuous act of worship may vary all the time, depending on the circumstances. Hence, if during the early dawn, the worthiest form of worship consists in immersing oneself in prayers, Qur’an recitation, and God’s recollection and praying for forgiveness, at the time of teaching, it consists in devoting oneself to imparting knowledge both to the seeker and the ignorant. And if at the time when the muezzin calls for prayers the worthiest of worship is to refrain from reciting one’s litanies in order to answer the call for prayers, during the five canonical prayers, it consists in performing these in the most perfect manner, at their prescribed times, and in a mosque, however far it might be. Equally, just as the worthiest and most virtuous worship when attending to the poor consists in meeting their financial needs, supporting them and feeding them, instead of being engrossed with one’s spiritual self-progression, when it is time to read the Qur’an, it is about being focussed on its words, meditating on its meaning and in being absorbed in its recitation to the extent that one feels he is being addressed by the Lord Himself; for it is only in this way that one’s heart becomes open to its effulgence, and one becomes ever so eager to implement its commands. In the same vein, they see that the worthiest form of worship during the Day of ‘Arafah is to consecrate one’s effort in supplications, prayers and the invocation of God, and not in fasting which tends to weaken the body on such a physically demanding day, whereas on the 10th of the Dhul al-Hijjah, they favour total immersion in worship, particularly that which celebrates God’s greatness, unity and those in which the believer invokes the bounties of His Lord, for on that day this form of ritual is considered better than jihad when it is not part of one’s individual duties. During the last ten days of the month of Ramadan, they have also affirmed that the most virtuous worship is to isolate oneself in the mosque, and withdraw from society, so much so that many scholars of that category have considered it better than being occupied with the education of people and instructing them in Qur’anic recitation. However, whenever one’s Muslim brother is sick or has just passed away, the most virtuous thing to do, in their eyes, consist in paying visit to him and sitting by his bedside, or as the case might be, attending to his funeral prayer and joining the funeral procession.75

Similarly, when trials descend upon one of us and one begins to experience difficulties with one’s social environment, what is deemed most virtuous then is to be patient with people and to continue being in their company, rather than excluding oneself from them: the believer who is able to tolerate the hurt of his fellow Muslims is better than the one who isolate himself from them to avoid their harm. Obviously, mixing with people in order to take part in a good action is better than not joining in, and keeping away from their company when they indulge in evil actions is better than having any relationship with them; however, if one is able to establish that his decision to mix up with people would in all likelihood dissuade them from committing evil or at least make a dent in their evil activity,

75 This is in reference to the hadith related by Bukhari no. 1240 and Muslim (4/6162), on the authority of Abu Hurayra- may God be pleased with him- who said: “I heard the Messenger, may God bless him and grant him peace, say, ‘The rights a Muslim has over another Muslim are five: returning the greeting, visiting the sick, joining funeral processions, accepting invitations and blessing those who sneeze”
then the most virtuous thing to do would consist in being with people rather than the opposite.\textsuperscript{76}

It is indeed after this manner that they came to the conclusion that the most meritorious acts of worship at all times and in all circumstances consists of seeking God’s pleasure in accordance with the exigencies and imperatives required by each of the various situations in which a person happens to be.

And these are surely considered, in our eyes, the people of the most comprehensive and unconditional worship, while the worship of the people of the other categories to God is restricted and conditional. That is because the moment the people of the latter categories are no longer engaging in the form of worship they have deemed essential for their devotion, they feel as if they had abandoned their religious commitment or they have at least a feeling that they are not being as devout as they ought to be. And that is what happens to those who worship God by following only one form of devotion.

As for those who are committed to unconditional worship, they do not have a particular preference for one form of worship over the other; rather they move swiftly between various acts of devotion, choosing always the one that is most appropriate and most virtuous depending on the circumstances. Thus, just as you are likely to see one of them among the scholars, you are also likely to see him among the ones given to ritual worship, jihad, zikr, or charitable works. For a believer committed to unconditional worship is not enamoured with the forms and not restricted by any shackles, nor does he pick and choose from among the various acts of worship commanded in the Sharia in order to practice only those that appeal to his taste and where he find comfort. On the contrary, what he seeks is the pleasure of His Lord even if that entails relinquishing the feeling of pleasurable ease and contentment which he may find in other forms of worship.

These people have indeed realised in their souls the meaning of the verse: “\textit{It is You we worship, and it is from You that we seek help}”: they wear what is readily available, and they eat from whatever their Lord has provided with. All of their focus is directed towards the commands of God in each and every situation; they are not under the spell of any subtle allusion, nor are they restricted by any tie or overwhelmed by any form. They are absolutely free to roam wherever the commands of their Lord take them, just like nomads follow the rain; for rain is good wherever it falls, and date trees are all good, including their thorns. You see them taking a firm stand against those who contravene the law of God, and being really upset when the prohibitions of God are violated; they are truly men of God, who constantly act by Him and are always aware of Him.

These persons have certainly sought to gain proximity, but only with God, not with His creation, and when they associate with people, they do so, but without their ego. Indeed,

\textsuperscript{76} This is in reference to the hadith related by Tarmidhi no. 2508, on the authority of one of the major companions, and by Ibn Majah no. 4032, on the authority of Ibn ‘Umar- may God be pleased with him- who narrated that the Prophet (pbuh) had said: “The believer that mixes with people and patiently deals with the hurt they cause him is better than the believer who does not mix with people and does endure their harm”. This hadith, according to al-Albani is sound.
when they are with God, they desert the people and renounce them for His sake, but when they are with His creation they renounce their selfishness and abandon it in honour of Him. How unusual these people are in the midst of the crowd and how estranged they must feel in the middle of others. But how great also is their solace in knowing that God is always close by and how cheerful, peaceful and serene they must feel as a result of this intimacy! God is our Helper and on Him alone we rely”.

Your absolutely right, O our great Imam! Indeed, Islam has not ordained the most exacting forms of worship and acts of devotion for their sheer arduousness, and it did not command withdrawal from the world and its abandonment, nor did it prescribe solely those actions that are of benefit to mankind to the exclusion of other actions and good acts. Rather what Islam has prescribed and ordained consists in tracing where God’s pleasure lies in each and every situations we may find ourselves in, bearing in mind that from one situation to the next, things might change drastically and so do our obligations. Thus, what is most worthy of God’s pleasure may be either arduous or easy, possibly requiring that we remain secluded from people, but not necessarily, as we may very well need to mix with them and taking part in their action to fulfil it. Equally that which is most worthy of God’s pleasure may be an action whose benefits extend to others, but it also may not be.

We really need to understand that each of the religious obligations in Islam and its various acts of devotion and piety have a time which is most suitable for its implementation, and one which makes it surpass the others in merits and rewards. And this applies to all of them, whether it is performing zikr, Qur’an recitation, giving religious counsel, imparting religious knowledge, doing jihad against the disbelievers or paying visit to the sick.

This subtle explanation of the issue that Ibn al-Qayyim has put before us here, represent the perfect response to God’s command- May He be exalted- when He has said: “O you who have believed, enter into Islam completely and do not follow the footsteps of Satan. Indeed, he is to you a clear enemy” (2:208)

May God also have mercy on Ibn Kathir who said: “God- exalted is He- has commanded the believers, who have faith in Him and have accepted the Prophet (pbuh) as His Messenger, to hold on to all the aspects of the law of Islam, and to implement all of the divine commands to the best of their abilities and without exception”. 77

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Jihad in the Way of God is a Means Not an End

To many the fact that jihad is a means to an end and not an end in itself is a self-evident truth; a truth whose veracity no Sharia abiding person should ever question. Although, we agree that this matter ought to be clear, we are of the view that we are now in a period which may require that even truisms be explained.

We say this, because we have often witnessed firsthand how people have committed themselves to jihad for no other reason than to keep up the momentum of jihad, and how this decoupling of jihad as a means from its final objectives has led these people to carry out jihad only for the sake of jihad as if it were an end unto itself. Indeed, we have noticed that even when some of these jihadists readily concede that jihad is but a means, they often either fail to clearly determine its objectives or they reduce its objectives to some personal gains, like their insistence on attaining to martyrdom, while being utterly oblivious to the consequences of their action on the Muslim community as a whole.

Before discussing the ideas of those who fail to determine the true objectives of jihad and those who fail to understand the nature of the relationship between jihad as a means and jihad as an end, let us submit that fighting in the way of God or jihad counts in the Sharia among the means and not among the ends and final objectives of religion.

The Inclusion of Jihad among the Means

Is jihad in religion considered an end or a means?

A cursory look at some of the verses of the Qur'an and some of the hadiths would have been sufficient to deal with this question, as they make it very clear that the validity of jihad hinges on its being performed for the sake of God. This restriction ought to constitute ample proof that it needs to be included among the means not the objectives of religion.

Indeed, in the Qur'an, God- may He be exalted- has said:

“Say, [O Muhammad], ‘If your fathers, your sons, your brothers, your wives, your relatives, wealth which you have obtained, commerce wherein you fear decline, and dwellings with which you are pleased are more beloved to you than God and His Messenger and jihad in His cause, then wait until God executes His command. And God does not guide the defiantly disobedient people’” (9:24). He- exalted is He- has also said:

“The believers are only the ones who have believed in God and His Messenger and then doubt not but strive with their properties and their lives in the cause of God. It is those who are the truthful” (49:15)

“Indeed, those who have believed and those who have emigrated and fought in the cause of God- those expect the mercy of God. And God is Forgiving and Merciful” (2:218)

In addition to the Qur'an, we find the following hadiths of the Prophet (pbuh). He (pbuh) has said:
“In the Garden there are a hundred degrees which God has prepared for those who do jihad for His sake. Between each two degrees is the space equivalent to that between heaven and earth”.

“Two kinds of eyes will never be touched by fire: one that has shed tears for fear of God, and one that kept vigil throughout the night for the sake of God”.

“Whoever engages in fighting with the intention of making the religion of God reign supreme, his jihad will be counted as jihad in the way of God.”

All of these textual evidences clearly affirm that jihad is but a means to improving and elevating the rank of religion, by way of spreading it and defending its borders. Let us now look at what sheikh al-Islam, Ibn Taymiyya, had to say in this regard. In his *al-Siyasa al-Shar‘iyya*, he writes: “Given that the legal basis for fighting in the Sharia is that it is part of jihad, and that jihad in turn has for objective to proclaim the religion of God over all religion, making it supreme…” To make this point even clearer, the king of the ulema, al-‘Izz Ibn ‘Abdul-Salam, writes:

“The Prophet (pbuh) has placed jihad behind faith in the scale of importance because it is not virtuous in itself. Thus, if it is obligatory, it is by virtue of its being a means for attaining to the aims of religion.”

Elsewhere, he states: “Making the necessary preparations for jihad, such as making the necessary travel arrangements and getting ready one’s weapons and horses is considered a necessary means for jihad; just like jihad itself is a means to consolidating the standing of religion and other such ends. That is because the aim is always to attain the objective for which jihad has been ordained, and to which jihad is a means. Hence, all of the means employed in jihad are instrumental to it, and it, in turn, is but a means for achieving the objectives for which it was intended,” adding that: “if it is argued that jihad is an act that draws the believer nigh unto God on account of its being an action contrary to the desires of the soul and of its being a source of physical impairment, and financial damages, we beg to differ, and say: jihad is not an act of that draws the believer nigh unto God because it is an impairment; rather, it is regarded as such on account of its being a means to precluding social harms and promoting public interest.”

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78 Related by Bukhari, no. 2790, on the authority of Abu Hurayra- may God be pleased with him
79 Related by Tarmidhi, no. 1239, on the authority of Ibn ‘Abbas- may God be pleased with him, and deemed sound by al-Albani.
80 This hadith has already been referenced
83 Ibid., vol 1, p, 125
84 Ibid., p, 132.
Beside all of these evidences, the inclusion of jihad among the means of religion is also clearly supported by the universal objectives of the Sharia and its particular rulings. Let us see in some detail how this occurs.

1. The Universal Objectives of the Sharia

When we examine the universal objectives of the Sharia from close, we quickly realise that jihad is no more than means designed for attaining those objectives. Now in order to acquaint ourselves with these objectives, let us refer to that great Imam, al-Shatibi, who maintained that the religious obligations decreed by the Sharia aim only at preserving its objectives in human society, and had thus divided these objectives into three types: those which are necessary because people’s lives depend (daruriyyat), those which have to do with requirements related to difficult situations (hajiyyat), and finally those which lead to an improvement to religious practice and as such become a means of attaining what is desirable (tahsiniyyat).

If the first type of these objectives is not realised, not only people’s lives in this world will not be stable, but will constantly be subjected to corruption and tumult, but even in the next world, they will face perdition and be deprived of eternal bliss. This type of objectives, according to al-Shatibi comprises five matters: the preservation of Religion, human life, posterity, property and the intellect.

As for the second type, it is concerned with some of the dispensations and exemptions from certain religious obligations for fear that without such a release people may experience hardships that will drive them to abandon some of their religious requirements, though the corruption feared in this context if not prevented does not in any way undermine the first type of objectives. Finally, the third type, although failing to secure them would not compromise the objectives of the first and second type, it is nonetheless seen as desirable in that it promotes good religious practice and etiquette, and is seen as mitigating against moral laxity and degeneration. After this brief review of al-Shatibi’s position, we may now ask the following:

Is jihad among the objectives of the Sharia, be they of the first, second or third type?

‘Definitely not’ is the sort and straight answer. Jihad, we repeat, is but a means to those objectives, and this a fact that should require no further clarification for any that has a heart and understanding or who gives ear and earnestly witnesses the truth.

2. The Aims of Jihad Have Been Determined by the Sharia

Anyone who meditates on the Qur’anic verses and hadiths dealing with jihad as one should, will not fail to notice that many of them make explicit reference to the aims expected of this

duty, even to the extent of specifying its goals. Thus, in light of these texts we get a sense that jihad is declared to arrive at a particular target and it is terminated once that target has been achieved, and we also understand that it may be cancelled when that target or goal proves to be unattainable or even prohibited altogether, particularly when it is not guided by those goals or when it has the potential of leading to social harms that far exceed the benefits expected to accrue from it. Let us look closely at some of the textual sources of the Sharia in order to learn about the goals and objectives sought in jihad and to ascertain again that its validity hinges on the existence of that for which it was intended and that for which it is a means.

a. Repelling Injustice, Aggression and Protecting the Unity of the Islamic Nation

In the Qur’an, God- may He be exalted- has said:

“Permission [to fight] has been given to those who are being fought, because they were wronged. And indeed, God is competent to give them victory. [They are] those who have been evicted from their homes without right - only because they say, “Our Lord is God.” And were it not that God checks the people, some by means of others, there would have been demolished monasteries, churches, synagogues, and mosques in which the name of God is much mentioned. And God will surely support those who support Him. Indeed, God is Powerful and Exalted in Might” (22:39-40)

Also, we read in the Qur’an, “And those who, when tyranny strikes them, they defend themselves” (42:39), as well as, “And if two factions among the believers should fight, then make settlement between the two. But if one of them oppresses the other, then fight against the one that oppresses until it returns to the ordinance of God. And if it returns, then make settlement between them in justice and act justly. Indeed, God loves those who act justly” (49:9).

b. Repelling Aggression, Acting in Self-defence and Defending Muslim Territory

In this regard, God- may He be exalted- has said: “Fight in the way of God those who fight you but do not transgress. Indeed, God does not like transgressors” (2:190)

c. Proclaiming the Divine Path Over All Others, Ending Tumult and Establishing the Religion of God

In relation to this point, God- may He be exalted- has said: “Fight them until there is no [more] tumult and [until] worship is [acknowledged to be] for God. But if they cease, then there is to be no aggression except against the oppressors” (2:193), and also “And fight them until there is no tumult and [until] the religion, all of it, is for God. And if they cease - then indeed, God is seeing of what they do” (8:39)
d. Lending Support to the Weak and Defending the Cause of the Believers

In the Qur’an, God may He be exalted has said: “And what is [the matter] with you that you fight not in the cause of God and [for] the oppressed among men, women, and children who say, "Our Lord, take us out of this city of oppressive people and appoint for us from Yourself a protector and appoint for us from Yourself a helper?"” (4:75).

He may He be glorified has also revealed in this context, “Indeed, those who have believed and emigrated and fought with their wealth and lives in the cause of God and those who gave shelter and aided - they are allies of one another. But those who believed and did not emigrate - for you there is no guardianship of them until they emigrate. And if they seek help of you for the religion, then you must help, except against a people between yourselves and whom is a treaty. And God is seeing of what you do” (8:72)

e. Spreading the Religion of Tawhid, Removing the obstacles that Hinder its Expansion and Preparing the Ground for its Acceptance among the People, and in Order to Secure the Interests of Islam and its Community

About this issue, God exalted is He has said: “And if they break their oaths after their treaty and defame your religion, then fight the leaders of disbelief, for indeed, there are no oaths [sacred] to them; [fight them that] they might cease” (9:12), and He also has said: “Fight them until there is no [more] tumult and [until] worship is for God” (8:39), meaning until worship is for God alone and all forms of polytheism have been removed.

As for the Prophet (pbuh), he has said: “When you meet the idolatrous enemy, if God wills, call them to three things. If they respond, accept it from them and stop fighting them. Call them to Islam. If they respond, accept it from them and stop fighting them. Then call them to move from their residence to the residence of the Emigrants. Tell them, if they do, that they have the rights and responsibilities of the Emigrants, no more and no less.

If they enter Islam but prefer their own residence to the residence of the Emigrants, tell them that they have the same status as the Muslim Arabs of the desert. The Law of God will apply to them just as it applies to the Believers, but they will have no share in the spoils except if they fight with the Muslims.

If they refuse to enter Islam then ask of them the non-Muslim tax levy (al-jizya). If they accept, accept it from them and stop fighting them. If they refuse, seek help from God and fight them if God wills”86. He (pbuh) has also said: “I was ordered to fight people until they say: ‘There is no God but the One God’. When they say it, they have made untouchable by

86 Related by Muslim (3/1731), on the authority of Buraydah- may God be pleased with him
me their life and property, apart from the rights due upon them." And elsewhere he has said:

“Some young and foolish people will come at the end of time who will speak from the best
words of mankind, but their faith will not go beyond their throats. They will leave Islam like
the arrow passes through game. Kill them wherever you meet them. On the Day of Rising
the one who kills them will have a reward for killing them.”

Certainly, the above textual evidences clearly illustrates that jihad may be conducted to
achieve all sorts of goals and for a variety of objectives. Is not this ample proof that jihad is
a means to an end and not an end unto itself?

1. The Biography of the Prophet (pbuh) Leads to the Conclusion that Jihad is a
Means to an End

Anyone who is seriously seeking the guidance of the Messenger (pbuh) on the issue of jihad
will not fail to notice that in practice and throughout his prophetic career, he had a variety of
teachings to convey on the matter: at times, we find him fighting, but at other times we find
him concluding peace treaties or even retreating his army due to unsurmountable difficulties
faced during conflict. A prime of example of these military retreats took place during the
eighth year of the Hijra when he took the decision to abandon the siege of Ta’if after laying
siege to the city for over forty days. Concerning this historical event, Ibn al-Qayyim related
that:

“The Prophet (pbuh) was not given the divine permission to conquer the city of Ta’if and so
he sought the advice of Nawfal Ibn Mu’awiyah on the matter. Asked to give his opinion on
whether the siege should go on, Nawfal replied: ‘It is like when you corner a fox in a
burrow; if you were to insist on catching him you could, but if you were to leave it alone, it
will not cause you any harm’. Following this, the Prophet (pbuh) ordered ‘Umar Ibn a-
Khattab to convey to the elements of the Muslim army that they could now abandon the
siege, and move on. But the news did not please the soldiers who said, ‘How can we leave
without conquering the city of Ta’if?’ Then the Prophet (pbuh) has said to them, ‘in that
case you may resume fighting’. Upon resuming fighting, the enemy was able to inflict many
of the Muslim soldiers with wounds, and so when the Prophet (pbuh) said, ‘God willing, we
are dismantling the siege tomorrow’, they rejoice at the news this time round, and were
more than willing to decamp, under the eyes of the Messenger who was now laughing.”

From this account of Ibn al-Qayyim, Ibn Qudama al-Maqdisi was able to deduce a great
lesson. He says: “when the Prophet (pbuh) felt that he was not about to get the breakthrough
that he had always sought in his siege of the city of Ta’if, he saw that the interest of the

87 Related by Bukhari, no. 1400, Muslim (20/32), and Nisai, no. 2443, on the authority of Abu Hurayra- may
God be pleased with him).
88 Related by Bukhari, no. 3611, Muslim (153/1066), Abu Dawud, no. 4767, and Nisai, no. 4102, on the
authority of Ali- may God be pleased with him
Muslims was in abandoning the siege either for fear that an extended stay might turn out to be harmful, for fear that its desired goals would never eventuate or for fear that by taking the decision to stay the course, he would eventually miss out on achieving other public interests that are at hand and are more important. It is because a large section of the soldiers continued to be convinced that the aims of the siege were still attainable that he said: “In that case, you may resume fighting”, but decided to decamp upon seeing that Muslims were being subjected to harm for no avail. This time they agreed with him that the interests of the Muslims laid elsewhere and that made the Prophet laugh.”\textsuperscript{90} It is for this reason in fact that Ibn al-Qayyim has stated that: “Whenever a Muslim commander has laid siege to a city and then fails to breakthrough its defences, he is entitled to abandon it, if he establishes that the interests of the Muslims is in decamping and retreating; for it is only when the benefits of an action clearly overwhelm the potential harms and costs associated with it that one is under obligation to pursue it and endure its difficulty”\textsuperscript{91}.

This event of the Prophet’s life and the way he had dealt with it, strongly indicates that the decision of undertaking the duty of jihad and continuing with it, hinges heavily on the aim and the objective being sought, because in the end, jihad is only a means to achieving that objective, and so it may be called off as soon as that eludes us.

\textbf{Jihad Constitutes a Means and not an End: How Important is this Distinction?}

Now that we have provided this exhaustive explanation, we think that no one would ever doubt the fact that jihad is a means to an end and not an end unto itself. However, there might still be one lurking question: why are we making such a fuss over this? In other words, why are we so anxious to demonstrate that jihad is a means and not an end?

We will do well to focus on this question as it may help us work out why it is important to distinguish between the objectives of religion and what may be included among its means. The following preliminary remarks may prove useful for exploring this issue in depth.

1. Contrary to the means, the objectives of religion and its final ends do not lend themselves to prohibition or annulment. Thus, because it is an objective, it is inconceivable, for instance, that any endeavour at establishing religion be prohibited or deplored. However, in so far as jihad is regarded as means, among others, for attaining that objective, it way very well be prohibited when, for instance, its conditions and legal requirements have not been fulfilled or when some of its legal impediments have not been overcome. This means that while attaining the objectives

\textsuperscript{90} Ibn Qudama al-Maqdisi. \textit{Al-Mughniyy}. Vol. 10, p, 545. This account is related by Bukhari, no. 4325, on the authority of Abdullah Ibn ‘Umar- may God be pleased with him-, and by Muslim (82/1778), on the authority of Abdullah Ibn ‘Umar- may God be pleased with him.

\textsuperscript{91} \textit{Zad al-Ma’ id}. Vol. 2, p, 199
always constitutes a religious requirement, the means to attain to them may very well be the subject of prohibition.

2. Once the end is achieved, recourse to the means by which it was attained seizes to be a requirement. That is why, for instance, the moment religion is established, it is no longer right to resort to the means of jihad to realize that objective for which sake the loss of human life and property had been deemed lawful. Indeed, once the disbelievers against whom Muslim fight accept Islam, it is prohibited to fight them and it is no longer permissible to threaten their lives or property.

3. In some situations, there is no single way to achieving a single objective. What makes a particular means more appropriate and makes it excel over the others is the fact that on the day it presents itself as the most suitable and most adequate means for attaining the objective in question. On this issue, al-Suyuti related that the sheikh ‘Azzedin was in agreement with al-Ghazali who wrote in his *Ihya*: The most virtuous acts are measured by the degree of public interest which ensues from them”.92

As for the king of the ulema, al-‘Izz Ibn ‘Abdul-Salam, he stated that: “whenever the means contributes to making the objective more excellent, its rewards become excellent than the means the contribution of which is deemed insufficient”.93

4. It is not permissible to continue having recourse to a means that has proved not useful for achieving the objective of religion or that which has the potential of undermining other objectives of the Sharia that are considered to be more important and vital. It is equally the case if it perceived that following that means, there is a strong likelihood that it may lead to social harms and costs which far outweigh its benefits if it was allowed to be continued. Concerning this issue, al-‘Izz Ibn Abdul-Salam has stated:

“The obligatory and meritorious acts in Islamic law are of two kinds; those which are related to the objectives of the Sharia and those which have to do with its means. The same applies to the reprehensible and the prohibited acts, which are also divided into those that are related to the objectives and those which are related to the means. The means in Islamic law are appraised in function of the rulings of the objectives of the Sharia. Thus, the means to the most excellent of the objectives of religion is regarded as the most excellent among the means, and the means to the least important of the objectives is deemed the least pertinent from among the means of religion. In addition to this, the means of religion are also ordered according to the order of the public interests or social benefits as well as the order of the social costs or social harms. It goes without saying then that whoever God has shown the order of the social benefits; he will have knowledge of the most important among them and the ones that are the least serious, and he would be able see which one precedes the other in the scale of virtue, as it were. It is worth noting that in relation to some public interests and social benefits, the scholars are not always in agreement, and they have difficulty determining exactly which of these comes first, particularly when more than of them...”

93 *Qawa’id al-Ahkam*. Vol. 1, p, 123
needs to be achieved. This is also true for social harms: whoever God has granted knowledge of these, he will be in a position to know which of them represent the most serious and which of them is the least so. But these can also clash and unsurprisingly, therefore, the *ulema* have also differed over the exact order of these social harms in the scale of corruption, particularly when more than one presented itself as a potential threat and it was not possible to do away with all of them at once”.94

If we now move to apply the preceding rules on jihad in the way of God, we would, for its evaluation as a means, be required to take a number of steps: we would need to consider the objective for which it is deployed, ascertain whether it constitutes the most suitable means for the attainment of that objective, whether it leads or not to social harms that far outweigh the benefits expected of it, and finally we would need to be assured that persevering with it would not lead to the situation where other objectives of the Sharia and whose aims are more important than those pursued by jihad on that occasion, are not undermined in the process. These difficulties, we hope, have been useful to explain why we have been preoccupied with this issue of distinguishing between ends and means throughout the previous pages. There are indeed some gems in what al-Qarafi had to say on this very point, so we will quite him. He says:

“Know that just as it laudable to close the Sharia, it is also laudable to open it, and that is because, just as it is meant to reprehend people, it is also meant to exhort them and give to them allowances and permissions. From this understand also that just as the illicit is the means for a prohibition, so the means for an obligation is a duty like the Jumu'a prayers or the hajj. Hence the sources of the Sharia rulings are of two kinds:

Those that have to do with the objectives of the Sharia, which include the social benefits and harms as such, and those which have to do with the means and these includes the ways of attaining those objectives. The means are classified according to their rulings of prohibition and permission and the like but their rulings are of a lesser degree that those of the objectives of the law. It is for this reason that it has been established that the most virtuous means is that which promotes the most virtuous objective and the least pertinent means is that which leads to the least pertinent objective, and the average means is which leads to an objective half-way in importance between the most desired and the least desired. The proof for the existence of excellent means is His saying- exalted is He: ‘That is because they are not afflicted by thirst or fatigue or hunger in the cause of God, nor do they tread on any ground that enrages the disbelievers, nor do they inflict upon an enemy any infliction but that is registered for them as a righteous deed. Indeed, God does not allow to be lost the reward of the doers of good’ (9:120). See how God has rewarded the believers addressed in that verse for their thirst and hunger, which were not of their doing, but were the result of their eagerness to draw nigh unto God by the means of jihad, which is a means for furthering the cause of religion and protecting Muslims! Has not the endeavour for jihad in their case become a means for other means: the access to God’s blessings and recompense?

94 Ibid., Vol. 1, p. 54
The Fallacy of Separating Jihad from its Objectives

Let us now turn our attention to those who fail to determine the final objectives of jihad or do the mistake of separating jihad as means from the needs that are sought through it.

Although this group of people might agree with us that jihad is means to an end and not an end in itself, they are likely to confine its objectives to some personal ends, such gaining martyrdom. Thus, instead of having recourse to jihad as a means to achieve a higher end, they often tend to pursue with their jihad even when it dawns on them that its objectives have proven to be unattainable. Hence, in their case, jihad becomes an end in itself, and an imperative at all times and in all circumstances, regardless of its stated objectives and regardless of whether these objectives, granted that they have been taken in consideration, are feasible or not.

In the present context, we are certainly facing two deficient and not so dissimilar models: a) one that represents those who have failed to determine the objectives of jihad, and have confined them to seeking martyrdom b) one that represents those who do not see how jihad as a means and how we perform it, has in fact a direct impact on our chances of achieving the objectives sought by that action.

A. Martyrdom Above all Else: An Appraisal

Those who abide by this logic are of the view that the best and the most virtuous action a Muslim could do is to seek martyrdom, on the basis that such an achievement, if granted, earns the Muslim person the highest rewards in the hereafter. In their discourse, the proponents of this view discard all other forms of worship and acts of devotion, because to them martyrdom constitute an end in itself, which should be sought for no purpose other than itself. To make their case, they resort to several textual evidences, among which are the following:

1. The Qur’anic verses and the hadiths which extol martyrdom in the way of God, such as the verse: “Indeed, God has purchased from the believers their lives and their properties [in exchange] for that they will have Paradise. They fight in the cause of God, so they kill and are killed. [It is] a true promise [binding] upon Him in the Torah and the Gospel and the Qur'an. And who is truer to his covenant than God? So rejoice in your transaction which you have contracted. And it is that which is the great attainment” (9:111)

And also, for instance, the hadiths in which the Prophet (pbuh) has said:

“God turns to the one who goes forth in His way, and says ‘I will repay the one who only goes forth because of his belief in Me and affirmation of My Messengers either
with a reward or booty or by admitting him into the Garden.’” [The Prophet said,]
“If it were not that it would be difficult for my community, I would not stay behind
on any expedition. I would love to be slain in the way of God and then brought to
to life and then slain again and then brought to life and then slain again.”95

“No one will enter the Garden and then want to return to this world, even if he had
everything that is on the earth, except for a martyr who wants to return to this world
and be killed ten times more because of the honour he experiences”96. It is on the
basis of textual evidences like these that they make the argument that martyrdom
ought to be sought for its own sake, and one that ought to be pursued by anyone who
is earnestly seeking the rewards of the Almighty on the Last Day.

2. Opting for martyrdom and placing it above all other means of drawing nigh unto
God, they maintain, is a practice in which several of the great Companions of the
Prophet (pbuh) engaged, and one that has been affirmed by the jurists of Islam in
many of their writings and on many an occasion.

a. For instance, Abu Hurayra has narrated that “the Messenger- may God bless him
and grant him peace- sent out ten men on a spying expedition and put ‘Asim ibn
Thabit in command of them… Their presence was reported and this about a hundred
archers from the branch of Hudhayl pursued them, and followed their tracks until
they caught up to them.

When ‘Asim and his companions could not advance, they took cover in a high place.
The people came and surrounded them and said, ‘If you come down to us, you have
protection and assurance that we will not kill any of you!’ ‘Asim ibn Thabit said, ‘I
will not come down into the protection of an unbeliever! Following this refusal to
surrender, they shot at them with arrows and killed seven of them, including ‘Asim.
Khubayb, Zayd and another man remained to whom they gave the promise of
protection and security and they came down to them. When they had them in their
power, they undid their bow-strings and tied them up”.97

This account clearly shows that ‘Asim and seven of the Prophet’s companions have
chosen martyrdom over surrender in view of the great rewards that sacrificing one’s
life for the sake of God attract. In light of this account, we declare that there is no
harm in going for the shahada, and we totally accept the action of these companions
as outstanding and exemplary to us

95 Related by Bukhari, no. 36, and Muslim (106/1876), on the authority of Abu Hurayra- may God be pleased
with him
96 Related by Bukhari, no. 2795, and Muslim (109/1877), on the authority of Anas- may be God be pleased
with him
97 Related by Bukhari, no. 3989, and Abu Dawud, no. 2660
b. The Jurists of Islam, they claim, have affirmed that anyone who fears imprisonment is entitled to choose martyrdom instead of being captivated. Likewise, they have declared that he is entitled to opt for martyrdom whoever feels that regardless of whether he chooses pursue jihad or he chooses to abandon it, the chances of him getting killed are just as high.

Concerning this point, the author of the *Sharh al-Kabir* has stated: “Should the fighter fear imprisonment, it is recommended that he continues to fight until he gets killed, rather than surrender, because by doing so, he will earn the highest of all rewards in the hereafter, and he will save himself from falling captive in the hands of the disbelievers who are most likely going to subject him to all sorts of tortures and harassment. But, should he instead choose to surrender and become imprisoned, he is permitted to do so by law”98. Elsewhere, he adds that: “In the event where the [mujahedeen] feel that their lives are at risk if they were to continue with jihad, and they sense, at the same time, that there is a possibility of their lives being saved if they were to refrain, then it be recommended for them to retreat; though, they will be permitted to keep on fighting, upon seeing that martyrdom will be their motivation and on the understanding that victory has been deemed at hand in that context. But in the event where they strongly feel that regardless of whether they keep on fighting or they desist the chances of them getting killed are just as high, it would then be recommended for them to continue fighting until they earn the rewards worthy of the fighters who are eager to fight for His sake, and whose standing is higher than that of those who are wont to retreat. Also, fighting is recommended in their case, because, against all the odds, they are still able to achieve victory over their enemy, as attested by the Qur’anic verse: “How many a small company has overcome a large company by permission of God” (2:249). These are surely the sort of aspirations that motivated ‘Asim and his companions to resist the enemy until God blessed them with the gift of martyrdom.

3. It is permissible, they argue, to fight single-handedly against the forces of the enemy whilst seeking martyrdom. This act they do not perceive as an act of self-destruction, and to make their case, they rely on the views of a great Companion, namely Abu Ayub al-Ansari’s interpretation of the verse: “And do not throw [yourselves] with your [own] hands into destruction” (2:195). About this verse, that venerable Companion explained that it had meant to address the ‘helpers’ of Medina who were wrong in deploring the action of fellow believers who took the bold decision of single-handedly attacking the Byzantine enemy ranks. In light of this clarification, self-destruction, according to them, consists in refraining from jihad; a view that was

supported by Ibn ‘Abbas and other authorities in their interpretation of the same verse.99

Martyrdom for the sake of God certainly plays a crucial role in deciding the outcome of our armed confrontations with the enemy. It is this yearning for martyrdom that gives the people of faith the stamina to withstand and eventually overcome even a rampant army. As for the enemy forces, even when they are of greater numbers and are better equipped, their elements are far too attached to this world to risk death and fight bravely. Can anyone deny that the very brave martyrdom operations carried against the Zionist entity in the occupied Palestinian territories and South Lebanon have borne no fruit? If not, how can it then be argued that seeking martyrdom is not an objective of jihad?

The preceding represents in gist the most important proofs and textual evidence advanced by the people who have considered martyrdom to be an objective of jihad. Now it is time to pass these proofs through the fine comb of the Sharia and see for ourselves what their real worth is.

**The Response**

Before embarking on our response to the aforementioned arguments and proofs, it may be worth our while to reiterate what the sources of our differences with the other party are over this issue. To begin with, let us make it clear that we do not dispute for a minute the efficacy of the weapon of martyrdom when it comes to achieving the goals of the Islamic nation and repelling the aggression of its enemies. But we do not agree that martyrdom should be seen as an end that ought to be sought for its own sake and as an end into itself, such that a Muslim may go on to seek it without giving anything any further consideration and without taking heed of the essential objectives of jihad. Now that we have clarified where the conflict between us and our protagonists lies, let us examine their proofs one by one.

1. The great reward that God has promised the martyrs hinges upon the fulfilment of certain conditions as is usually required of any action before it is accepted by the Almighty. Two essential conditions top all these and constitute the cornerstone around which they all revolve:

   a) Actions need to be done for the sake of God in all sincerity

   b) Actions need to comply and conform to the Sharia.

   From this, we deduce that the reward for the good deeds is granted to those who are not only sincere in their search for martyrdom, but also those who are engaged in a jihad that is valid in the eyes of the illustrious Sharia and is in keeping with its legal

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99 This is related by Abu Dawud, no. 2512, Tarmidhi, no. 2972, Nisai in his Al-Sunan al-Kubra (6/299/11029), Ibn Habban, no. 4711, and al-Hakim in his Mustadrak (3/94)
rulings. We have no right to have any doubt concerning the sincerity of anyone seeking martyrdom. Matters of the heart are decided by God, for He alone - exalted is He - knows our innermost thoughts and feelings. In fact, we do not doubt for a second that the great majority of our youth who are yearning for martyrdom and are desperately seeking it nowadays have very sincere intentions and are very honest Muslims. Rather, what we are really keen to do in this context is to draw attention to a truth which to us is crystal clear, namely that the amount of fervour and eagerness that the rewards of the hereafter nourish in the souls of the youth, and in some cases the amount of anger, often lead to the violation of the sacred laws of Islam and to the defamation of religion. Indeed, how often have some of the seekers of martyrdom committed acts which hardly conform to the Sharia and its rulings!

Jihad does not consist solely in having the courage to press ahead with things in order to earn the grade of a martyr, what is most important is to fulfil the legal conditions which make that act permissible, and to strive to achieve the ends that are intended by it. Far too often, we are witness to jihad being declared, even though its legal conditions have not been fulfilled and far too often we are witness to great social harms accruing from that sort of jihad. The mere desire to attain to martyrdom cannot make these wrongs right in Islamic law. Thus, we dare say that whoever engages in fighting while having full knowledge of this legal fact and this reality, runs the risk of not only not achieving the grade of a martyr, but also the risk of being counted among those who have erred.

2. It is wrong to seek martyrdom as an end - it is never one - when it clashes with the essential objectives of jihad. It is established in Islamic jurisprudence that public interest is higher in the order of priorities than the personal or individual interests. Thus, if we are to apply this jurisprudential rule on those who have or are seeking martyrdom as an end, and a means through which they aspire to realise some personal advancement in the hereafter, we will find that in their case martyrdom represent no more than a personal aspiration and interest which should not be put above those vital interests of the community, like the advancement of religion and establishing its rule, and which are after all why jihad was decreed in the first place, particularly when they clash. In principle, it is also wrong to privilege the interest of the individual which in this case consist in attaining to martyrdom, when it becomes obvious that such an undertaking would in all likelihood lead to numerous social harms and costs to the entire community of Muslims. That is because precluding social harm in the Sharia is more important than securing the social benefits. Concerning this issue, Ibn Najim al-Hanafi says: “The preclusion of social harms takes precedence over the procurement of social benefits, so much that whenever a choice needs to be made between the former and the latter, it usually the former that is chosen. The reason for this is that the Sharia is much stricter with its proscriptions than it is with its commands.”

100 Ibn Najim. Al-Ashbah wa al-Naza’ir. Damascus: Dar al-Fikr, p, 96
Moreover, it is unconceivable that public interests, however easy their attainment may be, would not be impaired when the action of pursuing such interests results in social harms and costs which far outweigh the benefits which this action sought to achieve. About this point, Ibn Taymiyya has stated: “A good or an interest may be forsaken in two instances: when it leads to the impossibility of attaining to that which is more virtuous and beneficial or when it inevitably leads to a state of affair whose cost and degree of corruption outweigh the benefit being sought through it”.  

In light of this, we can safely say that given the fact that the realisation of an easy and personal interest brings a much greater harm to others, it would be only wrong to pursue that interest as an aim and an end, as can be learnt from the hadith of the Prophet (pbuh), “There should be neither harming nor reciprocating harm”, and this in spite of the fact, that the pursuance of this interest is, at face value at least, absolutely legitimate and beneficial to the individual.

Al-Shatibi also has stated: “it is not difficult to prohibit the intention of causing harm in so far as it does constitute a harm, owing to the fact that it has now been established that there should be neither harming nor reciprocating of harming in Islam. But we still need to look into the case of the individual whose action has combined the initial intention of benefiting oneself and the subsequent intention of causing harm to others at the same time. Is he going to be prohibited from undertaking that action so that he is no longer allowed to perform it altogether? Or is he going to be allowed to perform it on the basis of the initial intention, which reflects the original ruling in his case, with the understanding that he would be responsible for what he ultimately has intended? The source of the conflict overall regarding this issue seems to do with this ambivalence”. Indeed, it is very possible to argue today that the person seeking martyrdom only intends to secure a personal spiritual gain and that he does not by this act intend to cause any harm to others. Let us pay attention again to what al-Shatibi has to say on this issue. He states:” As for the fifth category, it has to with those actions through which individuals aim to secure a benefit or block harm: although, these are not harmful in themselves, their performance almost inevitably leads to social harm. How do we assess such actions and their performers? Two views have been usually advanced to deal with this issue: one that considers such actions as intended to achieve what is lawful to accomplish in the eyes of the Sharia and not intended to cause harm, in which case they would count as permissible by law, and another, which views that the performers of such actions are not only aware of the inevitable harm their course of action bring to others, but also aware that they would not be subjected to any harm or loss if they were to abandon the performance of those actions. In the former situation there is no intention to harm, but in the latter the intentions of the performers is doubted, raising the possibility that the intention to harm, in their case, had been present all along: an action in Islamic law is either

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102 Related by Ibn Maja, no. 2340, on the authority of ‘Ubada Ibn al-Samit- may God be please with him, and it has been deemed sound by al-Albani
simply a permissible action - that is it neither falls in the category of the strictly forbidden nor in the category of the strictly prohibited- in which case it would not entail any of the vital, necessary or complementary objectives of the Sharia- and that is clearly not a concern here- or it is a mandatory injunction, which may either be performed in a fashion which would result in harm being afflicted to others or in a fashion that would not lead to that. As opposed to the previous category of action, the intentions and objectives of the Law-Giver, where mandatory injunctions are concerned, do matter, and it is certainly not the harmful consequences which are intended. It appears to us that from whichever angle we choose to consider these actions, we could argue that by engaging in such actions while having full knowledge of the harm that these actions were likely to cause to others, the actions of these individuals can either be seen as stemming from ill-consideration of the mandatory injunctions, and that is not allowed in the Sharia, or they can be seen as stemming from an intention to cause harm, which is just as impermissible”.  

The above passages make it clear that yearning for martyrdom and seeking it as an end, without giving due consideration to the harmful consequences that such an endeavour may cause to others is unacceptable in the eyes of the Sharia. And what is meant by ‘others’ here may pertain to another Muslim individual, group or the entire Muslim community, and it may indeed be extended to mean the religion of Islam and all of its followers. That is why Ibn Taymiyya has said: “The objective of the law is the well-being of the individual and advancing the public interests of the community”105. Hence, it is obligatory for everyone, whenever they are about to embark on an action, to consider not just one’s personal interests, but also those of the Muslim community as a whole.

3. It is wrong to consider the pursuit of martyrdom as an end in itself and one which represent the sole purpose why jihad was decreed. We have seen how, in spite of the fact that the Prophet (pbuh) had spoken very highly about it, and had on many an occasion enticed his followers to seek it, he did ultimately dismantled the siege of the city of Ta’if and retreated without completing the jihad task he had assigned to himself and his companions. Indeed, we saw that he finally came to the conclusion that there was no point in maintaining the siege, even though martyrdom was beckoning him and his Companions. Is it worth recalling in this regard that it was he (pbuh), who praised Khalid Ibn al-Walid- may God be pleased with him- when the latter, having realised that his forces were about to be decimated in the Battle of Mu’tah, had decided to withdraw his army and retreat. All of these precedents prove that martyrdom had never constituted an end in itself and it has never been included among the essential objectives of jihad; rather, if anything, martyrdom has always

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been considered as being part of those ancillary interests which can be attained during lawful jihad.

4. The very proofs and types of textual evidence which they have adduced to make their case do actually show, when carefully considered, that martyrdom does not constitute an end in itself, but is sought in order to achieve the interests of religion. Thus we find among their arguments, the following:

a. The account of ‘Asim Ibn Thabit and those Companions who were with him in that event does not actually constitute a proof that martyrdom is an objective which needs to be sought imperatively irrespective of the circumstances. The reason is that ‘Asim—may God be pleased with him—had to choose between two equally valid options: whether he had chosen to fight or surrender himself to the disbelievers, the outcome would have been the same, and there would have been nothing to be gained and no benefit to achieve by remaining alive, so he chose martyrdom. He was also able to ascertain that by taking this option, his martyrdom would have brought or caused no harm to anyone. This is what led him to prefer to die as a martyr. But even in those circumstances, it needs to be stressed that choosing the option of martyrdom, according to the jurists of Islam, is not obligatory but only recommended, and you can rest assured that if they saw that martyrdom was an end in itself, they would have not hesitated a minute to consider it obligatory. Let us reflect again together on what the author of al-Sharh al-Kabir had to say on this point. He states: “Should the fighter fear imprisonment, it is recommended that he continues to fight until he gets killed… But, should he, instead, choose to surrender and become imprisoned, he is permitted to do so by law”.106 It is very clear from this statement that Ibn Qudama had decided in favour of martyrdom in so far as it is permissible and recommendable but not in so far as it is necessary and obligatory. Let us also re-examine his saying that: “… in the event where they strongly feel that regardless of whether they keep on fighting or they desist, the chances of them getting killed are just as high, it would then be recommended for them to continue fighting until they earn the rewards worthy of the fighters who fight steadfastly for His sake… These are surely the sort of aspirations that motivated ‘Asim and his companions to resist the enemy until God blessed them with the gift of martyrdom.”107

It is obvious in this case again that Ibn Qudama had decided in favour of martyrdom in so far as it is permissible and recommendable but not in so far as it is necessary and obligatory. Indeed, this conclusion applies to all lawful jihads during which Muslims may find themselves in a situation where regardless of whether they decide to fight it out or retreat, the outcome would still be the same.

b. As for their saying that the jurists of Islam have permitted individual Muslims to mount attacks against the enemy single-handedly, and their argument that such actions should not be seen as acts of self-destruction, we regard as unconvincing, in that the jurists of Islam have permitted such actions when these serve to furthering the standing and the interest of religion, and not for any other purpose. Thus, the great

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107 Ibid., vol. 10, p, 388
scholar Ibn al-‘Abidin al-Hanafi has stated: “In Sharh al-Sayr, it was mentioned that no harm was considered done if a man were to attack the enemy single-handedly, and then dies after having caused casualties in its ranks or contributed to its defeat, because this type of action had been carried out by some of the Companions of the Prophet (pbuh) during the Battle of Uhud and he praised them for it. But if his better judgment tells him that he will not inflict any harm on the enemy in that case he is not permitted to attack them because in this situation his action will not contribute one iota to the furtherance of religion and its standing.”

On the issue of the individual who single-handedly mounts an attack against large enemy forces, al-San’ani- May God have mercy on him-quote the following from the Musannaf: “The majority of the scholars are of the view that if an individual decides to take on the enemy by himself due to his excessive courage and confidence that he can instil fear in the hearts of its soldiers and embolden as a consequence his fellow Muslims, and so forth, then it is perfectly fine, because these sorts of things count among the true objectives of jihad. But should this action amounts to no more than a folly and an act of impetuosity, then it would be prohibited, particularly if it is felt that it will lead to grave consequences for the community of Muslims”.

We should also take a pause to consider what al-Shawkani had to say in his interpretation of the Qur’anic verse: “And do not throw [yourselves] with your [own] hands into destruction” (2:195). There, He has stated that: “the general rule usually observed in legal interpretation, is that one goes by the general sense of such words rather than simply the specific meaning suggested by the occasion of revelation (al-‘ibra bi-‘umum al-lafz, la bi-khusus al-sabab). Thus, whatever is understood in light of this consideration to be an act of self-destruction in this world or in the next, is intended by this verse and is included in its meaning, as was maintained by al-Tabari. Indeed, among the issues which are addressed by this verse relates to the issue of the individual who decides to take on single-handedly the army of the enemy in spite of the fact that he has neither the means of neither defeating it nor inflicting on it the kind of damages that would benefit the mujahedeen. There is strictly nothing preventing this action from coming under the purview of this verse and its admonition, even though there are those who think that the occasion of its revelation points to the contrary. The proponents of this interpretation are simply wrong because they think that the meaning of the verse in question is specified by the occasion of its revelation but that is rejected by the language of the Arabs.”

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108 This is in reference to the hadith related by Ibn Dawud, no. 3108, whose transmission was deemed sound by al-Albani, in addition to Ibn Habban, no. 2974 whose transmission was deemed fair by al-Arnaut, and al-Hakim in his Mustadrak (1/734), on the authority of Abdullah Ibn ‘Umar- may God be pleased with him- who narrated that the Prophet (pbuh) has said: “When a person comes to visit the sick, let him say: ‘O Lord! Cure your servant so and so, for he will then inflict a wound on an enemy or he will, for your sake, take part in a funeral prayer’.

109 Hashiyat Ibn ‘Abidin


it is now very clear, in light of all the positions of the scholars of Islam, that for such an action to be valid, it is imperative that it leads to securing interests and objectives, which are greater than simply achieving the objective of martyrdom for the sake of God, and that without such conditions being fulfilled, it would be of no avail.

Now that it has become evident that martyrdom for the sake of God is not an end in itself, but a means for achieving other objectives such as the public interest, which is totally in keeping with the logic that prevail in Islam, we are in a position to affirm that any person who thinks that the objectives of jihad are personal objectives, which individuals could embark on without due consideration of the universal interests of Islam, is wrong. For, no matter how fervent and emotionally driven we might be, in the end, it is our rationality, our level-headed approach, and our steadfast clinging to the greater objectives of our religion that is going to make the difference.

B. Decoupling Jihad from Its Objectives: An Appraisal

There is an intimate link between the objectives of the Sharia and the means that are instrumental for their realisation, which is indispensible to maintain, and this is particularly true of jihad and its various objectives. Indeed, jihad ought to lead to the realisation of those objectives, otherwise it would be wrong to have recourse to it. Thus, as a means, it is expected of jihad to have the wherewithal and the adequate capacity to achieve its ends.

Despite this undeniable relationship between objectives and means, we often witness people who are wont in engaging in jihad without giving the slightest consideration to the potential outcome of their course of action, and without ascertaining that the timing of their engagement is really opportune and suitable for the realisation of the ends which are sought through it. Nay, they hardly consider the probability that their action may actually lead to social harms and costs that defeat the purpose of jihad. As such, it is not surprising to find among the people of our community those who are bent on embarking on jihad, in spite of the fact that their action is clearly not conducive to the realisation of the objective for which it was intended. And more often than not, this is due either to a shortage of manpower, lack of adequate equipment or deficient planning and lack of organisation. When people decouple jihad from its objectives, they will inevitably embark on it without considering the objectives that are sought through it, and without taking stock of the capabilities necessary for their realisation.

If you ask these people, why engage in jihad when there are no interests to be gained in the end and when the capacity to achieve them is not there? They will quickly tell you: “It is not for us to worry about the outcome; this is a matter for God to decide: God-exalted is He- has commanded the Prophet (pbuh) in the Qur’an to carry on jihad regardless of what the end will be, saying to him: “Fight [O Muhammad] in the cause of God; you are not held responsible except for yourself” (4:84). Besides, how could a believer doubt victory when
God—may He be exalted—has revealed: “How many a small company has overcome a large company by permission of God”? (2:249).

We certainly cannot agree with this line of argument and we reject the manner with which these verses of the Qur’an have been utilised; this simply leads to a practice of jihad that is completely oblivious to its intended objectives and the capacity to realise them, and this for the following reasons:

1. If we grant that to engage in fighting, only a single committed mujahid is required on the basis of the verse, “So fight, [O Muhammad], in the cause of God; you are not held responsible except for yourself” (4:84), in that case, what do we make of the verse: “And prepare against them whatever you are able of power and of steeds of war by which you may terrify the enemy of God and your enemy and others besides them whom you do not know [but] whom God knows”? (8:60). Does it just become redundant and of no value? God forbid!

2. If we grant that jihad requires no more than the personal preparation and engagement of the individual for it to be declared and maintained, then how can we explain the Prophet’s decision to abandon fighting the Jews as well as his concluding with them a covenant to fight together any aggression against the city, when he migrated to Medina? How can we explain his decision to decamp and abandon his siege of the city of Ta’if, when he (pbuh), realised that a breakthrough was not forthcoming? How can we explain his decision to discontinue fighting, when he (pbuh) and his Companions were engaged in the Battle of Uhud? Was it not because the momentum of the battle turned to the favour of the disbelievers? Why did none of the Companions argue with the Prophet’s decision on the basis of the verse: “How many a small company has overcome a large company by permission of God”? (2:249). And why did none of them—may God be pleased with them—say to him (pbuh), ‘why do you stop fighting O Prophet of God! Did not God-exalted is He—reveal to you: “So fight, in the cause of God; you are not held responsible except for yourself”? (4:84)? But of course the Companions did not dare argue in this way, because they know better: they knew that jihad is a means to realising lawful objectives, and so they understood that it could be abandoned whenever it ceases to be conducive to those objectives.

3. To embark on jihad without even asking oneself whether one has the necessary capabilities to carry it out is a horrible way of wasting people’s lives and their efforts for no clear and attainable purpose, and it is for this reason that this course of action is denounced and prohibited in the Sharia. What the Sharia has consistently commanded is the realisation of the public interest, and the preclusion of social harms; its aim is to remove evil and promote good. About this, Dr Ramadan Said al-Buti has stated:
The great majority of the jurists of Islam are in agreement that if the Muslims in times of conflict feel that their numbers and their military equipment is insignificant, so much that they are left with very little doubt that they would be killed if they choose to engage the enemy, and they would hardly be able to cause any casualties in the rank of its forces, it would be wise then to consider lives as the most immediate objective to be achieved; for, in that context, the objective of preserving religion is either illusory or unachievable. Indeed, al-‘Izz Ibn ‘Abdul-Salam has decided against this sort of action and has prohibited it. He says: ‘if making a serious dent in the capacities of the enemy and inflicting it with heavy casualties proves to be impossible, then it would be incumbent to accept defeat and not resist, because steadfastness, in this context, is very likely to lead to unnecessary loss of human life, which will only bring jubilant delight to the enemy and duress to the people of Islam. This is a clear example of how resistance and steadfastness become a source of an absolute social harm, behind which there is not the slightest interest’.” ¹¹²

As for Ibn Taymiyya he states that: “The Sharia has been revealed with the purpose of securing and perfecting the public interests of human beings, as well as, precluding social harms or at least diminishing them. When a choice needs to be done between two goods, the Sharia will inevitably opt for the better, and a choice needs to be done between two evils, it will always opt for the lesser evil. Equally, when a choice needs to be done between two public interests, it will forgo the least beneficial and when there is a need to make a choice between two social harms, it would opt for the least harmful”.¹¹³

4. How does the verse, “And fight, in the cause of God; you are not held responsible except for yourself” (4:84), in any way suggest that it is compulsory to fight the enemy even single-handedly, when God- may He be exalted- has permitted Muslims to flee from battle if they sense that their numbers are too inferior to those of the enemy? Clearly, if fighting steadfastly and single-handedly was absolutely obligatory, it would have been the case in all situations, irrespective of the numbers of the enemy or of the Muslims. On the authority of Ibn ‘Abbas, Ibn Kathir reports that “when this verse was revealed it had deeply affected the Muslims, so they vowed to fight against the disbelievers even if their number was to reach a hundred thousand, but then God had lightened their burden and abrogated the verse, revealing in its stead: “Now, God has lightened [the hardship] for you, and He knows that among you is weakness. So if there are from you one hundred [who are] steadfast, they will overcome two hundred. And if there are among you a thousand, they will overcome two thousand by permission of God. And God is with the steadfast” (8:66). From that time onwards, they were certainly not permitted to flee once fighting was underway, but they were allowed to avoid meeting with their enemy so long as they were not locked in battle with it”.¹¹⁴

¹¹² Ramadan al-Buti. Fiqh al-Sira, p, 88
¹¹³ Ibn Taymiyya. Majmu’at al-Fatawa. Vol. 20, p, 48
As for their saying: “It is not for us to worry about the outcome, as this is a matter for God to decide”, we have no doubt that this true, but this position of theirs needs further clarification. Indeed, outcomes can only be enforced by God, but are we not required, beforehand, to pursue and strive to gather all of the available lawful means and cause in order to achieve the outcomes that we seek and that we desire? Islam has taught us that anyone who wants to arrive at successful outcomes, while ignoring the necessary measures and steps that need to be taken in order to achieve that, is but a self-conceited individual consumed by delusion. Moreover, showing a total disregard for causes and making no effort to procure the means of success, while nourishing the hope to get the outcomes one desires, develops into a kind of incapacity which directs away from the true reliance on God and weakens it. Ibn al-Qayyim has stated: “Living a life of reliance and expectation without pursuing the means and causes that one is asked to pursue in order to achieve the desired outcomes is a sign of sheer failure. One should not turn one’s failure into reliance on God. Rather, what he should do is to turn his reliance on God into a means and combine it with all the other means he is commanded to pursue; only in this way can he attain those outcomes that he yearns for.”

This issue has led two categories of people to be in error. The first professed that reliance on God alone constitutes in itself a cause that ought to be sufficient for us to attain to our objectives and what we aspire to achieve. By so doing, this category of people have dispensed with the causes necessitated by divine wisdom, and thus designed to lead to those aspirations and objectives. And as a consequence of their understanding, they have fallen prey to a kind of negligence and a complacent fatalism commensurate with their indifference towards the causes, and their reliance on God has actually weakened while they thought that by discarding the causes it has been strengthened. One can see how a total focus on God may be experienced as strength but that is only in one respect. From another respect, this total focus which excludes everything other than God is a source of weakness. That is because each time the aspect of reliance is strengthened, it tends to do so at the expense of the cause, which is in fact the locus of reliance. We need to understand that reliance begins to take shape around causes and is perfected when it ends up being a reliance on God alone. As an analogy, we can think of the tiller who ploughs his land, sows his seeds and then relies on God to bring them to their full growth. This tiller has certainly given reliance its full meaning; he did not weaken it by holding the land in abeyance and leaving barren. And this is also true of reliance of the traveller, who takes strident steps during his journey to get to his destination on time, and of the ones endowed with intelligence as they strive in their worship and perfect their acts of devotion in order to be spared the punishment of God and earn His rewards. All of these and others are examples of the kind of reliance that bares its fruit and to all those who practice in this way God is sufficient.

As for those whose reliance stems from failure and negligence, it never bares any fruit, and God does not take their action into account, for God has promised to be
sufficient for those who has put his trust in Him and are also conscious of Him. To be conscious of Him requires that one strives to pursue the causes he has been asked to pursue, not to discard them.

The second category of people professed the opposite to what the first one did. They, unlike the others, did not dismiss the causes and saw the importance of the relationship between causes and their effects, so much that they have completely ignored to rely on God. This group of people, though they were set to gain all sorts of benefits from their attendance to causes, remain weak by comparison to the people who are wont to rely solely on God. For by taking this stance, they missed out on God’s assistance, care and protection, and so they were left to their own devices and were helpless in accordance with the degree of their lack of reliance on the Almighty.

All the strength that one can summon resides in the strength of reliance on God as our scholars of the past used to say. Thus, whoever aspires to be the strongest of people, he should rely on God, because strength is assured for those who rely on Him. His care, support and protection have no limit, but they will be commensurate with the degree of our consciousness of Him and our reliance on Him. Whoever has these two qualities, he can rest assured that God will prepare for him a way out of his difficulties and he will be enough for Him in all of his ordeals.\textsuperscript{115}

So know that it is only after the lawful means have been exhausted, and after it has been ascertained that the jihad that one is about to engage in is both lawful and supported by capabilities necessary to achieving its objectives, can one say, ‘we do not care for outcomes; they are in the hands of God’.

\textbf{What should be done when the Objectives of Jihad Clash or Compete with One Another?}

One of the issues which we have not broached yet in this discussion and it is one that deserves our attention, has to do with the probability that we may find ourselves in a situation in which we have before us not one but several objectives of jihad that are all valid and yet mutually exclusive. When that situation arises, it is not only that we cannot aspire to achieve all of the objectives in question, but also that those we choose to pursue will be pursued at the expense of the others. This is not just some sort of hypothetical musings that have no relationship with reality. Anyone who is fully acquainted with how the real world operates and is a keen observer of the changes that are constantly occurring in it, would be well aware of the significant impact these factors can have on the way we reprioritise our duties and commitments, to the point of dropping some of them in some circumstances. This is not unusual at all to Muslims, particularly when they are going through a period of weakness and are facing various and diverse forms of adversity at the same time.

In these deplorable circumstances, some might be tempted to advance that what is required is to declare jihad in order to achieve all of the objectives that present themselves before us, even when they clearly do have the wherewithal to achieve them all. This is definitely not the way of dealing with the issue at hand, for the simple reason that in reality there is always a duty and a religious responsibility that comes before another because it is more essential, and thus there is always an objective that comes before another and whose realisation should not be delayed or called off. These priceless legal insights were expressed aptly by Ibn Taymiyya in his collections of *Fatawa* from which we will quote the following passages.

He says:

“Whenever two commands of the Sharia clash, such that it is not possible to carry them both, priority in that case ought to be given to the more positive of the two, and by virtue of that choice, the other command simply ceases to be an obligation. Hence, whoever relinquishes a command for the sake of that which is more positive has in fact forsaken neither command. Equally, whenever we are left with no other alternative but to choose between two prohibited acts, a situation in which the worse prohibition can only be avoided by opting for the one which is least condemned, then acting according to the latter would not actually amount to committing a prohibited act as such; although perhaps, it would be more suitable to say about this action that is akin to relinquishing a command rather judging as haram. Now, although it is generally said about the first person in the first case that his action amounted to an ‘abandonment of one’s obligation’ and about the person in the second case that he has committed a ‘a prohibited act’, such expressions are only meant to be understood in general terms and are used heuristically for the purpose of simplification; for what is proper, is to say about the first case that it is an ‘abandonment of one’s obligation with legal justification’ and about the second that it is ‘the performance of a prohibited act in view of a preferable outcome’ or ‘for the sake of precluding that which is even more wicked’.”  

He has also stated:

“The clash then is either between two commendable actions that are mutually exclusive, and in which case priority would be given to the most predominantly virtuous, or it may be between two evils neither of which can be avoided except through opting for the one that is least evil in order to preclude the one that is most evil. But the clash may also occur between a commendable action and an evil one, which are so intimately linked that the performance of the commendable action would inevitably lead to an evil, and the abandonment of the evil action would inevitably lead to our forgoing the commendable action. In that case, the course of action to be followed will depend on whether it is the anticipated benefits of the commendable action or the foreseen harms of the evil action that will outweigh the other”.

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117 Ibid., Vol. 20, p. 51
Elsewhere, he has added:

“This is a very vast domain and these sorts of clashes and conflicts tend to increase especially during the periods and the areas of the Muslim world where the effects of prophecy and its legacy are on the decrease. Each time those effects decrease, these kinds of clashes and ambivalences are bound to become more prominent and this is often one of the major reasons behind the existence of tumult in the Islamic nation, for whenever commendable deeds become confused with evil ones, they become alike and inseparable. Thus, some people might regard good actions, and would concentrate on that aspect without paying heed to the very evil consequences they may entail, while others would look at bad actions and concentrate on their evil even while these sorts of actions may be harbingers of an immense good. As for those who tread a middle path, they cannot, for the majority of them, distinguish between which actions are really evil and which ones are really good, and if they do, they could not find the kind of support that would enable them to implement the good and commendable actions and avoid the ones that are truly evil, for in those conditions whimsical ideas will masquerade as good advice and they will prevail. It is about this that the hadith deals with, which says: ‘God loves people who are acutely insightful during the periods of tumult and confusion and He loves the people of perfect intellect when desires prevail’.”

How does al-Qaeda Handle the Multiple and Conflicting Objectives of Jihad?

Anyone who has been a keen observer of the approaches adopted by the al-Qaeda Organisation in its combat operations will have certainly noticed that these approaches do in fact reveal by their variety that al-Qaeda has been pursuing conflicting and clashing objectives. The question is whether the organisation was able to disentangle these objectives in a manner that made it possible to its leadership, in particular, to shape their priorities. And the short answer to that is no: al-Qaeda has consistently failed to put at the top of its priorities those objectives that deserved to be put first and those which were achievable.

But how did the objectives of jihad clash in the case of al-Qaeda?

Not long after all-Qaeda had taken the wise decision of abandoning the policy of armed confrontation with the governments of the Muslim world, proclaiming that such collisions were in the end useless, it announced to the world that the new objective of its jihadi activity was now confined to driving America out of the Gulf and the Inviolable Places. Almost immediately afterwards it declared jihad against the Crusaders, the Jews and the

118 Ibid., pp, 57-58
Americans, whilst being engaged at the same time in lending logistical support to a range of Islamic movements which were fighting for independence in various parts of the world. This in gist how al-Qaeda got itself tangled with several as well as clashing objectives, which it had desired to achieve simultaneously, failing in the process to keep its eye on the most important of all the objectives at the time, namely the defence of the Islamic state of Afghanistan.

Indeed, following its failure to determine the primary objectives in respect of their predominance, as well as, its total disregard of the factor of capacity when shaping their conflicting and competing objectives, it was only logical that the whole project of al-Qaeda would end in a debacle across the board: neither was the Islamic state of Afghanistan saved, nor was America driven from the Gulf and nor was a single one of these Islamic independence movement able to gain its independence, and above all the religious conflict with the Jews and the Crusaders has only served to encourage the enemies of Islam to open their mouth too wide. Had al-Qaeda chosen to defend the nascent Islamic state of Afghanistan as one the foremost objective of its jihad and relegated those which were not feasible, it would not have abandoned a jihad that was obligatory and that ultimately would have proven to be most upright and best guided on the way.
III. Advancing Religion: Through the Means of Jihad

Objectives and Means, Ideals and Realities
Islam as a religion has not announced to the world the higher and lofty objectives mankind was now entitled to aspire to, it has also brought along with it the principles and the means by which those higher ideals would become part of our lived reality. Hence, while the ideals were to remain incontestably exalted and immune from change, the means by which they are attained were a fortiori various and diverse, in accordance with the conditions and changes that occur in reality.

Indeed, Islam, as a revelation coming from the Lord of the worlds, has never been oblivious to change as an inherent condition of the world and of human society, nor has it been inattentive to the fact that this change, which is often very rapid, brings with it ever new developments which may require that we engage reality anew. As such, it was only logical that the means which Islam provides to its followers be various and diverse, for it is only in this way that they can renew the guidance of their religious teachings, engage adequately with their surrounding environment and thus become more efficient in attaining those objectives, which all Muslims ultimately seek.

As Islam embarks on its endeavour to change reality and to embellish it with faith and its values, it is fully aware that it will ineluctably clash with those who are either ignorant about it or simply reject it, and encounter enemies who will always be bent on destroying it and effacing it from the face of the earth. This is precisely why Islam has seen to it that the response to such a challenge must be diverse and versatile; for certainly, if the right way of dealing with the ignorant about Islam is to enlighten him, and the right way of dealing with the rejecter is to convince him, the most efficient way of dealing with an enemy is to pacify him, just as the right response to an aggression is to charge with a riposte strike and subdue the aggressors.

Moreover, while Islam does indeed commend its followers to implement the way of God in their lives, it is aware that sometimes it is well within their means to do so but that at other times they may not. Here also, it is owing to these changing circumstances that it has provided them with a variety of means suitable for all kinds of eventualities. Had Islam not done that, it would have been an unreal and unyielding religious system, which burdens its followers with unfeasible practices and coerces them to do them. But how could this? Did not God- may He be glorified- say: “He has chosen you and has not placed upon you in the religion any difficulty”? (22:78), and did He not- exalted is He- say: “There has certainly come to you a Messenger from among yourselves. Grievous to him is what you suffer”? (9:128).

Between Rigid and One-dimensional Thinking and the Divinely-Guided Alternatives of the Prophet

Islam is neither an unreal nor an unrealistic religion, but one that is fully engaged with the world and keen to provide to its followers with the various instruments that will allow them to remain in constant touch with reality and its demands. He is wrong, he who considers
himself among the followers of this faith but is yet wont to reduce all this variety of instruments and alternative means to one or a selected few which he then commits himself to entirely because in his eyes they represent the solution to all the problems, regardless of time and space. Such a person is certainly ignorant of the fact that every issue has a solution which is most suited for it, and that he needs to search for it and get to distinguish it from other solutions and means which exist in the Sharia, if he wants to engage reality as it requires. Sadly, there are some who do not pay attention to this obligation; seeing that jihad is uncontestably the solution to all the problems and fighting is the way to set this solution into concrete, they think that searching for new solution to emerging problems is only a waste of time. Clearly, those who take this view of things are most probably convinced that jihad is the only lawful solution provided by the Sharia, or it may be that they have succumbed to the perception that, in strategic terms, Muslims have no other way of answering the challenges that face them except though jihad because all other alternatives are simply useless.

Had these dear brothers taken a moment to meditate on the verse of the Qur’an and on the biography of the Prophet (pbuh), we would not be here today, and they would have saved the hassle of confronting them about these things. Indeed, they would have understood that the military option, to which they are committed, is not always the necessary option to take or means by which to realise what jihad is expected to achieve. Also, they would have certainly realised that jihad is but a means among other means and a tool among others, all of which are regulated by their own laws and have their own rulings in the Islamic Sharia.

We would like to seize this opportunity to invite them to know in particular about the divinely guided alternatives and policies of the Messenger (pbuh), which adorn his most blessed life and carve for us a path to follow in our future undertakings.

The Divinely-Guided Alternatives of the Prophet

The establishment of religion and bringing people to the worship of the one God was pivotal in the career of the Prophet (pbuh). By far, this very objective was his very raison d'être; every move he made and every decision he took revolved around this aim; it was in respect of it that he gave his loyalty and made peace and it was on account of it that he showed enmity and waged war. The result of this sustained engagement and constant striving for the realisation of that purpose, which was at the centre of the Messenger’s life throughout his prophetic career, is a legacy so rich it offers the believers a variety of policies, alternatives, and resources which are suitable to their needs in all sorts of circumstances, and enable them to achieve the objective of their religion in a diverse and changing world. Before examining this rich legacy of the Prophet (pbuh), we first would like to draw the attention of the reader to an astonishing phenomena: there are nowadays people who commit themselves to only one of these prophetic alternatives and policies, and completely disregard- and in some cases reject- the others, if not all at least in part. Because they are often unaware that these other approaches and alternative policies are actually recognised in the Sharia, these people might even go as far as attacking anyone that makes their mention. This is astonishing because it is as if they have not heard the Qur’anic verse in which God-may He be exalted- has said: “There has certainly been for you in the Messenger of God an
excellent pattern for anyone whose hope is in God and the Last Day and [who] remembers God often” (33:21). Please listen with me to what Ibn Kathir had to say about this verse: “This noble verse”, he says, “is regarded as a formidable basis for the need to pattern one’s life on the model of the Messenger (pbuh) in respect of his sayings, deeds, and spiritual states. Hence, God- exalted and glorified is He- had commanded the believers, during the Battle of the Trenches which saw the siege of Medina, to pattern their actions in conformity with the exemplary patience, forbearance, steadfastness, fighting spirit and reliance on God, all of which the Prophet (pbuh) exhibited on that momentous occasion.”

Now let us put the spotlight on those divinely-guided policies, and those prophetic alternate approaches in dealing with conflict and let us be of those who follow the excellent pattern of the Messenger (pbuh).

1. Calling People to the True Religion of God

The Prophet (pbuh) has devoted his life to bring people to the religion of God, in compliance with the Qur’anic verses:

“And warn, [O Muhammad], your closest kindred” (26:214)

“Invite to the way of your Lord with wisdom and good instruction, and argue with them in a way that is best” (16:125)

“Say, 'This is my way; I invite to God with insight, I and those who follow me. And exalted is God; and I am not of those who associate others with Him” (12:108)

And who would forget, in this regard, his constant preaching to the tribe of Quraysh and his journey to the city of Ta’if where he was subjected to all sorts of injuries only because he (pbuh) was fully dedicated to call people to the worship of the One God. The tribulations, which he endured for the sake of that cause, had only passed when God- exalted is He- had finally given him permission to move to Medina, to whose people he (pbuh) sent Mus ‘ab Ibn ‘Umayr to convey the Message, and following which he was welcomed and was then able to found and rule over the first Islamic state. From there, he was finally in a position to extend his call to the surrounding tribes, and began sending his emissaries to Persia, and Byzantium, inviting all to Islam.

2. Enjoining What is Right and Forbidding what is Wrong

This policy was observed by the Prophet (pbuh), in compliance with the Qur’anic verses:

“And let there be [arising] from you a nation inviting to [all that is] good, enjoining what is right and forbidding what is wrong, and those will be the successful” (3:104)

“You are the best nation produced [as an example] for mankind. You enjoin what is right and forbid what is wrong and believe in God” (3:110).

The Prophet (pbuh) has spared no effort to make his community aware of the importance of this significant obligation and explained to it when exactly it was suitable to forbid what is wrong and when exactly it was preferable for it to enjoin what good and right. Indeed, he

even explained to its members how they should go about forbidding what is wrong, and which issues ought to be an object of forbiddance and which issues ought not to be. He (pbuh) went to great length in discussing these matters and has elaborated a great deal on the rulings governing this area, because it plays a crucial role in ridding society of its moral vices and in strengthening its immunity against them.

3. Patience and Forbearance

The Prophet (pbuh) has certainly opted for this approach on many occasions. While in Mecca, he observed it in many of his dealings with Quraysh, before he was finally ordered by God to fight them in jihad. In Medina also, he has shown an immense patience vis-à-vis the hurt of the hypocrites and the deceit of the Jews, before he (pbuh) decided to drive out of the city. And he has consistently asked his followers to observe patience in their struggle against tumult, even if that meant they would be in difficulty or even face death unjustly. This has made him (pbuh) an excellent exemplar for those who are reckoned weak; those who have no other option in the face of adversity and are incapable of getting support.

4. Forging Cooperation for Righteousness and Piety and Allegiance against Sin and Aggression

This policy of the Prophet (pbuh) was in response to the Qur’anic verse: “And cooperate in righteousness and piety, but do not cooperate in sin and aggression” (5:2).

Now some people might of the view that cooperation and allegiances, with all the good they expected to procure and all the evil they are set to repel, can only take place among the believers, and that consequently it is forbidden for believers to cooperate or build allegiances with those who are not righteous, those who aggressors or even the disbelievers for that matter. But that is a mistaken view, which is actually at variance with the practices of the Prophet (pbuh) and the decisions that he took throughout his blessed life: as long as the issue or the objective is legal, and is deemed meritorious in the eyes of God and His Messenger (pbuh), no harm would be considered done if the cooperation or the allegiance in question promises to lead to its realisation, regardless of who our counterparts or partners are. There are a number of proofs supporting this position and we will mention some of them here.

The First Proof

The first proof is the Prophet’s saying: “By God! If they ask for anything by which they show respect for the sacred things of God, I will grant it to them”, when he (pbuh) became aware that Quraysh was adamant to block his way and prevent him from performing the ’umra, during the year of Hudaybiyya.120 From this hadith, Ibn al-Qayyim was able to derive a very subtle and most delicate ruling. He says: “We infer form these words that whenever the polytheists, the people of innovation and debauchery, as well as the people of

120 Related by Bukhari no. 2734, and Ibn Habban in his Sahih, no. 4872), on the authority of al-Miswar ibn Makhrama- may God be pleased with him.
aggression and injustice put before Muslims conditions that lead to their glorifying one of the sacred rites of God—exalted is He—we ought to comply with those conditions and cooperate, even though we may have refused those conditions to others in the past, because in this instance, Muslims would be cooperating with others in order to glorify the sacred rites of God, they would not be extending their assistance to others in order that they may pursue their disbelief and their transgression further, to the exclusion of everything else. Hence, know that whenever cooperation is forged for the sake of attaining to that which is loved by God and please Him, accept its terms and conditions so long as that cooperation for that lofty aim does not lead to an evil that is much loathed by Him and whose impact is far more significant by comparison. This issue therefore is one of the thorniest to deal with and one the most exacting; it is no wonder that many companion dreaded having to be confronted with it.”121

The Second Proof

This is attested to by the Prophet’s saying: “Any alliance for good that was concluded during the jahiliyya, shall only gain in strength during the time of Islam”, 122 and also his saying about the Alliance of the Notables of Mecca (Hilf al-Fudul)123, which had been concluded during the time of jahiliyya: “In the house of Abdullah Ibn Abi Jad’an, I have been witness to an alliance that is to me better than what the whole world could offer; had I been summoned to such an alliance during the time of Islam, I would have accepted to be party to it”.124 Concerning this point, Imam Abu Hassan al-Mawardi has said: “Although this was an idolatrous deed which was prompted by the system of governance of the time, it became through the presence of the Prophet (pbuh) and on account of what he said about it, a Sharia ruling and a prophetic deed”.125 As for Ibn al-Athir, he affirmed that: “the Prophet (pbuh) had forged an alliance between the people of Quraysh and the helpers (ansar) of Medina. Also, according to a hadith narrated by Anas- may God be pleased with him- in a hadith that ‘the Prophet (pbuh) had forged an alliance between the Migrants of Mecca and the helpers of Medina in our house on two occasions’.126 Thus the hadith, which says: ‘No pre-Islamic alliance is recognised in Islam’127 is in fact in need of an explanation. First of all, it needs to be understood that at the origin alliances are for the purpose of cooperation, mutual support and protection. However, there were alliances during the time of jahiliyya, which were concluded only to further tumult, tribal fighting, and for the purpose of mounting concerted

122 Related by Muslim (206/2530), on the authority of Jubayr Ibn Mut ‘im- may God be pleased with him
123 This was a 7th-century pre-Islamic alliance created by various notables of the city of Mecca and hosted at the house of Abdullah Ibn Ja’dan. In this meeting, various chiefs and head of clans pledged that no person will be subjected to persecution, regardless of whether he is a native of Mecca or an outsider and they vowed that whenever the rights of these residents are violated, they would intervene collectively to ensure that they are regained. For more details on this alliance, please refer to al-Suhayli’s Al-Rawdh al-Unuf. Vol. 1, p, 242
124 Related by al-Bayhaqi (6/367/12859)
126 Related by Ibn Dawud, no. 2926, on the authority of Malik Ibn Anas- may God be pleases with him
127 Related by Bukhari, no. 2294, and Muslim (204/2529), on the authority of Anas Ibn Malik- may God be pleased with him
raids. These were obviously rejected in Islam and it is about them that the Prophet (pbuh) has said, ‘No pre-Islamic alliance is recognised in Islam’. As for those pre-Islamic alliances which were concluded in order to protect the oppressed and maintain social, economic and public life as was hilf al-Mutayyibin and the like; these were the sort of alliances about which the Prophet (pbuh) has said, ‘Any alliance that was concluded during the jahiliyya, shall only gain strength during the time of Islam’. It is after this manner that the two hadiths of the Prophet (pbuh) can be reconciled: Islam accepts the alliance which promotes the good and is in line with its teachings, and it rejects the alliance that is at variance with them.”

Also, after relating in details the event of the Alliance of the Notables of Mecca (hilf al-Fudul), al-Suhayli went back to elaborate on the Prophet’s saying, ‘had I been summoned to such an alliance during the time of Islam, I would have accepted to be party to it ‘, explaining that “since that alliance was forged for the purpose of protecting people against oppression and implementing justice, it was only normal that it would gain more strength during the reign of Islam”, adding that “the hadith, ‘Any alliance that was concluded during the jahiliyya, shall only gain in strength during the time of Islam’ does not simply mean that an ally of a clan or a tribe can just summon his partners in the alliance for any business and be assisted; rather what is meant by ‘shall only gain in strength’ is that any alliance which promoted cooperation, sympathy and social harmony, instead of being revoked, was going to be highly regarded. As for that narrow and negative tribal solidarity, which Islam had fought against, it is not included in this meaning, to the exception of the Alliance of the Notables of Mecca (hilf al-Fudul), as we have already noted.”

The Third Proof

The third proof resides in the Qur’anic verse: “And cooperate in righteousness and piety, but do not cooperate in sin and aggression” (5:2), in addition to the hadith in which the Prophet (pbuh) has said: “Help your brother, whether he is inflicting wrong or is wronged.” They said, “Messenger of God, We can help him if he is wronged but how we can help him if he is wronging?” He said, “You can restrain him, and that would amount to offering help.”

The Fourth Proof

As for the fourth proof, it can also be gleaned from the blessed life of the Prophet (pbuh), which boasts of important examples of cooperation and allegiances that he (pbuh) had concluded with non-Muslims for the good of Islam and the Muslim community alike. Below is a sample of such historical developments:

a. When the Prophet (pbuh) migrated to Medina, he oversaw the writing of a document that was binding for the believers from among the migrants, the helpers and the

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130 Related by Bukhari, no. 3443, on the authority of Anas Ibn Malik - may God be pleased with him
Jews. Let us have a look at some of its clauses to have a sense of the kind of alliance that it promoted among those who entered into:

(24) The Jews shall contribute to the cost of war so long as they are fighting alongside the believers.

(25) The Jews of the B. ‘Auf are one community with the believers (the Jews have their religion and the Muslims have theirs), their freedmen and their persons except those who behave unjustly and sinfully, for they hurt but themselves and their families.

(37) The Jews must bear their expenses and the Muslims their expenses. Each must help the other against anyone who attacks the people of this document. They must seek mutual advice and consultation, and loyalty is a protection against treachery. A man is not liable for his ally’s misdeeds. The wronged must be helped.

(44) The contracting parties are bound to help one another against any attack on Yathrib.

(47) This deed will not protect the unjust and the sinner. The man who goes forth to fight and the man who stays at home in the city is safe unless he has been unjust and sinned. God is the protector of the good and God-fearing man and Muhammad is the apostle of God.

b. The Covenant of Mutual Protection which the Prophet (pbuh) concluded with the Banu Dumra in the Battle of al-Abwaa’, in the month of Safar, 2 AH. Among the statement contained in the Document of the covenant we find the following: “In the name of God, the Most Merciful and Most Compassionate. This Document is a pledge from The Prophet Muhammad (pbuh) written to Banu Dumrah: their assets and lives shall be safe. They shall be assisted when they are aggressed, and they shall also help the Prophet in his fight on the way of God and His religion. This treaty shall remain in full force so long as there remains in the sea a drop sizeable enough to wet a feather. Their conditions during battling in the name of God are exempt from this. They shall answer the call of the Prophet when he asks for their help, and they shall have the guarantee of God and His Messenger. Aid shall be given to those who abide by their pledges and those who are truthful to this treaty.”

131 For a full text and analysis of this covenant, please refer to Majmu’at al-Watha’iq: Al-Manhaj al-Haraki (211) and Al-Bidaya wa al-Nihaya. Vol. 2, p, 283
These historical events\textsuperscript{132} among others, in addition to the many proofs of the Quran and the Sunna, confirm that it is permissible for the believers to choose the option of concluding alliances with whomsoever they wish so long as that alliance serves them to achieve the interest of religion and so long as it is not at variance with what is recognised as lawful in the Sharia, and is not resented by God or lead to something that is so resented by Him, it obscures the merits of the action that was pursued with the intention of earning His pleasure and love.

Now to make the right choice as to which alternative or approach is suited and in keeping with the Prophetic examples we have just seen, requires a critical look at the issues at hand as well as a correct way of determining not only the benefits of the objectives which are being sought and the potentially harmful outcomes with which such an option may be associated, but ultimately also a dispassionate balancing between those benefits and costs. Thus, this task can only be carried out by those who are upright, sincere and determined, because only they can resist the temptations of the evil-commanding soul, and only they are immune from intellectual confusion. Indeed, as Ibn al-Qayyim said, “This issue is one of the thorniest to deal with and one the most exacting; it is no wonder that many companion dreaded having to be confronted with it”.\textsuperscript{133} But we cannot just remain cautious of following the options and alternative that the Sharia opens before us, nor can we just act recklessly, and be oblivious to God’s intention as many individuals and groups who have succumbed to their personal desires and whims do; for in either situation we will, as Muslims, lose precious opportunities and social interests. What we need to understand then is that the issue of Alliance in Islam, as any other, is governed by legal principles and legal rulings derived from the scholarly works on Islamic jurisprudence, Islamic legal theory and the Seera of the Prophet (pbuh), and that these works call for our attention.

5. Migration (al-Hijra)

The Prophet (pbuh) had left the Abode of Disbelief and migrated to the Abode of Islam, the one which provided security to him and to the people of belief. No one is any doubt that this is permissible because this migration was performed by the Messenger himself, a practice which he had earlier endorsed when he commanded some his Companions to leave for Abyssinia in order to flee the repression and persecution against them in Mecca. At that

\textsuperscript{132} One of the accounts that could further bolster the case we have been trying to make here, may be culled from Ibn Hisham’s biography of the Prophet (Vol. 1, p27), particularly where he states that: “During the time of Mu’awiya’s caliphate, Hussein, the son of Imam Ali- may God be pleased with them all- had a bitter quarrel with the caliph’s nephew Walid b. ’Utba b. ’Abd al-Sufyan, who had been appointed governor of Medina, over an issue of money. Hussein felt that his right in this affair was being usurped and said to Walid: ‘By God if you do not return my dues, I shall stand before the Prophet’s Mosque with my sword in hand, and call people to uphold Hilf al-Fudul’. When Abdullah Ibn Zubair, who was then with the caliph’s nephew, heard this being proclaimed, he said, ‘And I swear by God that if Hussein calls me to this oath, I shall certainly join him and take up my sword… we will either acquire his right or all of us shall perish in this endeavour!’”. Ibn Zubair said, ‘I then brought this matter to the attention of al-Miswar Ibn Makkrama Ibn Nawfal al-Zuhri, who vowed to do the same, and then I did mention it also to Abdul-Rahman Ibn ‘Uthman Ibn ‘Ubayd-God al-Taymi, and he too vowed to do the same. Seeing that we were resolved about this, Walid eventually capitulated and returned to Hussein- may God be pleased with him- his dues.”

\textsuperscript{133} Ibn al-Qayyim . Zad al-Ma’ad. Vol. p, 128)
time, he has said to them: “If you were to go to Abyssinia, you would find there a king who does not wrong anyone. It is a friendly land and you could stay there until God grants you relief”. Ibn Qudama al-Maqdisi- may God have mercy on him- has stated: “For many years, there was a long debate among the scholars, the majority of whom ruling that the migration of Muslims to non-Muslim lands would continue to be recognised by the Sharia until the end of this world, and some holding the view that it had ceased to have any basis in the law. In the end, the ruling in favour of migration had won it, and detailed rulings regulating this practice began coming to the fore.” Then concerning about the Sharia ruling concerning migration, he went on to add that: “There are three types of migrations and three kinds of migrants: Firstly, there is the migration which is considered obligatory in the Sharia. This ruling applies to Muslims who while they are able to immigrate; they continue to endure a situation in which they cannot manifest their religion nor carry out their religious duties openly, owing to their residing in the midst of the disbelievers. For these persons migration is obligatory, following the Qur’anic verse in which God- may He be exalted- has said: “Verily! As for those whom the angels take (in death) while they are wronging themselves (as they stayed among the disbelievers even though emigration was obligatory for them), they (angels) say (to them): ‘In what (condition) were you?’ They reply: "We were weak and oppressed on earth." They (angels) say: "Was not the earth of God spacious enough for you to emigrate therein?” Such men will find their abode in Hell - What an evil destination!”(4:97). This severe menace clearly highlights the gravity of the obligation to migrate, and it is severe because the performance of the religious duties is absolutely obligatory for those who are capable of doing so. Thus, migration in their case becomes also a sort of complementary obligation because that which is absolutely necessary for the completion of an obligation is, ipso facto, an obligation.

Secondly, there is the migration which is not considered obligatory in the Sharia. This ruling concerns those Muslims who are unable to immigrate because they are ill, or are forced to stay, or are from among the feeble like women, children and the elderly, and it has its basis in the Qur’anic verse: “Except the weak ones among men, women and children who cannot devise a plan, nor are they able to direct their way. For these there is hope that God will forgive them, and God is Ever Oft Pardoning, Oft-Forgiving” (4:98-99). In their case, migration cannot be even classified as meritorious or recommendable because they have no capacity to perform it in the first place.

Thirdly, there is the migration which is recommendable but not obligatory. This ruling applies to those persons who while they are able to immigrate; they are at the same time able to perform their religious duties, even in the midst of the unbelievers. For them migration is recommendable in order that they may do jihad against these disbelievers, which would not only contribute to the prosperity of their Muslim community, but also to the weakening of the disbelievers’ party, and that would certainly free them of the burden of having to interact with them and having to endure their abominable acts.

But it cannot be classified as obligatory in that they can practice their religion without having to migrate. It is reported that the Prophet’s uncle Abbas chose to stay in Mecca, after the Hijra, while being a Muslim, and we have reported elsewhere that when Nu‘aym al-Nahham wanted to immigrate, his people, the Banu ‘Adiyy came to him saying: ‘You can stay with us, adhere to the religion of Islam, and we promise we will protect you; your benevolence is certainly crucial to us’,” and that is because he was helping the orphans and widows of his clan. He postponed his migration for some time, but finally he did leave. Upon his arrival at Median, the Prophet (pbuh) said to him: ‘Your people were better than mine, my people chased me out of Mecca, and have attempted to kill me, but yours have protected and defended you’. He said: ‘O Messenger of God! Your people drove you out unto the obedience to God, and fighting against His enemy, but as for my people, they have hindered my migration and my obedience to God’ or something to that effect.  

6. Seeking Support

During the Hajj season, the Prophet (pbuh) used to go out in the streets of Mecca not only to spread his Message to the Arabs, but also in search for much need support, particularly during those earliest period of his prophetic career, when he was desperate for assistance and protection from those who accused him of being a liar and those who opposed him. But despite his repeated appeals, he hardly was able to find the kind of backing he sought. Only, the helpers of Medina came to his rescue and that explains their high standing in the eyes of God and the Prophet himself.

In a narration quoted by Ibn Kathir, Ibn Ishaq says:

“Then the Messenger of God (pbuh) returned from the city of Ta‘if, where his call for support had been brutally refuted, to the city of Mecca, where his people were now opposed to him and his religion more than ever before. He practically alone, enjoying the support of only a handful of those reckoned weak from among the Meccans, who continued to have faith in him and his Message. The only option left to him in these circumstances was to present himself before the Arab clans during the Hajj season in order to call them to the worship of the One God, the Almighty, inform them that he was His Prophet and Messenger and request that they believe him and lend him support in his mission of conveying that for which he was sent by God…” Utbah Ibn al-Zuhri has reported that ‘during those years, the prophet (pbuh) was in the habit of appearing before the Arab clans in every Hajj season so that he could address every single one of their chiefs and notables, asking from them only to take him under their wing, as it were, and giving him protection. He would say to them, ‘I am not here to force anyone of you to accept this Message; whoever among you is pleased it, all well and good, and whoever rejects it, he is free to do so. All I am asking you for is to protect me from being assassinated so that I could then continue conveying the Message of

My Lord, and then God will decide upon my fate and that of my followers in accordance
with His will’. But none would accept to consider his plea. They would say to him, ‘no one
knows the man better than his own people! How can a man be of any good to us, after he
had sown so much discord among his people they had to disown him?’ Indeed, the privilege
and honour of sheltering the Prophet, God has reserved to the helpers of Medina.”

It is related from Ibn ‘Abbas that the Prophet (pbuh) had said to him: ‘neither you nor your
brother can offer me the kind of protection I require. So can you come along with me to the
market tomorrow so that we could knock on the doors of the dwellings of the pilgrims from
the other tribes?’ Once in the market, Ibn ‘Abbas said to the Prophet (pbuh), ‘this is where
the tribe of Kinda resides; they are considered among the most noble pilgrims from the
Yemen, and these are the dwellings of Bikr Ibn Wael, and next are those of ‘Amer Ibn Sa’sa’ah. Which of these would you like to approach?’ He said that the Prophet first
approached the tribe of Kinda, and said to them, ‘where are you from?’, they said, ‘from the
people of the Yemen’, ‘from which tribe in the Yemen?’, he asked, ‘from Kinda’, they
answered, ‘and from which clan?’, he asked, they said, ‘from the clan of Banu ‘Amr Ibn
Mu’wiya’, then he asked, ‘can you accord to me a favour?’, ‘what is it?’, they said. He said,
‘you declare that there is no god save God, and you make a committal to uphold the prayers,
and you believe in what has come from God’.

According to a report from Abdullah Ibn al-Ajlah, the tribe of Kinda then said to the
Prophet (pbuh): ‘if you were to succeed in your mission, would then leave the power to us
after you die?’. He said to them: ‘power belongs to God; He shall certainly leave it with
whomsoever He likes’. Then they said: ‘we have no interest in your proposal’. According to
Al-Kalbi, they said: ‘did you come to us to drive us away from our Gods, and disassociate
ourselves from the rest of the Arabs? Go back to your tribe; we are in no need of someone
like you’. So he left them and went to approach the tribe of Bikr Ibn Wael. ‘Where are you
from?’ he asked. ‘From the tribe of Bikr Ibn Wael’, they said. ‘And from which clan?’ he
asked. ‘The clan of Banu Qays Ibn Tha’labah’, they replied. ‘Are you many?’ he asked. ‘Too
numerous to be counted numerous, they said. Then he asked them, ‘can you offer
protection?’ to which they replied, ‘the Persians have bordered on us; we can neither offer
protection against them nor can we afflict them with any wrong’. He said, ‘what would you
say if I told you that you will occupy their dwellings, marry their women and be masters
over their sons, on the provision that you vow to God that you will exalt Him thirty three
times, praise Him thirty three times and glorify Him thirty four times?’. They said, ‘who are
you?’ ‘I am the Messenger of God’ he said and then left them. Al-Kalbi reports that as he
(pbuh) was walking away from them, ‘his uncle Abu Lahab was following him from behind
saying to the people, ‘do not listen to what he is saying!’’. The people then tuned to Abu
Lahab and asked, ‘do you this man’, to which he replied, ‘indeed, he is one of our most
noble; what is it about him that you are inquiring?’ They conveyed to him what he (pbuh)
had told them earlier and said, ‘he claimed to be the Messenger of God’. ‘Do not take any
notice of what he says; he is truly possessed and suffers from delirium’ he maintained. They
said, ‘we have witnessed that when we heard what he had to say about the Persians!’.
Following all of these ordeals and trials, God has facilitated the coming of the helpers of Medina to Mecca, year after year during the Hajj, until they finally gave their allegiance to the Prophet (pbuh), vowing to assist him and shelter him, and thus, he migrated to his new home where he began laying the foundation to his state.  

7. Seeking Peace, Appeasement and Concluding Truces

Another major alternate policy of the Prophet (pbuh), and that was an important alternative approach in his dealing with the enemy was the pursuit of peace, following the Qur’anic verse in which God-may He be exalted- says: “And if they incline to peace, then incline to it [also] and rely upon God. Indeed, it is He who is the Hearing, the Knowing” (8:61).

Commenting on this verse, Ibn Qudama- may God have mercy on him- has stated: “truce refers to an agreement between the warring parties to stop fighting for a certain time, with or without compensation being required for its conclusion. At other times, it is called a peace pact or peace treaty, and that is accepted given that God- may He be exalted- has said: “[This is a declaration of] disassociation, from God and His Messenger, to those with whom you had made a treaty among the polytheists” (9:1), and He also has said: “And if they incline to peace, then incline to it [also] and rely upon God. Indeed, it is He who is the Hearing, the Knowing” (8:61).  

He then went on to add: “ whoever enters into a truce is obliged to honour it, in compliance with the Qur’anic verses in which God- may He be exalted- has said: “O you who have believed, fulfil [all] contracts” (5:1), and “complete for them their treaty until their term [has ended]” (9:4), and also because if he fails to do so, he would have failed to abide by his contract while this may be to his detriment.”

Commenting on the Treaty of Hudaybiyya, al-San ‘ani has stated: “ This hadith is a proof that is permissible for Muslims to make peace with their enemies on a temporary basis should their leader, and not necessarily his entourage, see in that option a way realising a public interest”.  

Reflecting on the legal insights contained in the Treaty of Hudaybiyya, Ibn al-Qayyim has maintained that from among the things that can be derived from that historical treaty is that in light of it, “it is permissible for a leader to be the one initiating peace, and not necessarily the enemy, if he comes to the conclusion that the option of peace is best suited to realise the public interest of the Muslims. Although, the conclusion of peace treaties and truces were part of the alternative policies of the Prophet (pbuh), there are some who cannot imagine that such policies were followed, and would scorn at the idea that such practices could be

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136 Al-Bidaya wa la-Nihaya. Vol. 2, pp, 125-128
137 Al-Mughniyy. Vol. 10, p, 518
138 Ibid., p, 521
139 Subul al-Salam. vol. 4, p, 1379
associated with the Messenger. In their eyes these can only be described as capitulations and compromises in the fundamentals of religion, indeed, to them such policies are akin to sort of loyalties that are recognised by the Sharia. Certainly, those who entertain such thought are in error, because there is absolutely nothing wrong with maintaining that making peace is permissible, and as we have seen, none of the jurists of Islam harboured any misgivings about the legality of it. Why would they when they are fully aware that the Prophet (pbuh) had concluded peace treaties and truces with many of his opponents?

It is truly astonishing that some continue to stubbornly reject this alternate policy and consider it as a valid option in the Sharia, in spite of the fact that it ultimately stems from the guidance of the Prophet (pbuh). Equally astonishing is their inability to see the wisdom behind such prophetic policies whose primary objective revolves around the realisation of the public interest and welfare of the Muslims, and which are developed in response the emerging realities and developments on the ground. For there is no doubt that the Muslim community under the leadership of the Prophet (pbuh) had encountered all sorts of situations during its struggle with adversity: at times they had to face up to new enemies or deal with threats that were far more serious than others, and at other times they were involved in conflicts which shifted gear entirely such that it became all of a sudden laudable to make peace with that or this party, because by doing so they could win it over to their side, and why not see that party become a fierce defender of their cause. All of these situations and others have emerged and can still emerge and they all require a dynamic legal engagement if we they are to be dealt with aptly.

Moreover, we need to make it clear that there is no tension or contradiction between the need to fulfil our contacts, whether they are peace treaties or truces, as required the Sharia and keeping our loyalties. There is a difference between suspending fighting with the enemy is one thing, and giving credence to the belief systems of those with whom the pact or the treaty is concluded is another. How could the former entail the latter? The Prophet (pbuh) has made peace with Quraysh and that had neither resulted in the undermining of a Sharia ruling or an unlawful loyalty nor in giving credence to fallacious beliefs; his guidance (pbuh) is impeccable and it simply ought to be followed.

8. Coexistence

The Prophet (pbuh) had chosen the option of coexistence as a policy when he decided to send some his Companions who were facing unbearable persecution in Mecca, to Abyssinia, saying to them: “If you were to go to Abyssinia, you would find there a king who does not wrong anyone. It is a friendly land and you could stay there until God grants you relief”. He certainly knew that they were going to a land whose inhabitants follow a religion other than Islam, and whose king ruled not according to what God had revealed to him. He knew also that it was perfectly possible that Quraysh would want to turn this king against them, which they almost succeeded in doing. But the Companions still went there, and reminding themselves of the words of the Prophet (pbuh), did their utmost to cohabit
well with the indigenous population and maintained that approach even after the Prophet (pbuh) had migrated to Medina where God had decreed jihad to the Muslims. Not once had the Prophet (pbuh) urged his Companions in Abyssinia to change their behaviour vis-à-vis their host society, even though he knew that the Negus was ruling the land according to the Islamic Sharia. And the Companions of the Prophet (pbuh) were fully cognisant of the fact that in the eyes of the law, their situation falls under casus fortuitous. They knew that it was in their interest to coexist and that this option was the best for their safety. Had they put pressure on the Negus to rule by the Sharia, they would not have succeeded? And they knew that even if they did, he would have had to be dethroned by his people and then both he and they would be subjected to their persecution and ire.

Thus, the Companions peacefully coexisted with the Negus, before and after he converted to Islam, and with the whole system of Abyssinia. Throughout their stay there they were observant of their religious duties, sincere in their devotion to God, and never have they given in to any pressure and compromised on their faith. Let us go over again that exchange that went on between the Negus and Ja’far Ibn Abu Taleb to see for ourselves how resilient those Companions were in their defence for their faith and to learn how such a defence should be carried out. In his al-Bidaya wa al-Nihaya, Ibn Kathir says:

“In the end, the Negus had sent a messenger to request the Muslim refugees to appear before him, and that infuriated ‘Amr Ibn al-‘As and Abdullah Ibn A. Rabi’a, who were sent as deputes by Quraysh to the king of Abyssinia, as they would rather the Negus had accepted to deliver up the refugees than listen to their plight. Just before appearing before the Negus, the refugees had to quickly figure out what they were going to say to him. ‘What shall we say?’ they wondered, and they finally said ‘By God We shall reveal all that we know about our religion and convey all that has been passed on to us by our Prophet (pbuh), and not worry about the consequences’. Once before the king, he inquired, ‘What religion is this for which you have left your people without accepting either Judaism or Christianity instead? Ja’far Ibn A. Talib, who was acting as a spokesman for the group, replied:

“O King, we were an uncivilized people, worshipped idols, eating corpses, committing abominations, breaking natural ties, treating guests badly, and our strong devoured our weak. Thus we were until God sent us an apostle whose progeny, truth, trustworthiness, and clemency we know. He summoned us to acknowledge God’s unity and to worship Him and to renounce the stones and images which we and our fathers formerly worshipped. He commanded us to speak the truth, be faithful to our engagements, mindful of the ties of kinship and kindly hospitality, and to refrain from crimes and bloodshed. He forbade us to commit abominations and to speak lies, and to devour the property of orphans, and to vilify chaste women. He commanded us to worship God alone and not to associate anything with Him, and to offer prayers, give alms, and observe the fast.

We confessed his truth and believed in him, as we followed him in what he had brought from God, and we worshipped God alone without associating anything with Him. We treated as forbidden what he forbade, and as lawful what he declared lawful. Thereupon our people attacked us, treated us harshly, and seduced us from our faith to try to make us go
back to the worship of idols instead of the worship of God, and to regard as lawful the evil deeds we once committed. So when they got the better of us, treated us unjustly and circumscribed our lives, and came between us and our religion, we came to your country, having chosen you above all others. Here we have been happy in our protection, and we hope that we shall not be treated unjustly while we are with you, O King”

The Negus was impressed and was eager to hear more. He summoned his bishops who had laid open their scriptures, and he asked Ja‘far, ‘Do you have with you something of what your Prophet brought concerning God?’ ‘Yes,’ replied Ja‘far. ‘Then read it to me,’ requested the Negus. Ja‘far recited for him the first portion of Surah Maryam, which told the story of Zacharias and the birth of John the Baptist, followed by the virgin birth of Jesus. The Negus wept until his beard was wet and the bishops wept until their books were sodden, when they heard what he was reading to them. Then the Negus said, ‘In truth, this and what Jesus has brought have come from the same niche. You two (i.e.’Amr Ibn al-‘As and Abdullah Ibn A. Rabi‘a) may go, for by God, I will never give them up’.

When the two men had left the Negus, ‘Amr said to Abdullah, ‘Tomorrow, I am going to tell him something that will destroy them.’ Abdullah, who was more pious, replied, ‘Do not do that! Even though they might have done something against us, they remain our tribesmen.’ But ‘Amr insisted, saying, ‘I am going to tell him that they say that Jesus, the son of Mary, is only a human being.’ And indeed, the next morning ‘Amr went to the Negus and said, ‘Those people say something terrible about Jesus. Do send for them and ask them about it.’

The Muslims were again summoned by the king and were wondering what to say to him about Jesus. Then they decided, ‘Whatever happens, we will say what God told us and revealed to His Prophet’. When they had arrived at the Negus's court and he had asked them concerning their views about Jesus, Ja‘far replied: ‘We say about him that which our Prophet brought, saying he is the servant of God and His apostle and His spirit and His word which he cast into Mary the blessed virgin’. The Negus took a small piece of wood from the floor and said, ‘By God, Jesus, Son of Mary, does not exceed what you have said by the length of this stick’. His generals around him snorted when he said this, so he turned towards and said ‘you may snort as much as you like’ and then addressing the refugees he said thrice, ‘You are safe! Whoever insults you shall have to pay a mulct! Whoever insults you shall have to pay a mulct! He added, ‘I would rather forsake a mountain of gold than see anyone of you hurt.’ Finally, the Negus turned to the Qurayshites and said to them, ‘God took no bribe from me when He gave me back my kingdom, so that I should take a bribe for it, and God did not do what men wanted against me, so why should I do what they want against Him? I have no need of these presents of yours, so leave my country!’ Thus, they were both disgracefully sent back to Mecca along with their inducements.” 141

After this encounter, the position of the Negus vis-à-vis the Muslim refugees became unravelled in this account that Ibn Kathir related to us once more.

“The Negus asked the Muslims, ‘Has anyone caused you any hurt’. They said, ‘Yes’. So he summoned a person from among his attendants and said to him, ‘whoever hurts anyone of them fine him four dirhams’. Then he said, ‘will that satisfy you?’. We said, ‘No’, and so he doubled the fine. The narrator said: ‘when the Prophet (pbuh) had migrated to the city of Medina, we said to the Negus ‘the Prophet (pbuh) is in Medina and has been able to defeat those who used to persecute us. We now hope to join him; could you assist us O king!’ He agreed to provide us with the all the necessary supplies for the journey, and then he said, ‘Convey to your companion [the Prophet] what I did for you here, and convey to him that I witness there is no god worthy of worship save the One true God, and that he is the Messenger of God. And ask him to pray to God to forgive me’. Ja’far said, ‘we left and once we were in Medina, I saw the Prophet (pbuh). He embraced me and then said, ‘I do not know whether I should celebrate the conquest of Khaybar or the return of Ja’far!’”

It is clear that the Muslims who had migrated to Abyssinia found in the person of the Negus the safety and justice they had sought, so much that when some Abyssinians who wanted to have the power to themselves revolted against the Negus, they came on his side and prayed for his victory. Citing the report of Umm Salama- may God be pleased with her- Ibn Kathir has stated:

“The Negus showed us excellent hospitality, and so when an Abyssinian rivalled him in his kingdom we were distraught as ever. Fearing that he would be defeated and we would thereafter be left to the mercy of a king who would recognise our rights as the Negus did, on the day of the showdown, we prayed that the Negus would prevail over his enemies. On that day, the companions of the Prophet (pbuh) who were in exile said to one another, ‘who will go to witness the encounter, and tell who has prevailed?’ Zubair, who was the youngest, said, ‘I will’. So they filled a skin with air and attached to his chest so that he could swim across the Nile River to the other side where the battle was taking place. That is how he was able to witness the showdown between the two armies and saw how the Negus got the better of his rival king and killed him. Upon his return, Zubair was waiving to us with his garment, saying, ‘rejoice! God has granted victory to the Negus! I said on that day, ‘we are the happiest of people about his victory’. We stayed on in his country, though later on some of us decided to leave for Mecca, and some us remained”.

9. Isolation and Neutrality

By isolation we certainly do not mean withdrawing from the rest of human society, but to abstaining from getting involved in conflicts, which concern other parties, and observing the principle of positive neutrality instead. Many injections of the Prophet (pbuh) in which he has clearly ordered us to stay away from those who are fighting with one another during times of Tumult, and to steer clear of conflicts that are fought for the sake of power and the

142 Ibid., Vol. 2, p, 86
143 Ibid., Vol. 2p, 90
pleasures of this world. In the following we will cite as an example of hadith from among a vast number of others which deal with this issue:

Abdullah Ibn Habbab- may God be pleased with him- narrated that his father had heard the Prophet (pbuh) say: “During the times of the great Tumult, the trials of the person who has chosen to sit down will be less awesome than those of the person who has chosen to stand up, and his will not be as awesome as those of the person who has chosen to walk, and those of the latter will also not be as awesome as the trials of that person who has chosen to run. Should you be witness to such times of Tumult, it is better for you to be a servant of God who gets killed, rather than being a servant of God who kills”.144 Commenting on this hadith of the Prophet (pbuh), al-San’ani was of the view that it constituted a proof on the necessity of abandoning fighting in certain situations. He says: “This hadith proves that it is imperative to abandon fighting during times of Tumult, and is a clear warning against being involved in conflict in such circumstances. Al-Qurtubi says that ‘the scholars of the salaf had various views about this issue: according to Sa’d Ibn A. Waqqas, Abdulklah Ibn Umar, Muhammad Ibn Muslima and others, it is necessary to abandon fighting during such times. Some of them held the view that a believer in that situation should stay put, others believed that he should leave for another country in order to avoid such Tumult, while a third group maintained that he should fight in order to defend himself, family and property, arguing that he would be exonerated by the Sharia whether he kills or he gets killed. As for the majority of the Companions and the Successors, they affirm that fighting for true justice and opposing the tyrants is obligatory, maintaining that such hadiths as those who warn against fighting during Times of Tumult are advanced by those who are either reticent to fight or are unfit to have knowledge of the truth. Providing more details, al-Awza’iyy explained that only when two groups, neither of which is led by a legitimate leader, engage in fighting, it becomes forbidden for the believers to partake in the conflict. According to him, it is under this light that we should understand the hadiths warning Muslims against being dragged into participating in conflicts during times of awesome trials and ordeals.

Thus, al-Tabari has stated that “disapproving and standing against that which is abominable and flagrantly unjust is the duty of any Muslim who is capable of it. That is because whoever stands by the person who is right is on the right side of the law, and whoever stands on the side of the person who is wrong and is on the wrong side of the law. Should judging between people prove to be too difficult, then that would be the situation in which it is prohibited to engage in fighting. “It is said”, al-Tabari went on to add, “This prohibition applies to End Times, at which period fighting would be pursued for the sake of power only”.145 All of the above makes it clear that neutrality needs to be well defined before we can properly understand it and put it in its proper place in general the scheme of things. Indeed, without such an understanding an individual may very well fail to recognise a

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144 This is part of a long hadith related by Ahmed (5/110), al-Tabarani in his Al-Mu’jam al-Kabir(4/60/3230) and Abu Ya’la (13/176/177). The transmitters in the isnad of al-Tabarani were deemed trustworthy by Sheikh Arna’ut

145 Al-San’ani. Subul al-Salam. Vol. 4, pp, 1328-9
course of action as a duty, and fail to implement it, just as he may rush into doing something thinking that he was under a moral obligation to implement it when in fact he was not.

10. Jihad and Deterrence

As an option, this policy has its basis in the Qur’anic verses, in which God- may He be exalted- says:

“And prepare against them whatever you are able of power and of steeds of war by which you may terrify the enemy of God and your enemy and others besides them whom you do not know [but] whom God knows. And whatever you spend in the cause of God will be fully repaid to you, and you will not be wronged” (8:60)

Go forth, whether light or heavy, and strive with your wealth and your lives in the cause of God. That is better for you, if you only knew” (9:41). Apart from many other Qur’anic verses, there are also many examples from the blessed life of the Prophet (pbuh), which leaves no doubt that jihad has been a major strategic as well as legal option in his dealing with conflicts.

Each one of these ten policy options and divinely-guided alternatives has a jurisprudence which is proper to it, and is governed by its own Sharia rulings, such that believers are able to determine when they should follow this or that alternative, and at which point they should abandon it.

Now the question is how come despite the existence of all these prophetic approaches and diverse policies, there are still some people who insist that jihad is the only lawful option open before Muslims in their search for a way out of their crisis, and therefore their inescapable duty?

Is it conceivable that they have no knowledge of this variety of divinely-guided alternatives or is it that they really have solid evidence to back their position with?

Assuming that they rely on evidence, we can safely advance that the proponents of the jihadi position rely essentially on two arguments. The first is their saying that the verses of jihad have abrogated all the other Qur’anic verses which advocate generosity of spirit, leniency and such other approaches and ways of dealing with the non-Muslims. As for the other argument, it is their saying that to the exception of jihad, all other approaches and policies are useless when it comes to the project of reinstating the Islamic state.

This issue is important and deserves our attention, so let us discuss these two arguments.

Debunking the Claim that Jihad abrogated all of the Other Policies

Those who champion this position argue that when God has enjoined jihad, He-may He be exalted- has by that decree abrogated all of the other verses, which had encouraged the
believers to show magnanimity, leniency and forbearance vis-à-vis the non-Muslims, and that by declaring it an obligation, all previous peace treaties and truces contracted by Muslims with their enemies were effectively made void. To buttress their position they recline on the views of some of the leading scholars of Qur’anic interpretation who they claim took the view that the ‘verse of the sword’ had abrogated all of those verses which had enjoined Muslims to *pardon and overlook until God delivers His command, and show leniency, patience towards the non-Muslims.*

Among these scholars is Ibn Kathir and his interpretation of the Qur’anic verse in which God- may He be exalted- has said: “And when the sacred months have passed, then kill the polytheists wherever you find them and capture them and besiege them and sit in wait for them at every place of ambush. But if they should repent, establish prayer, and give zakah, let them [go] on their way. Indeed, God is Forgiving and Merciful” (9:5). Indeed about this verse Ibn Kathir has stated:

“This noble verse is the verse of the sword which al-Dahhak Ibn Muzahim argued abrogated every agreement of peace, every contract and every term which the Prophet (pbuh) had previously concluded with any idolater”. 146

Equally, al-Alusi- may God have mercy on him- has stated that the above verse was ‘according to al-Suyuti the verse of the sword which had abrogated all of the Qur’anic verses that enjoined magnanimity, leniency, tolerance and peace”. 147 They may also resort to Ibn Hajar who said, “The verse of the sword pertains to ‘And fight the Pagans all together’” (9:36), as well as Abu Bakr al-‘Arabi who maintained that “ all of the verses of the Qur’an- a hundred and twenty four of them- that had commanded the believers to keep their contacts with the disbelievers, and show leniency and magnanimity in their relations with them, have been abrogated with the verse of the sword, namely, ‘When the sacred months have passed, then kill the polytheists’ (9:5), because it was revealed last”.

Now given that the ninth chapter of the Qur’an, *al-Tawba*, is the last that was revealed to the Prophet (pbuh) as related by Bukhari, it is, they argue, only logical to conclude that the policy and approach for which the Prophet had settled in the end and just prior to his death, is the policy and option of jihad. Thus, according to them the Prophet (pbuh) had by the time of his death cast away all of the previous divinely-guided policies and approaches which he had previously adopted with his enemies. But are these arguments solid enough to be counted as valid?

**The Deficiency of this Line of Argument**

In the following we shall examine the arguments of those who champion the option of jihad, considering it the only alternative Muslims have in the face of the challenges and

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difficulties they experience. The aim of this final section is to show, and from various aspects, the deficiency of their arguments.

The First Aspect

It is simply wrong to posit that jihad abrogated all the commands which had enjoined Muslims to be forgiving and observe patience towards others, and that it made void, as consequence, an authentic Islamic policy, namely the policy of peacefulness. How can anyone accept that it is not permitted to the people of Islam to show patience or choose to show magnanimity and leniency towards those who differ with them?

What these individuals have failed to take note of is that the obligation of jihad has in fact abrogated the obligation of showing patience and forbearance, and not its permissibility; meaning that once God has given the believers the permission to fight, they were no longer required to be patient with their enemy, but this permission to fight never entailed the abrogation of the permissibility of patience or leniency, and there is a significant difference between these two interpretations.

Indeed, before the Prophet (pbuh) had received permission from God to engage in jihad, it was incumbent on him to observe patience, "pardon and overlook until God delivers His command". But no sooner had the verse “Permission [to fight] has been given to those who are being fought, because they were wronged” (22:39), been revealed to him, fighting against such injurious behaviour became permitted, but without abolishing the practice of patience and forbearance. What is certain, however, is that from that point onwards, neither he nor the Muslim community were obliged to uphold the injunction to “pardon and overlook until God delivers His command”. And here is why:

1. Before God gave the permission to engage in jihad and take up fighting, resilience and forbearance were the only options that the Prophet (pbuh) had in the face of provocation. Indeed he was ordered to behave in such a manner as the account of the Second Allegiance of ‘Aqaba clearly shows. Here is what Abdullah Ibn Ka’b B. Malik narrated on the authority of his brother Ma ‘bad Ibn Ka’b. he said:

   “Once the pledge of allegiance to the Prophet (pbuh) had been completed, one of the devils stood on the highset ground of ‘Aqaba shouting with the loudest voice I had ever heard, ‘O people of the dwellings! Muhammad has conspired for war against you!’ The Messenger of God (pbuh) said: ‘This is Azab [the jinn] of ‘Aqaba…O enemy of God! We are leaving now, but I shall certainly deal with you later’, and he ordered us saying, ‘Return to your camps!’ Then, al-‘Abbas Ibn ‘Ubada B. Nadlah said: ‘O Messenger of God! By God who has sent you in truth, we are powerful enough. If you wish, we could put the People of Mina to our swords tomorrow.’ In reply, the Prophet (pbuh) said: ‘Back your camps; we have not been commanded to do that’.” Ibn Kathir. 148

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2. What proves that patience and forbearance do remain policy choices is His saying—Exalted is He—: “Many of the People of the Scripture wish they could turn you back to disbelief after you have believed, out of envy from themselves [even] after the truth has become clear to them. So pardon and overlook until God delivers His command. Indeed, God is over all things competent” (2:109). This is certainly a Medinan verse that was revealed to the Prophet (pbuh) after jihad had been decreed. In it, the believers are commanded to show generosity of spirit towards their opponents, which leaves no doubt that the duty of jihad did not make the policy of forbearance void, rather, if anything, it had done away with the obligation of observing it. Hence, the believers were asked to show magnanimity and be courteous with the People of the Book until God delivers His command concerning them.

Commenting on this verse, al-Qurtubi has stated:

“According to Abu ‘Ubayda, any verse ordering the believers to refrain from fighting has to be Meccan verse, and is therefore abrogated by the verses which enjoin fighting. However, in response to this Ibn ‘Atiyya has affirmed that Abu ‘Ubayda’s claim that the verses in questions are Meccan is weak and unsustainable, in that the opposition of the Jews to the Prophet (pbuh) took place in Medina. In my opinion, and that I believe is the proper way to deal with this issue, it is important to highlight that the Prophet (pbuh) and his Companions used to pardon the polytheists and the People of the Book, and used to show forbearance in the face of their provocation, in compliance with the verse: “And you will surely hear from those who were given the Scripture before you and from those who associate others with God much abuse” (3:186), as well as, “Many of the People of the Scripture wish they could turn you back to disbelief…” (2:109). Therefore, we could say that the Prophet (pbuh) had always had a strong penchant for leniency in his relations with them and had always applied himself to be as generous to them as he was commanded, until a time when God gave him permission to fight them”.149

Thus God has commanded the Prophet (pbuh) to be patient with the polytheists and the People of the Book in spite of their hurt and provocations. Indeed, upon his arrival to the city of Medina, he (pbuh) did not hesitate concluding a treaty whereby he had clearly extended the hand of peace to the Jews. Had the duty of jihad and the permission to engage in it annulled the policy of maintaining peaceful relations and the policy of concluding peace treaties, the Prophet would surely not have engaged his person in a covenant as momentous as the Constitution of Medina.

Now some might be asking, ‘why don’t you make mention of the Qur’an commentators who argue that the verse of the sword and the verse in which God—exalted is He—has said: “Fight those who do not believe in God or in the Last Day and who do not consider unlawful what God and His Messenger have made unlawful and who do not adopt the religion of truth from those who were given the

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Scripture - [fight] until they give the jizyah willingly while they are humbled” (9:29) had actually abrogated those verses which support peaceful relations and coexistence with the disbelievers?

We say in response that this verse, granted that it is an abrogating verse, was in fact revealed to enact the jizyah and the permission to collect it from the People of the Book, which none of the previous verses had made into law by then. But under no circumstances, once this purpose is clear to us, should the abrogation in question extend to the prohibition against fighting them to abolish it. We say this because it is known to all of us that the Prophet (pbuh) had raided the Jews of Banu Qaynuqa’ after the Battle of Badr, and that he raided Banu al-Nadir after the Battle of Uhud, and that he raided Banu Qurayda after the Battle of the Trenches; whereas the Raid of Khaybar was after the Treaty of Hudaybiyya. Equally, we all also know that these raids and battles had taken place before the verse of the sword and the verse of the jizyah were revealed. And that is proof that their jihad against the polytheists and the People of the Book was permissible just as it was permissible for them, at the same time, to uphold the policy of leniency and peaceful relations with them, though once the verse of jizyah had been revealed, Jews had to either embrace Islam or continue to follow their religion with the provision that they would pay the jizyah if they choose to leave under Muslim rule. Moreover, al-Suyuti, quoting Ibn Hajar Makki, has said that “some have maintained the verses which run like ‘So pardon and overlook until God delivers His command’ (2:109), do not address a specific group of people, at specific time and with a specific aim. Hence the command which this verse enjoins is not abrogated; rather it is postponed until a certain time”. 151

3. Another proof that the policy of forbearance and patience has never been abolished as an alternative is the fact that the Companions in exile had recourse to it, in spite of the fact that jihad had been ordained during their stay in Abyssinia. Now some might retort to this, saying that those Companions had entered into a pledge of security with the Negus, and thus had no other option but to honour it. We say in response to this line of argument that by saying this, you have conceded that coexistence and the pledge of security is a lawful option, in spite of the existence of the duty of jihad, and that is surely a contradiction. Are you not claiming that the order of jihad had abrogated all other alternatives? If jihad had truly become an ineluctable duty as you would have us believe, would not the Companions in question have casted aside their observance of patience and coexistence, as well as their commitment to their pledge and agreement, only in order to perform that obligation? If we had to follow your logic, they would have had to, but they did not. And that is ample proof that it is still permissible to observe patience and forbearance, even after it had become permissible to engage in jihad.

150 For more details on these events, please refer to Zad al-Ma’ad. Vol. 2, pp, 71-133
The Second Aspect

Now we would like to discuss in particular the claim which purports that the verse of the sword had actually abrogated the alternative of forbearance that one finds in verses like “So pardon and overlook until God delivers His command” (2:109). We submit that many scholars have in fact rejected the idea that the verse of the sword had, with one simple stroke, abrogated a hundred and twenty four verses that enjoin the believers to be lenient towards the idolaters, overlook their trespasses and show forbearance in the face of their provocations. From among these scholars is none other than al-Suyuti who had refused the indiscriminate and blanket use of the rule of abrogation which he believed some commentators of the Qur’an during his time and before were wont to indulge in. In the following passage from his Itqan, he discusses the verse of the sword as a case in point and he quotes from Abu Bakr al-‘Arabi who is incidentally the champion of the camp that sees salvation only in jihad. This is what he says, after arguing that there are several forms of abrogation in the Qur’an:

“Verses whose ordinances have been abrogated but not their recitations: Much has been written in this category, and people have included herein many verses, even though the actual number of verses is few indeed, as has been confirmed by more meticulous scholars such as the judge Abu Bakr Ibn al-‘Arabi. I maintain that the material which these proliferators tend to gather may be classified as follows:

Firstly, the verses that are neither abrogated nor qualified, and have no connection to these categories whatsoever… This is true for verses such as “Is not God the most decisive of all judges (95:8), which some have claimed to be abrogated by the verse of the sword, but this is not so, because God Almighty is forever the most decisive of judges. This statement cannot support abrogation even though it implies an order to leave matters to God and to forgo retaliation. Equally, some consider the verse “And speak kindly to people (2:83) is also abrogated by the verse of the sword, However Ibn Hassar deemed this position unsustainable, arguing instead that it is an account of the pledge taken from the Children of Israel; it is merely a report and not an abrogation. And now you apply the same logic to many other verses…Now that you have understood this, you have come to appreciate that the prolific users of abrogation have done away with all the verses of peacefulness and clemency, but we say that the verse of the sword did not in fact abrogate every single one of them as there is still a number of them still in force, as I have indicated in a fine piece which I had devoted to that issue”. 152

Following this, al-Suyuti- may God have mercy on him- went on to explain that the policy of showing forbearance in the face of insults and provocations need to be implemented whenever the conditions dictate it; for in his view, it is best, according to him, to regard this sort of verses as no longer occupying the forefront of the mind of the Qur’an, as it were,

152 Al-Itqan. Vol. 2, p, 22
than to omit them altogether by a wholesale implementation of the rule of abrogation and the verse of the sword. He says:

“This debunks the arguments claiming that all such verses have been abrogated by the verse of the sword, when in fact, this is not the case. Rather, verses like these belong to the ‘made to forget’ category, if we may say so; a category to which belongs every ruling that is meant to be executed whenever the corresponding effective cause so demands, but which gets relegated as soon as that rational is no longer there or has changed. Thus, this is not a case of abrogation, because abrogation effaces a ruling and makes its subsequent application illegal”. 153 We shall close this section with a passage from sheikh al-Islam, Ibn Taymiyya—may God have mercy on him. He wrote: “whoever happens to reside in a land where he is powerless or happens to go through a period of powerlessness; let him be patient and act in conformity with the verse So pardon and overlook until God delivers His command (2:109)”.154

The Third Aspect

How can we possibly admit that the duty of jihad has actually abolished all of the other prophetic policies when we can see that the Islamic nation, has throughout its history and to this day, concluded peace treaties with its enemies in the interest of Islam, and when we witness that so many books of Islamic jurisprudence, across the centuries, have never ceased discussing the Sharia rulings, regarding issues such peace-making, migration, and enjoining what is right and forbidding what is wrong?

Debunking the Claim that Jihad is the Solution

The jihadists claim that fighting is the only solution to the plight of Muslims and that any other alternative is useless, is the fruit of their own understanding and appreciation of the facts on the ground. Although this claim cannot be considered a legal proof, we shall endeavour in the following section to show the error of this reasoning and assessment of theirs.

Jihad is not a Sine Qua Non for the Establishment of the Islamic State

The claim which purports that jihad is the alienable condition for success, excluding all of the other alternatives, which the Islamic Sharia has permitted, clashes with a very basic truth in Islamic history. Indeed, it is known to everyone that the first Islamic state which the Prophet (pbuh) established in the city of Medina did not come about as the result of sabre rattling or fighting, rather it was the fruit of the policies of calling people to God and of

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153 Ibid. Vol. 2, p. 31
154 Ibn Taymiyya. Al-Sarim al-Maslul, p. 221
seeking support, which the Prophet (pbuh) has so majestically performed. Did he not, peace and blessings be upon him, managed to gain the pledge of allegiance of the helpers (ansar), while still in Mecca, and then he sent that great and sincere caller to Islam, Mus‘ab B. ‘Umayr- may God be pleased with him- to prepare the people of Medina to receive the Islamic state? Now were these optional policies to no avail? Can you please reply to this question with sincerity, for God’s sake?

Are we going to deny the fact that Islam had penetrated many parts of the world, such as the Malay Archipelago, south Asia, and Mali, to name a few, through trade and good relations and not through jihad? How can we in the face of this historical evidence continue to stubbornly refuse to admit that the policies which have led to these victories are useless?

In addition to these historical facts, we do find that the Sharia has consistently preferred this sort of policies to the policy of jihad. Here are some examples:

1. It is obligatory to convey the Message of Islam to people before jihad against them is permitted

2. When enjoining what is right and forbidding what is wrong, it is crucial beforehand to first introduce the other to the basics of Islam, to give him guidance and deter him, before one can finally decide to rally the troops and pull the swords

3. It is recommended that jihad against the apostates be postponed, when there is a probability that they may be willing to return to Islam. Burhan al-Din al-Marghinani, the author of al-Hidaya, has stated: “as for the apostates, the Muslim ruler needs to postpone the fighting against them until such time when their matter is resolved beyond doubt. This postponement is permitted based on the fact that having been Muslims before, it is laudable to nourish the hope they would come back to the fold.”

4. Any means or method which can secure the realisation of the objectives being sought in a way that does not require the costs and hardships associated with jihad, will gain preference, following the Qur’anic verse in which God-may He be exalted- has said: “Repel [evil] by that [deed] which is better; and thereupon the one whom between you and him is enmity [will become] as though he was a devoted friend” (41:34), as well as, the hadith in which the Prophet (pbuh) has said: “God is gentle, loves gentleness, so much that He rewards a gentle action not the same way he rewards a harsh one.”

About this point, al-Ghazali narrates that when asked to explain what gentleness meant, Sufyan Al-Thawri said that it consisted in “giving everything its right due: being harsh when the circumstances so demand, and also being lenient when it is required. There is time for pulling the swords and a time for pulling the whip”. And this, according to al-Ghazali, is “an indication that is important to strike a balance between harshness and leniency and between overlooking people’s faults and

155 Derived by Muslim (88/2593), on the authority of Aisha- may God be pleased with her.
disclosing them”. Indeed, he thinks that “what is most virtuous and praiseworthy when it comes to leniency and harshness is to take the course that one ought to take for all appropriate behaviour, namely the middle path. However, it is worth noting that because most people lean naturally towards harshness and brutishness in their behaviour, it has become necessary to put emphasis on gentleness and clemency, and to praise these qualities as the Sharia has done, in spite of the fact that harshness can be just as good, when it is appropriate. The problem with harshness and brutishness is when they become in the eyes of the harsh person and the brut the only ethical way to behave, and that is exactly where the calamity lies; for at this point the truth has coincided with one’s whims and desire, and that situation is as irresistible as the taste of good butter and honey. Indeed, the people of knowledge have praised the quality of gentleness and clemency because it is praiseworthy and beneficial in most cases, whereas brutishness, severity and harshness only rarely are they appropriate. A perfect man is he who is able to decide by means of his insight where it would be better to resort to gentleness and clemency, and where to show the opposite. If one does not feel he has developed that capacity; let him stick to gentleness because it will fail him only very seldom.”

5. The jurists of Islam have unanimously ruled that is not permitted to resort to killing and fighting a difficult war, when it becomes evident that the objective of jihad can be achieved through means that are less costly in terms of human lives. This is exactly the position the law vis-à-vis the aggressors and the assailers in view of the threat they pose to the safety of human lives, property and dignity. With regards to fighting the aggressors, Ibn Qudama has stated: “Should the option of thwarting their aggression without having to resort to fighting become available, it would not be permissible in that case to spill their blood; for, in situations such as these the objective is always to compel the aggressor to turn back to his borders. Once that proves achievable without the spilling of blood, fighting them becomes prohibited for the simple reason that it would no longer be required.”

Commenting on the Qur’anic verse: “And if two factions among the believers should fight, then make settlement between the two. But if one of them oppresses the other, then fight against the one that oppresses until it returns to the ordinance of God. And if it returns, then make settlement between them in justice and act justly. Indeed, God loves those who act justly” (49:9), al-Hassas has stated: “The manifest meaning of this verse makes it clear that the oppressive faction is to be fought until it returns to God’s command as is the norm in all sorts of conflicts. Meaning that if fighting them with sticks and footwear brings the desired outcome and this faction finally decides to return to His ordinance, then that is the end of the matter, but if that proves not to be enough, then only the swords will do.”

157 *Al-Mughniyy*. Vol. 10, p. 55
All of this tells us that we are under the obligation of ascertaining that jihad is absolutely lawful in the eyes of the Sharia before we decide to take it up. Once, we have done that, we are still tasked to ascertain whether there are no other alternatives, which can achieve promptly the very objectives that we wish to achieve through jihad, because if we do have such alternatives and we can carry them out in accordance with the Sharia, we would in that case be called to give priority to one of these alternatives, in keeping with all the considerations that we have already elaborated on in this chapter.
Part Two

From 9/11 to Riyadh: Al-Qaeda’s Bombings and their Aftermath
A Tale of Incoherent Arguments and Erroneous Conclusions
The Bombings of al-Qaeda in the Eyes of the Sharia

Preface

Ever since the proclamation of the International Islamic Front for Jihad against the Jews and Christians, and from the time it issued the fatwa to kill American civilians anywhere, anytime, mounting bomb attacks of the most devastating proportions have become signature policies of the al-Qaeda Organisation.

To any keen observer of these bombings that were carried out in many countries including Kenya, Tanzania, Indonesia, USA, Pakistan, Yemen, Saudi Arabia and Morocco, will most certainly notice that we are not looking here at bombings directed against an oppressive coloniser or a transgressing invader, nor is there anything suggesting that these bombings occurred in the context of a declared war against one of the countries mentioned above. On the contrary, the bombings this chapter deals with have occurred in Muslim countries and non-Muslim countries of which neither has been party to any direct confrontation with the al-Qaeda Organisation of or the Jihadi Islamist groups.

Furthermore, these bombings have constantly targeted places where people from different religions and nationalities intermingle. As such most of their victims were either Muslims or non-Muslims whose killing is also not permitted in the Sharia, as can be established by a mere cursory glance at the victims’ religious affiliations and nationalities. Indeed, if we take some of the bombings which al-Qaeda carried in some Muslim countries, as an example, we will find that the majority of the victims were either Muslims or unintended targets from other nationalities. The following table illustrates this point clearly:
<table>
<thead>
<tr>
<th>Place and date of operation</th>
<th>Deaths</th>
<th>Injured</th>
</tr>
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<tbody>
<tr>
<td>1 The Bali night club bombings in Indonesia. 12/10/2002</td>
<td>Number</td>
<td>Nationality</td>
</tr>
<tr>
<td></td>
<td>202</td>
<td>75% of the dead were Australians 1 Swiss female 1 British male 2 Indonesians Other nationalities</td>
</tr>
<tr>
<td></td>
<td>Number</td>
<td>Nationality</td>
</tr>
<tr>
<td></td>
<td>309</td>
<td>5 Swiss 6 Belgians 18 Britons The rest were Australians and Indonesians</td>
</tr>
<tr>
<td>2 Bombings of 3 residential building complexes east of Riyadh, Saudi Arabia. 12/5/2003</td>
<td>Number</td>
<td>Nationality</td>
</tr>
<tr>
<td>34</td>
<td>9 Americans 3 Britons 6 Jordanians 2 Lebanese infants 16 Saudis including 9 Perpetrators of the attacks</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Number</td>
<td>Nationality</td>
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<tr>
<td></td>
<td>194</td>
<td>16 Americans. The rest were Saudis and from other nationalities.</td>
</tr>
<tr>
<td>3 The bombings of Casablanca, Morocco, Hotel Farah The Belgium Consulate A Jewish cemetery A Jewish community centre &quot;Casa de España&quot; restaurant 15/5/2003</td>
<td>Number</td>
<td>Nationality</td>
</tr>
<tr>
<td>42</td>
<td>3 Spaniards 2 French 1 Italian The rest were Moroccans including the 13 who carried out the 5 attacks.</td>
<td></td>
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<tr>
<td></td>
<td>Number</td>
<td>Nationality</td>
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<tr>
<td></td>
<td>100</td>
<td>13 Spaniards 1 Italian The rest were Moroccans</td>
</tr>
<tr>
<td>4 The bombings of the American Marriott Hotel, using a car loaded with explosives, Jakarta, Indonesia, 5/8/2003</td>
<td>Number</td>
<td>Nationality</td>
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<tr>
<td>14</td>
<td>1 Dutch The rest were Indonesians and other nationalities</td>
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</tr>
<tr>
<td></td>
<td>Number</td>
<td>Nationality</td>
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<tr>
<td></td>
<td>152</td>
<td>2 Americans 4 Singaporeans 12 Australians 2 New Zealanders The rest were Indonesians</td>
</tr>
</tbody>
</table>

Following these operations, the countries which were the objects of these attacks formed a united front against the Islamic movements in general and the Al-Qaeda organisation specifically. Thus, a multinational task force came to the fore and a conflict of global proportion was born.

159 See al-Hayat newspaper 14/5/2003
160 See al-Hayat newspaper 16/5/2003
161 See al-Hayat newspaper 6/8/2003
Seeing that these evils and social harms were on the rise, and that many Muslims as well as others were being killed without any reasonable justification, it behoved us to assess these bombings according to the impartial standards of Sharia.

In this assessment we will not be rushed into describing the perpetrators of these bomb attacks of being just a band of frivolous youth nor are we prepared to accuse them of acting as a fifth column in the interest of some foreign power, as many others have done. We think that these accusations are based on logic which is neither conducive to the truth nor instructive on the true motives which have led many of these young people to give up their lives by blowing themselves up, driving a truck loaded with explosives or wearing an explosive belt. Instead, we maintain that those who have carried out these bombings wanted to do some good but they did not know how to go about it and they wanted to do some benefit but it eluded them. We also take the view that these young people when they blow themselves up they do so with the intention of serving a cause they believe is just and they substantiates this with evidence they believe is sound.

It is vital that the assessment of these bombings be well received by the hearts and minds of these young people and others, and thus we envisage that the best approach is engage with them rather than to dismiss them, and to discuss their evidence objectively without accusing them of being frivolous and lightheaded or acting as treacherous agents.

Indeed, anyone who prefers the logic of defaming these young people as a way of dealing with these issues, believing that it is the right course of action, is actually mistaken for thinking so. This is because accusing them of the sort serves to convince neither these youths about their wrong nor anybody else who might be completely awe-struck by their total devotion and their sacrifice and is, therefore, prepared to listen to their evidence and arguments.

Since this is our approach, we shall discuss in this chapter the Sharia proofs used as evidence by those who carry out these bombings. The aim of this is to see to what extent their use of these textual proofs is correct and establish to what degree, in invoking these proofs, they do actually comply with rules controlling their legitimacy, particularly when they are brought to bear on the realities on the ground. But before this, we shall by way of an introduction to this discussion male mention the Islamic legal maxims which control the legitimate application of sharia rulings to contemporary realities and current events. This is because we see that most of the confusion associated with these bombings stem, on the one hand, from an erroneous application of the Sharia to the realities on the ground and from an erroneous estimation of the social benefits and costs of our actions on the other. Thus, this chapter will be divided into two sections as follows.

Section One: The Islamic legal principles controlling the application of Sharia rulings to contemporary reality and current circumstances

Section Two: From 9/11 to the Bombings of Riyadh: A legal Perspective.
Section One

The Islamic Legal Principles Controlling the Legitimacy of the Application of Sharia Rulings to Contemporary Reality

From among the most widespread errors of the jihadis, the most important ones would have to be those errors resulting from their misapplication of the Sharia rulings to our contemporary reality, and among the jihadi groups most exposed to this legal fallacy, is certainly al-Qaeda, as can be seen from the actions attributed to the organisation.

Decidedly, when jihad is being discussed, there is a hardly a disagreement between people as regards its theoretical rulings; however, as soon as this discussion turns to focus on the practical plane, that is on the application of jihad to reality and the rulings related to this practical level, that consensus dissipates and the gap of difference widens, because at this level, many will hold different opinions, and will even choose to abide by contrasting rulings. Indeed, at this practical level, it is not uncommon to find the most diverse position on jihad among the Muslims masses: for just as there will be those who will form the view that the public interest of Islam and the Muslims will only be served by fighting, there will be those who will see that all evil is in fighting, and just as there will those who will maintain that the reasons for jihad and its conditions have been fulfilled and its legal impediments have been removed, there will be others who will opine that none of these reasons and conditions have been fulfilled and none of these legal impediments for jihad have been removed. And while some will see that the rulers in their countries have Islamic legitimacy, others will not be prepared to grant them that legitimacy, similarly while some will regard the entry visa for tourists as tantamount to granting them a pledge of security which is recognized as such in the Sharia, others will deny them that right by invoking the Sharia. Thus one finds a great divergence among those opinions the origin of which is in fact the difference in applying those rulings to emerging realities, and that is precisely where most errors occur.

For this type of errors which arise out of the misapplication of the Sharia rulings, there in fact a number of factors. Sometimes they are the result of conclusions reached by non-specialists who when they are given the task of applying the rulings of jihad to new realities, they interpret the law according to their own reasoning, and fail to understand the regulative sharia maxims which ensures that this task is fulfilled legitimately. At other times, however, these errors are the result of not paying attention to the connection that relates the sharia ruling to the reality to which it is applied. Such errors may also stem form a defective understanding of contemporary reality as such. But if we want to summarise all the above in a single statement, we would have to say that the core factor behind such errors resides in the breaching of the legal maxims controlling the legitimacy of the application of Sharia rulings to new and emerging realities.
Perhaps this is what imam Ibn al-Qayyim made allusions to when he was explaining how some jurists who claim to be scholars of the Sharia adopted incorrect statements. Putting his finger right on the pulse, he stated: “… What led them to that are what may be describes as defective knowledge of the Sharia as well as in ill-understanding of contemporary reality and then applying the former to the latter in an incoherent fashion”.  

Thus, it is not surprising that the religion of Islam has always made sure that the application of sharia rulings to particular realities be galvanised by a number of legal maxims controlling their legitimacy and preventing the slippery slope of errors. Indeed the sharia has provided many texts explaining the nature of the link between the fatwa – or the application of the sharia ruling – and the reality to which the ruling applies. The scholars of Islam were concerned with identifying the hierarchy of legitimate public interests that must be taken into account and the social harms and cots that must be avoided when looking into the contemporary reality, the theatre of its application. Are not the rulings regarding religious duties and commandments in the noble Sharia always consistent with people’s ability to implement them? Indeed, they are! And it is for this reason that it has determined, in no equivocal terms, which those responsible for the task of applying the Sharia rulings to contemporary reality are the mujtahid scholars who are cognizant of both the Sharia ruling and the reality we live with all its complexities.

Let us now highlight these issues, which represent, in general, the most important legal maxims regulating and controlling the legitimacy of the application of the Sharia ruling to particular realities.

1. The connection between the applications of the Sharia rulings and the need to have a full grasp of contemporary reality, including all of its intricacies.

2. The connection between the applications of the Sharia rulings and the realisation of public interest and the prevention of social harms, as well as, the issue of establishing preference and balance between these two objectives of the law when they clash with one another.

3. It is obligatory to take into consideration the potential outcome and end result when looking into the application of Sharia rulings to contemporary reality.

4. When applying any of the of Sharia rulings to contemporary reality, it is obligatory to take into consideration whether the ability to and the possibility of applying the Sharia rulings in question do actually exist

5. It is obligatory to ascertain the extent to which there is a condition of necessity when applying the Sharia rulings to contemporary reality.

6. The task of applying the Sharia rulings to contemporary reality is the strict domain of the scholars and mujtahid jurists who have attained to the status of independent reasoning.

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162 Ibn Qayyim, al-Turuq al-Hukmiyya, p.15
Below is a detailed presentation of these legal maxims. Those who abide by these will, God willing, hit the truth on the nail and will be rewarded twice: for making their approach to religion upright, and for guiding others to the straight path.

I. The Connection Between Sharia Rulings and Contemporary Reality

When the jurists affirmed their famous maxim, which states ‘passing a sharia ruling on a thing depends on its clear conception’, they meant to underscore the intimate link between the Sharia ruling and the contemporary reality to which it is applied. This is because, they knew that it would be incorrect to issue a ruling on a given thing before knowing first what exactly is its nature and being cognisant of all that relates to it in terms of time and place at the time of issuing the ruling.

Commenting on this legal maxim, Ibn Qayyim says: “It is not possible for a mufti to issue a fatwa nor for a ruler to rule justly and with truth except through two kinds of understanding: 1) an understanding and insights into contemporary reality gained through a deductive method which takes in consideration all of the available evidence, indications and relationships between these. 2) An understanding of what is obligatory in relation to a given contemporary reality. That is to say, an understanding of God’s ruling which he has prescribed either in His Book, the Quran, or the Sunna of His Messenger, may God’s peace and blessings be upon him, on this or that reality, and then implementing it. Whoever exerts effort and does his utmost in this regard will at least gain one reward, in not two.”

Indeed, what these scholars have upheld and affirmed is ultimately a fine lesson deduced from the very Quran and hadith texts which have constantly shown that it is obligatory to comprehend contemporary reality and grasp all its intricacies before embarking on the task of applying a Sharia ruling to it, or even taking decisions and drawing strategies about it.

Sharia and the Obligation of Discerning Reality

The issue of understanding the reality or developing a science of discernment vis-à-vis contemporary reality occupies an important place in the Quran and the Sunnah and thus also minds of the scholars of Islam. Here is some evidence for that:

First, the Islamic sharia has taken into account the changes and new developments that may occur in our contemporary reality, so much that they affect the rulings governing the obligatory duties which God has prescribed on his servants. For instance, the Sharia has put *tayammum* [ritual purification using dust in stead of water] in lieu of *wudu* [ritual purification using water] when there is no access to water or when there is fear of sickness or harm. Indeed, God- may he be exalted- has said: “And if you are ill, or on a journey, or one of you comes after answering the call of nature, or you have been in contact with women [by sexual relations] and you find no water, perform *Tayammum* [dry ablution] with...”

clean earth and rub therewith your faces and hands. Truly, God is Ever Oft-Pardoning, Oft-Forgiving. (Qur’an: 4:43)

Abu Da’ud, Ibn Majah and al-Darqutni narrated the hadith of Jabi r who said: “We were travelling and one of us had his head was cut open after he had been hit with a rock. He had a wet dream and asked his companions whether he would be excused to do tayammum. They said, ‘We do not find that excuse for you as you have access to water’. So he washed with water and died as a result. When we approached the Prophet, may God’s peace and blessings be upon him, he was informed of that and he said, ‘They killed him and may God kill them. Why did not they inquire if they did not know? The remedy for inability is asking for information! Indeed, it would have sufficed him to do tayammum and bandaged his wound, wipe on it and the wash the rest of his body.”

Similarly, Islam has seen to it that as a result of travelling and it inconveniences, the four-unit ritual prayer could be shortened to two units and permitted to the traveller to break his fast during the days of Ramadan. It has also permitted, during times of war and insecurity the believers to perform the ritual prayer in a different form than the normal form due to these overwhelming circumstances. About the performance of the canonical prayers during times of great difficulty, Ibn Umar- may God be pleased with him- stated, “If the atmosphere is really insecure and the fear is even more intense, they could pray standing on their feet or mounted on their mounts, facing qibla or not.”

Whether it is scarcity of water, travel, wartime, the religion of Islam has taken full consideration of these simple changes in life and to the extent that they play a significant role in determining the Sharia ruling most appropriate to those emerging realities, as we saw in our examples. Given that these changes do affect the determination of the ruling, in spite of their triviality, only reinforces the point that this the most normative rule in the Sharia about which there are numerous other examples apart from the ones we have cited above.

Secondly, the Sharia has prescribed a number of rulings to deal with the exceptional circumstances a person may encounter and which are different from the prescribed rulings related to normal and natural situations. Yet another reason why it is important to take into account the nature of contemporary reality and the new events taking place within it when determining a ruling in the first place. Indeed, in order to establish whether a ruling of this kind applies or not, it is crucial to know the extent to which exceptional circumstances apply or not to that particular reality. Examples of such rulings, when the exceptional circumstances have been recognized as real, are known as rulings of necessity, and this means that the morally accountable persons who are usually the ones obliged to steer clear from God’s prohibitions, are permitted things that are in normal circumstances strictly forbidden. The permission to eat carrion if one fears death from hunger, and when no other source of food is available, is a good illustration of this point. And this is in complete conformity with the Qur’anic verse in which God- may He be exalted- has said: “He has

164 Related by Abu Dawud no. 336. Al-Bani categorised his hadith as sound hadith; al-Darqutni, Sunan 3/189/1
165 Related by Bukhari no. 4535 and Muslim, 305/839.
forbidden you only the dead animals, and blood, and the flesh of swine, and that which is slaughtered as a sacrifice for others than God. But if one is forced by necessity without wilful disobedience or transgressing due limits, then there is no sin on him. Truly, God is Oft-Forgiving, Most Merciful.” (Qur’an: 4:173)

Thirdly, the sharia has prohibited the implementation of its penal laws while the Muslim army is fighting in enemy’s land until it returns to Muslim land. This prohibition came about as a result of taking into account the reality of war and battle. The implementation of the penal laws during wartime may easily cause a man to leave Islam and join the enemy for fear of facing the punishment. This ruling highlights that it is important to study the link between the psychological states which people go through when a legal punishment is waiting to be implemented against them and the particular reality circumstances surrounding that the implementation of that legal punishment. Perhaps this is what Umar—may God be pleased with him—alluded to when he wrote to the people: “No commander of an army or unit or a man from among the Muslims should implement any of the hadd penalties on a Muslim fighter until that fighter has left the battle ground and returned; otherwise there is every chance he will be overcome by an intense Satanic urge and join the enemy, instead.”

Ibn al-Qayyim has reiterated this point when he has stated that: “the Prophet (pbuh) has prohibited cutting the hands of the thief during the conquests”167. What brought him (pbuh) to take this measure, in spite of the fact that such a punishment is clearly prescribed in the Sharia, was his concern that its implementation during times of conflict had the potential of producing outcomes that would have been more detestable to God than annulling its implementation.; for indeed, the defection of fighters to the side of the enemy in that period could have put Islam and the Muslim in a precarious situation, or at least delayed the realisation of the objectives of jihad.

Besides ‘Umar, other Companions like Abu al-Darda’ and Hudhayfa—may God be pleased with them all—have expressed their opposition to the implementation of the prescribed punishments of the Sharia, for fear that such punishments would impel some Muslim fighters to join the ranks of the idolaters in protest and in a moment of rage. Also, Ahmed, Ishaq B. Rahawaih, al-Awza’iyy and a host of other scholars of Islam have all decreed, based on textual evidence, that the prescribed punishments of Islam are not to be implemented on the land of the enemy. In his Mukhtasar, Abu al-Qasim al-Kharqi writes: “No Muslim may be subjected to the prescribed punishments while on the land of the enemy: Bishr B. Artat once caught a man who had stolen a shield and he was from among those who were partaking in the conquest that was taking place at the time. He said to him, ‘If I had not heard the Prophet (pbuh) say, ‘Hands are not be cut off’ during the course of
conquests’; I would have cut your hand’. And this according to Abu Muhammad al-Maqdisi is the consensus of the Companions.”168

Fourthly, to apply the Sharia rulings to contemporary reality correctly, it is necessary to ascertain that the reasons and conditions pertaining to them have been fulfilled and the legal impediments that prevent them have been surmounted. This task can only be carried out adequately once a detailed and in-depth study of the particulars of contemporary reality which are the theatre of those Sharia rulings, been conducted.

Fifthly, the ulema agree unanimously that the rulings of the Sharia change in accordance with the change of time, space, context, objectives and customs. It is clear that to detect such change and new developments as they happen in reality requires full acquaintance with ever new contexts, evolving customs and emerging public interests. This is a crucial area to which Ibn al-Qayyim had devoted an engaging section under the title, ‘Changing and Altering the Fatwa in Accordance with the Change of Space, Time, Context, Intended Objectives and Prevailing Customs’; in his I’lam al-Muwaqqi ‘een.169

Sharia Rulings Change in Accordance with the Change of Times: Meaning and Implication170

There is unanimous agreement among the scholars that any ruling arrived at through the means of *ijtihad*, and issued in consideration of public interests, is subject to change as soon as a change occurs in those public interests, for the simple reason that legal rulings of this kind revolve essentially around an underlying reason and principle of law, which if no longer existent, makes those rulings no longer valid. It is also evident that this conclusion is confined to rulings that are the result of the jurist’s personal strivings to find solutions in the law either by having recourse to analogy, taking in consideration unattested public interests or the factor of custom. Indeed, that unanimous agreement about the mutability of the rulings arrived at through the means of *ijtihad*, commonly known as *al-ahkam al-ijtihadiyya*, does not apply to the fundamental rulings which the Islamic Sharia has regulated with obligations and prohibitions, on the basis of immutable and clear-cut textual evidence. All of the prescriptions of the Sharia regarding inheritance and its distribution, for instance, and the rules governing pledges and covenants, paying for damages, and the protection of rights and so forth, come under the category of rulings which are immutable. These fundamental rulings were enshrined in the Sharia in order to procure and promote social benefits and prevent harm and corruption from finding their ways to humankind. These objectives are certainly not subject to change and alteration because the universal

168 Related by Abu Dawud no. 4408 with the wording: “Hands are not be cut off while in travel”, and deemed as sound by al-Albani.

169 Ibn al-Qayyim. *I’lam al-Muwaqqi ‘een*. Vol. 3, p. 3), and so let us turn our attention to this issue and discuss it in more details.

aims of the Sharia, which are intended by the Law-Giver in these rulings are there to ensure that the essential, the complementary and the desirable interests of people are realised, which are in themselves immutable. Certainly, understanding these objectives of the Sharia is vital for any adequate interpretation of the texts of the Sharia, for any discerning application of these texts to emerging events and new developments in contemporary reality, and even for deriving any suitable ruling in the absence of a clear text. The issue, however, is that the means through which these objectives are usually pursued may lead to their realisation in certain times or in certain places but they may not be that decisive at other times and in other places. Hence, the need to revise those means in such a way that the realisation of those objectives become possible and that entails the revision of those rulings, known in Islamic law as *al-ahkam al-ijtihadiyya*.

The most crucial factors behind temporal change are either the degradation of ethics and lack of religion in society, that which our jurists used to refer as the ‘corruption of the times’, and is often due, inter alia, to the occurrence of significant changes in the social, economic, cultural, and political spheres of our life, or to change in the customs, to which our jurists referred as ‘changing times’. Whether we are dealing with the former kind of change or the latter, we are in either case called to revise those legal rulings based on *ijtihad*, ensuring that they are in keeping with emerging new situations.

As mentioned earlier, that rulings based on *ijtihad* are subject to alteration in accordance with temporal change has been regarded as an undisputed principle in Islamic jurisprudence since its origin and throughout its development. For instance, during the period of the Rightly-Guided caliphs some of the rulings of the Sharia have undergone some alteration due to temporal change, and this practice had continued throughout the earliest centuries of Islam until the period of the founders of the great legal schools of Islamic law. Indeed, al-Shafii had gone as far as altering some of the rulings he determined in Baghdad once he moved to Egypt due to the differences in custom between those two regions of the Muslim world. Equally, we find that some of the rulings upheld by Abu Hanifa were not followed by his disciples Abu Yusuf and al-Shaybani due to the fact that the conditions of their period were different from those of their master, and thus the opinions of the late jurists of Islam differed from those held by their earliest counterparts, for they too were living during a time that has witnessed great social change, and a time during which perception to public interests have changed.

Ibn al-Qayyim has clarified how the differences in custom affect rulings when he wrote:

“Whoever gives a fatwa to a people solely on the basis of what has been transmitted in the books, and without taking in consideration their customs, mores, temporal and geographical contexts, and their conditions, he has erred and caused other to err, and his crime against religion is more serious than the crime of the doctor who relies on a book of medicine to administer cures to people indiscriminately without making any distinction between their countries, their various customs, habits and generations. Indeed, just as there could not be a
more dangerous doctor on the health of people than that ignorant doctor, there is not a more
dangerous person on the religious life of a people than that ignorant mufti.”

The Science of Discerning Contemporary Reality (Fiqh al-waqi'): Examples from the
Blessed Life of the Prophet (pbuh)

The Blessed life of the Prophet (pbuh) boasts of unique examples on how to grasp
contemporary reality in all its complexity and detail. In the following we will make mention
of some of these fascinating precedents in order for us to see the intimate relationship that
exists between Sharia rulings and particular reality to which they are applied.

The First Model

The Prophet (pbuh) and the Migration of his Companions to Abyssinia

At a time when Muslims were really repressed in Mecca, they came to see the Prophet
(pbuh) to seek his advice about this issue, and in reply to them he has said: “If you were to
go to Abyssinia, you would find there a king who does not wrong anyone. It is a friendly
land and you could stay there until God grants you relief”. This very short reply does
indeed reveal the Prophet’s extremely acute awareness of the reality facing the community
of believers not only in Mecca and the Arabian Peninsula, but in the entire world. He
certainly could have advised them to migrate to Persia or Byzantium, but he (pbuh) was
fully cognisant of the dangers they would have had to face if he had opted for that choice,
and he knew how easy it would have been for the Qurayshites to have them sent back from
both countries. Indeed, this was a time when Quraysh had strong trade ties with the Levant
and the Yemen which would have put it in a comfortable position to use these ties as
leverage in any negotiations about any of the refugees fleeing its authority. Besides, there
was a radical difference between the faith of the Persians and the Byzantines, on the one
hand, and the faith of the Muslim on the other, and this difference in religion, though less
stark in the case of the Byzantines, was most likely going to exacerbate the conditions of the
Muslim exiles rather than make it better. Indeed, the Prophet (pbuh) was not unaware that
those tyrannical Byzantine emperors and Persian kings would not have been keen to offer
any of the Muslims protection for fear that such a step would encourage their subjects to
rebel against them and then flee to the land of the Qurayshites where they knew they would
not be readily sent back.

So instead of urging his Companions to migrate to either of these countries, the Prophet
(pbuh) took the unusual step of recommending to them a third option, that of migrating to
the land which he described to them as the land of friendliness. What is more astonishing is
that as he urges them to head towards that land, he (pbuh) does in the most circumspect

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172 Ibn Kathir. Al-Bidaya wa al-Nihaya. Vol. 2, p, 80. See also Sirat Ibn Ishaq and Zad al-Ma‘ad
fashion acquaint them with the kind of rule they were going to live under, saying to them: “you would find there a [just] king who does not wrong anyone”.

Thus, the alternative approach of the Prophet (pbuh) had achieved its goal of providing Muslims with much needed safety, and bolstered it with several assurances:

- The Muslim refugees were safe geographically in that Mecca and Abyssinia were separated by mountains, barren lands, and the sea
- They were politically safe in that at the helm of the political system in Abyssinia was a ruler who was fair and punished injustice
- They were also to reside in a country that had very weak economic ties with Quraysh
- They were finally to reside in a country which was neither under the domination of the Byzantines nor the Persians and one that follows a strand of Christianity that was different from the one followed in the capital of Byzantium

What discernment of contemporary reality and what know-how could match this prophetic sagacity and perceptiveness of reality! Nothing besides discerning qualities and farsightedness has made it possible for those repressed Muslims to find an abode of safety, and provided the religion of Islam with the sort of strategic reserve units which may be called upon in the event of a sudden onslaught against the Muslim vanguard headed by the Prophet (pbuh) in Mecca. If anyone is in any doubt about this farseeing vision, he only needs to remember that those Muslim refugees had come to Medina only during the sixth year of the hijra, that is well after the Treaty of Hudaybiyya, which marked the beginning of a new period for the Islamic state in Medina, a period when it enjoyed peace with its allies and came to be recognised even by its adversaries of yester years.

To recapitulate, in dealing with this issue of repression it was necessary at the beginning to grasp fully the facts on the ground and this was crucial for arriving at a wise decision and making the right choice, namely to allow those Muslims who were suffering from repression to migrate to Abyssinia until God’s relief comes.

**The Migrants to Abyssinia and the Science of Discerning Contemporary Reality (fiqh al-waqi‘)**

The small Muslim community that migrated to Abyssinia left Mecca after it had been galvanised with faith and had learnt from the Prophet (pbuh) the most excellent ways of dealing with reality. It is these qualities which won them their battle of survival and they are the reason why, after so many trials and ordeals, they were accorded a safe haven by the highest authority in Abyssinia, who not only had vowed to stand alongside them in their difficulties, but had finally accepted to embrace their faith.

Let us now dwell a little on one event from their most distinguished life as an example of their unique ways of discerning the realities they were faced with and their profound aptitude in dealing with them correctly.
This event that we will focus on here is narrated to us by Umm Salama—may God be pleased with her—who was one of those who migrated to Abyssinia. It relates in particular the events surrounding the day when an Abyssinian general rivalled the Negus in his kingdom. She says: “…when an Abyssinian rivalled the Negus in his kingdom we were distraught as ever. Fearing that he would be defeated and the chance that we would be left to the mercy of a king who would not recognise our rights as the Negus did, we prayed that he would prevail over his rival enemies…and by God, we never felt as happy as when the news reached us that the Negus had been granted victory” This snapshot of the lives of the Companions in Abyssinia is illustrative enough, we hope, of the kind of perceptiveness they had and their ability to discern contemporary realities in all their complexities and their fullness, as a necessary prerequisite to taking sound and foresight decision.

The Second Model

**The Prophet (pbuh) and the Appeasement of the Tribe of Ghatfan**

Our second prophetic model may be gleaned from the events that surrounded the Battle of the Trenches, namely, from the proposal that the Prophet (pbuh) put before the tribe of Ghatfan in which some amount of money was offered to them in return for their commitment not to take part in the siege laid by Quraysh and the confederates around Medina. Indeed, it is on the basis of this prophetic action that Muslim jurists, in their desire to pursue the public interests of Muslims, have permitted the conclusion of peace treaties and truces with the enemy even when these involve the payment of a ransom. Such rulings, if anything, only reflect the fact law making is about engaging the world and taking stock of emerging developments taking place within it in order to respond to them in the most suitable of fashions. And this facet of Islamic law is ultimately proof that the religion of Islam is a religion that is fully engaged with contemporary reality.

Concerning the above ruling, Ibn Qudama says:

“Reaching a peaceful settlement with the enemy by accepting to pay them a ransom in return was rejected by Ahmed and by al-Shafi’i before him, because it is degrading to Muslims. But this position, however, is not predicated on necessity. Should there be a vital necessity to do so, such that it is, for instance, feared that Muslims would be facing certain extermination or mass imprisonment, in that case it would be permitted to pay the ransom, just as it permitted for captives to do so in order to secure their own freedom, and also the payment of a ransom, however degrading it may be, is permitted when it serves to preclude a situation that is even more humiliating, and that is the killing and imprisonment of Muslims, including their children whose captivity at such a young age will certainly lead to them becoming faithless in their adulthood.”

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About the events surrounding the Battle of the Trenches, Abdul-Razzaq has narrated that: “the Prophet (pbuh) had sent emissaries with a proposal to ‘Unayna who was fighting on the side of Abu Sufyān during the Battle of the Trenches in order to dissuade him from partaking in the siege. In his proposal the Prophet said: ‘What would you say if I were to offer you a third of the date harvest of the ansar in return for your leaving the battle with all of those who are with you from the Banū Ghatfān and breaking ranks with the confederates?’ ‘Unayna’s reply was: ‘if you can guarantee me this share, I would’.”

Mu‘āmmar relates, on the authority of Ibn Nujayh, that Sa’d B. Mu‘adh and Sa’d B. ‘Ubāda said: O Messenger! By God this man used to do the impossible to enter Medina during the year of the famine in ħaḥilihyya times without success, how is it that after God has bestowed on us Islam, we should reward him in such a fashion?’ In reply, the Prophet (pbuh) said to them, ‘all the better’.”

There is not a single doubt that if it were not permissible, there would be no way the Prophet (pbuh) would have accepted to offer such a ransom.

The Third Model

The Prophet (pbuh) and the Building of the Ka‘ba

For our third model we will focus on the hadith related from Aisha—may God be pleased with her— that the Prophet (pbuh) had said to her: “If it were not for the fact that your people have only just come out of ħaḥilihyya, I would have commanded that the House be destroyed and would have included in it what has been left out of it, would have made it level with the ground, and would have given it two doors - an eastern door and a western door. This would have brought it back to the foundations of Ibrahim”.

In this situation, we see that before taking the decision of rebuilding the Ka‘ba according to the foundations of Ibrahim (pbuh), the Prophet (pbuh) reflecting on the context in which such a project would take place, particularly the extent to which the people of Quraysh who had just embraced Islam would be willing to accept such a shift in the construction of the House. Commenting on this event, Ibn al-Qayyim says: “Whoever ponders seriously on all the Tumults, great and small, that Islam had gone through will most certainly come to the view they all could have been avoided, if only we had not lost this principle, and had shown patience towards certain sinful acts, which in our haste to remove them, we often have only encouraged greater abominations to come to the fore. The Prophet (pbuh) used to witness the most sinful of acts in Mecca and could not do anything about them. Even, later, when God had granted him success and Mecca became an abode of Islam, he could not, in spite of his resolve, rebuilt the Sacred House according to the foundations of Ibrahim (pbuh) for fear that such a step would hurt the feelings of the Qurayshites who had just embraced Islam and

174 Extracted by Bukhari no. 1586, and Muslim (398/1333)
ultimately lead to consequences that are much graver, and is also for this reason that he has not permitted the use of force as a way of expressing disapproval against the rulers.” 175

We shall limit ourselves to these three models, even though the splendid and blessed life of the Prophet (pbuh) boasts of many more models and examples which demonstrate the intimate relationship between the act of issuing Sharia rulings and contemporary reality, a relationship so important it deserves a study devoted to it alone.

This perceptiveness and discernment of reality of the Prophet (pbuh) became the hallmark of a school from which the noble Companions learnt, and a fountain from which the scholars of this Islamic nation have drank across the centuries. Thus, they in turn left us with a heritage that deserves our attention.

### Models of Discerning Contemporary Reality from the Life of the Companions

We shall glean our models for this section by focussing on certain events that marked the life of the Rightly-Guided caliph, ‘Umar Ibn al-Khattab- may God be pleased with him; a life so rich and full, it continues to bear fruits and be of benefit to all those who are devoted to the advancement of this religion.

1. **His decision not to Cut the Hand of the Thief During the Year of the Drought and Famine**

‘Umar- may God be pleased with him- said: “No hand shall be cut for availing itself to a handful of dates from a palm tree, and during the year of famine”. Asked by al-Sa’diyy whether he stood by such a ruling, Ahmed replied: “By my religion! Whoever commits theft during a period of famine should not have his hand cut off; definitely not, if it is established that he was compelled to carry his act due to necessity and at a time when people were faced with wide-reaching food shortage and acute adversity.” 176

Al-Sa’diyy relates that “once two slaves of al-Hatib bin Balta’a were involved in the theft of a she-camel belonging to man from the tribe of Mazyana. They were brought before Umar and they confessed to their crime. Umar ordered Kathir bin Salt to cut their hands. When they were taken to be punished, Umar brought them back and sent for their master’s son Abdurrahman bin Hatib and said to him: ‘I swear by God, if I had not noticed that you had employed them and left them hungry, I would have cut their hands. By God, since I have not done so, I will impose on you a hefty fine’. Then ‘Umar turned to the owner of the she-camel and asked him, ‘O Muzayni! How much will you ask for your camel?’’. He said, ‘By

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176 Related by Ibn Abu Shiba in his *Musannaf* (5/521/28586), and by Abdul-Razzaq in his *Musannaf* (10/242/18990)
God, I refused to sell her for four hundred Dirhams’. ‘Umar said to Abdurrahman, ‘Now go and give him eight hundred’.”

How insightful is Ibn al-Qayyim in his judgment when he insisted that the implementation of the prescribed penalty for theft could only take place once it is established that the thief is not considered among the needy, because for him the condition of penury and deprivation is tantamount to the condition of necessity which hinders the path to good. And this is yet another instance highlighting the influence of reality and contexts have when rulings are applied to them.

2. The Advice of Umar Ibn al-Khattab to ‘Umar Ibn al-‘As Concerning the Conquest of Egypt

In his response to the letter sent to him by Umar Ibn al-‘As concerning the conquest of the rest of Egypt, ‘Umar the caliph wrote: “If at the time of receiving this letter [you have already crossed into Egypt], then you may proceed with the help of God, prepare your horses and send your generals to every quarter of the land in order that they establish the law of God. There are in Egypt two cities, one is called Ahnas and the other al-Bahnasa, both have better fortifications and may prove difficult to enter. Also, it has been brought to my attention that therein resides a byzantine patriarch by the name of Patlius. Do not proceed to Upper Egypt until you have conquered these two cities; so stay in Egypt and I will send such reinforcements as may be needed.”

3. His Decision not to Give those ‘Whose Hearts Have Been Reconciled with the Truth’ Their Share of the Alms

Indeed, no sooner had ‘Umar- may God be pleased with him- that Islam was well-established and in a strong position, he saw no point in allotting a share of the alms to those whose faith was weak and commitment to Islam was tenuous, even though ‘those whose hearts have been reconciled with the truth (Q 9:60) have been granted their share of the alms and the spoils earlier. ‘Umar took that decision on the basis that the circumstances which called for such a step to be taken during the reign of the Prophet (pbuh) and that of Abu Bakr- may God be pleased with him- no longer existed. Concerning this ruling of ‘Umar, Ibn Taymiyya has stated:

“Whatever the Prophet (pbuh) had determined as law on the basis of an underlying reason, will continue to obtain so long as that underlying reason continues to exist. And this applies, for instance, to his ruling regarding ‘those whose hearts have been reconciled to the truth’ and their entitlements, which is a ruling attested by both the Quran and the Sunna. Now some people opined that a ruling such as this one had been abrogated by ‘Umar who reportedly said that God has made coalitions dispensable, citing the Qur’anic verse, ‘And say, ‘The truth is from your Lord, so whoever wills - let him believe; and whoever wills - let
him disbelieve’ (18:29), to buttress their argument. This opinion and line of reasoning, however, is fallacious: when ‘Umar determined that he was under no need to extend the share of the alms to those ‘whose hearts have been reconciled with the truth’, he dispensed with that ruling because the underlying legal principle upon which it was based was not there during his period, but he never meant to abrogate it altogether. Indeed, it is not unconceivable that on some occasions the share of the alms cannot be extended, for a reason or another, to those in debt, the wayfarers and so forth, without such a measure entailing a case of abrogation.”

There are certainly many more decisions of the caliph ‘Umar which demonstrate his acute awareness of contemporary reality and the changing nature of the world over time. We shall however confine ourselves to the above examples, and proceed now to explore some of the fatwas and rulings issued by the great scholars of Islam, highlighting their perceptiveness and sagacity in their engagement of reality.

Some Models of Discerning Reality in the Scholarship of the Salaf

In this section we will focus on the fatwas issued by some of the most eminent scholars of Islam with the aim of bringing to relief their consideration of the conditions of their times, their awareness of new customs and practices, and their attention to emerging public interests as well as issues whose harmful effects outweighs their benefits.

The Fatwas of Ibn Taymiyya as a Model

Ibn Taymiyya has demonstrated his acumen and perceptive ability to see the relationship between law making and contemporary reality in a manifest fashion in his response to a question put to him regarding the legal ruling on fighting the Mongols who by his time had about conquered most of the Muslim lands and spread corruption in many of its parts. The following is part of what was included in his fatwa:

“Indeed, these Mongols need to be fought against with the Book of God and the Sunna of His Prophet (pbuh), as well as, the consensus of the leading scholars of the Muslim community. This would have to be done in conformity with two underlying principles of law, namely knowledge of the conditions of the Mongols and knowledge of the divine ruling concerning them”. After outlining the legal basis upon which such a ruling may be arrived at, Ibn Taymiyya makes an exposition of the context in which this ruling will be applied and how it would be suitable to it. Thus, he first reflects on the conditions of the Mongols, and then proceeds to make an appraisal of the contemporary conditions of the Muslims in order to determine who among them is best suited to take up jihad against the

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177 Ibn Taymiyya. Majmu'at al-Fatawa
178 Ibn Taymiyya. Majmu' at-Fatawa. Vol. 28, p, 278
Mongols, before he finally concludes that fighting the advancing Mongols is a duty, and that the Mamluks of Egypt and the Levant are best equipped to carry out such a duty, in spite of the fact that they are not as just as they ought to be and their commitment to God’s command may be wanting. Let us now look at the details of his argument. First, concerning the Mongols, he says:

“As for the other underlying legal principle which pertains to having knowledge of the conditions of the Mongols, it has been now established that such a people had passed through the Levant already once in the year 99 AH, and that on that occasion they had given its inhabitants their pledge of security and proclaimed it to them from the pulpit of the Damascus Mosque. While they did this, it has also been established that they had kept as captives many Muslim children; as many as a hundred thousand and more according to reports. Moreover, it is known that in Jerusalem, Mount of Salihiyia, Nablus, Hams and Daria, they had caused bloodbaths, imprisoned Muslims and other inhabitants en masse and committed other atrocities of proportions that only God knows about. It has been reported that during their violent aggressions they had captured over a hundred thousand Muslim, proceeded to rape the most honourable Muslim ladies in the mosques, including the Aqsa and the Umayyad Mosque, and had completely destroyed the mosque of al-‘Aqiba. We have been able to see the soldiers of these people from close: the vast majority of them do not perform the canonical prayers, and there is not among them a muezzin or an imam. Only God knows how much money and how many children they have taken away from the Muslims, and how many of their dwellings they have ruined. In the entourage of their government, one finds only the most abominable people. Indeed, they have drawn to them either the hypocrites who do not truly believe in Islam in their innermost, or those who belong to the people of innovation such as the Shiites, the Jahmites, the Pantheists and the like, or those who rank among the vilest of people. These Mongols, despite having the material means, they do not leave their country to perform the obligation of hajj, nor do they perform the canonical prayers and pay the zakat, except for a small minority among them. Certainly, the Mongols fight for the sake of Genghis Khan; whoever gives allegiance to him and declare his obedience to him, they will consider as a friend of theirs even if he were a disbeliever, and whoever does not do so, they will consider him a foe even if he were from among the best Muslims. The Mongols, it needs to be said, do not fight for the cause of Islam; they neither impose the jizya nor servility on the non-Muslims”.

About the conditions of the Muslims during his time, Ibn Taymiyya wrote:

“To the keen observer of the conditions of the world nowadays, there is no doubt that among the peoples of Islam the people of Egypt and the Levant are best qualified to uphold the religion, in respect of their knowledge, action, and wide-ranging jihad. Indeed, they are the ones who have been standing in the face of the most powerful forces of the idolaters and the People of the Book. Wether in the past or in the present, their battles against the Christians, the idolaters from among the Turks, and the heretics from among the Shiites, such as the Ismailia and others like the Qaramites are a strong testimony for their merit and

179 Ibn Taymiyya. Majmu’ al-Fatawa. Vol. 28, p, 283
their strong credentials for this role of leadership. There is no doubt that the honour and high-standing of the Muslims, from east to west, is dependent on their honour and their high standing. That is why, when they were defeated in the year 99 AH, the doors were wide open to the forces of corruption and the people of Islam were then subjected to the worse kind of humiliation, as a catastrophe of unprecedented proportions had spread to the entire Muslim world. This is not the place to dwell on this topic. We need to acknowledge that the inhabitants of the Yemen during this time are weak, either not able to carry out the jihad or uncommitted to such a duty, and they are obsequious to those who rule this land, so much that it has been reported they have already sent out to the Mongols emissaries to convey to them their declaration of loyalty, even while the idolaters only recently have turned the city of Aleppo into a zone of killing fields. As for the inhabitants of the Hijaz, the vast majority of them have veered off the path of the Islamic Sharia, so much that you can encounter there innovations, heresies and abominations of proportions that only God knows about. Among its inhabitants, the people of faith are reckoned weak and deprived of all the necessary means, because all power at present is not in the hands of the people of Islam in that land. Should the small minority of the faithful residing in that country be humiliated further, God forbid, the believers in the Hijaz would be among the most deprived of Muslims, especially that there is overwhelming extremist Shiite population living there. Hence, the rulership of these Mongols, who fight against God and His Messenger, is now rejected, because if their rampant savagery continues to sprawl, it is the whole Hijaz which is going to be swayed by corruption. In Africa things are not much better; for that is a land where the native nomads have the upper hand, and they are the vilest of people, so vile they are, they deserved to be fought in jihad and raided. In the western part of the Maghreb, the inhabitants have abandoned jihad against the Christians, in spite of the fact that these foreigners have invaded most of their country. Moreover, one can find among their army ranks a great number of soldiers who wear the cross. Should the Mongols extend their control and power over these regions, the people of the Maghreb under their rule would also be among the most dishonoured of all Muslims, especially if the Christians there decide to ally themselves to the Mongols and become a united force against them.”

Then, he went on to say:

“When we take all of these factors together in consideration, it becomes obvious that this federation of the people of Egypt and the Levant constitute the rescue squadron and the battalion task force of Islam par excellence: the honour of Islam is inextricably linked to their honour and so its dishonour. Should the Mongols overwhelm them, there would be neither glory, nor any standing left to Islam among the nations, and there would be no fearsome army fighting for its cause and capable of inspiring awe in the peoples of this earth.” Following this he added:

“If all those involved in this jihad against the Mongols, agree to fight them as is required by the Sharia, then that would be the ideal and most deserving of God’s pleasure, in addition to being the most meritorious fashion of elevating His word, establishing His religion and

\[180\] Ibn Taymiyya. *Majmu’ al-Fatawa*. Vol. 28, p, 290
obeying His Prophet. But should there be among their ranks those who are sinful or join the fighting only for the sake of ascending to some leadership role or simply to aggress the Mongols with regards to some particular issues, it needs to be said that abandoning jihad against the Mongols due to these incongruities has repercussion that are far more harmful than fighting against them with these imperfections... Indeed, once a person is fully cognisant of the commands of the Prophet (pbuh)- the obligation to carry out jihad until End Times, which the rulers are asked to uphold and the prohibition against aiding the aggressors in their aggression- he will understand that the middle path in these situations is the path of Islam, which just as it entices us to declare jihad against those who deserve to be fought, as these Mongols do, and be on the side of every emir or a people whose allegiance to Islam is far stronger than theirs, even if their jihad may have all of these faults, it also warns us against lending support to the party beside whom we fight in matters that transgress the bounds of God: we will be loyal to them so long as they are loyal to God, and we will disobey them when they disobey God, for we do not obey a creature against His creator.

Know that this has been the path trodden by this nation during the past and in recent times, and that it is incumbent upon any morally accountable person to follow its course. It is the middle path between the ways of the Kharijites of Kufa and their ilk, who are given to an extreme and corrupt form of devoutness due to their lack of knowledge, and that of the Murjiites and their ilk, who are wont to give their unreserved loyalty to their rulers, even when these rulers are not truthful and observant of their duties towards them.

We pray that God Almighty will leads us and our Muslim brothers to that which He loves and is satisfied with in both our sayings and actions, and God knows best. And may God bless our Prophet Muhammad, his Companions, and household and grant them all peace.”

Below are some other insights of Ibn Taymiyya which constitute yet another model of engaging contemporary reality. He says:

“During the period of the Mongols, I was with a group of friends when I passed by some of their people while they were getting drunk. One of my companions began to reprimand them for their action, but I also began to reprimand him. I said to him that God has prohibited the drinking of wine because it prevents the believer from invoking his Lord and from performing the prayers, as for those the drinking of wine restrain them from taking human lives, holding people captive and plundering their property, so let them with their business.”

The last model from Ibn Taymiyya, we shall take from a passage in which he explains that the predominance of ignorance in certain areas prevents us from judging some of its inhabitants as disbelievers, even if their actions or sayings amount to sheer idolatry. He says:

“It is known by necessity in the religion of Islam that the Prophet (pbuh) has never permitted anyone to call upon any of the dead, Prophets, saints or anybody else, in the

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182 See *I'lam al-Muwaqqi'een*. Vol 3. p, 5
vocative case or any other way, in order to seek their intercession. Equally, he (pbuh) has not permitted anyone to prostrate to anyone from among the dead nor to anyone from His human creatures. On the contrary, we know that he has openly prohibited all such practices, as they amount to associating partners to God, which both God and the Messenger (pbuh) have declared as a major sin. However, due to the prevalence of ignorance and the scarcity of true knowledge about the Message among many of the recent generations of Islam, it would not possible to declare those who engage in such practices as unbelievers, until the true teachings of the Prophet (pbuh) are brought to their attention, and inculcated to them in lieu of their current beliefs.”

The Fatwas of Ibn al-Qayyim as a Model

Ibn al-Qayyim says:

“There are four ways of reproving wickedness and vice. The first consists of eliminating it and replacing it with its opposite. The second consists of lessening its effects only. The third consists of substituting it by another one like it. As to the fourth, it consists of replacing it with wickedness and a vice that is worse. The first are considered lawful, the third is a subject of personal legal judgement, as for the fourth, it is prohibited by law. From this understand that when you see the people of sin and lack of morality playing a game of chess and you disapprove of their action, you are not by that disapproval counted among the people of discernment and wisdom, unless you have been able guide them to what is better in the sight of their Lord and the Messenger (pbuh), such archery, horse riding and so forth. Similarly, when you encounter a group of sinners who got together for some amusement and a play or to listen to some whistle and clapping of hands, you will have achieved the objective if you are able to guide them to the obedience of God. But if should you leave them alone, and these entertainments of theirs end up distracting them from committing sins that are graver, it might also not be such a bad thing after all. Just imagine what you would do if you have before you a person so engrossed in reading books on buffoonery, jesting and so forth that he has no time to pay any attention to the books spreading innovation in religion, nor those spreading misguidance or knowledge of magic. Indeed, the sensible thing to do is leave him absorbed in his books. And this is but a sample of a very vast topic.”

Fatwas of Imam al-Ramli as a Model

From among the fatwas of Imam Shams al-Din al-Ramli, known as the young Imam al-Shafi’i, we have chosen here one which he made in response to a query put to him by Muslims who were asking about the correct ruling regarding migrating from one of the countries of Andalusia called Aragon. Those Muslims were in a dilemma because the town they had lived in had just come under the rulership of a Christian king. The king took from them land taxes in proportion to what these lands produced, and he has not committed any

183 Quoted from Abdullah B. Sa’di. ‘Aqidat al-Muwaheddin. Ta’if: Maktabat al-Tarafayn, p, 353
184 Ibn Al-Qayyim. I’lam al-Muwaqqi’een. Vol. 3 p, 4
injustice against them either in their property or their persons. Moreover, they had mosques and openly manifested the fundamental of Islam, and publicly apply the Sharia. In his *response* he said:

“These Muslims are under no obligation to emigrate so long as they are able to manifest their religion. Indeed, the Prophet (pbuh) has allowed ‘Uthman, after Hudaybiyya, to reside in Mecca, which was then non-Muslim territory, because he was able to practice his religion freely and openly. Moreover, it is not allowed for them to leave, because through their residence Islam could spread. Indeed, they are now, by virtue of their residence there, in the Abode of Islam, but if they left, it would return to the Abode of Disbelief.”185

**Other Fatwas from Various Other Scholars as a Model**

In what follows, we briefly outline how the hanafis argue for the necessity for changing legal rulings in accordance to changes in time, conditions and customs.

1. Outstanding debts that are long overdue are considered to be one of the elements which thwart eligibility of the indebted to his monies such that he is no longer entitled to dispose of them freely. Although the underlying legal principles stipulates that the debt is set and is not to extend to all of the assets of the debtor, the leading scholars of the school have decided for the above ruling because the change in times have brought about a degradation in ethical behaviour.

2. The usurper shall pay the damages for monies and properties extorted including the potential gains that these would have accrued. This ruling differs from the older one which stipulated that the usurper be asked to only pay back the value of the assets usurped and not for any lost gains.

3. In principle, it used to be permissible in the Hanafi School of law for a judge to determine the law in the court cases that come before him according to his personal knowledge. However, seeing that corruption has become widespread in this sphere, such that it is now possible for judges to groom their close friends from among the governors to rise to the position of judge, regardless of their abilities and credentials, the scholars of posterity have declared that is no longer permissible for a judge to use his own discretion in settling court cases, and the same applies to the testimonies of relatives.

4. The principle in the Hanafi School was that a large crowed needed to witness the new crescent before that vision was deemed acceptable. However, due to changes in the conditions of people’s way of life such that many of them are disinclined to go

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185 Please the details of this fatwa in *Kitab Ikhtilaf al-Darayn wa Atharuhu fi Ahkam al-Munakahat wa l’Mu’amalat*. Cairo: Dar al-Salam lil Tiba’a wa al-Nashr, 1990
out to witness it, the scholars of posterity have declared that only two people are required to confirm the birth of the new moon.

5. Abu Hanifa was of the view that bees and silk worms could not be conceived as assets, and thus he determined that it would not be permissible to sell them. However, Muhammad B. al-Hassan judged the sale of such items permissible in view of changing circumstances and change in customs.

6. The earliest generations of Hanafi scholars had decided that it was not permissible to receive a wage in return for teaching Quran recitation because such an activity was deemed a form of worship, and this ruling did not any way jeopardise the inculcation of the Quran because the state used reward handsomely those who were engaged in that teaching activity. However, with the passing of time, things had changed, and the state stopped extending its largesse to the reciters. Thus, the scholars of posterity in the Hanafi school, for fear that these reciters may be forced to look for other means of making a living instead of pursuing their teaching activity altogether, determined that it was now permissible to take a wage in return for teaching Qur’anic recitation, in order to ensure that the position of the Qur’an in society was not compromised.

We have cited the models above to illustrate as clearly as possible the golden principle which governs the issuance of rulings in a changing world. It is hoped that these illustrations will entrench this principle in the daily life of our nation and in the minds of our youth. Indeed, our Muslim nation has found itself in a great deal of difficulty as a result of its disregard for a contemporary reality and its inability to develop a science for discerning it. How many a war and adventurous undertakings with disastrous outcomes have we been dragged into only because we did not have a science for discerning contemporary reality! And how often our leaders took decisions that flew directly in the face of reality! Indeed, we have in the person of Saddam Hussein an example which truly deserves to be examined as a case study of such debacles.

The Islamists and their Disregard for Contemporary Reality

Disregard for contemporary reality is a general phenomenon manifested in all the sections of Muslim society, including the Islamists. There is no doubt that an antagonistic attitude towards reality, negligence of its facts and eulogising the glorious past has been and continues to be one of the most salient features of those members active in the Islamic movements, and it still is one the major criticisms voiced against them. Although this sort of criticism may be seen as stereotypic, and may be considered as untrustworthy because they emanate at times from circles which feel animosity towards the Islamic ideology, we cannot, nor can anyone who is fair, fail to acknowledge that these accusations, mean as they can be at times, and these generalisations contain some truth; albeit in parts. It is said that the only thing necessary for the triumph of evil is for good people to take their evil intention
to hear and do nothing, for verily, he only profits from praise who values criticism. It is also commonly known that wisdom is the lost property of the believer; he should search for it and claim it wherever he happens to find it, because he is the most entitled to it. Indeed we should not discard a true statement or a constructive criticism, only because it comes from our detractors or enemies. The fact is we cannot assume that every individual critic is necessarily malicious and full of wrong intentions, and thus not every criticism is necessarily stemming from deep hatred and disdain. This is an important issue which needs to be attended to so that it becomes possible for us to weed out bad or ill-intentioned advice, and separate it from good advice. In this way only, we would have acted in conformity with the Arabic adage: “Take the Pearl even if you do not like the diver”, and that of course does not mean that there is any harm in alluding to the true intentions of the divers.

What really encourages us to concede that these criticisms remain valid after all is that we too have observed that Muslim activists or the Islamists, shall we say, constantly fail to engage with contemporary reality and their surrounding environment adequately. The main reason for that failure is that they refuse to acknowledge its importance and the importance of understanding it. To some attending to contemporary reality and emerging developments is a complete waste of time, others argue that the task of grasping it, is extremely absorbing, and feel that this self-engrossment, as they perceive it, only serves to harden the heart of the believer, and still others maintain that a prolonged study of contemporary reality will only promote a defeatist attitude in the personality of those who undertake it. These are more or less their positions vis-à-vis the issue at hand and they are all wrong to a varying degree. Let us now discuss these positions in some detail

**The Errors of the Islamists in their Dealings with Contemporary Reality**

There are, indeed, among the Islamists who claim that being attentive to contemporary reality and devoting oneself to the study of its political, social, economic, religious and technological dimensions, as well as, its daily developments is but a satanic abomination that the Islamic Sharia totally rejects. Because, according to them, such a commitment can only be fulfilled at the expense of religious studies, or religious obligations, or they may argue that by focussing on such a task, we will sully the purity of our intentions and thus our reliance on God will be compromised. The fallacy of this group is manifest and known to all.

Others, however, make abstraction of the reality in which they are, imagining the movement they lead or belong to as the influential factor on the scene, and as the only player in this orchestra that is the world. So much that if you try to bring any of these people to their senses by urging them, for instance, to look objectively at their capabilities and reminding them of their vulnerabilities, you will be accused of having succumbed to defeat, or more precisely, to reality. But that is false. The fact is that just as we do not accept defeat in the face of reality, and by that we mean we do not withdraw from it and give the hope that we can change it, we equally do not accept that the facts, realities and actualities on the ground
can be simply brushed aside without properly appraising their worth and their true significance, just to avoid being labelled defeatist in the face of reality. For such oblivion and total disregard to our direct environment means that we will continue to wake up every day under the shock of a new catastrophe and a new tragedy, and we will always be living in damage control.

The erroneous and incoherent dealings with contemporary reality are sadly not limited to the defeatists and those who are oblivious; it also includes those who engage reality with their wishful thinking at times and with their bursts of anger at other times, in addition to those who focus on only one aspect of this multifarious reality, aggrandising it beyond its true proportion at the expense of other issues and other facets of this complex world. All of these people and groups have also a myopic and subjective vision of reality.

Indeed, there are those who are bent on interpreting reality with fallacious arguments, to the extent that some will always advance a conspiratorial interpretation to events and see that there are always hidden agendas at work. Others resort to the determinist interpretation of reality on the basis of historical or economic determinism and what not, as if life in this world were a chemical lab.

These types of reasoning do certainly testify to the fact that the science of discerning contemporary reality has still not had the attention it deserves among the vast majority of the Islamists and is still far from being grasped by them. This sorry state of affair, if it continues, will definitely lead to undeniable difficulties and will place the Islamic nation at great risk.

**Weighing the Risks of not having a Science of Discerning Contemporary Reality**

Not having a science with which one is able to discern and understand contemporary reality, and being oblivious to such a reality engenders numerous and various perils, chief among them, as we have noted earlier, is the erroneous application of the Sharia rulings to contemporary and current events. It has been explained that Sharia rulings and contemporary reality have an intimate and interdependent relation, so much that if the latter has not been properly determined, the former will inevitably badly determined as well.

Furthermore, disregarding contemporary reality implies that we would be unable to detect early the challenges coming our way, and that we would miss the opportunities of facing them squarely. Indeed that without such insights, we will, in our confusion, mixed about what is possible and is not possible for us to do in such situations, and surely means that we also will not be able to order our priorities correctly, take our decisions wisely, and make our choices judiciously. Instead, and out of desperations perhaps, we will try to revive old solutions which had borne fruits in yester days, and obstinately attempt to plant them in a totally different and unsuited environment. Does not all of that amount to further waste of effort, resources and precious time? It, certainly does.
All of these potential risks demonstrate that mastering the science of discerning contemporary reality is a genuine need, it is not a luxury that we can afford not to have or a superfluous activity that we can ignore. Nay, it is as a matter of fact an Islamic duty, a prophetic practice, a legal maxim, and a condition well-entrenched in the intellects of the *ulema* and the leading scholars of this nation across the centuries. For all these reasons, to disregard contemporary reality and the need to master a science for discerning it is to stand in opposition to the Islamic nation, its religion and its scholars.

**The Science of Discerning Contemporary Reality: Its Meaning and Scope**

Given that this science represents a religious duty in Islam as we have argued, we need now to ask ourselves, what it means how and what are the ways to mastering it.

In the previous pages we have said much about the need to grasp contemporary reality, what we have not tackled so far, and that is probably the hardest, is how we go about grasping it. Indeed, it is usually easy to answer the questions that ask ‘why?’, but is a lot more arduous to answer the questions that ask ‘how?’

Indeed, many of us would have no trouble answering questions like, why Islamic education is important and vital, why political awareness is necessary or why economic development is crucial to our survival, but as soon as it is asked how Islamic education or economic development should proceed or how is political awareness or freedom acquired or indeed for that matter, how a science of discerning contemporary reality is to be mastered, we begin to stutter and perhaps even resort to mere rhetorical frippery instead of giving straight answers.

Thus, in dealing with this question, we will first endeavour to determine exactly the concept of this science that we call in Arabic *fiqh al-waqi’*, and then will explain how we can make it an authentic part of Islamic intellectuality.

The neologism *Fiqh al-Waqi’* (The Science of Discerning Contemporary Reality) in Arabic is made up of both the term *fiqh* and *waqi’*. Only by determining what each of these terms mean can we begin to comprehend what is meant by this new terminology or neologism.

Let us look at the term *fiqh* first. Outside the parlance of Islamic jurisprudence, *fiqh* pertains to discernment, which is more comprehensive than mere knowledge, because it is not confined to the mere observation, identification, description, experimental investigation, and theoretical explanation of phenomena and concepts, and then simply committing these and other data to memory or to paper. Discernment is definitely more than that; it pertains to knowledge of things as they truly are which requires an acute awareness of their inter-relationship and their evolution. Indeed, the Prophet (pbuh) has made a clear allusion to this meaning when he said in a famous hadith: “Indeed, it is not seldom that a person of discernment may convey knowledge to one who is even more discerning than him, nor is it seldom that a person may be in possession of knowledge without being necessarily a man of discernment.” As for the term *waqi’*, it pertains to the totality of all things possessing...
actuality and sharing our existence and reality. However, the reality to which we are alluding to here is made up of different parts, each having its own way of being discerned. Thus, the discussion of jihad and other important issues, when carried according to the demands of _fiqh al-Waqi_ or ‘the science of discerning contemporary reality, is bound to cover a lot of topics and branch out to a variety of knowledge-disciplines. Chief among these are the following:

1. Reality is made up of various particular constituents, which interact with one another in a dynamic and complementary fashion. These particular constituents are what we usually refer to as humankind. And that includes:
   a. Various human groupings, such as a family, a community, a nation, a confederation and so forth, of mainly common descent, religion and civilisation
   b. The economic, political, technological and religious environments- to name but these four- in which these human groupings evolve.

These particular constituents interact with one another, and following their interaction or interactions, they are led to either engage in all sorts of conflicts, wars and competition against and with one another, or engage in all sorts of cooperation and fruitful mutual relations.

2. Reality nowadays is ever expanding, its various aspects and levels are so intertwined that they constantly affect one another. There is, for instance, a reality at the local level, which pertains to the ‘internal reality’ of every nation, a regional level, which pertains to the ‘regional reality’, a level which has to do with Muslim society and a corresponding Muslim reality, which encompasses all of its various peoples, communities, nations, and confederations or unions, and finally there is a level which pertains to the international reality, both within and beyond this globe. Now it is evident that each of these levels of reality reflects a particular set of political, economic, social, religious and technological characteristics, and yet despite this increasing complexity, there exist among the various human groupings of the human race, channels of communications, which are not just limited to what we can all witness with our naked eye, but they include all those that are facilitated by the means of new technologies, which turned this vast and complex world into a small village, as it were.

3. Reality is by definition ever changing and in constant flux: it is wrong to assume it is static and frozen in time

4. One of the most important characteristics of reality is that it behaves in accordance with causes and divine norms, which only rarely alter their course and purpose. This is in conformity with His saying- exalted is He “But you will never find in the way
of God any change, and you will never find in the way of God any alteration” (35:43)

5. Reality takes shape in a space-time continuum and not in a vacuum. Thus great events or shifts in the world do not just parachute all of a sudden from the sky.

Now that we have outlined the main characteristics of reality (al-waqi’) and have provided a definition of the term fiqh (discernment), we can determine that the science of discerning contemporary reality, coined in Arabic, fiqh al-waqi’, pertains to an awareness of reality which encompasses all its various particular constituents, as well as, its various levels and their interactions and fluctuations. So acute is this awareness, those who develop it are fully cognisant of the human and material realities around us, have a rare insight into the nature of the relations existing between individuals, nations, and states, and a rare ability to analyse the political, economic, social, religious, technological, legal, and environmental developments occurring in these arenas, such that they are ideally –placed to anticipate the sort of conflicts, crises, alliances and new developments, which may take place in this world.

**Fiqh al-Waqi**: What does it Involve Exactly?

This is perhaps not the appropriate place to give an exhaustive answer to this question, because if we dwell on this issue, we will most certainly be distracted from our main aim. However, we firmly believe that it is imperative to rectify our method and approach to engaging with and understanding reality, as this rectification, if successful, will be our safeguard against falling in numerous and repeated errors. In the following, we shall, nonetheless, point to a number of important points that we believe are crucial not for producing the correct observation of contemporary reality, but also for producing a sound interpretation of it so that it may deserve to be called ‘the science of discerning contemporary reality, or fiqh al-waqi’

1. It is necessary to conduct a comprehensive study of contemporary reality, encompassing its various levels and diverse aspects. For, any endeavour that limits itself to the partial study of this reality, focussing only on some of its levels and aspects is bound to be deficient.

2. It is imperative to continually engage reality and take stock of the new developments taking place in it, for that is of fundamental importance to our ability be discerning in our evaluation and appraisal of it. If we are neglectful or oblivious of the factor of change and renewal, which are a cardinal characteristic of this reality, we are bound to commit colossal and unforgiveable errors.

3. It is necessary to conduct information surveys on this contemporary reality and monitor the developments occurring within it by having recourse to appropriate and
diverse tools and technologies. Keeping up with the rapid speed with which many events occur is vital to our ability to provide a timely as well as a correct interpretation of this contemporary reality

4. It is of crucial importance to look for the deeper causes and implications of the events that take place in this contemporary reality and not limit our gazes to what appears on the surface. Without plumbing the depth of these occurrences, our ability to determine, for instance, the pattern prevailing in international relations, as well as, in existing alliances and ongoing conflicts will be seriously impeded. How can it be not impeded without a map of the balance and allocation of powers between the parties in question, and a firm knowledge of the capacities that each party has, and the objectives and interests that each has set for itself as a target? Indeed, it is high time we gained these insightful observations into contemporary reality, for it is with such insights that we may avail ourselves of the opportunities opened before us and anticipate the difficulties and challenges that lie ahead of us.

5. It is necessary to highlight that contemporary reality is neither utopic nor deterministic in character, and it is not always a reflection of a hidden agenda. Hence, it is wrong to be constantly attempting to interpret what goes on in reality on the basis of either a deterministic or conspiratorial outlooks or following a logic which assumes that we live in the ideal city; even though, no one can deny the fact that there are causes and norms behind phenomena, and that, at times, there are conspiracy at play, as well as the possibility to find goodness in the world and in humankind.

6. It is crucial to revisit what has occurred in our history in order to grasp what is actually happening in our lived experience. Indeed, every event taking place in this contemporary reality has, in one way or another, deep connections with at least one event in the past. Knowing that event in history and the nature of its connection with the present plays a significant part in ameliorating our ability to be cognisant of contemporary reality

7. It is absolutely vital as we look to undertake a comprehensive study of contemporary reality to seek the assistance of experts in the various fields of our enquiry. For indeed, these various levels and aspects of reality to be well understood require a scientific expertise; they cannot be carried out by amateurs.

8. In addition to creativity and intellectual acumen, those involved in this sort of study need possess the quality of deliberateness and perseverance so as not to be disheartened or irritated by some of the findings they may encounter during the course of their research; for, if they do, they will not complete their painstaking exercise. Indeed, this sort of study can only be undertaken by those who have courage and not by daredevils or those who are impetuous.
II. Sharia Rulings: Their Connection with Public Interest, the Prevention of Social Harm and Weighing the Benefits and Costs

The aim of the Sharia is to secure the happiness, as well as, the advancement of the public interests of humanity, and to preclude corruption and social harms or at least minimising their effects. Any single one of its commands has for objective the happiness of the individual and the public interest of human society and any single one of its prohibitions aims to preclude the occurrence of corruption and social harm. Ibn al-Qayyim- may God bless his soul- said:

“The warp and weft of the Sharia and all that it aims for is wisdom and the good of humankind in this life and the hereafter. It is indeed for justice, mercy, the well-being of man and wisdom through and through. Thus, every ruling that promotes tyranny instead of justice, cruelty instead of mercy, corruption instead of goodness and foolishness instead of wisdom has nothing in common with the Sharia, even if some far-fetched interpretations would like us to believe the contrary.”186

Ibn al-Qayyim al-Jawziyya summarized the position as follows: “The principles and fundamentals of the Sharia, whether they pertain to this world or the next, are all based on justice, mercy, the good of man, and wisdom. Every situation in which justice succumbs to tyranny, mercy to cruelty, goodness to corruption, wisdom to foolishness, has nothing in common with the Sharia, no matter how much one tries to explain it away”.

Given that this the case, it is obvious then that one of the things that the jurist should really pay attention as he reflects on contemporary reality in order to apply to it his ruling, is to survey the benefits therein as well as the potential harms. For only in this way he can weigh between them should they present an ambivalence or clash. It has been said: “The wise is not he who can distinguish between good and evil, but he who knows which good deed is better than the other and which evil deed is wicked than the other”.

This surveying of public interests and social harms, as well as weighing the benefits and the costs of each in order to arrive at well-balanced decisions are governed by a host of legal maxims which need to be observed. Below is a brief outline of these.

A. Distinguishing between the Various Types of Public Interests

The use of the term ‘interest’ (ar. maslaha) in this context should not be confused with what is commonly understood as personal interest. Rather, what is meant by interest here has its origins in the Sharia, it pertains to what al-Ghazali has defined as: “the preservation of the objectives of the Sharia which consists of five things: the protection of religion, life,

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intellect, progeny, and property. Whatever secures these five principles and enhances them is considered public interest (*maslaha*); whatever achieves the opposite is a form of corruption (*mafsada*), the preclusion of which is also considered a public interest (*maslaha*)".187

Hence, a jurist, as he reflects on his contemporary reality, is required to give primacy to public interests and to only strive to seek these, excluding any other consideration. And public interests as it is known are of three types.

Firstly, there is what we may call ‘Public Interests Recognised by the Sharia’ (*al-masalih al-mu’tabara*). These are the benefits pertaining to any of the five principles above, such as the protection of life, and legitimacy of which has been attested by at least by one Sharia evidence. Secondly, there is what we may call ‘Cancelled Public Interests’ (*al-masalih al-mulghat*), the legitimacy of which was not recognised by the Sharia and so they were banned; such as the accumulation of wealth through usury or gambling. Thirdly, there is what we may call ‘Unattested Public Interests’ (*al-masalih al-mursala*), which pertains to those benefits and public interests about which neither command or prohibition have been revealed, and can hence be legitimate. This is like the initiative of compiling the Qur’an which was taken by Abu Bakr—may God be pleased with him.

This last category of public interests and benefits, though unattested by clear evidence from the Sharia, are according to some leading scholars legitimate as long as they comply with the following conditions:

1. They do not violate any clear textual evidence or contravene any of the universal objectives of the Sharia
2. The public interests they seek to realize is real and not imaginary, and that their realization is either certain or at least very likely.
3. The benefits are for the common, achieving either public welfare or alleviate a difficulty faced by a significant section of society.

Thus, as Muslim jurists go about seeking out public interests and benefits, it is necessary for them also to discern between those interests recognised by the Sharia, and those which have been cancelled by it, and concerning the unattested public interests, they need to ensure that the legal conditions necessary for its legitimacy are fulfilled.

### B. Weighing Public Interests and Social Costs in View of Establishing Preference (*al-Tarjih*)

Both public interests and social harms are various and numerous and a such they will necessarily vary in their degrees of benefit and corruption, respectively. It is therefore necessary for Muslim jurists, as they reflect on their contemporary environment and

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context, to be clear about the degree of benefit each public interest they aspire to achieve has and the degree of each corruption or social harm they decide to preclude. This sort of distinction will be very useful to them particularly when there is conflict between these benefits or when they are faced with social harms that produce ambivalent situations; for then they would need to find systematic ways of ascertaining their preferences (tarjih) in order to arrive at nuanced judgments and rulings. Concerning this issue, al-’Izz Ibn Abdul-Salam says:

“Whoever God has granted success in ordering the benefits, he will be able to distinguish between the most and the least meritorious, just as he will be able to ascertain which among them is the most urgent and which of them is the least, for scholars may indeed be in difficulty and differ in their opinions about the benefits and their order of priority, particularly when these are mutually exclusive and cannot all be harnessed at once. Equally, whoever God has granted success in ordering social harms according to their degrees of gravity and corruption, will be able, even if confronted by several of these at once, to deflect the most threatening from among these social harms with the least corruptive; and here too, it may occur that not all social harms can be prevented all at once, and the scholars may also differ in ascertaining which harm is most worthy of prevention and which is the least.”

Now public interest and benefits are of three kinds; they are vital, useful, or salutary. The vital interests (daruriyya) revolve around the protection of those five principles which are indispensable for the establishment of religion, and these are, religion, human life, progeny, property and the intellect. As for the useful interests (hajiyya), although not vital are nevertheless necessary in order to facilitate well-being and alleviate hardship from human life. Finally, the interests which are salutary (tahsiniyya) are those interests contributing to the enhancement of those other interest and benefits and thus contribute to the refinement of our mores and manners.

Al-Shatibi says: “The rationale behind the obligations of the Sharia is the protection of its objectives in the world of creation, and these objectives are of three types, no more: vital (daruriyya), useful (hajiyya) and salutary (tahsiniyya). As for the first type they are vital because they are indispensable for the establishment of religion and for sustaining the good of humankind in this world, such that if they are to suffer any disruption, the stability of the world is compromised along with it, and this would lead not only to the kind of chaos that could bring an end to life in this world, it would also lead to perdition and the loss of salvation and bliss in the hereafter… The vital objectives and interests revolve around five principles; the protection of religion, human life, progeny, property and the intellect… The second type are useful in so far as they may be resorted to in order to promote well-being and alleviate some of the hardship in human life which often may lead some to fail in carrying out that which is necessary or vital. If these objectives and interests are not attended to there is a risk that these forms of hardship and difficulties may extend to a larger section of society, even though not achieving them does not give rise to the kind of chaos and corruption which would normally ensue from forsaking the vital public interests.

188 Al-’Izz Ibn Abdul-salam. Qawa‘id al-Ahkam. Vol, p, 54
Finally, the salutary objectives and interests consist of all those things which promote human refinement and deter people from indulging in the profanities of the people of lowly intellect. Thus, these only serves to beautify the vital and useful objectives, as it were; and their not being harnessed does not affect in any way either of them.”

Beyond these three categories of objectives and interests, we also speak of a whole range of issues associated with them; among these, are the following:

- There public interests, which by definition relate to the general public, and there are those which are specific and thus concern only some members of the society or the public.
- There are interests and objectives which are certain to come and others which are uncertain or unrealistic altogether.
- There are interests that are crucial while others are superfluous
- There are interests which are permanent and others which are circumstantial
- Interests are of varying degrees of urgency and harms are also of varying degrees of gravity
- There are among what is considered harmful acts which the Sharia has clearly proscribed to prevent it from occurring, those which although not forbidden are highly reprehensible, and those who amount to great wrongs like associating partners to God, committing major sins, aggressions and injustices.
- There are temporary social harms and permanent ones
- There are harms which are general; they constitute a threat to the common good and others which are specific and only concern certain individuals or at worse a section of the general public.

**Deciding the Preference when Benefits and Harmful Costs Press Together**

As mentioned earlier, benefits or interests and harms or social costs are of various kinds and different hues in reality. Only seldom does the jurist encounter a legal issue which simply involve securing an interest or is simply about precluding harm or a corruption. That is because in the world, although interests are ultimately of varying degrees, they may still vie with another and be in conflict, particularly when not all of them can be secured. Also, reality may give rise to a situations in which one encounters many sorts of harms and corruptions, which although are not all of the same degree of seriousness or vileness, yet may still jostle in our mind, particularly when not all of them can be removed or prevented at once. In addition to this, we may indeed encounter in the world situations in which

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189 Al-Shatibi. *Al-Muwafaqat*. Vol. p. 4
interests and costs, benefits and harms compete with one another to the extent that some interests and benefits can only be secured by conceding certain social costs and accepting certain harms. There is no doubt that this sort of overlap which leads to the entanglement of the beneficial with the harmful does not make the mission of the Muslim jurist any easier, whether he is at the stage of surveying these benefits and harms in his surrounding environment and contemporary context or he is at the stage of deciding his preferences between them. So arduous is this task, it is not surprising that the scholars of this nation wasted no time in laying down the principles which would assist the jurist in dealing with these sorts of issues judiciously in spite of this confusing entanglement.190

The Rules of Weighing Benefits and Costs and Deciding one’s Preference

Thee scholars of Islam have determined a number of rules by which it is possible to weigh social benefits and costs and ascertain one’s preference both in the situations where they are independent of and those in which they are enmeshed with one another. Below we will review a number of situations in which these rules come to the fore

1. Conflict between Two or Several Benefits

When the jurists has to consider more than one benefit or interest which are in conflict with one another, such that he is only able to secure some by relinquishing the others, he would in that case need to arrive at a preference decision based on the following:

a. Whenever the benefits clash or in conflict with one another, it is then necessary to refer to their order of priority and establish a preference on its basis: those benefits or interests, which are vital, will, for instance, need to be considered before those which are useful, and these will also need to be considered before those which are salutary. If one is confronted with a situation in which these benefits and objectives belong to the same type, such that they all, for example, represent interests which are vital, in that case one would need to rank them according to their genera and establish a preference on this basis. Thus, the protection of religion as a vital interest come prior to the protection of human life, and the protection of this life comes prior to that of the intellect, and the protection of the intellect comes prior to the protection of progeny, and finally the protection of progeny comes prior to the protection of property. Should then the situation arise in which the benefits or interests we seek to achieve clash in respect of both their type and their genera, such that they would, for instance all be vital, and all be of the category of human life, in that case, preference may be established by figuring out which of these benefits is the most universal, and affecting the widest section of the general public, and which

190 For a detailed exposition on these rules and principles, please refer to: Ibn Taymiyya. *Majmu’ al-Fatawa*, Vol. 20, p, 30. There is in there a magnificent section on the clashing of the good deeds and the bad deeds. Also please refer to al-‘Izz B. Adul-Salam’s *Qawa’id al-Ahkam*, al-Shatibi’s *al-Muwafaqat* Ibn al-Najim’s *al-Ashbah wa al-Naza’ir*, and al-Qaradawi’s *Fiqh al-Muwazanat*
of them is the most specific, and limited in terms of its impact on society. In light of this scale, public interests will outweigh the particular or the specific interests and will come before it in the order of priority.\textsuperscript{191} Also the benefits and interests which are certain to come take priority over those which are uncertain or are unrealistic

b. The greater interests and benefits are prior to the smaller ones, just as the interest of the group outweighs that of the individual, and that of the majority overwhelms that of the minority

c. The interests and benefits which are permanent are prior to those which are incidental or temporary

d. The realisation of highly important prospective benefit takes precedence over the realisation of an instant benefit the consequence of which are insignificant

e. Fundamental and crucial benefits and interests are put before those which are superfluous or of marginal importance. That is exactly what the Prophet (pbuh) had done during the conclusion of the Treaty of Hudaybiyya: he gave weight to the crucial and fundamental benefits and interests, which were highly important for the future of Islam and the Islamic community, preferring them to the superfluous and inconsequential objectives many people are still feverishly attached to. Indeed, during his negotiations with the Qurayshites, he (pbuh) had, for instance, accepted conditions which at face value did not appear to demean the people of Islam, or meant in any way that they had accepted humiliation and servility. He (pbuh) had no issues with his counterparts’ request for removing the Islamic \textit{basmala} in order to put in its stead the expression ‘\textit{bismika Godumma’} which the Arabs were accustomed to write or mention in the letter head of every contract, and took no offence when they requested that only his name, Muhammad Ibn Abdullah be mentioned therein instead of his title ‘Muhammad, Messenger of God’. He accepted these conditions not only because they caused no direct offence to Islam and Muslims, but also because he wanted to realise a very important and vital interest; that of spreading the marvels of this religion in a climate of peace and safety for all.

Giving priority of the obligatory duties over the recommended sunna practices, and to one individual duty over another individual duty, such as putting the duty jihad ahead of the performance of hajj or indeed giving priority to obligation of feeding one’s family over the obligation of carrying jihad, which is a collective duty, are all good examples also of the type of clashes we have discussed above.

\textsuperscript{191} Please refer to the previous sources, including \textit{Tatbiq al-Shari'ah al-Islamiyya fi Misr wa l’ Bilad al-‘Arabiyya}, p, 188
2. Dealing with more than one Inevitable Harmful Cost

Just as there are situations when we may need to choose between several benefits and interests, which cannot realised in their entirety at the same time, there are also situations when we are faced with several harms and sources of corruptions, which cannot also precluded in their entirety, at the same time. In this instance too, the Muslim jurist is required to weigh his options and establish his preference according to the following:

- The harm or the corruption which disrupts a vital interest will need to be precluded by sacrificing either a useful or a salutary interest
- It is preferable to suffer a harm or a corruption which disrupts a salutary interest in order to deflect a harm or a corruption threatening to disrupt a useful interest
- It is preferable to suffer a harm or corruption which threaten human life, honour, the human intellect and property for the sake of precluding a harm or corruption threatening the religion of Islam or the Islamic tenets of faith

Furthermore, harms and corruptions vary in their degrees of impact, and seriousness. Owing to this fact, the jurists of Islam have said:

- We need to carry the task of removing harm and preventing corruption to the best of our abilities and to the extent that is possible
- No harm or corruption may be removed by another or by one that is even greater
- When confronted with two inevitable harms or corruptions, it is preferable to opt for the least devastating
- It is preferable to suffer a specific harm in order to preclude a social harm which affects the general public

There are many examples which also illustrate this second situation well. For instance, a woman emigrating without a marriageable companion is usually considered a wrong, but it is not contested if she is departing from the Abode of War because her ongoing residence in such an abode is considered to be worse state of affair and one that can only be avoided by her effectuating her emigration under those conditions. Similarly the costs, which normally ensue from the implementation of certain prescribed punishments, such as cutting the hands of the thieves, stoning the adulterers and wiping the consumers of alcohol are preferred to the spreading of these vices to the rest of society, in that major crimes and social plights like these can only be averted through the minor harms and costs, which the implementation of this sort of prescribed punishments have on limited number of individuals in society.
3. The Entanglement of the Benefits and the Costs

Whenever the benefits or interests and the harms and costs overlap and become entangled with one another, such that no good may be realised without engendering an evil or a corruption, and no evil or corruption may be deflected without relinquishing a good or a benefit, establishing a preference, in these sorts of circumstances, can be arrived at by following the principles below:

- The preclusion of harm and corruption takes priority over the procurement and realisation of benefits
- Minor harms and costs are tolerated when they are suffered for the sake of realising a major benefit or public interest
- Temporary harms and costs are tolerated when they are suffered for the sake of protecting permanent benefits
- A clearly established benefit may not be abandoned due to a harm which is potentially unrealistic

About the ambivalence arising in this sort of situation, Ibn Taymiyya has said:

“It is clear now that a bad deed or corruption may be tolerated in two instances: when it is the only we have option for precluding a greater harm, and when it leads to a good the benefit of which is far more significant than the costs associated with its abandonment, and which, nonetheless, cannot be achieved without it. Similarly, a good or an interest may be forsaken in two instances: when it leads to the impossibility of attaining to that which is more virtuous and beneficial or when it inevitably leads to an action whose degree of corruption and level of cost outweigh its own good and its own benefit.”\(^{192}\) Based on the above rules and principles relating to the entanglement of the benefits and the costs, it is obvious that the Muslim jurists must take all of these factors in consideration as he goes about issuing his legal ruling, making sure that it is commensurate to the contemporary context to which it applies. It is worth noting, however, that even though these principles may appear simple and straightforward; applying them to various cases and the contexts of contemporary reality may prove to be difficult indeed, particularly when it involves thorny issues like jihad in the context of modern international relations. Thus, in situations such as these, the Muslim jurist would need to take a hard-nosed look at the issues at hand, be very thorough in his approach and above all, he would need God’s help and succour.

\(^{192}\) Ibn Taymiyya. *Majmu' al-Fatawa*. Vol. 20, p. 32
III. Considering the Repercussions of Legal Rulings on Contemporary Reality

As the jurist prepares to issue his ruling, it is necessary for him to consider the repercussions of his decision to allow or disallow a course of action may have on the contemporary reality to which his legal ruling applies; for indeed, it is a very possible that certain actions, though lawful in themselves and as a means, may lead to great harm in the end. Indeed, when confronted with situations like these, it behoves the jurist, in view of the potential negative repercussions that certain lawful actions may have, to lean towards prohibition. About this issue, al-Shatibi says: “Reflecting and taking consideration of the repercussions of actions is one which is recognised and intended by the Sharia, regardless of whether these are in keeping or at variance with the law. Thus, what is incumbent on the mujtahid to do is not simply to determine that the actions performed by those who are morally accountable before the Law-Giver are in themselves unlawful, and then deter people from doing them, or that they are lawful, and then entice them to perform them; rather his task before that, is to properly assess their effects and final consequences. For it is possible that an action, even when deemed lawful in itself, and in respect of its beneficial qualities or its potential for preventing harm, may have effects which are at variance with its legitimate purposes, just as an action which is deemed unlawful in itself, in respect of its corruptive qualities, and its potential to being a hindrance for good, can have effects which may very well be at variance with its legitimate purpose and not be beneficial after all in reality. If the mujtahid were to decide that the former is unconditionally lawful, he is, in his desire to achieve a good, actually running the risk of allowing a course of action which would lead either to a corruption which is as significant as the good he aspires to attain or to one which is far more weightier, and should he, in his desire to avert a harm, decide that the latter is unconditionally unlawful, he then may be running the risk of allowing for a course of action which can only lead to a corruption of similar magnitude, if not worse. Hence, it is not right to precipitately declare certain things to be unconditionally unlawful. Now it might be that it is not always easy for some mujtahids to attain to the fountain, from which this truth springs, but they should know that its water is most refreshing, and most beneficial; how can it not be, considering that it runs through the very pathways of the Sharia.”

Indeed, pondering over the repercussions of actions is an issue that has great importance in the eyes of the Prophet (pbuh), and he guided us to its significance in that occasion in which a man had asked him for good counsel. He (pbuh) has said to him: “When you desire to something, mull over its consequences: if they are good, then do it, and if they are not, then refrain from doing it.”

193 Al-Shatibi. *Al-Muwafaqat*. Vol. 4, 194
194 Cited by al-Muttaqi al-Hindi in his *Kanz al-'Ummal* no. 43150, and he attributed it to Abu al-Dunya.
Regarding this third fundamental principle, Ibn al-Qayyim has provided us with a number of examples which illustrate it well. He divides the categories of actions and means in this area into four types.

a. Means and actions designed to bring about a state of corruption, and which lead to a corruption, whenever they are resorted to; such as the consumption of alcohol which leads to drunkenness, and slander which leads to vilification. Both of these actions are prohibited because they are a means for leading to the harms and corruption mentioned.

b. Means and actions designed to be permissible, yet the person having recourse to them intends to use them for purposes which are haram. This is typical of the buyer who concludes a sale with the intention of gaining interests or the person who enters into a marriage contract for the sole purpose of engaging in a legal relationship. Neither of these examples are licit because although selling and marrying in and of themselves are legal activities, they are in the instances above conducive to a harm and a corruption.

c. Means and actions designed to be permissible, yet the person having recourse to them is bound to enter into a state of impermissibility, even though he has no intention to commit that which is haram. This arises when a course of action, though not harmful in itself, leads inevitably to harm and a corruption, which outweigh the benefit and the good intended by a permissible action. Examples of these include denigrating the Gods of the idolaters whilst in their midst, and the widow deciding to make herself beautiful and attractive during the period in which she may not remarry.

d. Means and actions designed to be permissible, in spite of there being a risk that they may bring about a corruption, because that risk is deemed insignificant when compared with the good and benefits ensuing from them. Examples of these include being outspoken in the court of a tyrannical ruler, looking at one’s fiancée. These sorts of things have certainly been judged permissible, recommended or even obligatory in the Sharia, all depending on their levels of benefit.

After this providing this typology, Ibn al-Qayyim proceeds to furnish the proofs demonstrating the prohibition of the second and third category of actions, which pertain to those in which the actor commits haram intentionally and unintentionally, even while the actions in themselves are lawful. He says:

“As for preventing what is conducive to haram, it can be argued in several ways and from a variety of angles. Firstly, by referring to His saying- exalted is He-: “And do not insult those they invoke other than God, lest they insult God in enmity without knowledge” (6:108). Here God has prohibited Muslims from insulting and denigrating the gods of the idolaters while in their midst, even though at other times one may do so in disgust and out of vehemence for God Almighty. He has prohibited it for fear that such denigration would be used by them as an alibi to insult and denigrate God- exalted is He- and so the laudable thing to do was to rule against it, because the benefit accruing from preventing His
denigration far outweighs the benefit of denigrating their gods. And this is akin to making a hint against, nay deciding against what is otherwise permissible in order that it may not be an effective cause for something impermissible. Secondly, by referring to His saying-exalted is He:- “And let them not stamp their feet to make known what they conceal of their adornment” (24:31). Here God has prevented women from stamping their feet, an action which in itself is perfectly legitimate, for fear that they would be arise the desire of men who would get to hear the sound of their anklets. Thirdly, by referring to His saying-exalted is He: “O you who have believed, let those whom your right hands possess and those who have not [yet] reached puberty among you ask permission of you [before entering] at three times” (24:58). Here God has commanded that the slaves of the believers and those who have not reached puberty yet ask for permission before entering the private rooms of their owners or tutors, prior to the dawn prayer and when they put aside their clothing at noon and after the night prayer, and this in order that their coming in and out of these rooms is not so random as to serve them for an excuse to be there during their tutors’ or owners’ times of privacy, whether it be during their times of sleep or wakefulness. God did not, however, demand that they ask for permission outside these times, because the chances of that corruption occurring then was deemed very weak, and no doubt because those proscriptions, though at a prescribed times, already serve to introduce those notions.

Fourthly, by referring to His saying-exalted is He:- “who have attained to faith! Do not say [to the Prophet], "Listen to us," but rather say, “Have patience with us,” and hearken [unto him], since grievous suffering awaits those who deny the truth” (2:104). Here God has warned Muslims against the use of the expression “Listen to us!”, when addressing the Prophet (pbuh) for in spite of the fact that there is no ill will behind it, it is reminiscent of the way the Jews used to address one another as well as the Prophet (pbuh) when they meant to speak to him disparagingly. God has issued that warning to prevent Muslims from emulating the Jews and so that the Jews themselves would not be able to address the Prophet (pbuh) of the sort under the pretext that they are only emulating the Muslims, even though what they intend by that expression has nothing in common with what the Muslims do.

Fifthly, by referring to the Qur’anic verse in which God- may He be exalted- has said to Moses and his brother Aaron: “Go, both of you, to Pharaoh. Indeed, he has transgressed. And speak to him with gentle speech that perhaps he may be reminded or fear God” (20:43-44). Here God- may He be glorified- is ordering His Prophets to speak to one of His greatest enemies, and certainly one of His most refractory creatures and adamant disbelievers, with gentle speech so that he may not put the blame for his impatience and for his rejection of God’s Message on their harsh words, even though he surely was deserving of such a treatment. Thus, He- may He be glorified- had warned them against doing that which is licit for fear that any other approach could have led to consequences that would have been far worse.

Sixthly, by referring to the fact that God- may He be exalted- has warned the believers not to use force against the disbelievers upon their victorious return to Mecca. Rather, He- may He be glorified- has commanded them to show forgiveness and largeness of spirit towards
their previous enemies in order to prevent their victory from developing into a means for a corruption that is even more corrosive than the loss of limbs or tyranny itself, and also because the protection of their religion, their lives and that of their progeny are far more beneficial and weigh more in the balance than the benefit of victory and confronting the enemy.

Seventhly, we may refer to the fact that God- may He be exalted- has actually prohibited Muslims to engage in any commercial activity as the call for Friday congregational prayer is made in order that attending to one’s business would not become a means for missing the prayers. Eighthly, we may refer to what has been related by Hamid Ibn Abdurrahman on the authority of Abdullah Ibn Umar who had heard the Prophet (Pbuh) say: “Verily, a man who insults his parents has committed a major sin”. It was said: “O Messenger of God! Is it possible that a man insult his parents?” He said: “Yes, indeed: if he insults another man’s father, who in turn insults his, and then he insults his mother and he in turn insults his.”

Ninthly, we may refer to the fact that the Prophet (pbuh) was never keen on killing the hypocrites, though it was at face value a social benefit, for fear that such acts would become a means for repelling both the recent converts and those who have not yet converted, from Islam, meaning that in the final analysis he saw that the costs associated with such a move were far more serious than the costs associated with leaving them alone, and that the social benefits and interests accruing from reconciliation and peacemaking were far greater from those arising out of killing these people”.

In light of all the above, it should be clear now that it is necessary for Muslim jurists to assess the repercussions of their legal decisions on reality, namely their harmful as well as beneficial effects, before determining their rulings or fatwas.

195 Related by Muslim (90/146). According to the version of related by Bukhari, the Prophet (pbuh) is reported to have said; “One of the major sins that a man can commit is for him to curse his parents.” It was said, “O Messenger of God, how can a man curse his parents?” He said, “He may curse another man’s father who in turn curses his father, and curse his mother and he in turn curses his mother.” Related by Bukhari, no. 5973. Thus God’s Messenger (pbuh) has made that man responsible for having cursed his parents although it is certainly not them he aimed his curse at.

IV. Accounting for Capability and Capacity before Issuing a Legal Ruling

Before issuing a legal ruling, it is necessary to ascertain that those who are morally accountable before the Law-Giver are actually able to carry out the commands of the ruling in question, in that such accountability hinges upon the capacity and capability of those concerned, and this in compliance with the Qur’anic verses in which God- may He be exalted- has said: “God does not charge a soul except [with that within] its capacity” (2:286) and “So fear God as much as you are able” (64:16). Also, his saying (pbuh): “whoever sees a mischief, let him change it with his hands, and if that proves to be difficult for him to do, then let him change it with his tongue, and if that proves difficult for him to do, then let him change with his heart, for that is the least a person of faith can do”. 197

About this, Ibn Taymiyya says: “This line of argument is in keeping with the underlying legal principle adopted by the salaf and the wider community, namely that God does not burden a soul except with that which is within its capacity. For, obligation hinges upon capacity, and a punishment can only be prescribed after a person has abandoned a command or committed a sinful act for which he is accountable”. 198

Indeed, the Law-Giver has exempted people from carrying out certain obligations that are clearly prescribed in the Sharia like fasting, going on hajj, and even preforming the canonical prayers, if they are deemed to be under financial or physical duress. It is, therefore, vital that the Muslim jurist as he goes about his task of lawmaking to consider the factor of capacity, otherwise his rulings will encumber the individual or the community with commands and prohibitions, which are too burdensome and unbearable. Indeed, how many a group and a countries has had to go through the most tragic ordeals only because they had launched themselves into military confrontations without having even a modicum of power and capabilities to achieve victory or the objectives for which they entered into this conflicts in the first place.

We often have people who do not understand how crucial capacity to carry out the commands of the Sharia is, and yet entice the community of Muslims to uphold religious obligations which they are clearly not in a position to uphold. Not only they burden them with such unbearable obligations, they accuse them of being neglectful and slack and they might go as far as charging them with cowardice, listlessness and perhaps even for having deserted their religion for not honouring these so-called obligations; although, to the accomplished jurist a Muslim, who does not have the means or suffers from lack of capacity to perform an obligation, is exempted from carrying it out, without being called to account. Ibn Taymiyya has aptly demonstrated this point when he said:

197 Related by Muslim (49/78)
“Also, it is not practical to oblige the person who has just repented, the learner and the novice to honour all of the commands of religion, nor is it wise to impart to them all the religious knowledge in one swoop, because they simply will not be able to bear it. Furthermore, since they do not have that capacity, they are under no obligation of performing all of their religious duties. It is therefore not right for a jurist or a ruler to burden them with the daunting task of upholding all of the religious obligations at this early stage, rather, they should look to be clement with them regarding their inability to carry out the commands of the Law-Giver or refrain from His prohibitions until such time when they will have developed the capacity to do so, just as the Prophet (pbuh) has shown clemency and tolerance in some situations until they came to pass. Certainly, such a step ought not to be understood as a form of legalisation of any of the Sharia prohibitions nor should it be seen to amount to an enticement towards the abandonment of our religious obligation. The point that we have making is that for the obligation to carry out one’s religious duties and avoid the prohibitions to be in force, it is imperative that knowledge and capacity be available to the morally accountable person, because obligation in Islamic law hinges upon these two conditions, and we have all along developed our argument based on the premise that neither of them were existent. And you need to ponder this legal underlying principle, because you will find it truly useful.

It is in light of the above also that one is able to see clearly how many of the things which were originally obligatory and prohibited have ceased to be so. This is either because knowledge about them has not been communicated or because of incapacity, and both of these reason rendered it incumbent on us to keep the Sharia obligations in force: without knowledge of the commands and the prohibitions, no morally accountable person would be subject to being called to answer before God, and without capacity a command may no longer be enforced, however much obligatory, and God knows best”. 199

At this conjunction, it is worth reminding the reader that when the Muslim jurist looks at the world in we live, he will find that there are matters which the morally accountable persons can comply with and others who are beyond their capacity, and his role in delineating these is crucial; for as the legal theorists of Islam say, “That which is within people’s reach, should not be forsaken for the sake of that which is beyond their reach”; for indeed there may be situations in which a command might be relinquished either due to people’s lack of capacity or some other genuine impediments, without this in any way suggesting forsaking other obligations for which there are no such hindrances. Again, concerning this point, Ibn Taymiyya says:

“Whenever two commands of the Sharia clash, such that it is not possible to carry them both, priority in that case ought to be given to the more positive of the two, and by virtue of that choice, the other command simply ceases to be an obligation. Hence, whoever relinquishes a command for the sake of that which is more positive has in fact forsaken neither command. Equally, whenever we are left with no other alternative but to choose between two prohibited acts, a situation in which the worse prohibition can only be avoided by opting for the one which is least condemnable, then acting according to the latter would

not actually amount to committing a prohibited act as such; although Perhaps, it would be more suitable to say about this action that is akin to relinquishing a command rather judging as haram Now, although it is generally said about the first person in the first case that his action amounted to an ‘abandonment of one’s obligation’ and about the person in the second case that he has committed a ‘a prohibited act’, such expressions are only meant to be understood in general terms and are used heuristically for the purpose of simplification; for what is proper, is to say about the first case that it is an ‘abandonment of one’s obligation with legal justification’ and about the second that it is ‘the performance of a prohibited act in view of a preferable outcome’ or ‘for the sake of precluding that which is even more wicked.”

Since that is the case, it is necessary for the Muslim jurist not to burden those who are accountable before the Law-Giver with that which is beyond their means and capacity. “A true mujaddid and reviver of the Sunna”, says Ibn Taymiyya “is he who says about the Message only what can be known about it, and only enjoins people to do what can be done about it”. Indeed, it is also said, “For nature, to be commanded, it must be first obeyed”.

**Establishing the Case of Necessity**

When the Muslim jurist prepares to issue his rulings, it is indispensable that he properly investigates and examines the facts on the ground in order to establish whether there is a case of necessity or not. The case of necessity, as is commonly known, arises when due to some major and exceptional circumstances, which cannot be avoided; those who are morally accountable before the Law-Giver are compelled to commit an unlawful act. It is in view of this condition that the legal theorist of Islam have issued the famous legal maxim, “Necessity overrule prohibition, which in fact had derived from various textual evidences, among which one can refer to the Qur'anic verses where God-may he be exalted- has said: “He has only forbidden to you dead animals, blood, the flesh of swine, and that which has been dedicated to other than God. But whoever is forced [by necessity], neither desiring [it] nor transgressing [its limit] - then indeed, God is Forgiving and Merciful” (16:115), and also, “Whoever disbelieves in God after his belief... except for one who is forced [to renounce his religion] while his heart is secure in faith. But those who [willingly] open their breasts to disbelief, upon them is wrath from God, and for them is a great punishment” (16:106).

As the Muslim jurist establishes that he has before him a case of ‘necessity’ or major extenuating circumstances, he needs, prior to issuing his rulings, to abide by certain conditions which were put by the jurisprudents of Islam and which are as follows:

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200 Majmu’ al-Fatawa. Vol. 20/58
201 Majmu’ al-Fatawa. Vol. 20/36
a. That the case of ‘necessity’ infringes upon one of the five fundamental of the Sharia, which are the protection of religion, human life, dignity, intellect and property

b. That no lawful means through which this necessity may be averted exist

c. That the illicit act is permitted on the condition that it is committed to deflect that necessity and only to the extent which serves to avert it: the person who is compelled to eat from the meat of dead animals to stay alive, shall only consume of it the amount which averts his starvation; he is not allowed to eat it to satiety. It is for this reason that the jurisprudents of Islam have also said, “The prohibition which has been allowed for necessity must not exceed the levels required to avert that necessity”

d. That the prohibition which has been allowed to avert a necessity will revert back to its original legal ruling as soon as the conditions which have brought about the case of necessity no longer exist, and that is because “the decision to make any prohibition permissible owing to some exceptional circumstances, would cease to be effective with the dissipating of those circumstances”.

Yet, despite these explicit guidelines, there are some who continue to ignore these exceptional circumstances when they are about to issue their rulings, and others who imagine that there is an ongoing case of necessity when in fact it is no longer the case, and while this of tug of war is going on between that party and the other, and while the pendulum swings between that group of protagonists and the other, highly significant opportunities for vital public interest are being wasted, and colossal errors are being made time after time.

**Issuing Rulings Relating to Contemporary Reality is the Private Domain of the Mujtahid Scholars**

Our claim that the task of issuing rulings to be applied to contemporary reality ought to be the strict domain of the scholars is one which is affirmed and made definitive both by law and by reason. Legally, it is supported by the Qur’anic verses in which God-may He be exalted- has said: “…ask the people of the message if you do not know” (21:7), and, “Say, “Are those who know equal to those who do not know?” (39:9), as well as the Prophet (pbuh) who has said, “Why did they not ask if they do not know? Is not the cure for ignorance to ask questions?”202 Indeed, the Prophet has warned against issuing fatwa’s without proper knowledge when he has said: “Whoever gives a fatwa which has no grounds in knowledge will accrue all the sins committed by those who have acted on the basis of it”.203 And rationally, it is supported by all the experts in the field who are placed better than anyone else to deliberate on these sorts of issues.

202 Part of a hadith related by Abu Dawud no. 338, Ibn Maja no. 572, and al-Hakim in his Mustadrak (1/286), on the authority of Ibn ‘Abbas- may God be pleased with him- and deemed fair by al-Albani)
203 Related by Abu Dawud no. 3657, Ibn Maja no. 53 and al-Hakim (1/184), on the authority of Aby Hurayra-may God be pleased with him, and deemed fair by al-Albani
The Dangers of Issuing Fatwas without Proper Knowledge

Making Fatwas is considered such a delicate and serious matter that many of the Companions and leading scholars of this community have abstained from it.

Ibn A. Layla has stated: “I have come to know a hundred and twenty companions of the Prophet (p.b.u.h); whenever one of them was asked to give his opinion on a legal issue, he would pass it to the next Companion and so on until the query returns back to the first person.

He also said: “Whenever any one of them was narrating a hadith, he wished his brother had to narrate it instead and whenever any one of them was sought for a fatwa, he wished his brother had to answer in his place”. There is also the example of al-Sha’bi who declined to respond to an issue put before him, saying that he did not know. Asked if he was not embarrassed not to be able to provide an answer despite his status of the jurist of Iraq, he replied that he did not, “given that the angels too were not embarrassed when they said, ‘Glory to Thee, of knowledge We have none, save what Thou Hast taught us’ (2:32)”. Equally, al-Qasim Ibn Muhammad was asked to give his opinion on an issue he was not inclined to deliberate on, saying to the enquirer that he did not have the requisites to deal with it. When the seeker insisted that he should, saying that he came to him because he did not know that anyone else could, al-Qasim replied, “ do not be fouled by my long beard, and the long queue of people waiting to see me: I swear by God that I do not know how to answer your query”. Then an elderly from Quraysh who was sitting next to him urged him to accord this favour, saying, ‘we certainly do not know anyone who is nobler than you’. In reply to this, al-Qasim said, ‘By God, I would rather that my tongue be cut than utter a word about something about which I have no knowledge’.

Now what has driven these glorious personalities to be disinclined is none other than their perfect knowledge of the dangers of making fatwas; for as al-Shafi’i has said, “the relation of the mufti to the one seeking the fatwa is like the relation of the doctor to his patient: if he is skilled in medicine, he would certainly kill him”. Hence, whoever seeks fatwa’s from people who are not knowledgeable of this domain is like the patient who seeks a cure from people who have no knowledge of medicine, and is no doubt going to be disappointed because this type of muftis can neither impart correct knowledge nor provide guidance. Concerning these ignoramuses, Ibn al-Qayyim said: “These people are like those who give directions to the travellers yet have no knowledge of the road, and those who are blind yet insist on showing people the direction of the qibla or those who have nothing to do with medicine yet insist on giving cures to the sick; nay they are worse than all of these categories of people. If you think that it is incumbent on those in authority to stop the doctor who is not skilled in medicine from treating patients, what about the person who pretend to

the position of jurist but has no knowledge of the Quran and the Sunna, and has no discernment in matters of religion?”. To be sure, the indulgence of non-qualified in fatwa making is not a new phenomenon, but one that has originated many centuries ago, as attested by the remark of Abu al-Hussein al-Azadi who said once: “There are out there people who unashamedly launch themselves forward in order to give fatwa’s on issues for which ‘Umar Ibn al-Khattab would have consulted with all the Companions who partook in the Battle of Badr.”

And it is certainly this state of affair which had brought Rabi’a Ibn A. Abdurrahman to tears. When asked what is making him cry, he replied: “We are nowadays having recourse to people of no knowledge in order to seek their fatwas, and this has given rise to a very grave problem in the world of Islam”. Then he went on to add: “By God, some of the muftis of today are more deserving of prison than the thieves”. “Thus some of the scholars have wondered what would be Rabi’a’s reaction if he were to witness what is going on in our period, how the ignorant jump on any opportunity to give fatwas, and how brazenly they step forward and aspire to raise their status, in spite of their flagrant lack of experience in the field, and their dubious credentials, and even though they are strangers to the People of knowledge and have barely any insights into the Quran and the Sunna.”

Indeed, this phenomenon had already been foreseen by the Prophet (pbuh) when he has said: “God will not take away knowledge from His servants, but knowledge will be taken away as the men of knowledge are taken away until there is not a single man of knowledge left. Then people will take ignorant men for their leaders who will be asked something and give a fatwa without any knowledge. They will go astray and lead others astray”. And this straying is but the logical consequence of ceding the mission of applying the Sharia rulings to contemporary reality to those who are not qualified for *ijtihad*.

Non-qualified Mujtahids and Fatwa Making in Our Times: The Dangers

There has been a rise recently in the number of aspiring *mujtahids* who embark on applying Sharia ruling to contemporary reality, but who do not have the slightest qualification to indulge in such matters. This phenomenon has now reached unsustainable levels, and we are beginning to witness its grave consequences on the ground. And this expected because these people are dealing with very thorny issues relating to contemporary developments in jihad, governance, goods, monies and so forth without having any legal qualifications which would give them licence to delve into the depths of these complexities. This inconsistency is certainly the source of many of our errors and hence the reason behind many of the difficulties which we increasingly experience in our daily lives, and this is particularly true of how rulings pertaining to jihad are being applied to our contemporary reality. For when

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209 *I’lam al-Muwaffaqi’een*. Vol. 4, p. 201
210 *I’lam al-Muwaffaqi’een*. Vol. 4, p. 190
211 Related by Bukhari no. 100, and Muslim (13/2673), on the authority of Abdullah Ibn Masud- may God be pleased with him.
the positions of the true mujtahids are taken over by the pseudo mujtahids, we will certainly find ourselves in a situation where we have a myopic vision of reality, one in which we are neither able to recognise the clashing of benefits and costs nor to weigh and establish a preference between them, and as a consequence of this inability we would issue or follow rulings which would inevitably clash with both the Quran and the Sunna. This issue is so serious, we are compelled to dwelling a little on the characteristics, essential qualities of the mujtahids and how they normally go about their work, in the hope that these clarifications would contribute towards at least minimising this problem.

Before that, let us briefly shed some light on what is exactly meant by applying the rulings of the Sharia to contemporary reality so that it clearly stand apart from the other duties of the mujtahid.

A. The Various Kinds of ijtihad Performed by the Jurist and the Various Ways in which these are Applied to Reality

It may be useful here to rehearse again the meaning of ijtihad in legal terminology, which to the scholars of jurisprudence pertains to the scholar’s striving to find a legal solution by way of derivation and analogy. Thus, according to them, rulings that are arrived at through this exercise do not include the categorical aspects of the law, but are limited to those aspects which are discursive. As for the mujtahid, it is the jurist who has mastered the tools necessary for the accomplishment of ijtihad and who can devote himself to the task of deriving Sharia rulings of the discursive kind. Moreover, as the mujtahid jurist is involved in law making, he would need to engage in a number of exercises, which are all in themselves a kind of ijtihad, and these include the following:

1. To endeavour to enumerate a list of all the possible individual properties which can serve as the effective cause of the ruling for the case at hand, by exploring and examining the Quran and the Sunna, such as the Prophet (pbuh) saying, when asked whether it was permissible to consume the ghee in which a mouse had fallen,: “Remove it along with that part of the ghee it has touched, and eat the rest” Indeed, when confronted with situations such as these, the jurist need ask himself whether the rationale behind a ruling such as the above was the fact that the ghee was not affected by the impurity emanating from the dead mouse, or the fact that the ghee in question had been deemed frozen and indeed whether this ruling is limited to ghee and does not extend to other consumable liquids. This kind of exertion of

213 Related by Bukhari no. 135, Tarmidhi no. 1798, and Nisai no. 4258, on the authority of Maymuna- may God be pleased with her.
ijtihad is what the legal scholars have called the process of isolating the grounds or the definite cause of a Sharia ruling (*tanqih al-manat*).  

2. To identify which of the causes that were extracted by the legal scholar in the first type of *ijtihad* (*tanqih al-manat*) is in fact the effective cause or the anchoring point which is in causal relationship with the Sharia ruling, and this is strictly speaking recognised as exercising analogy (*qiayas*). An example of this type of *ijtihad* is the identification of drunkenness as the effective cause for the prohibition of wine, from among other individual properties and qualities, which may be associated with wine. Scholars of the principles of Islamic jurisprudence or Islamic legal theory have called this type of *ijtihad* ‘extracting the ground for Sharia ruling’ (*takhrij al-manat*), which actually consists in extracting the effective or the operative cause that served as a point of anchor for the ruling.

3. To ascertain that the individual properties or qualities, and the effective causes which constitute the encompassing principle of the divine injunctions revealed in the texts exist concretely in the specific cases and rulings which are applied to our contemporary reality. Examples of this type of *ijtihad* include our ascertaining that witnesses have the essential quality of uprightness before they can testify before a court, and our ascertaining that the conditions set by God for the implementation of His rulings have been fulfilled and also that His prohibitors if there any have been surmounted. It is clear that there are no texts indicating to the good character of every witness and none lists explicitly all of the conditions that need to be fulfilled before a divine injunction may be implemented; these things are arrived at through a kind of *ijtihad*, which the legal scholars have called ‘the ascertaining of the support’ (*tahqiq al-manat*), which means ascertaining that the effective cause of the divine ruling applies to the concrete circumstances to which the Sharia ruling was applied.

It is obvious from the above that these three types of *ijtihad*, put together, require knowledge of the textual sources of the Sharia, in addition to the divine injunctions which are derived from them; they require knowledge of the effective causes, and the operative qualities upon which God has anchored His injunctions, as well as, knowledge of the concrete circumstances to which the Sharia rulings are going to apply. And we are now in a position to say, after this exposition, that the process of applying the rulings of the Sharia to our concrete circumstances or contemporary reality or that which our legal scholars have coined *tahqiq al-manat*, represents the pinnacle of *ijtihad*, for the simple reason that it has to do with the application of Islamic law in reality.

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B. The Essentials of the Mufti and the Mujtahid

The scholars of the principles of Islamic jurisprudence have devoted many a work to enumerate the conditions that need to be fulfilled by the mujtahid before he is regarded as one. Although, they may have expressed their ideas on this issue in different styles, some of them writing about it at length while others have done so more succinctly, they all obtained the same findings and came to the same conclusion. No doubt most of their conditions appeared to insist on the kind of qualifications required for such a position, and we may divide these into three categories.

1. Full cognisance of the sources of the Sharia rulings, and of the sciences leading to that knowledge. Concerning this condition, the legal scholars have inserted several other sub-conditions:
   a. Firm knowledge of both thee linguistic and legal import of the Quran
   b. Having the ability to carry and transmit the prophetic *sunna* as well as using it in juridical argumentation
   c. Firm knowledge of the consensus of the scholars, such that his *ijtihad* does run counter to theirs
   d. Firm knowledge of the conditions of analogy
   e. Firm knowledge of the abrogated and abrogating Qur’anic verses and hadiths
   f. Firm knowledge of the principles of Islamic jurisprudence
   g. Firm knowledge of the Arabic language

And for each of these sub-conditions, the *ulema* have delineated the level of knowledge that the aspirant to *ijtihad* must reach. 216

2. The personal Qualities of the Mujtahid

Here too, the ulema have put forward a number of sub-conditions, and they are as follows:
   a. Islam, majority and sound intellect
   b. Rectitude
   c. Sincere intention
   d. Clemency, sobriety and serenity
   e. Self-sufficiency, such that he does not depend on gifts of people or sultans
   f. Acumen and alertness

From the above conditions, it is obvious that some are compulsory while others would rank among the desirables which would nonetheless enhance the prospects of the aspirant.

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3. Knowledge of the People and their Circumstances

Concerning this third condition, Ibn al-Qayyim- may God have mercy on him- has stated the following:

“Knowledge of the people and their conditions is essential to both the mufti and the governor. Indeed, they ought to have both this knowledge and knowledge of God’s commands and prohibitions so that they can apply that top the other. Otherwise they will do more harm than good: If they are not knowledgeable about people, they might mistake the oppressor for the oppressed and the rightful for the wrong-doer, and vice versa. Equally, if they are ignorant of the people, their circumstances and their customs, they will not be able to distinguish between the good and the bad, and thus at what point was a command upheld and a prohibition committed. In addition to knowledge of their mores and traditions, they need to be aware of the malicious ways that people employ to commit their deceptions and frauds. Hence, a fatwa is subject to change depending on the time, place, customs and traditions and that is all part and parcel of God’s religion”. 217

Now some might argue that these conditions apply to those who aspire for the rank of absolute mujtahid, which cannot be fulfilled by any one person, particularly nowadays when so many of the positive sciences have sprawled everywhere and people are no longer devoted to the study of the religious sciences upon which this honorific title so desperately dependents. This question raises more than one issue, and they each deserve to be clarified.

A. There are Many Levels of Ijtihad

Some of the scholars of the principles of Islamic jurisprudence have affirmed that the title of mujtahid can be applied to a variety of scholars each depending on their level of ijtihad: there is among the legal scholars those we indeed call an absolute mujtahid, but there are also those who are recognised as a mujtahid in a particular field of religious knowledge or even in a particular topic of that field. This is the view adopted by al-Ghazali, Ibn Taymiyya, Ibn al-Qiyyam among others, on the matter.

About the requisite sciences of the mujtahid, al-Ghazali says:

“And these eight sciences are only required for the absolute mujtahid who is by virtue of this title entitled to give fatwas on all aspects of Islamic law. But I do not see ijtihad as a task or a position which cannot be divided; for it is possible to say about a scholar that he is a mujtahid in some areas of the law and in relation to some of its injunctions, while not recognising him as such in those other areas in which he has no expertise. So whoever excels in syllogism and the rules of analogy, let him give fatwas on issues which requires such skills, even if he has not mastered the sciences of hadith, and whoever has deliberate on the shares involving full as well as consanguine and uterine siblings, it is enough for him

to be knowledgeable of the human soul and of the principles which govern the laws of inheritance, it does matter if he is not in the know regarding matters pertaining to the prohibition of intoxicants or those pertaining to the conclusion of a marriage contract without a tutor, because no knowledge of these issues or lack thereof will affect his ability to deliver on the task to which he is assigned, and so how is it that his neglectfulness of or his unskillfulness in these areas can be truly regarded as a shortcoming? Indeed, he who has come to know the import of the hadiths concerning the killing of a Muslim by a dhimmi, using them dexterously in juridical argumentation is not going to be affected in his knowledge by his lack of mastery of the rules of grammar which help to explain the significance of the Qur’anic verse: “and wipe over your heads and wash your feet to the ankles” (5:6), and you can apply these examples to the rest. Nor is it essential for a mufti to give a verdict concerning every issue that is put before him before he can qualify to be a mufti. Imam Malik- may God have mercy on him- was approached to give fatwas in relation to forty issues, and his response was ‘I do not know’ on thirty six occasions. Not to mention the fact that many of the Companions and also al-Shafi‘i- may God have mercy on him- have declined to pronounce themselves in matters about which they had no knowledge, so a mufti may give fatwas pertaining to matters that he knows and when he knows that he knows and refrain from giving them in matters about which he has no knowledge”.  

Based on this statement of al-Ghazali, it is clear that the fear of not having a person who fulfils the role of the absolute mujtahid, with all the consequences that this has on the Muslim nation in its hour of need for such legal guidance, can be dealt with by having recourse to what the ulema have decided in this regard; namely to the division of the tasks of ijtihad according to their specialisation. Besides the absolute mujtahid whose ijthad encompasses all of the spectrum of Islamic law, the scholars of the principles of Islamic jurisprudence have also affirmed that there is what we might a specific ijthad, which pertains to one of the topics in this area, and also an ijthad within the a particular legal school (mazhab), as well as the mujtahid whose ijthad consists of establishing preferences from among the various narrations transmitted within his school of law.  

All of these various types of ijtihads and mujtahid can fittingly answer the needs, which arise from the diverse situations and concrete circumstances Muslims find themselves in their daily lives, while maintaining the importance of qualification for anyone aspiring to ijthad or ifta’. It is worth noting, however, that the ulema have in fact envisaged a number of scenarios, including the possibility that the Muslim nation might be facing the prospects of not having in its midst people who qualify for the task of ijthad at some stage of its history or is some corner of its land, and they have a great deal on how it may possible to surmount such situations.

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219 For more information on the various levels of ijthad please see: I’lam al-Muwaqqi’een. Vol. 4, p, 194; Tahzeeb al-Furuq. Vol. 2, p, 116; al-Hukm al-Shar‘iyy, p, 197
B. The Difference between the Exertion of Ijtihad, Imparting Knowledge and Elucidating the Divine Injunctions

Although we are strongly inclined towards the position which argues that gate of ijtihad should remain open, we see that it is very important to distinguish between exertions which pertain to ijtihad, which do require a special kind of commentary and those which relate to other exertions such as the imparting of knowledge concerning the divine injunctions and their dissemination and so forth. Indeed that is because the conditions pertaining to the ijtihad are designed to confirm that the person who is entitled to that honorific title is worthy of it and that he is qualified to embark on the task of derivation of the Sharia rulings and applying them to his contemporary reality. The exertions of ijtihad are, thus, not required of the person whose primary role consists, for instance, in spreading the message of Islam, or imparting knowledge of the injunctions of the Sharia descriptively without engaging in fatwa. It is certainly not sensible to ask these people to fulfill those conditions of ijtihad before they can be allowed to go about their task of spreading the call of Islam or teaching religion. This distinction of the roles has already been made by al-Shafi‘i when he had elaborated on the conditions needed to be met by the mufti. He said: “If he was so qualified, he can then discourse on law and make fatwa’s on what is halal and haram, if not let him discourse on knowledge but without giving fatwa’s”.

Now that this detailed exposition on some of the issues related to ijtihad is done, we can easily appreciate how major is the offence of those who venture upon making fatwa’s without having fulfilled the conditions prescribed by law, and how serious is their taking over the roles of the true mujtahids, so much that the legal solutions to the issues that Muslims face in their contemporary reality are now in the hands of some venturesome amateurs. Surely that would to errors of catastrophic consequences.

If we take account of the six principles which control the process of applying Sharia rulings to specific and concrete cases in reality, we will notice that our failure to abide by them even in part is the main reason behind many of the errors and problems which have marred the Islamic scene across the world. Indeed, the erroneous application of Sharia rulings to our contemporary reality and our concrete circumstances is but the fruit of our oblivious attitude towards these principles which the Sharia has laid out for the purpose of controlling the very legitimacy of the process of applying Sharia rulings to the concrete circumstances and cases of our contemporary reality. These principles do in fact operate like a guide which assist the Muslim jurist during his deliberation and his law making exercise; they prevent him from erring in judgment about the case at hand and indicate to him the correct way of applying the ruling to the case for which his fatwa was sought.

What does the jurist do as he prepares to apply a Sharia ruling?

First of all, an able jurist needs to investigate the concrete circumstances to which his ruling is going to apply and then demonstrate how his ruling actually obtains. As he goes about this investigation, he would need to examine several things.
• He needs to ascertain the extent to which the ruling he has selected as the best suited for the circumstances he is deliberating on, enjoys the legal qualities that God has imposed as a condition for its enactment. Hence, his task is to deliberate on the extent to which the effective cause and the conditions necessary for that ruling are fulfilled and its prohibitors are surmounted in order to ascertain that his obligational ruling and the concrete circumstances to which it applies are in a relation of harmony.

• He needs to examine the extent to which the party who is seeking the fatwa is able to or has the capacity to implement the verdict or the ruling the conditions of which have been verified and the prohibitors of which have been surmounted. On this principle, Ibn al-Qayyim says: “it is one thing to determine the obligation, and it is another thing altogether to determine the concrete circumstances to which the ruling applies. Thus, the true jurist is he who finds harmony between obligation and concrete reality, such that obligation and capacity are in harmony, for a good jurist does not create tensions between these two. So know that every epoch has a ruling which is suitable for it, and that people today have much more in common between them than with their own parents.”

The jurist would also need to be fully cognisant of the conditions prevailing in his direct environment in order to ascertain whether there is a case of necessity or not and choose the ruling that he sees as appropriate.

• He has to investigate and ponder over the conditions prevailing in his contemporary reality in order to map out the potential or concrete social benefits and harms which are out there in the world and be in a position to weigh between them and then establish his preferences if need be.

• Finally, a true jurist is the one who reflects on the kind of repercussions that may potentially ensue from his ruling and asks himself whether his ruling is in all likelihood going to achieve something good or achieve the opposite.

These are six principles and the jurist need consider before issuing his ruling or pronouncing his fatwa. So important are these principles, Ibn al-Qayyim held that the meticulous observance of these principles ought to be an essential quality of every Muslim jurist and mufti, because this rigour does in fact show that the scholar abides by a sound intellectual methodology, which should certainly precede any practice. He says, concerning this point, that “when the human soul wants to embark on a particular course of action, before he hastens to bring it about, the servant should first ask himself whether or not he has any capacity of doing that. If he establishes that he does not, then he should refrain from it, and if he establishes that he has, then he should stop gain to reflect whether bringing about that course of action would be better for him than refraining from it or whether the opposite is true. If he establishes that the latter would be better, then he should refrain again, but if he establishes that the former is better for him, then he should stop a third time and ask himself whether the motivation behind all of this is only for the sake of God and solely for the purpose of earning His pleasure and reward or whether it is for the sake of fame and gaining the praises and the gifts of His creatures. If he establishes, he wants to do this for the sake of

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220 I’lam al-Muwaqqi’een. Vol. 4, p. 203
the latter, he should once again refrain from doing it, even if he can see that it would achieve that purpose. For such things as fame and other worldly rewards would get his soul in the habit of indulging in hidden idolatry, and it would find it easy to devote its actions to beings other than God, and that in turn would make devotion and action for the sake of God dreary and heavy, so heavy that nothing would be as burdensome. But should he choose to do this for the sake of the former, still yet again, he would need to stop and then see -particularly if required by his good action - whether anyone is likely to give a helping hand or not. Because if that shows to be not forthcoming, he should abstain as did the Prophet (pbuh) abstain from jihad in Mecca… If, however, he establishes that assistance is being offered, then let him brave the challenge and be victorious; for success only eludes those who do let one of these traits slip pass them, and as for him who embodies them all, success will never slip out of grips. So these are four stations he should bring his soul to account for before embarking on any course of action: not every thing that a human wants to do is necessarily within his capacity, and not everything that is within his capacity is necessarily more beneficial for him than his decision of relinquishing it, and neither is every beneficial action of that kind necessarily for the sake of God nor is every action for the sake of God one for which he will necessarily get assistance for. Again, if these steps are observed and he is able to bring his evil-commanding soul to abide by them, he would know clearly when to step forward and when to refrain”.221

How true the words of Ibn al-Qayyim are when he says: success only eludes those who do let one of these traits slip pass them, and as for him who embodies them all, success will never slip out of grips!

Indeed, when we reflect on the errors which are being committed in our context today, particularly with regards to the application of Sharia rulings to our contemporary reality, we cannot but notice that they stem from an attitude which is in stark conflict with at least one of the traits cited above; for if those errors are not due to a total disregard for, or inadequate understanding and grasp of our contemporary reality and circumstances, they are due to a casual investigation of the effective causes, conditions and prohibitors that need to be attended to before legal rulings are made, and if they are not due to a misconception and improper weighing and preferencing of the social benefits and harms in our environment, they are due to the ill-assessment of our real capacities and the capabilities required for the implementation of those rulings, and our being neglectful of the repercussions of such rulings.

Indeed, if this usurpation of the role of the true mujtahids is not stopped now, we will no doubt continue to witness series of errors followed by series of misjudgements followed by series of wasted benefits and the nightmare will go on.

Part Two

From 9/11 to the Bombings of Riyadh and Casablanca

The Shariáh Perspective
The Bombings of al-Qaeda: The Shari'ah

On what legal grounds are the bombings of al-Qaeda, either in America or in Riyadh, based?

Is it legally valid to kill a person on the basis of his nationality?

Can our intentions, however noble they might be, warrant taking the lives of innocent people?

Do the members of al-Qaeda rely on any evidence that is recognised by the Sharia to warrant this sort of bomb attacks or are do these violent acts belie a deep seated anger and an erratic mind?

These are but a handful of questions from a myriad of others that torment the mind of any Muslim who is truly concerned about the present state of this nation and its future.

The keen observer who has been keeping track of al-Qaeda’s announcements and fatwa’s has certainly noticed that this organisation is keen on providing a legal basis on which it reclines on to warrant of their violent actions. The keen observer will also not fail to notice that whether the discussion is about the legality of the 9/11 and the Riyadh bomb attacks or about the fatwa permitting the killing of American civilians anywhere and anytime, the arguments provided by the members of that organisation are always the same.

Indeed, when you ask one of them, for instance, what are the objectives you had hoped to achieve from these attacks, without fail, his answer would be: “To cause mayhem in the enemy’s ranks and gain martyrdom; it is permitted for a Muslim in the Sharia, after all, to throw himself at the enemy forces even if that act of his means getting killed”. And if you were to ask: “But these bombings are indiscriminate; they may perhaps target those whose killing is permissible, but it is certainly killing also those whose killing the Sharia rejects?” The answer would be: “the Prophet (pbuh) has used the catapult against the people of Ta’if and he has raided the tribe of Banu Mustaliq at night time without warning”. And if then you were to ask him: “There are among the victims of these attacks Muslims; is not shedding their blood an act which is in defiance of right? His answer to you would be: “That is permissible, because the legal scholars have allowed taking the lives of those Muslims who are used as human shields by the disbelievers, particularly when there is no other way of getting to the enemy and when the action of killing them is required by the demands of jihad”. should you then ask: “what if among the non-Muslim victims there are also those whose killing the Sharia forbids, like their women, children, the elderly and their monks?” He would answer you: “There is no harm done because in using the catapult and conducting a sudden raid at night the killing of these is entirely possible”. If you say: “But there also among the victims foreigners and tourists who have entered our countries after being granted a pledge of security or have at least been granted something akin to that, which does actually forbid one from taking their lives?” he would say to you: “Their pledge of security is void and there is nothing therefore preventing us from targeting them.”
Now it is possible that some people might be tempted to think that this sort of dialogue is just a story from the figment of our imagination. Well, rest assured that it is not: anyone who has met with any of those involved in jihadi activity knows that these are their answers and that these are the sort of legal arguments they rely on to support their case. But further evidence for what we are saying here can be established from other sources. Indeed, fifteen days before the bomb attacks in Casablanca on 6/05/2003, a menacing leaflet without signature had been circulating in the popular districts of that city urging the population to kill all the disbelievers and anyone offering them protection, according the Moroccan weekly newspaper ‘Maroc Hebdo’ where the content of the leaflet were first published. Soon later, the content of the leaflet was published again in the Londonian newspaper al-Hayat, from which we shall quote the following passages:

“Know that it is permissible to kill the disbelievers, and these are none other than the rulers and the populations that have complied with their rule. They may be killed anytime during the day or during the night without giving them any notice, even if that leads to the death of their women and children.” Then the author or authors of the leaflet begin to justify in twenty eights steps how this action is permissible in the Sharia by resorting to many hadiths of the Prophet (pbuh) among others. The leaflet reads:

“Know that it is permissible to kill anyone who serves as a shield to the disbelievers, even if he or she were a Muslim, if it is established that taking their lives is the only way to get to the disbelievers and kill them. Hence, it is permissible to kill members of the army and the police should they act in defence of the rulers and the disbelievers.” It goes on to add:

“Know that the society in which we live in is a kafir society because it has ceased to live according to Islamic law, and has abided instead by positive law, because wickedness and corruption have been thriving in its midst, and also because virtue among its members is seen as vice and vice is seen as virtue.” Elsewhere, the leaflet uses the strongest language, insisting that: “Jihad has become obligatory in order to change this state of affair and re-establish the rule of the Sharia in place of the law of the disbelievers. It has become obligatory because all of the other peaceful alternatives have proven to be useless for achieving that lofty objective and also because any peaceful action is attacked by the media machine of this apostate regime”. In a significant move, the leaflet also has considered that: “The entire Muslim world today has become akin to the Abode of War, thus whatever killing, plundering and abduction which are permissible in that abode are also permissible in the lands where Muslims reside. The lives of neither their women nor their children may be regarded as inviolable because the wives and offspring of the disbelievers are also considered disbelievers.” The leaflet then argued that it is ludicrous to want to fight this war against the disbelievers based on some unfounded notion of strategic priority. It considered wrong the argument that the war against colonialism and the invaders from among the Jews, the Americans and the Russians should be fought before fighting, what it perceived to be the enemy within. Following this point it says: “All of the Christians, the Jews and the people of all the other denominations who are in our countries, which is in fact an Abode of
War, are not protected by any pact or pledge of security; they are the enemies of the Muslims and cannot therefore be considered dhimmis worthy of our protection”.  

As it is clear from the passages of this leaflet and from their answers above, today’s jihadis consistently resort to Sharia rulings and to hadiths of the Prophet to justify these bombings, which is why it is our contention that any dialogue with this youth is going to fail unless it focuses on their legal grounds and demonstrate to them that although the Sharia rulings they are referring to are true, their use of these as evidence for the legality of their attacks is incoherent and wrong, and that therefore their application of these rulings to the circumstances on the ground is also incoherent and wrong. To this end, we have divided this section into two parts to discuss to different topics. The first will discuss the fatwa permitting taking the lives of American civilians, and the second will discuss the erroneous inferences and wrong conclusions upon which the bombings of al-Qaeda are based. This second topic is divided into five sections, each discussing the following points:

a. The fallacy in applying the ruling permitting a Muslim to throw himself at the enemy as a way to warrant airline and car bombings

b. The incoherence in applying the ruling pertaining to nightly raids and planning such surprise attacks as a way to warrant indiscriminate bomb attacks

c. The fallacy in applying the rulings permitting the targeting of the human shield and of using the catapult as a way to warrant indiscriminate bomb attacks

d. The fallacy of targeting the foreigners and the tourists under the pretext that their security is not protected under the Sharia

e. The bombings of Riyadh, as an example of a legal and strategic debacle

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Section One

The Fatwa of Killing Americans
An exposition and a Critical Review

Introduction

No doubt one of the most pressing questions the fatwa permitting taking the lives of American civilian raises is what is the stance of Islam regarding the killing of non-combatants, because s fatwa like this has caused the very distinguished position of our religion on this issue to be shrouded in a cloud of doubt even though Islam has been the precursor in putting an end to the barbarism that was rampant during the wars preceding its advent. It certainly did not put an end to wars altogether, but it surely brought to humanity a vision about the conduct of conflicts and set some standards to ensure that wars, despite their inherent brutality, were not fought without mercy, threatening everyone’s dignity and everybody’s life.

This noble and great position of Islam vis-à-vis issues like these is now put into doubt in spite of the fact that it taught the entire world how to be merciful during wars, such that it has even forbidden that prisoners be separated from their captive offspring. Indeed, the Prophet (pbuh) had menaced those who do that, saying: “Whoever separates a child from his mother, God will separate him from his loved ones on the Day of the Resurrection.”

Now this fatwa has certainly put Islam under scrutiny and in some instances under attack in spite of the fact that this religion has taught the entire world how to be fair during war time and in the battlefield. Indeed, Islam has consistently insisted that during battle, for instance, Muslims were only allowed to use their weapons against those who lined up to do battle against them, and that is because the effective cause permitting fighting resided in armed confrontation. Muslims, thus, were not allowed to fight those who were not party to military showdowns and were not helping the enemy in any way. Islam has taught all of these things and that is entirely in keeping with its vision, which has bestowed rights and decreed laws protecting the insects and regulating animal slaughter. Did not the Prophet (pbuh) say, upon seeing ants being burnt: “They should not have been punished with fire; only God punishes with fire”? And did he (pbuh) not warn against animal cruelty saying: “Verily, God has prescribed goodness in all things. Thus, whenever you kill, kill in a kind manner, and

223 Related by Tarmidhi no. 1283, on the authority of Abu Ayub- may God be pleased with him- and deemed fair by al-Albani. According the Hanbalis, Shafi’is and the Hanafis separating a child from his father is just the same as separating him from his mother. For further details on this issue, please refer to al-Mughniyy. Vol. 10, p. 467
whenever you slaughter your animals, slaughter them in a kind manner. Each of you should sharpen his blade and spare suffering to the animal he is slaughtering”.

Now if that is what Islam enjoins with regards to insects and animals, is it ever imaginable that it would entice its followers to be cruel towards humankind? Muhammad Mukhtar al-Muqri’ was absolutely right and accurate when he said:

“There is not the slightest exaggeration in saying that the war charter in Islam is better than the peace charter of many nations of our time that claim to be civilised and modern, and that the rights of the civilians and combatants in our religion are better than the rights of the Muslim minorities in many of these countries which claim they are built on the values of liberty, equality and human rights”. Although the religion of Islam has enjoined all sorts of moral principles and decreed all sorts of rulings regulating the treatment of civilians during war times, like no other system has, there are some—and they are sadly from the proponents of the Islamic ideology- who are bent on obscuring this glaring reality with their actions and fatwa’s.

Thus, in recent years we have often heard about fatwa’s issued by some Islamist activists, which permit the killing of civilians of certain nationalities or to kill women and children. Among these fatwa’s, the most notorious is the one issued in 1998 by The International Front for Jihad against the Crusaders and the Jews, an organisation led by Osama Bin Laden. This fatwa urges Muslim to kill all Americans, regardless of whether they are civilians or from the military, anywhere in the world. Given that this fatwa is in stark opposition to the tenets of the Sharia, it behoves us to bring some clarification so that there would be no confusion or vagueness around this matter, and in order that the true position of the Sharia, particularly on the killing of civilians, women and children is crystal clear. We shall discuss this fatwa in two steps. Firstly, we aim to highlight the position of the Sharia in relation to the killing of civilians, and secondly, we aim to highlight the erroneous legal inferences contained in that fatwa.

1. The Merciful Stance of the Sharia vis-à-vis the Civilians during War

Anyone who reflects on the position of Islam towards the civilians during war time will not fail to conclude that this blessed religion contains within it a profound commitment to humanity. Indeed, we only need to remind ourselves of how unequivocally and sternly the Prophet (pbuh) and his Companions have prohibited the killing of women, children, the elderly, the terminally ill, the monks, the labourers and the bondsmen, to appreciate what would be the real stance of Islam concerning the targeting of civilians, to use a modern jargon. And just by reflecting on these types of people, namely, women, children, the elderly, the terminally ill, the monks, the labourers, the bondsmen and the slaves, you will

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225 Related by Bukhari no. 5513, and Muslim (58/1956), on the authority of Anas- may God be pleased with him.

226 Muhammad Mukhtar al-Muqri’. Hukm Qatl al-Madaniyyin, p. 22
notice that they represent those who are unlikely to take up arms and join the fighting. Does the word civilian today pertain to types of people other than these?

Know that the prohibition against the targeting of civilians who do not take part in any combat operation was not just a legal alternative chosen from a range of others nor did it come about at the end of a process of weighing the benefits and costs. This was a prohibition attested by the most authoritative textual sources: prophetic exposition and Divine Revelation, which should raises this prohibition to such a degree of gravity that every Muslim man and woman ought to be extremely careful not go against it.

**The Prohibition against Taking the Lives of Civilians in the Hadiths of the Prophet and his Companions**

The prohibition against the targeting of those sections of the population derives form an infinite wisdom and a profound philosophy. Before we delve into these, let us mention some of the hadiths of the Prophet (pbuh) and the sayings of some of his Companions regarding this very issue.

Ibn ‘Umar- may God be pleased with him- narrated: “I saw the corpse of a woman who had been slain in one of the raids, and he (pbuh) disapproved of it and forbade the killing of women and children”.227

Ibn Rabah- may God be pleased with him- narrated: “We were with the Prophet (pbuh) during a raid. Upon witnessing a gathering of a crowd, he (pbuh) said, ‘Go find out what is the matter!’. I said, ‘a woman has been slain’. He (pbuh) said, ‘How come she is slain when she is not supposed to be taking part in the fighting!’ Ibn Rabah said, ‘Khalid Ibn al-Waleed was then leading the troops and so the Prophet sent out to him one of the men and said, ‘[Go to Khalid] and convey to him my order not to kill any woman nor bondsman!’ ”228

Anas B. Malik- may God be pleased with him- narrated that whenever the Prophet (pbuh) sent his army into battle he said: “Make your way in the name of God: Do not kill a decrepit old man, or a young child, or a woman, and nor should you be excessive. Do collect your spoils, but do also right and act well, for God loves those who the good doers”.229

Ibn ‘Abbas narrated that he had heard the Prophet (pbuh) say: “Do not kill the people of the monasteries”.230

Abu Bakr- may God be pleased with him had sent Yazid Ibn A. Sufyan at the helm of an army to the Levant and said to him: “Beware of killing any child, woman or elderly.”231

227 Related by Bukhari no. 3015 and Muslim (24/1744).
228 Related by Abu Dawud (No: 2669), on the authority of Ibn Rabbah- may God be pleased with him, and was deemed fair to sound by Al-Albani
229 Related by Abu Dawud No 2614, on the authority of Anas Ibn Malik- may God be pleased with him. Al-Albani has deemed the hadith weak.
230 Related by Ibn A. Shiba in his *Musannaf* (2/484/33132), and was deemed weak by Ibn Hazm
231 This was mentioned by Ibn Qudama, and he said it was narrated by Saeed. *Al-Mughniyy*. Vol. 10, p, 542
Now that we have rehearsed some of the hadiths and saying of the companions on this issue, let us turn to the sayings of the ulema, which Ibn Rushd had most aptly summarised for us in his *Bidayat al-Mujtahid*. He says: “The common issue among the scholars and the source of their differences on this issue came down in the end to their divergent view regarding the effective cause permitting the killing of non-combatants. Hence, there were those who held the view that the effective cause in this matter ought to be disbelief and on the basis of this concluded that the ruling permitting killing should apply to all the disbelievers without exception, but there were also those who claimed that the effective cause permitting their killing stemmed not merely from the quality of disbelief but rather from their capacity to fight as can be attested from the prohibition against the killing of women in spite of their disbelief. Based on this reasoning and analogy this party saw that anyone whose capacity to fight is minimal or does not take part in fighting such as the labourers, the bondsmen and so forth should be spared…They also differed over whether the people of the monasteries who lived in isolation, the blind, the chronically-ill, and the elderly, in addition to the mentally ill, the tiller and the bondsmen, all of whom cannot fight or have a minimal capacity to fight, should be killed. And Malik has said: ‘No blind person, no mentally-ill person, and no monk should be killed, and they are to keep their monies, enough for them to live on’. Nor does Malik accept the killing of an old man advanced in age; a position that was also adopted by Abu Hanifa and his companions. Indeed, al-Thawri and al-Awza’iyy have said, ‘Only the elderly should be spared’, though al-Awza’iyy is reported to have said elsewhere, ‘No tiller should killed’. As for al-Shafi‘i he favoured the view that all of these people should be killed…”

But we need to pay attention to the fact that there are among the Shafi‘is who do not espouse the view of their master on this issue and join the majoritarian position.

Moreover, what is really clear from this summary is that the ulema have taken in consideration the textual evidence of these hadiths and sayings of the Companions and their prohibitions against targeting those sections of the civilian population. Now it is true that from among the scholars who represent the majoritarian view, there are some, who were intransigent with these civilians, but there have been others who were not so intransigent and the position of this group is based on an effective cause which is just as operative and as valid as that of their counterparts. We choose to follow on this issue the position adopted by this group of scholars, which in our eyes represents the stance that is most befitting of the philosophy of Islam and of its wisdom. And it is about time we delve into this philosophy.

### The Philosophy of Islam vis-à-vis the Civilian Population during Wartime

There is no doubt that the objective of Islam in war is to the preservation of people’s well-being, which means that it although it allows fighting to go on, it enjoins its followers to

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refrain from it as soon as that objective is achieved. When we take account of this philosophy, we find that it is only logical that Islam does order its followers to kill those who do not attack its armies, because these Muslim armies were in fact launched for the sole purpose of protecting the well-being of such people, though there are some today who are bent to taking their lives and aggressing them in compliance with that other position. In what follows we are of course not discussing the case of those non-Muslims who choose to take part in fighting against Muslims, for in Islam these deserve a different treatment and are dealt with according to logic which is also different.

It should be abundantly clear, however, that Islam does not seek to eradicate those who do not stand in opposition to fight it, nor does it seek to compel them to embrace its faith and abandon theirs. All Islam seeks to do is give these people an opportunity to reconsider their positions that they may perhaps voluntarily embrace it upon seeing for themselves that is just and merciful towards them. Moreover, can anyone argue that the decision not to target these civilian populations would ultimately deter them from joining wholeheartedly the ranks of those who have pitted themselves to fight against Islam? Indeed, can anyone argue that such a measure would ensure that these people would at least be less refractory and would have less animosity against Islam when Islam is eventually victorious?

Certainly, the decision not to kill them would constitute in their eyes a resounding proof for the justice of Islam and its mercy. It would put an end to the controversies of those who want to sow discord and spread against it the kind of calumnies that impede people from heeding its call. Indeed, there are people who are bent to afflict it with the blemish of violence and corruption in spite of the fact that eradicating corruption from the face, and planting in its stead the seeds of goodness is at the heart of the mission of Islam.

How fitting and elegant are the words of Ibn Qudama on the mercy of Islam! He says: “During armed conflict… bees should not be burnt nor dispersed…It has been established that the Prophet (pbuh) has warned against the killing of bees as well as any captured cattle. For doing so would be a form of corruption that God- may he be exalted- has prohibited in general by virtue of the Qur’anic verse, ‘And when he goes away, he strives throughout the land to cause corruption therein and destroy crops and animals. And God does not like corruption’ (2:205). He then added: “Animals have a soul; it is not permissible to kill them just for the sake of exasperating your enemy. Indeed, they are not unlike the women and children of the disbelievers whose life it is also forbidden to take”.

Given that Islam considers the killing of the bee an act of corruption, how can it be maintained that it is decided to wage wars against the nations of the world or kill those who do not stand in opposition to it to fight against it?

Some people might argue that if we refrain from killing these people during wartime, there is still a chance they might join the fighting against the Muslims. Surely, that would be detrimental to them and yet they are not going to be necessarily in a position to defend themselves against their attack. It needs to be said that Islam has dealt with such a

233 Al-Mughniyy. Vol. 10, p, 508
probability in the most realistic way, far from all kinds of idealism and sheer theoretical schemes, which is the reason why the ulama had no trouble reaching a unanimous agreement over the issue. Imam al-Kasani al-Hanafi says: “In principle, it is permitted to kill anyone who is considered to be among the fighting party regardless of whether they are taking part in the fighting or not, and it is forbidden to kill anybody else who is not considered among this party unless he truly takes up fighting or takes in spirit such as by contributing with his advice, taking instructions and obeying them or by inciting others to fight and the like”.

As for the civilians from among the Muslim population, shedding their blood can under no circumstances whatsoever be made permissible, for the simple reason that Islam has made their blood inviolable so long as they have not committed the kind of crimes that would render their lives no longer sacrosanct in the eyes of the Sharia.

So how is it that after all the hadiths of the Prophet (pbuh), the sayings of his caliphs and the texts of all the scholars of the four legal schools of Islam, we can still find in our midst those who make fatwas permitting the killing of American civilians anywhere in the world? This question is what we are going to be discussing next.

2. The Fallacies Contained in the Fatwa Permitting the Killing of American Civilians

Many people have raised questions about the legal basis of the fatwa permitting the killing of American civilians; I am who thinks that those who issued such an edict have based it on the following Sharia rulings.

Firstly, they have opined that the effective cause permitting killing is disbelief rather than armed confrontation and conflict. Hence they have argued that it is permissible to kill anyone who is considered to have the quality of disbelief, particularly that there is not a text in the Qur’an or a prophetic hadith that points to the contrary. And it is clear that in following this line of argument they have reclined on the stance adopted by the majority of the Shafi’is.

Secondly, they opined that the lives of those sections of the civilian populations whose killing was prohibited by a text are in fact no longer protected by the Sharia given that their participation in the war, in one form or another, has been established. To buttress this argument, they say that the entire American population has become like a single and united enemy entity by virtue of the fact that it is totally content with the policies of their governments, and also owing to the fact that it consistently pay taxes to support the federal government of the day.

234 Al-Kasani. Bada’i’ al-Sana’i’. Vol. 7, p, 101. Also Ibn Qudama says: “Whoever takes up fighting from among these women, the elderly and the monks, it is permissible to kill them and there is no difference among the scholars on this.” Al-Mughniyy. Vol. 10, P, 543
Thirdly, they opine that it is permissible to kill every disbeliever who enters the Abode of Islam, and that there is no harm either if they are killed anywhere in the world, whenever it is opportune to do so.

These three arguments constitute the cornerstone of the fatwa permitting the killing of American civilians any time and anywhere.

Before we start discussing this fatwa, we want to make it clear that rebutting the arguments of this fatwa is not all that motivates us: we are also keen, if not much keener, to preserve the integrity of the Sharia rulings, lest they are subject to serious disfigurations in the future. Not to mention that the erroneous legal reasoning and conclusions, the kind of which this fatwa contains, can easily be extended to the populations of the Muslim world and in that instance the shedding of their blood would also be deemed permissible anywhere and at any time, both military and civilians, under the pretext that they have succumbed to apostasy.

Indeed, we do not have to be supportive of the unjust policies of America towards the Muslim world to declare our rejection of the fatwa permitting the killing of American civilians. We know full well that America’s support for Israel is obscene, and we are aware of its double standards and how it sides with that regime to the detriment of the Muslim population of Palestine. Also, we are fully conscious of its most disconcerting silence over the war in Chechnya, and over all of the strangling policies against anything that has to do with Islam, though this silence seems to have gone against all of the American ideals themselves. We are not oblivious to its hailing for the clash of civilisation theory to which it has resorted to complete its hegemony over the world and its resources by hook or by crook.

Indeed, we are well aware of what happened in Afghanistan and Iraq and we know what is coming.

Our rejection of these policies and what they aim for, however, should not distract us from abiding by justice as we have been commanded by God in the Quran. Does not He- may He be glorified- say: “O you who have believed, be persistently standing firm in justice, witnesses for God, even if it be against yourselves or parents and relatives. Whether one is rich or poor, God is more worthy of both. So follow not [personal] inclination, lest you not be just. And if you distort [your testimony] or refuse [to give it], then indeed God is ever, with what you do, Acquainted” (4:135).

We shall discuss now this fatwa, by focussing on three principle points. Firstly, we aim to demonstrate that the effective cause permitting killing during conflict is armed confrontation and fighting aggression rather than disbelief. Secondly, we aim to show that it is erroneous to maintain that it is permissible to kill American civilians anywhere in the world. Thirdly, we aim to highlight the most important fallacy contained in this fatwa, namely the failure to distinguish between the rulings pertaining to killing and those pertaining to fighting (Ahkam al-Qatl wa l’ Qital), and then conflating the former into the latter.
A. The Effective Cause Permitting the Act of killing is Armed Conflict and Fighting Aggression not Disbelief

No doubt, there are among us those confuse the effective cause determining which people a Muslim is permitted to fight against in general and the effective cause which determines - once the conditions have been fulfilled and the prohibitors have been surmounted- who among these people one is actually permitted to kill in the context of war. No one argues that the quality or the property of disbelief is one of the essential effective causes behind the general permission to fight against any of the infidel nations, but let us not confuse between this general permission and the rulings which determine the rules of engagement during war and particularly the identity of the disbelievers the Sharia permits us to kill in such a context; for these are two different rulings altogether, by virtue of the fact that the effective cause operative in the former is not the effective cause operating in the latter, and seeing that they are different one cannot conflate the former into the latter: [The general permission to fight a particular infidel does entail necessarily the permission to actually kill him]. The legal scholars have drawn attention to this point and have discussed it as follows:

a. The ulema have agreed unanimously that some sections of the infidel population, such as the women, children, the madman, the imbecile and the androgynous are not to be included in the ruling permitting killing during armed conflict

b. The majority of the Hanbalis, Hanafis, Malikis and some of the Shafiis have agreed that the elderly, the chronically ill, the blind, the bondsman and the monks are not to be killed during armed conflict

c. Most of the Shafiis have agreed that it is permitted to kill the bondsman, the monk, the elderly, the blind and the labourers

d. It is not permitted to kill the labourers according to the Hanbalis and al-Awza’iyy. As for the craftsmen, they are not be killed according to Ibn al-Qasim and Abdul-Malik, though Sahnun, has permitted it

e. It is permitted according to the consensus of the scholars to kill any of the previous sections of the population of the enemy if they decide to take up arms and help with the fighting

f. The main reason for the difference of opinion between the majority of the ulema and the Shafiis revolved around the fact that each camp had reclined on a different effective cause in determining their ruling: one saw determined that the effective cause for the killing of the disbelievers was their quality of disbelief and idolatry, ad the other maintained that it was their decision to engage in armed conflict. Most of the Shafiis saw that it was the former and the ulema of all the other schools saw that it was the latter

Now anyone who carefully examines the arguments put forward by either group of scholars is bound to conclude in the end of his comparison that the majoritarian view is duly reflected in the position of the jurisprudents who have insisted that it is the enemy’s decision to engage in fighting which ought to be regarded as the effective cause permitting their killing. And here is why:

a. The Prophet (pbuh) did not allow the killing of women, and has seen to it that her minimal part in conflicts be considered the effective cause for that prohibition. He said about the woman who got killed in the hadith of Ibn Rabah: “How come she is slain when she is not supposed to be taking part in the fighting!” As a legal text, this hadith has been a source of a great deal of controversy because even though the woman in question retains the quality of being a disbeliever, the Prophet (pbuh) has still not allowed her killing.

b. In spite of the fact that the transmission of some of the hadiths of the Prophet (pbuh) prohibiting the killing of certain sections of the population, such as the bondsmen, the elderly and the monks, it still remains that they may be impugned, the same, however, cannot be said about what the texts which have been narrated from of Abu Bakr and ‘Umar- may God be pleased with them- regarding the same issue. Hence, the prohibition concerning the killing of these people, in spite of their having the quality of disbelief, is evidence, yet again, that the effective cause prohibiting their killing is rather the quality of non-combatant.

c. The fact that ‘Umar Ibn al-Khattab has said: “Fear God in the labourers who do not take up arms to fight you”, indicates he has considered the non-combatant status of these labourers as the effective cause prohibiting their killing.

d. Commenting on the Qur’anic verse: “Fight in the way of God those who fight you but do not transgress. Indeed. God does not like transgressors” (2:190), Ibn ‘Abbas said that “do not transgress” means do not kill women, children and the men of old age”. Here, it is obvious that the effective cause prohibiting their killing stems from their minimal capacity to fight.

e. The fact that the collection of the poll-tax (jizya) which is normally levied on the People of the Book among others was permitted, is proof that disbelief cannot be regarded as the effective cause permitting the killing of the disbelievers, and that the ruling concerning the permissibility of their killing or otherwise ought to revolve around their role in any fighting. Also proving that point is the fact that exempted from this poll-tax is every woman, child, madman, and needy, as well as, every infirm, man of advanced age, blind person, and every monk from the population of these communities, who also happen to be the very same sections of the population excluded from being the target of fighting during conflict.

The same legal argument and legal implications obtain when we consider all of the situations in which a peace agreement was reached between the people of Islam and
the disbelievers. The Sharia has prohibited the killing of the disbelievers with whom Muslims have concluded a peace contract, provided they respect the terms of that treaty, in spite of the fact that they retain the quality of disbelief. Thus, it becomes obvious that the effective cause permitting their killing is their actual participation in the fighting, for to claim otherwise is tantamount to saying that the Sharia is inconsistent.

f. The position which argues that the effective cause permitting the fighting of the idolaters and the disbelievers is their active participation in the war against Muslims is entirely in keeping with the ultimate objectives of the Sharia and its universal principles. Concerning this point, Ibn Taymiyya says: “Given that the original basis for licit fighting is jihad the objectives of which are the prevalence and furtherance of God’s religion, anyone who stand in opposition to it is to be killed according to the unanimous agreement of the ulema. As for those whose capacity to fight against it is minimal, such as the women, the children, the monks, the men of advanced age, the blind, the chronically-ill and the like, their lives are to be spared according to the majority of the scholars, except if they lend support to the enemy with their statements or their actions. There is, however, among the scholars some who maintain that all of the disbelievers ought to be killed by virtue of their disbelief, even though among this party some would exclude women and children on the basis that they could be taken as booty by Muslims. I am with the majority of the scholars on this issue because their view is the correct one: we need to fight those who fight us if we truly aspire to making the religion of God manifest. Indeed God-may He be exalted- has said: “Fight in the way of God those who fight you but do not transgress. Indeed God does not like transgressors” (2:190. It is also known from the Sunna of the Prophet (pbuh) that during one of his conquests, he passed by a crowd gathered around a slain woman, and said: [How come she is slain] when she is not supposed be part of the fighting!” He then said to one of the men, [Go to Khalid] and convey to him my order not to kill any woman nor bondsman!’”

Also, we find in the Sunna that he (pbuh) has said: “Do not kill a decrepit old man, nor a young child or a woman” precisely because the ultimate aim of religion is the happiness and the well-being of humankind. Indeed, God has permitted as little a toll on human life as necessary to achieve that objective, and it is He- may He be exalted-Who after all has said: “Fighting is an awesome thing… yet in the sight of God oppression is more awesome than killing” (2:217), which means that even though the slaying of Muslims is an evil and a corruption, the oppression of the disbelievers constitute a corruption and an evil that are far worse. Thus, if any among them stands to fight against Islam in these circumstances spare his life; for no other person except him shall suffer the consequences of his disbelief. It is indeed for this reason that the jurists have said, ‘The punishment of the preacher of innovations which are contrary

236 Related by Abu Dawud (No: 2669), on the authority of Ibn Rabbah- may God be pleased with him, and was deemed fair to sound by Al-Albani.
237 Related by Abu Dawud no. 2614, on the authority of Anas Ibn Malik- may God be pleased with him, and deemed weak by Al-Albani.
to the Quran and the Sunna is not the same as that which is meted out to the one who is complacent about them’. The hadith also says: ‘Verily, a misdeed only harms its perpetrator so long as it is kept hidden. But if it becomes manifest and is not repugned, it will harm the people at large.’

Also, understand that it is because of this truth that while the Sharia has made it incumbent on us to fight the disbelievers, it has prohibited us to take the lives of those among them who can be pacified, and have a minimal capacity to fight. Indeed, if one of their men is taken captive in the context of war or in other contexts— and that may be as a result of a shipwreck, or because he has lost his way, or he has been ensnared into a trap—then the ruler has the choice of taking the most beneficial action from among four possibilities: to kill him, enslave him, release him, or set him free in return for either goods or prisoners, as most jurists have maintained based on the Quran and the Sunna, though admittedly there among these who opine that the third and fourth options have been abrogated”.

g. The fact the Muslim ruler, in relation to a non-Muslim captive, has a choice to make from the alternatives mentioned above is also proof that the effective cause permitting killing is not disbelief but rather the decision to fight and partaking in it. For, it was permissible, indeed, to kill the captured enemy in our example before his captivity, but the moment he became a captive and was no longer actively engaged in fighting, the ruler had options other than killing to choose from.

Those who opine that the effective cause for killing the enemy is disbelief tend to argue their case by using as evidence certain Qur’anic verses which in their eyes contain a either general command or prohibition. For instance, they often refer to the verse in which God—may He be exalted—has said: “Fight and slay the Pagans wherever ye find them” (9:5), without paying any attention to the fact that the general import of this Qur’anic verse has been actually made specific by various hadiths of the Prophet (pbuh) prohibiting taking the lives of women, children and all sorts of other people who may also be included in their category. As such, their arguments for the permissibility of killing all the disbelievers without exception and indiscriminately, which they base on the general and ‘unconditional’ import of verses like this one is totally wrong. Moreover, if we are seriously going to consider the position of the vast majority of the ulema on this issue, should we not then be favouring the view, which maintains that in times of conflict it is not allowed to target women, children, the elderly, the monks, the bondsmen and all those who belong to a similar category, and which we may call today the civilians? The other question we need to be asking ourselves is given that the slaying of such people during armed conflict has been prohibited, how much more repugnant their killing outside of that context would be in the yes of the Sharia. How can it be ever conceived that it is permissible to slay them, on account of their disbelief, anywhere in the world when it has been firmly established that

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238 Related by al-Tabarani in his Awasat (5/94), on the authority of Abu Hurayra—may God be pleased with him. In his Majma’ al-Zawa’id, al-Haythami mentions that among the transmitters of this hadith related by al-Tabarani, one finds Marwan B. Salem whose transmission was discarded due to unreliability.

the true effective cause permitting their killing during armed conflict reclines on their decision to take part in the fighting and their active participation in the conflict and not on the mere fact that they are disbelievers?

B. Debunking the Position Permitting the Killing of American Civilians

Certainly, the argument which purports that the slaying of all the American civilians everywhere in the world is permissible is defective on account of several reasons, which include the following:

a. It would mean that it is permissible to target women and children with the intention to kill them even though this is prohibited by the general consensus of the ulema. Not to mention that it would also make licit taking the lives of the monks, the elderly, the bondsmen and all those who are of a similar category, whose killing the majority of the ulema have also prohibited

b. Targeting the American civilian population in this fashion and on the basis of their nationality would entail the permissibility of slaying those Muslims who are American by citizenship and in whose midst there are men, women, and children; and this is certainly considered a grave sin in the Sharia. This incoherence and legal debacle should leave us in no doubt that the fatwa in question suffers from an erroneous generalisation

c. The claim which argues that it is permissible to kill all of the American civilians on the ground that they are content with the policies of their country and willing to pay their taxes to the federal government is fallacious because these facts alone do not make them fit to be included among the fighting party: a significant size of that population does not actually support the policies of their country, particularly in foreign affairs, and many of them do not actually pay taxes. Not to mention again the fact that among them, there are Muslims whose killing the Sharia most definitely prohibits, even if these Muslims happen to pay taxes as the rest of the other Americans.

C. The Failure to Distinguish Between the Rulings Determining which People one is Allowed to Kill and those Determining which People one is Allowed to Fight against (Ahkam al-Qatl wa l’ Qital)

The fatwa in question has certainly made a mistake because it does fail to make a difference between those rulings which determine the scope of permissible and proscribed killing in general and those which determine who a Muslim is permitted to fight against. And here is how.
The targeting of American civilians, be they men, women, children, the elderly or the like is not attested by the Sharia rulings which pertains to fighting in that they are not actually taking part in any conflict with others. Indeed, there are some who believe mistakenly that in the Sharia one is allowed to kill anyone against whom it is permissible to fight. Thinking that this inference is a valid one, many then come to believe that it is permissible to kill any person from whatever denomination regardless of whether there is war going on or not. This inference, however, is wrong and so is that belief: the rulings which regulate fighting are specific, so specific that many scholars were compelled to write at length on the topic, making sure it is not confused or conflated with other aspects of the Sharia and other rulings, and they were no doubt driven to insist on these things because the consequences of any confusion in this area can be rather devastating. Let us examine some of their sayings to have a sense of what this confusion involves.

Concerning this very issue, al-Shafi‘i says: “[The rulings regulating] fighting and [those regulating] slaying are not of the same genus, and therefore, while one may be allowed to fight against a particular person, he may not necessarily be allowed to slay him [outside the context of fighting]”. 240

Another scholar who is none other than Ibn Daqiq al-‘Eid has said: “One cannot infer permissibility to slay a person from the permissibility to fight against him, in that fighting always entail two parties mutually engaged in war, whereas slaying does not necessarily entail that”. 241

Also, Ibn Hajar al-‘Asqalani says: “Al- Karamani was asked about the correct ruling pertaining to the person who refuses to pay zakat, and he said the appropriate in this case ought to be the same because ultimately their action has a common objective, and I understood from this that he was referring to the ruling which applies to those who stand up in opposition to fight against Islam and not to the ruling regulating the act of killing. For the simple reason that unlike the person who refuses to perform the canonical prayers, it is possible to take zakat from him by force, and should he decide to fight in order to prevent its collection, he would be fought against [until he either pays it or get killed]. So understand it is after this manner and following this logic that Abu Bakr fought against those who refused to pay zakat and impeded its collection, for no news has reached us that he had killed any one of them just for sport (Sabran) 242”. 243

As for sheikh al-Islam, Ibn Taymiyya, he says: “Although, it has been reported that both ‘Umar and Ali had permitted also the killing of the Khawarij and the Rafidites Shiites even as they may be overcome, the jurists, while in agreement over the obligation to fight these groups, have differed on whether it was permissible to kill any one of their members when it is established they can be prevailed over and when their capacity to fight is deemed is insignificant, and that is because [the permission] to engage in fighting cannot be reduced to

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242 *Sabran* refers to a form of torture particed among certain Arab tribes. In Arabic, it means tying up a person while still alive as target practice and aiming at this person with a variety of weapons until he dies.
a permission to engage in killing. Thus, although it is obligatory to fight against the aggressors and those who rebel against authority, once they are overcome or one of them is apprehended, they can only be punished according to the commands of God and His Messenger.”  

Elsewhere, he clarifies this point by saying:

“Also, understand that it is because of this truth that while the Sharia has made it incumbent on us to fight the disbelievers, it has prohibited us to take the lives of those among them who can be pacified, and have a minimal capacity to fight. Indeed, if one of their men is taken captive in the context of war or in other contexts—and that may be as a result of a shipwreck, or because he has lost his way, or he has been ensnared into a trap—then the ruler has the choice of taking the most beneficial action from among four possibilities: to kill him, enslave him, release him, or set him free in return for either goods or prisoners, as most jurists have maintained based on the Quran and the Sunna.”

All of the above statements of the scholars demonstrate that the potential permission to kill a person does not amount to an actual permission to kill that same person. Perhaps, it is worthwhile providing more examples on this point, so it is clear once and for all.

a. Concerning those who rebel against the authority of the Muslim ruler, it is not permissible to kill any of them before they engage in armed hostilities following which they would officially cease to be under the rulership of the Imam (ruler). A case in point is the conversation which took place between Ali Ibn A. Talib and one of the Khawarij who stood up at the entrance of the mosque while the caliph was pronouncing a sermon. On that occasion the khariji said: “Only the Word of God should be the arbiter in our disputes!” and Ali replied: “This statement is true but malicious in its intention”, before adding: “We shall not prevent you from worshipping in the mosques nor shall we deprive of your share of the spoils for as long as you remain within the fold, or be the one who shall the war”. Thus, Ibn Qudama argues that: “If a certain people espoused the views of the Khawarij but they did not go as far as declaring a war, they should be spared, in that the level of their kufr (disbelief) is not unlike the kufr of the person who in spite of having committed a major sin, and having left the community have neither ceased to be under the control of the ruler nor have they declared war against him or their community; even while he may maintain that their blood in not inviolable. About this, the Qadi Abu Bakr Ibn al-‘Arabi relates that [so long as their disbelief does not drive them to carry such actions], it would not be permissible to slay them nor fight them, according to Abu Hanifa and al-Shafii, as well as, the majority of the jurists.”

Also, the jurists maintain that if the rebel does not join the fighting along the transgressing party, or has but changed his mind and retreated from the battlefield or has been wounded, it is not permissible to kill him because the permission to fight him was granted with the aim of bring him back to the fold, of putting an end to his transgressions and of quelling his rebellion against the ruler, all of which have been

244 Majumu’ al-Fatawa. Vol. 28, p, 261
245 Majumu’ al-Fatawa. Vol. 28, p, 196
achieved following either from his decision to withdraw from the fighting, or his decision to flee or when his wounds have put him out of action.

b. It is permissible to fight against those who commit acts of aggression threatening human life, and property but is not permissible to kill them once they are no longer engaged in those actions.

c. Highway robbers and those who carry out armed hold-ups are to be fought but whenever one of them is caught he should be subjected to the prescribed penalties suitable for his crime.

d. It is permissible to kill a disbeliever during war, but once captured it is up to the ruler to decide his fate according to what he deems would be the most beneficial outcome.

e. It is permissible to fight against those who out of greed use force to impede the collection of zakat. As for those who do use force to impede its collection but are not eager to pay it, the Imam (ruler) can coerce them to do so, though it would not be permissible for him to kill them.

Based on all the above, it also becomes clear that it would be not permissible to kill the foreign tourist merely on the basis that he or she is a disbeliever from a country against which one is in principle allowed to fight, in that this tourist may have very possibly entered the Abode of Islam after being granted a pledge of security just as he may have entered a non-Muslim country which has a peace treaty with one of the countries of the Muslim world. This ruling and others like it are in fact arrived at when a distinction is made between those rulings which define who are the people one is potentially permitted to kill and those rulings which determine who are the people that one is actually permitted to kill in the context of war; for as the ulema of this nation have decided, the permission to fight a particular people does not entail a blanket permission to actually kill them.

And if targeting those civilians is prohibited, as we have seen, in the context of war, it is only that much more logical to consider their indiscriminate slaying outside of that context to be just as reprehensible if not more, particularly if there is not a valid reason for doing that. Indeed, even if one is prepared to concede that those tourists, in certain parts of the world, may acquire a quality which can make their slaying permissible, we still believe in the strong likelihood of there being at least a prohibitor preventing the permissibility of their killing: they may very well be granted a pledge of security upon their entrance, which is akin to being given a promise of protection from the authorities of that country or from certain private individuals residing there, and if they happen to be Americans, they may enter a country which has a peace treaty with America that is recognised by the Sharia. Thus, if we grant that fighting America to day is a legal duty, as al-Qaeda has proclaimed, it would be wrong to infer from that obligation the permissibility to kill any American civilian anywhere in the world; for as al-Shafi ‘i said: “Fighting and slaying are not of the same genus, and therefore, whilst one may be allowed to fight against a particular person, he may not necessarily be allowed to slay him”.
Now it is evident that the fatwa in question has erred from the truth, and this for a variety of reasons:

- It was based on the premise that the effective cause permitting the killing of the civilians is disbelief and that premise is far from being conclusive.

- The fatwa applies its legal verdict to the entirety of the American population without taking into account the fact that among that population there are American Muslims or those whose life it is prohibited to take.

- It fails to distinguish between those rulings which define who the Muslim is potentially allowed to kill and those which define who the Muslim is actually allowed to target during war.

- In addition to having contained grave legal errors, this fatwa has also led to great social harms and costs: following the significant rise of bomb attacks aiming to cause maximum amount of casualties among the Americans, the global war between al-Qaeda and America was on, but the theatre of this war was not confined to America, it spilled to the rest of the Muslim world engulfing places like Pakistan, Afghanistan, Indonesia, the Philippines, Iraq, Saudi Arabia, Kenya, Tanzania, and Morocco.

Now that we have discussed this notorious fatwa, we may turn our attention to the legal arguments advanced by those who are behind these acts of massive destruction and appraise these from an Islamic legal perspective.
Section Two

From 9/11 to the Bombings of Riyadh and Casablanca:
A legal Perspective

As we reflect on the line of argument followed by those who affiliate themselves to the Organisation of al-Qaeda in order to justify the bomb attacks for which they are responsible, whether it is the bombing of the American embassy in Kenya and Tanzania, the attacks on the twin towers of the World Trade Centre or the bomb attacks of Riyadh and Casablanca, we find that there is always an attempt to recline on certain Sharia rulings, which may summarise as follows:

a. The Islamic Sharia allows the Muslim fighter to throw himself (*inghimas*) at the enemy forces with the aim of causing destruction among its ranks or with the intention of gaining martyrdom even if he should die as a result. This ruling is often referred to in order to justify suicide bombings by the means of cars or hijacked planes.

b. The ruling making licit the planning of sudden night raids against the disbelievers, which is used to justify the validity of these bombings without notice even when they lead to the death of women and children in their midst.

c. The Islamic Sharia has permitted the use of the catapult to cause destruction in the ranks of the enemy and inflict on them casualties, and that, they maintain, justifies the use of any instrument which causes indiscriminate havoc, such as bomb explosions and rockets even if engenders the death of some Muslims.

d. For the sake of jihad and its objectives, the Islamic Sharia has permitted the killing of the disbelievers who use Muslims as human shields even if their killing leads to the death of a Muslim. This al-Qaeda uses often to justify the slaying of Muslims who die following their attack operations.

e. The pledge of security granted to the foreigners and the tourists is void because it has been concluded with government that is not recognised by the Sharia. This they argue makes the targeting of the foreigners and the tourists licit.
It needs to be said from the outset that the rulings to which they refer do not contain in themselves a blemish, if blemish there is, its source is the people who apply them to our contemporary reality. And their failure in this area is two fold:

1. They fail to abide by the principles controlling the legitimacy of the application of these rulings even though these have been decreed by the Sharia and the ulema have insisted on them
2. Their ill-assessment of the benefits and costs resulting from those attacks

In the following section, we shall make an exposition of those rulings with the aim of bringing to relief those legal principles mentioned above and how they were meant to be applied to our concrete circumstances. This will demonstrate to us that the inferences and legal implications derived by those who are behind these bombings from these rulings are erroneous, and that their application of these to reality was, therefore, inaccurate and incoherent, in addition to being the cause behind the loss of important benefits, failing, thus, to achieve many of the objectives of the Sharia.

In dealing with this subject matter, we shall divide our discussion into five sub-sections:

a. The fallacy in applying the ruling permitting a Muslim to throw himself at the enemy as a way to warrant airline and car bombings
b. The incoherence in applying the ruling permitting night raids and the planning of surprise attacks as a way to warrant indiscriminate bomb attacks
c. The fallacy in applying the rulings permitting the targeting of the human shield and the use the catapult as a way to warrant indiscriminate bomb attacks
d. The fallacy of targeting the foreigners and the tourists under the pretext that their security is not protected under the Sharia
e. The bombings of Riyadh, as an example of a legal and strategic debacle
1. The Fallacy in Applying the Ruling Permitting a Muslim to Throw himself at the Enemy as a way to Warrant Airline and Car Bombings

Some of the jihadists today readily make mention of *inghimas* whereby a Muslim is given permission to throw himself at the enemy forces during fighting in order to justify suicide car bomb attacks or the hijacking of planes before exploding them mid-air or upon impact with one of their targets on the ground. Indeed, they argue that a tactic like *inghimas* (*lit.*, plunging unto the enemy) achieves numerous benefits, chief among them are the gaining of martyrdom for the attackers, and also causing considerable damage to the enemy, and they rely on the sayings of a number of scholars to buttress their case.

Now the ruling permitting a Muslim to throw himself at the enemy during fighting with the aim of achieving a personal or a social benefit recognised by the Sharia is one which is positively established in Islamic law and so it is not a subject of dispute. However, when we come to applying this ruling in the concrete circumstance of our reality, many differences come to surface particularly when such a ruling is not applied in accordance with the principles controlling its legitimacy which were determined by the ulema. Before we begin the discussion of the application of the ruling of *inghimas* (throwing oneself at the enemy) as outlined above, let us first make mention of what the scholars of Islam had determined this ruling as well as the principles controlling its legitimacy.

**The Ruling of Inghimas and its Principles According to the Ulema**

Indeed, the legal scholars have allowed a Muslim fighter to throw himself at the ranks of the enemy even when he believes the chance of him getting killed are high. Only, as we shall see, they have put certain conditions which need to be fulfilled before that act is deemed permissible:

a. Those targeted in the attack must be disbelievers or deemed to be among those one is permitted to attack

b. If the people attacked are a licit target, there should not be in their midst those whose slaying is not permitted by law, be they Muslims, Non-Muslims protected by a treaty or the like. The situation in which these types of illegitimate targets are in the midst of enemy forces often raises the issue of the status of the human shield (*tars*). We will discuss this in detail in the third sub-section below

c. It is crucial that this act leads to an overriding benefit and not to a harm which is more costly than that benefit. To that end, the legal scholars have enumerated both
the benefits which needs to be achieved as well as the costs which if accrued would make that act not permissible. 246

Among the benefits which may be achieved, they mention the following:

- Causing damage to the enemy and exasperating him
- Crushing the spirit of the enemy and spreading terror in its ranks such that he can be defeated easily
- Emboldening the believers and strengthening their resolve
- Gaining martyrdom

As for the costs which may follow from such an act, they list the following:

- The weakening of the resolve of the believers particularly as they see that it did not make the slightest dent in the capabilities of the enemy, deeming to be no more than a reckless action
- When the action does not bring any benefit to the Muslims and the fighters on the ground, and the doer of the act of inghimas ends up being killed without causing any damage to the enemy forces

We need to remind ourselves that these social harms and costs have been identified as such by the legal scholars with the understanding that there is a war going on full swing. For, outside that context, such an act may indeed lead to social harms whose costs far exceed those associated with that act during war times. Thus, what the ulema have mentioned to warrant the permissibility of the act in question is logical, especially when it contributes to the victory of Muslims or to warding off the aggressions of potential or real invaders on their land. What is at disputed is the utilisation of such an act without applying oneself diligently to the already mentioned principles which control its legitimacy or without taking heed of the social harms and costs which may be accrued as a result of it. Concerning the determination of this ruling, Ibn al-‘Abidin says: “The Sharh al-Siyar mentions that there is no harm done if a Muslim decides to throw himself at the enemy even if his better judgement tells him he would in all likelihood be killed, provided that he causes casualties in their ranks or contributes to their defeat. For such type of action were indeed carried out

246 In his Ahkam al-Quran, Ibn al-‘Arabi says: “I consider that the correct position with regards to this act is to deem it permissible because it achieves four types of benefits: seeking martyrdom, causing damage to the enemy, emboldening the Muslim fighters and making a dent in the confidence of the disbelievers; for when they realise that such a damage was caused by the initiative of a single person, they would begin to wonder what the impact would be like when the whole army would get involved. for this act, it is prescribed that one should face up to tow of their fighters but it is permissible to attack more than that number”. Hukm Qatl al-Madaniyyeen, p. 96
by a group of Companions during the Battle of Uhud in the presence of the Prophet (pbuh) who had in fact praised them for it. But should he establish that he is not going to inflict on them the desired damage, in that case he should not go ahead with his action because it would not serve to the consolidation of the standing of religion”. 247

Quoting the Musannaf on the issue, al-San‘ani says: “Regarding the issue of one man taking on many foes, the majority of the ulema are agreed that if he undertakes such an initiative in order to magnify his courage, thinking that by so doing he will terrify his enemies, and by the same token embolden the Muslims against them, or something to that effect—then it is good. But they have prohibited it in other circumstances, particularly if it leads to weakening the resolve of the believers.” 248

As for al-Shawkani, in his commentary on the Qur’anic verse: “And spend in the way of God and do not throw [yourselves] with your [own] hands into destruction” (2:195), he says:

“If the wording of a certain Qur’anic verse is general one should not attempt to restrict its applicability to the specific circumstances for which it was revealed. Thus whatever is deemed a form of self-destruction in the hereafter or in this world ought to be included in the import of this verse. Thus, Ibn Jarir al-Tabari has said, ‘Among the situations which are included in the general prohibition of this verse is that in which a man single-handedly takes on the enemy without being able to bring about the defeat of the enemy nor making any impact beneficial to the mujahedeen. No amount of opposition by those who have restricted the applicability of this verse will succeed in having this meaning not included in the general prohibition of this verse. But they are mistaken because they have opined that the import of the verse in question is conditioned by the occasion of its revelation, and that thesis is thwarted by the language of the Arabs”.249

In another one of his work by the title of al-Sayl al-Jarrar, he says: “It is well established in the science of the principles of Islamic jurisprudence that the applicability of a Qur’anic verse follows from the generality of its wording not the specificity of its revelation, and thus it is well known that one who strikes out at the enemy whilst knowing beforehand that he will be killed, captured or vanquished, has in fact thrown himself with his own hands into destruction”. Cited in Hukm Qatl al-Madaniyyeen, p, 92

As for al-Qurtubi, he says: “If the attacker knows that he will be safe in his undertaking, then there is nothing wrong, and it is also permissible for him to go ahead with his action if he also feels strongly about the possibility of him inflicting significant damages on the enemies or that he will terrify them or he believes that by so doing the Muslims will gain an advantage, even if his better judgment tells him that he would get killed”. 250

Finally, al-Ghazali affirmed that “There are no grounds for risking one’ life in such action to no avail, nay such an action in that case ought to be forbidden”. 251

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247 Hashiyat Ibn ‘Abidin. Vol. 4, 126
250 Cited in Hukm Qatl al-Madaniyyeen, p, 97
It is evident from the above that the issue is not simply a matter of throwing oneself at the enemy or immersing oneself among its ranks just for its own sake but of achieving some vital benefits in the end.

The Application of this Ruling by the Jihadist: Analysis and Refutation

If we are to abide by the principles controlling the legitimacy of this ruling of *inghimas* as they were set by the ulema and examine how these have been applied in those attacks involving airline hijacking and bombings, or those involving car bombings and the detonation of suicide vests, we will certainly come to the conclusion that the application of that ruling has been most erroneous, and this for the following reasons:

- Airline passengers cannot be considered a rank of enemy forces one could storm or throw himself at. They are often of diverse nationalities, religious affiliations and among them one find women, men, children and the elderly
- A plane like this, carrying travellers as described above, cannot be considered a hostile army standing ready to confront a Muslim army in battle. Indeed, in situations such as these armed confrontation does not even occur to the minds of the passengers.
- The use of these hijacked planes as bombs that will blast upon impact with their target on the ground will almost inevitably lead to the slaying of people whose blood is considered inviolable and to the kind of destruction of property, which is not allowed in Islamic law. Moreover, there is always the possibility of these planes blasting away from their intended target upon impact, and in those cases the consequences are much graver.
- Hijacking a plane with the intention of blasting mid-air or upon impact smacks of treason in that by this act the hijacker not only betrays the terms of the contact between him and the airline company granting him the right to board its plane, but also the trust of the passengers who have nothing to do with the issue which is at the centre of the grievances between the hijacker and his enemies, and are shocked to find themselves being punished for a wrong of which they are entirely innocent. And let us not deceive ourselves by hiding behind the saying, ‘in war deception is good tactics’ because this applies strictly to war situations and when the target is obviously the enemy that one faces in battle. As for the use of deception against passengers among whom there is at least a minority who are innocent and are not involved in any war involving the hijacker and his enemies, it is simply wrong because in this context it amounts to an act of treason which is rejected by the
Sharia. Ibn ‘Umar- may God be pleased with him- narrated that he had heard the Prophet (pbuh) say: “When all generations of anteriority and posterity will be gathered on the Day of Judgement, each traitor will be known by a brandishing banner, and then it will be said this is the treachery of so and so”.  

- When a Muslim fighter immerses himself in the midst of the enemy forces, if he does get killed, it will be at the hands of these forces, as for the death of the hijacker who commits an airline bombing, it will be self-inflicted, and such action the ulema may classify among the acts of murder which the Sharia prohibits.

- Granted that all of the necessary legal conditions for this hijacking have been fulfilled and all of the legal impediments preventing its implementation have been surmounted, it would still be necessary to assess all of the benefits as well as the costs, which normally follow from such an act before deeming it lawful. Thus, even after we have ascertained that this hijacking and subsequent airline bombing has indeed been inflicted on a licit target during war, and that there has not been among the victims a single soul whose killing is forbidden by law, and even after we espouse the view of some of the contemporary ulema who do not regard such actions as constituting suicide if they achieve a lawful end, such as contributing to the resistance against the forces of occupation, we would still be required to enumerate, weigh and compare all of the benefits as well as the potential costs accruing from such a bombing before it is possible to pronounce a favourable ruling about it. Among the potential benefits which may follow from such hijacking and bombing are the following:

  a. It achieves a personal benefit to the hijacker, which is gaining martyrdom
  b. It inflicts on the enemy a considerable damage in that it leads to a significant loss of life among its citizens and to the destruction of one of its passenger aircraft
  c. It compels the enemy to revise its foreign policy
  d. It puts the issue the hijacker is fighting for at the centre of media attention and as a result of this his cause gains support in both the local and international public opinion

As for the potential social harms and costs which may follow from the high jacking and subsequent bombing of such a plane, they are as follows:

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252 Related by Muslim (9/1735). Also, Abu Saeed al-Khudri- may God be pleased with him- narrated that he had heard the Prophet (pbuh) say: “On the Day of Judgement, each traitor will be known by a brandishing banner commensurate in size with the gravity of his treachery. Verily! [on that day], no treason will equal that of Ibn Lumama”. Related by Muslim (15/1738).
a. The slaying of people who do not have a hand in the conflict and who are thus considered innocent. Furthermore, such loss of life leads to great suffering among the families of those victims and to significant grievances in the societies to which they belong.

b. The unlawful destruction of property which include the plane, the belongings of the passengers and whatever else is demolished upon impact on the ground

c. Such an act would bring together all the governments whose citizens were targeted in this act, which would not only result in the pursuit and the strangling of the movement to which the hijacker is affiliated, but also of all the other Islamic movements worldwide

d. Such an attack would foment resentment and hatred in all of the countries that suffered casualties against all of the Islamic movements and the religion of Islam itself. And that would put the Muslim minorities living in those countries in grave danger as they become exposed to all sorts of aggressions and forms of repression

Now it is not hard for any observer who is aware of what is going on in the world to deduce that the potential harms and costs emanating from an act like this far outweigh any of the potential benefits and gains that we may deem lawful, and this, as we have shown, constitute a serious problem.

Also, if we move to discuss those actions in which the attacker storms his target with a car packed with explosives, we will certainly stumble on a number of serious controversies because these too lead to the taking of life and destruction of property which are protected in Islamic law or at least to the accruing of harms and costs not acceptable in the Sharia. The following points explain this difficulty further:

a. The target of such bombings rarely represents an enemy rank which can warrant the death of all the victims, because here too, the probability of there being people of different nationalities and faiths, and of different sexes and ages is high. As such this would not constitute an act of throwing oneself at the enemy (inghimas) which is in keeping with the legitimacy principles set by the ulema

b. In most cases, this type of bombings end up targeting innocent people because near the target there are always passers-by and by-standers whose presence cannot be foreseen during the planning of such operations. This has been attested by a number of occasions and in several incidents. Thus, when Ali Iron, who was one of the elements responsible for the Bali attacks which took the life of 202 people, was asked whether he felt any regrets about the carnage he had committed, he replied, ‘I am sorry’ and when the journalists reminded him that the majority of the victims were actually Australians and not Americans, he replied, ‘this can happen during the
course of jihad’. This sort of statements belies not only the extent to which innocent civilians are wrongly targeted but also the extent to which the duty of jihad is erroneously interpreted; for the jihad that is recognised by the Sharia has never permitted the slaying of the innocent and has never justified making light of their lives. Besides causing loss of life, this kind of attacks too causes the destruction of not only the target but also of all the surrounding area which leads to loss or damage to property protected by the Sharia. such material losses and damages also make a large section of the population angry at those who are responsible for the attacks and this is not a way of gaining support for ones’ cause.

This discussion and analysis has hopefully served to shed light on the dangers of applying the rulings of the Sharia erroneously to the circumstances on the ground, and to underscore the role of the ulema of this nation who are certainly called nowadays to bring some order in this activity and to put an end to this cycle of reversals by setting out clearly the principles controlling the legitimacy of these actions.

**Martyrdom or Suicide?**

One cannot, it seems, bring the discussion regarding this style of fighting (*inghamas*) and this sort of bomb attacks to a close without touching on the position of the Sharia regarding the status of the person who perpetrates these attacks either by using a hijacked plane, a car charged with explosives or a vest ready to be detonated. Does his action amount to a self-inflicted death which the Sharia prohibits or permits? In other words, is his action an act of suicide or is it rather an act of martyrdom?

We endeavour to address this question by highlighting the following points:

a. It is prohibited to resort to these kind of bomb attacks unless the conditions and the principles controlling the legitimacy of such actions, as they were put forth by the ulema are met and complied with

b. Once it is established that the all of the above legal conditions have been met, and all of the legitimacy principles have been abided by, it is necessary afterwards to examine and consider both the benefits which were sought by this action and the potential harms and costs which may result from it before deciding in its favour and deeming it permissible. It is also worth noting at this conjunction that benefits as well as harms and costs are not static, as they do indeed change with time: the Islamic Palestinian movement Hamas may be considered an organisation that generally fulfils the legal conditions required for such bomb attacks in its resistance against the Israeli occupation, yet while Hamas may decide today that conducting such attacks represent the benefits which it seeks to achieve, tomorrow it can easily foresee that the potential harms and costs accruing from such actions overrides the
benefits it would want to realise in the future and thus decides to suspend them, and either instances, no one would blame it for taking such a measure.

c. The ulema of the contemporary period have differed over the classification of this action; for while some of them have considered it forbidden because in their eyes it amounted to suicide, others have permitted it, albeit on certain conditions. Indeed, the overwhelming majority of those who have deemed this action permissible insist that it can only be performed to confront the forces of a brutal occupation or invasion, and this voice is gaining increasing acceptance among this second camp.253

d. There is such an important difference between those who commit suicide and those who make operations of ultimate sacrifice that it must not be taken lightly; for, indeed, the contrast between the intentions of each one of them is stark: the former want to do away with their lives and their objective is usually to get rid of a pain which has become the bane of their existence. As for their temperament, it is prone to despair, despondency and anxiety, and they, therefore, commit their suicidal act not because they believe in a cause or want to defend a principle. The latter, however, those who make the ultimate sacrifice, their hearts are filled with faith and they truly believe in the truthfulness of the cause as well as the principles they are dying for. Thus, they have an optimistic outlook on life and their temperament is by contrast calm and serene. Their objective is to advance the cause of their religion.

253 Among the contemporary scholars who oppose such attacks is sheikh Abdul-Aziz B. Abdullah Al-Shaykh who is the general mufti of Saudi Arabia. According to this mufti, all attempts to exterminate the enemies are laudable provided they abide by the requirements of Islamic law, but he did not consider suicide bombings to be permissible in any way. There is also sheikh Nasir al-Din al-Albani who is of the view that these actions would be regarded as permissible only in the case where there is a Muslim ruler declaring Islamic jihad and designating who should be conducting these operations, otherwise they would be deemed forbidden. As for Dr. Saleh B. Ghanem al-Sadlan, from the Islamic University of Muhammad Bin Saud, he maintained that it would not be permitted for anyone to proceed with his action who knows full well that he would get killed as a result, but that it would permitted for him if his better judgement tells him that he would not be killed. In this situation, according to Dr. Ghanem al-Sadlan, the attacker is considered a martyr, especially if he has carried his action in a battle for the sake of the truth and in the way of God. As for him who carries out such an action to anger the enemy on the basis of what he has heard from one of the people of knowledge he may not be considered as having committed suicide, because he is not liable for his action.

We find among those who do not consider such action as amounting to suicide, sheikh Yusuf al-Qaradawi who maintains that as long as such actions fulfil the conditions of the Sharia, they are lawful and should not be classified in the category of self-destructive actions. Another sheikh Muhammad al-Haj Nasser, an expert and member of the International Council for Islamic Jurisprudence on Morocco is of the view that whenever a person embarking on an action like this has fulfilled all of the conditions required for martyrdom and has sought by his deed to realise a clear-cut benefit for Islam, he is worthy of martyrdom. A similar view is that of Dr. Fathi al-Durayni, a member of the Jordanian Supreme Council for the Fatwa. Dr al-Durayni maintains that these sorts of attacks are permissible so long as they are aimed at the enemy of religion and the nation, and he considers the person who carries such operations not one who has committed suicide but a martyr if one takes into account the objectives of that action and as is the case in Palestine. Indeed, Said Qifa, a scholar and an Islamic thinker, believes that the operations which are conducted in the Palestinian Occupied Territories are not to be labelled as suicide attacks but an act of martyrdom in the way of God. Finally, Dr Nasr Farid Wasi, the previous mufti of Egypt, considers that the operations carried out by Muslims in Palestine and Chechnya are part of the lawful jihad and maintains that those who die in these conditions are martyrs, unlike the hijackers, who according to him commit an act which can always result in the death of innocent Muslims. Al-Sharq al-Awsat Newspaper. "Ulama Muslimun Yathtalifun hawla al-Hukm al-Shar "iyy lil 'Amliyyat al-Intihariyya". 8/5/2001, P, 12
and nation and they aspire to gain martyrdom as they struggle to achieve that lofty goal.

In light of the glaring differences between these two groups, it would not be right to describe the actions of the second group as acts of suicide provided they carry their operations in accordance with the tenets of the law and in keeping with the restrictions which have been established in the Sharia, and as long as their intention is to seek God’s pleasure and to act according to His Way. To these one can only pray that their ultimate sacrifice is accepted as martyrdom and for their happiness in the hereafter. If, however, they embark on their operations without fulfilling the conditions of martyrdom and without abiding by the established principles controlling the legitimacy of their undertaking, they cannot be regarded as martyrs but nor can they be considered as having committed suicide, and the reason for that is that they are not entirely liable for their deeds. Indeed, more often then not, they are a victim of an erroneous interpretation of Islamic law.

Certainly, the legality of these sorts of operations of ultimate sacrifice hinges on the extent to which they comply with the established principles controlling the legitimacy of their undertaking, and on the kind of benefits as well as harms and costs these operations engender. So in answer to the query we put before ourselves at the head of this little sub-section we would have to say that we need to examine each of these attacks as separate cases before we can establish whether the attacker has been induced into error and following a misinterpretation of the law, a sinner who has committed suicide or a martyr who has obtained glory.
2. The Incoherent Application of the Ruling Permitting Night Raids and the Planning of Surprise Attacks as a Way to Warrant Indiscriminate Bombings

Our legal assessment of the bombings of al-Qaeda will not be complete without an analysis of the proofs they advance to argue for the permissibility of conducting night raids and the panning for such surprise attacks. It is vital to address this issue because reference to the ruling permitting night raids even if they lead to the slaying of women and children is one of the most ubiquitous argument jihadi groups like al-Qaeda would make in order to justify their surprise bomb attacks in which no precaution is taken to avoid at least the types of people whose killing is forbidden such as the women of the disbelievers and their children.

Indeed, if you were to take them to task over this issue, they would tell you things like ‘how can you disapprove of such raids when the Prophet (pbuh) himself launched a night raid on Banu Mustaliq and took them unawares’? And they would most probably quote to you the hadith of Sa’b Ibn Jaththama who narrated: “The Prophet (pbuh) passed by me at al-Abwa’ or Waddan when he was being asked about attacking the idolaters at night and whether one might strike their women and children. He said, ‘They are part of them.’ I heard him say, ‘There is no land which is out-of bounds except that of God and His Messenger’.

The Discussion of the Texts and the Rebuttal of their Use as Proofs

Firstly, anyone who ponders on the hadith of Ibn Jaththama or on the night raid of the Prophet (pbuh) on Banu Mustaliq will most certainly realise that these textual proofs are used not in the proper context. Indeed, the hadith Ibn Jaththama is referring to night raids against the idolaters of the Abode of War, and therefore it is a grave mistake to think that it can apply to night raids against either the Muslims or non-Muslims among whom one can find Muslims in their midst. Also, concerning the night raid of the Prophet (pbuh) against the tribe of Banu Mustaliq, one needs to make it clear that they were from among the idolaters and their abode was too a distinct Abode of War, and so it is just as ludicrous to use this hadith as proof that one is allowed to mount bomb attacks in the Abode of Islam where the overwhelming majority of the population is Muslim and only a minority are non-Muslims.

254 Related by Bukhari no. 2541, and Muslim (1/1730), on the authority of Ibn ‘Umar- May God be pleased with him.
255 Related by Bukhari no. 3012 and Muslim (27/1845)
Secondly, although it is true that the majority of the scholars have permitted the secret planning and the execution of sudden night raids on the idolaters even if it led to the death so some of their women and children, they have done so after putting a number of caveats and restrictions. Thus, for instance, Ibn Qudama says:

“It is permissible to hatch a secret plan against the disbelievers and mount a sudden night raid to slay them while they are unaware. Ahmed has stated, ‘There is nothing reprehensible about night raids, for that was the way the Byzantines were raided’, and he said, ‘We do not know of anyone who deplores night raids’. Sufyan then recited to him the hadith which had reached him on the authority of al-Zuhri, who received it from Abdullah, who had received it from Ibn Abbas, who had received it from al-Sa’b Ibn Jaththama, who said ‘I heard the Prophet (pbuh) being asked about attacking the idolaters at night when one might strike their women and children. He said, ‘They are part of them’ and he [Ibn Hanbal] said that its transmission was good. Therefore, if it said that the Prophet (pbuh) has prohibited the slaying of their women and their children, we say, that is the case if they are killed intentionally. Ahmed [Ibn Hanbal] has said, ‘If they are killed intentionally, then it is not [permissible]’. He (Ahmad Ibn Hanbal) said, ‘the hadith of As-Sa’b [Ibn Jaththama] came to the fore after he (pbuh) had prohibited the killing of women and children, because this prohibition was first prescribed when he sent men to Ibn A. Al-Huqayq, and thus it is possible to reconcile the two hadiths and conclude that there that if their killing is intentional it would be prohibited but it would be permitted if it is unintentional’.

Now notice Ibn Hanbal’s statement: ‘If they are killed intentionally’, that is the women and the children, ‘then it is not’, and understands that it is not permissible to take the lives of the believers if it entails the killing of their women and children. But if that is the position of Ibn Hanbal, namely that the killing of women and children of the disbelievers on night raids in the Abode of War can either be permissible or prohibited depending on the intention of the attacker, what would he make out of the position which today argues that it would be permissible to carry out bomb attacks in the Abode of Islam where the vast majority of the population are Muslims, and when it is known to the attacker that the target of his bombs is crowded with Muslims among whom there might be a minority of foreigners?

The following stance of al-Shafi‘i on this issue only confirms what Ahmed [Ibn Hanbal] has said, namely that the intentional targeting of women and children in the course of sudden night raids is not permissible. He says: “Someone might question our argument, saying, ‘How come you allow the use of the catapult and fire against a group of idolaters among whom there are children and women whose killing has been prohibited?’ In answer to that retort we say that we have allowed it in light of the fact that the Prophet (pbuh) launched a sudden night raid on the Banu al-Mustaliq while they were unaware, and he ordered that burn them with fire, while he was fully aware there were children and women among them, in that this was an attack on the idolaters in an Abode of War, which was not out-of-bounds. Rather, what he strictly prohibited was the killing of women and children intentionally particularly when their killer has identified them individually”.

257 Al-Umm. Vol. 4, p, 244. Cited in Hukm al-Madaniyyeen, p, 86
Notice again this statement of al-Shafi‘i: ‘this was an attack on the idolaters in an Abode of War, which was not out-of-bounds’ and see for yourself whether they can be reconciled with all of these bombings which have occurred in an abode which is not an Abode of War where idolaters reside. And notice also his statement: “what he strictly prohibited was the killing of women and children intentionally particularly when their killer has identified them individually” and see for yourself whether they are compatible with the recent indiscriminate bombings whose perpetrators were fully aware of the presence of Muslims in the areas they had decided to target or actually saw with their own eyes non-Muslim women and children present in the scenes they had intend to bomb and yet still went ahead with their attacks. The prohibition against taking the lives of the women and children of the disbelievers, and with greater reason those of the Muslims, is not limited to these legal scholars, it is the position of all the jurists of Islam. Al-San‘ani says: “Al-Shafi‘i and Abu Hanifa, including the majority of the scholars, held that the slaying of women and children was permissible in night raids pursuant to his saying (pbuh): ‘They are part of them’, which permits not their killing when it is intentional but when it is the consequence [of pursuing their men and fathers], as in those situations they cannot be distinguished from those who deserve to be killed. As for Malik and al-Awza‘iyy, they held the view that their killing is categorically forbidden”. 258

Al-Ramli mentions an important caveat which is worth adding to this discussion. He says: “What is meant by *tabyithim* is to mount a surprise night raid against them in order to hunt down [the leaders of their tribe]. Indeed, al-Zarkashi, like al-Balqini, tended to disapprove of it when there is not a vital need for it because there is always the risk of killing a Muslim by mistake, thinking he was one of the disbelievers.” 259

Thirdly, in situations where a Muslim is in the midst of others from among the disbelievers it is not permissible to intentionally slay him, whether in the context of a night raid or in any other way, in compliance with the Qur’anic verse in which God- may He be exalted- has said: “And had it not been for the believing men and believing women [in Mecca], whom you might have unwittingly trampled underfoot, and on whose account you might have become guilty, without knowing it, of a grievous wrong -: [had it not been for this, you would have been allowed to fight your way into the city: but you were forbidden to fight] so that [in time] God might admit to His grace whomever He wills. Had they [who deserve Our mercy and they whom We have condemned] been clearly discernible [to you] We would indeed have imposed grievous suffering [at your hands] on such of them as were bent on denying the truth” (48:25).

Commenting on this verse, al-Qurtubi has said:

“These verses are evidence that it is necessary to take into consideration the safety of the disbeliever in deference to the sanctity of the life of the believer, at a time when one cannot inflict harm on the former without also inflicting harm on the latter. Abu Zayd said: ‘I said to Ibn al-Qasim: ‘Suppose the People of Islam besieged some of the disbelievers in one of

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258 *Subul al-Salam*. Vol. 4, p. 94. Cited from *Hukm al-Madaniyyeen*

259 *Nihayat al-Muhtaj*. Vol. 8, p. 64; *Musannaf Ibn Sheeba* (6/477/90)
their forts while among them happened to be also a group of Muslims captives. Should this fort be set ablaze or not?’

He said: ‘I heard Malik when he was asked what needed to be done about a group of idolaters and their ships, whether we should set fire to those ships when on board they had also [Muslim] captives. In reply Malik said: ‘I do not favour that view because God- may He be exalted- has said about the People of Mecca: ‘If they persist, He will requite those among them who disbelieve with a painful retribution.’

Hence, if a disbeliever uses a Muslim as a shield, it is not permissible for Muslims to aim their shots in his direction. Whoever does so and kills one of the Muslims in those circumstances, he is liable for blood money and expiation, and whoever does so without him having prior knowledge of the Muslim shield, he is liable to neither blood money nor expiation. That is so because once the presence of the shield comes to their knowledge they are not to shoot, and if they do, they would be regarded as unintentional murderers and their tribe would then be liable to blood money, and if they do not know, they would be allowed to shoot and by virtue of that permission they effectively cease to be under any obligation to settle either.”

Now after all this, one of them might still object and say, ‘if a Muslim happens to be in the midst of the disbelievers, why would it not be permissible to aim at or raid them, given that the Sharia has allowed attacking the enemies who are shielded by Muslims (tatarrus) even it results in the death of one of the believers. This way of interpreting the ruling of tatarrus is fallacious, and it is precisely with this fallacy that we will be dealing next.

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3. The Fallacy in Applying the Rulings Permitting the Targeting of the Human Shield and the Use of the Catapult as a Way to Warrant Indiscriminate Bomb Attacks

Many cities of the Muslim world have been the theatre of indiscriminate bombings campaigns which have either aimed at causing a maximum number of casualties or the death of a particular person even if that also involved the killing of innocent people.

Those who have planned this sort of bombings or have executed them rely on some of the sayings of the scholars of Islam, which allow the use of the catapult and the targeting of the human shield to argue the legality of their attacks. This line of argument, however, is a very erroneous way of applying those Sharia rulings particularly if we bear in mind the countries and the concrete circumstances in these bombings have occurred. Before laying bare these fallacies of theirs, let us first present the proofs they advance to make their case regarding these issues.

The party that opines it is permissible to carry out indiscriminate bombings looks to buttress their position by pointing to certain precedents and events that occurred during the prophetic career of the Messenger (pbuh), as well as the commentaries of some of the scholars on these prophetic examples. They are as follows:

1. It is permissible to hit enemies with a catapult when laying siege to their fortifications and during battle. As proof for this permissibility, they refer to the Prophet’s (pbuh) siege of the city of Ta’if, namely, when he erected a catapult against its people.²⁶¹ And here they argue that although the catapult has been replaced in time with the canon and then the portable rocket launcher, the principle remains the same and there is no difference, therefore, between the use of the catapult with which one could hurl massive stones in the past and the use of explosives today: they both cause maximum damage to the enemy and both are indiscriminate.

2. It is permissible, according to them, to aim at the direction of the Muslim shield even if that causes his death. Tatarrus or turs (lit., shielding; shield) in the jargon of Islamic law pertains to the taking of a Muslim/Muslims or those whose killing is forbidden such as women and children as human shields by the disbeliever / disbelievers in order to protect themselves from Muslim attacks during war. Those who favour the permissibility of tatarrus do, as we said earlier, attempt to support their argument by reclining on the statements of some of the scholars of Islam, and among these is Ibn Taymiyya who concerning this issue has said: “The ulema have unanimously agreed that if the disbelievers’ army uses Muslim prisoners as human shields and there is fear for the lives of Muslims if they do not fight, they should, then, attack even if this leads to killing the human shields, and concerning the

²⁶¹ Related by Bukhari no. 2762, on the authority of Thawr Bin Zayd- May God be pleased with him, and was deemed weak by al-Albani.
permissibility of such killing, there are two preponderant views among the scholars.\textsuperscript{262}

Given that it is permissible to kill some of the Muslims who serve as shield for the enemy, and that we are following their killing able to inflict damage on our opponents, achieving thus the aims of jihad, we see no harm, they maintain, in resorting to the use of explosives in targeting those who deserve to be killed, even if our bombing operations may also lead to the death of those whose life and blood is considered inviolable, such as the team of bodyguards or all those who happen to be nearby at the moment of the explosion. This, they say, is due to the fact that in these conditions they are no different from the ters (shield) who stands between us and the enemy.

**The Fallacy of these Arguments**

Using the analogy of the catapult and the human shield (tatarrus) to warrant indiscriminate bombings and killings is totally inconsistent and can only be described as a very erroneous way of bestowing legality to these criminal actions, and here is why:

1. The Sharia ruling permitting the use of the catapult is in itself entirely valid but its application by the perpetrators of these bombings is fallacious because they carried it over to circumstances which were entirely different from those in which that ruling was originally applied. How is that?

   To begin with, when the Prophet (pbuh) erected the catapult against the people of Ta’if, he (pbuh) did so in the context of an ongoing war between his party and the people of that city, who, it needs to be said, stood completely apart from the Muslim population and resided in an entirely different area to theirs. This is an important point because it does make it clear that the use of the catapult, and whatever else may be considered analogous, presupposes the condition of an ongoing war during which those who deserve to be targeted are identified and distinguished from those who are not, and it raises thee question whether the same can be said about the indiscriminate bombings we are dealing with here.

   Indeed, the sort of bomb attacks that we witness nowadays do not target enemy forces that stand apart from the rest of the population, nor can it be claimed they are aimed at those whose killing is permissible; for in reality they target victims who have not been identified individually, though they would either all be Muslims or at least mainly Muslims mixed with others whose killing would also be not permissible due the fact that some of them could be dhimmi or protected by a security agreement, or they might indeed be women, children, monks or any other category

\textsuperscript{262} Majmu’ al-Fatawa. Vol. 28/298
of people the targeting of which the Sharia has prohibited. The amount of suffering and violent deaths that these bombings have caused to the population of the Muslim nation is a resounding proof that the application of these rulings by the perpetrators of these attacks to our contemporary circumstances is wrong. Now it is possible that some of the people who execute these acts of violence would argue that the populations of the Muslim countries of today can be the target of indiscriminate bombings on the basis that they have effectively left their religion such that among them one can only find apostates or renegade dhimmis or atheists. This description and classification, however, are faulty in that accusing the Muslim populations of apostasy and all of the dhimmis of today as renegade stems from a bad ruling that is utterly lacking in solid proofs. This claim is so serious we have decided to deal with it a separate work upon which we shall on another occasion, God willing.

2. It is also not right to use the ruling permitting the killing of the Muslim shield to warrant these bombings which are aimed at a particular target causing the death of innocent people in the process. And this for the following reasons

   a. It is a mistake to make an analogy between the targeting of a particular person with a weapon of mass destruction, which may lead in all likelihood not only to the killing of the primary target but also some of those who happen to be present at the scene of the explosion, and the ruling permitting the targeting of the human shield as a necessary measure to inflict damage on the enemy, simply because there is a compelling difference between the two: there is no such a things as a Muslim shield in these bomb attacks who may be used as a human shield by an enemy and who is actually standing between Muslim fighters and those whose killing is allowed. For in reality, the ruling of tatarrus can only be carried over to the human shield if the latter were captured and used as a shield against his will. Indeed, there are a number of questions to be asked about the way they have used the legal text as evidence of the legality of their indiscriminate bombings: are the people who work as bodyguards for a particular person obliged to take up that profession or does it emanate from their choice? Is the person whose job it is to protect obliging them to serve as a shield against any attack aimed at him? Do these bodyguards feel that the person whose job it is to protect is coercing them to do so and that he deserves to be killed? If we are not sure about the permissibility of killing these bodyguards who are admittedly committed to the protection of the target, what do we make of the killing of the common people who happen to be on the scene when these massive explosions occur? Can it be said about them that they are human shields as per the ruling of tatarrus? Absolutely not, because that particular quality has not been established in their case. Hence, there is neither relationship nor valid analogy between this indiscriminate use of weapons of mass destruction and the ruling pertaining to tatarrus because there are simply neither human shields nor anyone using such shields in the contexts of these bombings.
b. Someone from among the perpetrators of these attacks might object and say: “We do not stand to claim that these bodyguards or the members of the general public are in fact human shields, what we are actually saying is that since it is permissible to aim at Muslims who are used as human shields for the higher interest of Islam and jihad, such that we are enabled through this act to hit at the enemy, it would be also permissible, for the sake of achieving this higher interest, to aim our weapons to those whose killing is lawful, even if as a result of that action innocent Muslims are killed.

In answer to this argument, we say: that is also a mistake because the general principle among the legal scholars says that it is forbidden to sacrifice a life the sanctity of which is protected by the Sharia for the sake of killing a person whose slaying is generally deemed permissible, except in very specific situations and for the sake of achieving very precise benefits and interests which they have themselves determined and which are made manifestly clear in their discussion on the ruling of tatarrus. So elaborate and compelling were their principles controlling the legitimacy of the ruling permitting the killing of the human shield, you would have dared say such a thing if you had known about them or taken them into consideration.

The Ulema and the Permissibility of Targeting the Human Shield

The Muslim jurists have laid out a number of conditions which need to be fulfilled before it is permissible to target the human shield, and these are as follows:

1. It is necessary to ascertain that there is at least one Muslim being used as a human shield and that he or she is coerced to serve as a shield

2. It is necessary in these circumstances to do one’s utmost not to aim at the human shield but at the enemy whose killing is permissible. It is worth noting that the perpetrators of these sorts of bombings first target either the guards or the bodyguards, whom they regard as the human shield, before actually aiming at their target.

3. It needs to be firmly established that the targeting of the human shield does constitute the only option left for achieving the objective sought. Hence, whenever other alternatives permitting the achievement of that objective are available that act would be forbidden.

4. The targeting of the human shield can only be deemed permissible if it is dictated by a vital necessity, such that there is a fear that if they do not press on with the fighting, Muslims would suffer a loss and the human shields would subsequently be executed.
For more details on the principles legitimising targeting the human shield, we shall now review a sample of the writings which have been authored by some of the leading figures of the four Sunni legal schools.

**The Shafi‘is**

Al-Ghazali wrote:

“Let us suppose that an advancing army of disbelievers holds a number of Muslims as captives and uses them as a shield. If we do not attack the shield, we will be overwhelmed and they will subsequently succeed in destroying the Abode of Islam, killing the entire Muslim community.

To avoid such an outcome, it is necessary to aim at the shield, even though such an attack is bound to result in the killing of innocent Muslims whose blood the Sharia normally regards as inviolable. For indeed, saving all Muslims is closer to the purposes of the law, and since it has been definitely established that the aim of these is to preserve as many human lives as possible when not all can be saved, according to istislah, the killing of the Muslims in our example can be defended in light of the accruing benefits. Now this istislah is not attested to by one specific established proof, but rather by countless proofs in the law. Hence, although the permission to kill an innocent Muslim sounds odd because it does not appear to have a concrete basis in the law, this benefit (maslaha) it needs to be said is not actually one that is arrived at based on analogy to a particular case or proof. Rather, its validity is dawn from and revolves around the fulfilment of three conditions, namely that the benefit in question be necessary, definitive, and universal. Therefore, if the disbelievers use Muslim captives as human shields inside their fortifications, it would not be permissible to attack the shield because no vital necessity calls for that action to be taken [in that an army confined to the walls of its fortification is not a direct threat to the Muslim army and the existence of the Muslim community]… and killing the shield should also be avoided when the prospects of victory are not definitive but merely possible”.  

A similar position on this issue is adopted by the Shafi‘i author of *al-Ahkam al-Sultaniyya*, al-Mawardi.

Imam al-Ramli puts even further restrictions on the permissibility of such attacks as he makes no difference, in his judgement concerning the people who form the shield, between dhimmis and Muslims. He says:

“Should [the disbelievers] use as a shield Muslims or dhimmis, we would be called, in the absence of any vital necessity, to let the enemy go and not attack the shield in order to protect their lives and in deference of their sanctity which stems from the sanctity their faith (Muslims) and the covenants concluded in its name (Dhimmis), unlike women and children whose protection is ensured strictly for the sake of protecting the rights of those who gained them as part of the spoils. But if they are captured and used as human shields in a war

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during which it is feared that if we do not attack them we will be overwhelmed by the enemy and the entire Muslim community will be threatened, then attacking the shield whilst aiming to repulse the disbelievers may be deemed permissible in most cases, particularly when that proves to be the only way to prevent the killing of many if not all Muslims, in that sacrificing a section of the Muslim population in order to protect its core and future can be done. [We said that it may be deemed permissible] but we did not advocate that it be regarded as obligatory because scholars differ about whether it should be allowed, for in spite of the fact that repelling aggression in these circumstances makes for a compelling case, we tend to engage in it for fear that our lives would be at risk, and fear, some scholars argue, is not a strong enough reason to make the shedding of Muslim blood licit. It is in consideration of all these factors that we do not say it is permissible unqualifiedly: firstly, neither Muslims nor Dhimmis are to be aimed at except when that is unavoidable, and in that case the slayer is liable for either blood money or value or expiation whether the slain is a Muslim or a Dhimmi, and secondly, the aggressing disbelievers cannot be attacked unless the shield is attacked”.264

The Malikis

Regarding this issue, The Maliki scholar al-Qurtubi says:

“Our ulama are unanimous on the legitimacy of this matter, provided that these conditions are met: there are instances when the killing of the Muslim human shield is permitted, and this, God willing, would not be contested, particularly if the interests accruing from his sallying prove to be necessary, universal, and definite. By necessary, we mean that there is no way of striking at the disbelievers without killing the human shield, and by universal, we mean that is for the common good of all Muslims, such that if one does attack the aggressor, there is fear that not only would the disbelievers slay the shield but also bring the whole Muslim community under their supremacy, and by definitive, we mean that we are absolutely certain that the killing of the shield would yield a benefit which is in the Muslim public interest. The scholars of our school are certainly in agreement over the permissibility of aiming to achieve such a public interest provided it fulfils those [three] conditions, and these presuppose that the killing of the human shield is certain to occur, either at the hands of the disbelievers in which case it would be a pure mafsada (loss) because it follows from the situation in which all Muslims have come under the dominance of the enemy, or at the hands of Muslims, in which case the enemy is defeated and all the Muslims are saved. It would be foolish for anyone to claim that it would not be permissible to kill the human shield in these circumstances, because to decide otherwise leads as a consequence not only to the death of the shield but also of Islam and all the Muslims. Only, because this public interest is not devoid of harms and costs, those who do not fully appreciate it feel reticent

264 Nihayat al-Muhtaj. Vol. 8, p. 65
about it; if only they realised that these inhibitive costs are by comparison to the benefits accruing from this public interest equal to nil or close to nil”.265

As for Ibn Shas, another Maliki scholar, he held the view that: “in situations where a disbeliever uses a Muslim as a human shield, it would not be permissible to aim at the shield even if we fear for our lives, since the blood of a Muslim cannot be deemed permissible on the basis of fear, and even if as a result of not attacking the enemy Muslims could lose the battle and it is feared that this loss could lead to the demise of Islam. The majority of Muslims, however and the proponents of force among them have decided that in these conditions it is obligatory to repulse the enemy and thus they have circumvented the inviolability of the life of the shield”.266

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266 *Mawahib al-Jalil*. Vol. 4, p. 545
The Hanbalis

According to Ibn Qudama:

“If they (the disbelievers) capture a Muslim and use him as a shield and there is no pressing need to shoot at them either because the war is not ongoing, or because they can be prevailed over without having recourse to it, or simply because one is confident they do not pose a threat, then it is not permissible to shoot at them; for if he, under these circumstances, aim at them and hit a Muslim, he bears liability for him. Should there be a pressing need, however, to shoot at them because there is a genuine fear that Muslims are under threat, attacking the shield while aiming at the disbelievers is permissible because that constitutes a case of necessity. In the situation where it is not feared for the Muslims, but the enemy can be prevailed over only by attacking the shield, al-Awza’iyy and al-Layth hold that shooting under these circumstances is not permissible, in compliance with of the Qur’anic verse: “And had it not been for the believing men and believing women [in Mecca], whom you might have unwittingly trampled underfoot, and on whose account you might have become guilty, without knowing it, of a grievous wrong -: [had it not been for this, you would have been allowed to fight your way into the city: but you were forbidden to fight] so that [in time] God might admit to His grace whomever He wills. Had they [who deserve Our mercy and they whom We have condemned] been clearly discernible [to you] We would indeed have imposed grievous suffering [at your hands] on such of them as were bent on denying the truth” (48:25). Al-Layth stated that ‘relinquishing the conquest of a vanquishable fort was better than killing a Muslim in defiance of right. As for Al-Awza’iyy, he said, ‘How can they shoot when they (the human shields) are not discernible to them? They would be liable to shoot but at the children of Muslims.’ Al-Qadi (Ibn al-‘Arabi) and al-Shafi’i maintained that ‘they (the Muslims forming the shield) may be shot in the event of an ongoing war, because failure to do so would result in the disruption of jihad’, and that whoever kills a Muslim [in these instances] is liable to expiation, and concerning his liability to blood money, there are two opinions based on two different texts: to one of them it is obligatory in that he mistakenly killed a believer, and that is in keeping with the Qur’anic verse: ‘And upon him who has slain a believer by mistake there is the duty of freeing a believing soul from bondage and paying an indemnity to the victim's relations’ (4:92). According to the other, the slayer is not liable to blood money because the Muslim shield was killed in the Abode of War in circumstances where it was permissible to shoot at him, as per the general import of the Qur’anic verse: ‘If he belong to a people at enmity with you and is a believer, let the slayer set free a believing slave’ (4:92) which stops short from making mention of blood money. Abu Hanifah was actually of the view that the slayer is liable neither to blood money nor to expiation in that the shooting was allowed in spite of the fact that [the risks] in that situation were known; and by virtue of that permission he is under no obligation whatsoever [to pay for any penalties] because in his case it would be as if he had shot at a person whose life it is permissible to take. To our opinion, even the citation of the second text makes clear the fact that he has slain a person whose life is
protected by faith, and that as such he bears liability, just as if his victim had not served as a human shield”. 267

The same principle of legitimacy which requires that a case of necessity be established before it is permissible to attack the human shield is advocated by Ibn Taymiyya, whose statements the perpetrators of these indiscriminate bombings often adduce as proof for the legality of their actions. He says:

“The ulama have unanimously agreed that if the disbelievers’ army uses Muslim prisoners as human shields and there is fear for the lives of Muslims if they do not fight, they should, then, attack even if this leads to killing the human shields, and concerning the permissibility of such killing, there are two preponderant views among the scholars”. 268

**The Hanafis**

The Hanafis tend to permit the attack of the human shield regardless of the stakes, they do, however, insist that two conditions be fulfilled when that attack is being carried out: the Muslim person forming the shield must not be specifically aimed at and not to hurl the enemy with fire during that attack if there is any other way of prevailing over them. About these restrictions, Ibn ‘Abidin says: “Flooding and killing with fire are permissible only…when it is established that having recourse to any other available option would make the task of vanquishing them most arduous. But if they can prevail over them without resorting to either of them, their use against them would not be permissible because they cause the death of their children and their women, as well as, the Muslims who are in their captivity.”269

As for the author of Fath al-Qadir, al-Shawkani, he says:

“There is no harm in attacking the disbelievers in their fort even if there are in their midst Muslim captives or merchants, nay even if they decide to take those Muslims and their children as human shields, regardless of whether it is known to them or not that by not attacking them Muslim would be defeated. Only, as they storm them they should only aim their weapons at the disbelievers…and according to the three imams, it is not permissible to attack them when they use Muslims as human shields, unless it is established that in the event of not attacking them, Muslims are certain to suffer defeat, and that is also the position of al-Hassan Bin Ziyad.”270

267 *Al-Mugniyy*. Vol. 10, p, 505
268 *Majmu’ al-Fatawa*. Vol. 28, p, 298
269 *Hashiyat Ibn ‘Abidin*. Vol. 4, p, 129
270 Cited in *Hukm al-Madaniyyeen*, p, 84
Concluding Remarks

In light of all the preceding, one wonders what kind of universal, definitive and necessary benefits, to use the expression of al-Ghazali and al-Qurtubi, were liable to disappear if those indiscriminate bombings had not taken place. Is it not this sort of foolish action which is actually behind all of corruption and social harm that we see with our own eyes everywhere? Indeed, the killing of innocent Muslims and non-Muslims, the emergence of a vast public outcry, which is often used by the enemies of Islam to vent their attack against the religion, and entice world public opinion against its followers have all been the consequences of these violent acts of mass destruction, and yet one cannot say that these attacks have been motivated by a much sought after benefit or that they have occurred in the context of an ongoing war nor do they have anything to do with shielding or anyone having been taken as a human shield. So by what kind of analogy could this general destruction be warranted?

Indeed, all of this demonstrates that it is a mistake to consider the indiscriminate bombings that are occurring in our Islamic countries permissible on the basis of the evidence permitting the use of the catapult and the shooting of the shield [tatarrus].

Finally, we would like to draw attention to the fact that our position regarding these bombings is not new: it is consistent with our condemnation which we published in the newspaper al-Sha‘b of the labour party following the bomb explosion which rocked Maqha Wadi al-Nil, one of the coffee shops of Cairo. In that published article, which was signed then by Sheikh Karim Zuhdi, Sheikh Naji Ibrahim and Sheikh ‘Abboud al-Zumr, on behalf of the leadership of the Islamic Group of Egypt, we have also urged the Muslim youth not to get involved in the operation of such bomb attacks, highlighting to them that such actions were at variance with the Sharia, regardless of whether the perpetrators of such act massive violence were from the Islamists camp or from another.
4. The fallacy of targeting the Foreigners and the Tourists on the Pretext the Sharia Rulings ensuring their Safe Conduct do not apply to them

Targeting the foreigners and the tourists in our countries, with the aim of killing them, is a phenomenon that came to the fore during the early period of the nineties in the last century. At times, the aim behind these operations was to send a message to the countries where the victims came from, and at other times the aim was to convey a message to the countries in which such attacks occurred. In either case, it was about putting pressure on these countries and compel them to change their policies; polices which in the eyes of the perpetrators of such operations, are wrong or unjust.

In doing so, those who were behind the targeting of those tourists and foreigners, relied on certain premises, which they thought were true: firstly, they opined that those foreigners, be they experts, engineers or tourists, were enemy fighters who have entered the Abode of Islam or were targeted in the Abode of War, and that based on this slaying them is permissible, and secondly, they opined that the safe conduct which these victims were granted is void for one of the following reasons:

a. The rules regulating safe conduct do obtain in their case because these people did not enter into a pledge of security with anyone in particular and no one has granted them such a pledge in a way that is recognised in the Sharia. Their contract, if any, is between them and the governments which have granted them entry, yet one cannot say about such contracts that they are binding in Islamic law. Thus, in reality there is neither pledge nor pledger or pledgee in their case.

b. Granted that such a pledge of security has been given and safe conduct has been promised, this contract would still remain invalid in that the party who has made the pledge is not fit to be a pledger by law.

c. It cannot be said they are protected by a non-verbal security agreement after warning has reached them not to enter that land. To buttress this argument, they adduce the incident of the Companion Abu Basir who after he had been sent back to Quraysh by the Prophet (pbuh) in compliance with the terms of the Treaty of Hudaybiyya, killed one of his two Qurayshite custodians during the journey to Mecca and defected back to Medina.

d. Granted that they have a pledge of security or a non-verbal security agreement that is recognised by the Sharia, they are considered to have effectively breached such agreements by virtue of their contravening many of their terms.

So these are briefly the sort of arguments advanced by those who target the foreigners and the tourists to bestow legality to their actions, and it is our aim in the remainder of this section to lay bare the fallacies contained in this line of reasoning. But before that we would like, as a preliminary, to append to this discussion some marginal notes, which are useful for dealing with the larger issue at hand.
1. The Permission to Travel the World

Islam is definitely one of those religions that have most eloquently and consistently urged people to travel the world in order to ponder on the history and destiny of the various human civilisations therein, as well as, on the wonders and wisdom of its Maker. Indeed, God- may He be exalted- has said: “Similar situations [as yours] have passed on before you, so proceed throughout the earth and observe how was the end of those who denied” (3:137) and He also said: “Have they not travelled through the land and seen how was the end of those before them? God destroyed [everything] over them, and for the disbelievers is something comparable” (47:10) and, “… he who forsakes the domain of evil for the sake of God shall find on earth many a lonely road,126 as well as life abundant” (4:100).

Travelling, however, is of several kinds, as al-Qurtubi has noted, some of them are permissible and others are not, depending on the intention. Tourism, for instance, is definitely included among the type of travel that is deemed permissible, particularly as the purpose of travel in this case is either medical or recreational or educational or cultural or simply for contemplation and increasing one’s wisdom. If the tourist, in addition to any of these purposes, intends to travel to also engage in sin, such tourism would be included among the type of travel that is deemed prohibited, but notice that in this case, it is not tourism qua tourism which is the source of the prohibition but something incidental to it: it has to do with the intention of the traveller.

Now given that tourism as such is a permissible activity, there is no harm if a government were to decide to invest some its resources in developing its tourism sector in order to increase the national revenue and provided that the tourism industry that is being promoted is not at variance with and the detriment of the ethical values, the Sharia laws and the safety of the country and the population. Indeed, this is precisely the kind of tourism industry the Muslim countries should be investing in and showcasing to the rest of the world.

2. The Permission to Forge Cooperations with the Foreigners and the Non-Muslims for the Sake of Achieving a Lawful Public Good

It is permitted in the Sharia to seek the assistance the foreigners and non-Muslims in order to achieve a lawful public interest, provided that the party whose assistance is sought is known for its good judgment and good intention. Indeed, we have good evidence of this from the exemplary life of the Prophet (pbuh), when he decided with his Companion Abu Bakr to use Abdullah B. Arikat al-Laythi as their guide during their flight from Mecca to Medina, owing to his knowledge of the road, and in spite of his being committed to the beliefs of Quraysh. Moreover, the Prophet (pbuh) did say in an important hadith: “God might support this religion with an impious man”.271

271 Related by Bukhari no. 3062, and Muslim (111/178), on the authority of Abu Hurayra- may God be pleased with him.
Based on this, we can safely advance that there is no harm in forging cooperation’s with foreign and non-Muslim experts, engineers and consultants with the aim of achieving the interests of the Muslim nation in general.

3. The Blanket Condemnation of Tourism and Cooperation with Foreigners is Wrong

The notion that all foreigners and tourists who visit the countries of the Muslim world are enemy fighters is full of exaggerations and contains unforgivable errors, for indeed there are in the midst of these visitors those who are Muslims, albeit of a foreign nationality, and there are also among them those whose life it is prohibited to take such as their women, children, the monks, the elderly and so forth, as well as, those who enter our lands with a pledge of security, or for the purpose of business or in fact to know about the religion of Islam, and all of these factors make their slaying forbidden.

Debunking the Arguments Purporting to Make the Slaying of the Tourists and the Foreigners Permissible

After these preliminary points, let us now turn our attention to the arguments used to permit the killing of the tourists and the foreigners which we mentioned earlier and examine the extent to which they succeed to bestow legality to such a course of action. There is no doubt that their line of reasoning concerning this issue contains many mistakes which have to do mainly with their erroneous application of the rulings related to safe conduct, and it is these mistakes which we aim to reveal in the following.

1. The Fallacy of the Enemy Fighter

As we have explained in our third marginal note above, this notion that every tourist and foreigner visiting or residing in our land is an enemy fighter whose life it is permissible to take is fallacious because the probability of their being among them individuals whose slaying is forbidden is very high. This judgement which can only be described as a blanket ruling for targeting these visitors is wrong on several fronts.

a. It is highly possible that among these foreign tourists Muslims whose lives are protected by the Sharia, and whose targeting therefore is prohibited. About the gravity of killing a Muslim without right, God- may He be exalted- has said: “whoever kills a believer intentionally - his recompense is Hell, wherein he will abide eternally, and God has become angry with him and has cursed him and has prepared for him a great punishment” (4:93) and also “Because of that, We
decreed upon the Children of Israel that whoever kills a soul unless for a soul or for corruption [done] in the land - it is as if he had slain mankind entirely” (5:32). Commenting on this sin, Mujahid- may God have mercy on him- said, “this is ample evidence that taking the life of anyone in defiance of right is certainly a sin of a great magnitude.

In relation to the slaying of a Muslim, the Prophet (pbuh) has also said a number of important hadiths among which are:

“The blood of a Muslim person who testifies that there is no god but God and I am the Messenger of God is not lawful except in one of three cases: life for life, adultery, and leaving one’s religion and community”. 272

“I have been commanded to fight people until they testify that there is no god but God and that Muhammad is the Messenger of God and then establish the prayer and pay the zakat. Once they abide by these, their lives and property are protected from me except if they breach the right of Islam, in which case their reckoning is up to God”. 273

“Verily, the obliteration of this world, in the sight of God, is far more negligible than the slaying of a Muslim”274

Also, it has been reported that on one occasion, Ibn ‘Umar- may God be pleased with him- was gazing at the Ka’ba and then said: “How great and how sacred you are, though, in the sight of God, the sacrosanctity of the life of the believer is greater than yours”. 275

All of the above and many others constitute ample proof that the blood of a Muslim is inviolable and that his killing is haram except if it is warranted by the Sharia and its texts. Indeed, Usama Ibn Zayd- may God be pleased with him- narrated: “The Prophet, may God bless him and grant him peace, sent us to al-Huraqa whose people we defeated in the morning. I and a man of the Ansar caught up to one of their men, and when we overcame him, he said, ‘There is no god but God.’ The man from the Ansar had let go of him but I stabbed him with my spear until he was slain. The news of this incident had reached the Prophet

272 Related by Bukhari no. 6878, and Muslim (25/1676), on the authority of Ibn Masud- may God be please with him.
273 Related by Bukhari no. 25 and Muslim (22/36), on the authority of Ibn ‘Umar- may God be pleased with him.
274 Related by Tarmidhi, on the authority of Abdullah Ibn ‘Umar- May God be pleased with him, and deemed sound by al-Albani.
275 Related by Tarmidhi no. 2032, and deemed sound by al-Albani.
(pbuh), and upon our return he said, ‘O Usama, did you kill him after he said, ‘There is no god but God’? I replied, ‘He was feigning it in order to save himself.’ He continued to repeat it until I wished that I had not become Muslim before that day.”\(^{276}\) This hadith is perhaps the strongest evidence there is against the permissibility of taking the life of a Muslim outside those clearly stated conditions of the Sharia; for in spite of the fact that the man in question, was, for all intents and purposes, an enemy fighter from among the disbelievers, who was apprehended by Muslim fighters in the context of a war, and although he professed the shahada only after he had been prevailed over, the Prophet (pbuh) still refused Usama’s argument and justification for killing him after that man had declared his faith in the one God and accepted Muhammad (pbuh) as the Messenger of God.

Furthermore, it is not only the lives of Muslims which are inviolable in the Sharia, their property is, certainly, also protected, in conformity with the hadith in which the Prophet (pbuh) has said: “Your blood and your property are inviolable to you, like the inviolability of this day in this month [Muharram] in this city [Mecca].”\(^{277}\)

b. It is highly probable that among these tourists and foreigners there are those whose life it is prohibited to take, for indeed the Sharia has warned against targeting certain sections of the infidel population, such the women, the children, the monks, the elderly and the like so long as they do engage in fighting against the People of Islam and this in compliance with the following proofs:

- The hadith narrated by Ibn ‘Umar- may God be pleased with him- in which he (pbuh) has said: “I saw the corpse of a woman who had been slain in one of the raids, and he (pbuh) disapproved of it and forbade the killing of women and children”
- The hadith narrated by Anas Ibn Malik- may God be pleased with him- in which he (pbuh) has said: “Make your way in the name of God: Do not kill a decrepit old man, or a young child, or a woman, and nor should you be excessive. Do collect your spoils, but do also right and act well, for God loves those who do good”
- The Hadith narrated by Ibn ‘Abbas- may God be pleased with him- in which he (pbuh) has said: “Do not kill the People of the monasteries”

\(^{276}\) Related by Bukhari no. 3269 and Muslim (96/158).
\(^{277}\) Related by Bukhari no. 67, and Muslim (29/1679), on the authority of Abu Bakra- may God be pleased with him.
c. Among the tourists and the foreigners targeted in those killing operations there may also be in their midst those who have been granted safe conduct on the basis of a pledge of a verbal or non-verbal pledge of security which is recognised by the Sharia. And this based on the following textual evidences:

- God- may He be exalted- has said: “And if any one of the polytheists seeks your protection, then grant him protection so that he may hear the words of God. Then deliver him to his place of safety. That is because they are a people who do not know” (9:6)
- The Prophet (pbuh) has said: “Whoever kills someone with a treaty will not catch a whiff of the fragrance of Paradise although its fragrance wafts from at a distance of forty years.” 278
- The Prophet (pbuh) has said: “The blood of the believers is equal: the lowliest among them [in status] can make a promise of protection on their behalf and they act in unison against their enemies”. 279

2. The Fallacy of the Argument Purporting to Nullify their Safe Conduct

It is a mistake to think that the killing of these foreigners and these tourists is permissible on the ground that they were not given a verbal or a non-verbal security agreement. That is because anyone who takes a hard look at the terms and conditions under which these visitors or residents are granted right of entry to our Islamic lands, will not fail to notice that these are actually in keeping with those usually required in the pledge of security as it is conceived in Islamic law, all of which entails that the targeting of these people under the pretext that they protected by such a pledge of safe conduct or at least a non-verbal security agreement baseless. Indeed, it is our argument that these tourists and foreigners have the right to safe conduct and have actually been granted a pledge of security or at least something akin to it, as can be made manifestly clear through the following points:

1. The Granting of the Visa is Tantamount to Giving a Pledge of Security or can be at least be perceived to be akin to a Non-verbal Security agreement

Any objective consideration of the terms and conditions which the applicant need to meet before an entry visa is granted to him by the authorities of the country he wishes to travel to would find no difficulty in concluding that such a document, once granted, truly represent a pledge of security in which the pledger is promising to the pledgee safe conduct during his or her stay in the country, particularly when that visa is granted following an invitation sent

278 Related by Bukhari no. 3166, on the authority of ‘Umar Ibn al-’As- may God be pleased with him.
279 Related by Ahmed [Ibn Hanbal] in his Musnad (1/119), and Sheikh Shakir has deemed it sound based on a transmission traced back to the authority of Ali- may God be pleased with him.
to the applicant by one of the Muslims residing in the host country in order that the applicant may be allowed to visit and discover the land of Islam or for work.

What is a Pledge of Security?

A pledge of security is a contract whereby a pledger and a pledgee enter into a binding agreement not to cause harm to or undermine the safety of one another. In the parlance of Islamic law, it is defined as a pledge of security which is concluded between a Muslim and a disbeliever and whereby the two parties (individually or collectively) promise each other safe conduct and commit themselves to refrain from fighting one another or each other’s allies except when the terms of that contact have been breached by one of them, in conformity with the Qur’anic verse in which Go- may He be exalted- has said: “And if any one of the polytheists seeks your protection, then grant him protection so that he may hear the words of God. Then deliver him to his place of safety” (9:6), and with the hadith contained in both Bukhari and Muslim: “The covenant of the Muslims is one and indivisible; the lowliest among them [in status] can make it on their behalf.”

Who Grants Safe Conduct?

Every committed Muslim irrespective of his status is entitled to make a pledge of security and promise quarter to the pledgee. Thus, the scholars agreed that just as a pledge of security can be granted by the ruler, it could also be granted by individual Muslim men and women, except where the person is mad and in similar situations, while they differed on whether a young child and a slave may also make such a pledge. About this point Ibn Qudama says: “As soon as safe conduct is promised to the enemy, their lives, and their property will subsequently become inviolable. According to al-Thawriyy, al-Awza’iyy, al-Shafi’i, Ishaq Ibn al-Qassim, and the majority of the scholars, every Muslim individual who has reached puberty, and who is of sound intellect and independent, male or female, free or salve is entitled to make such a pledge, based on a narration going back to ‘Umar Ibn al-Khattab. As for Abu Hanifa and Abu Yusuf, they held that a slave may not be eligible to make such a pledge except if he has been given permission to engage in jihad, which he normally is not under any legal obligation to perform. Without this, he is no different than a child whose pledge of security is not regarded as valid, and also because there is a risk, seeing that he was brought from the Abode of Disbelief, that he may act in their interest.”

We have also in this regard the hadith in which the Prophet (pbuh) has said:

“The covenant of the Muslims is one and indivisible; the lowliest among them [in status] can make it on their behalf. Whoever breaches a Muslim’s covenant, on him is the curse of

280 This is part of a hadith related by Bukhari no. 7300 and Muslim (1370/467), on the authority of Ali- may God be pleased with him.

God, the angels and all people, and neither repentance nor ransom will be accepted from
him.”

Equally, Fodil B. Yazid al-Raqqashi narrated that “I was part of an army which ‘Umar Ibn
al-Khattab had equipped and sent out [in a military expedition]. We laid siege to a fort and
decided to conquer it on that day, and so we kept at it. Meanwhile, one of the slaves who
was in talk with them in their foreign language, decided to extend to them a pledge for safe
conduct which he committed to writing in a document, and then sent to their direction by
attaching it to one of his arrows. Once, they got hold of it, they came out, and as this matter
was brought to ‘Umar’s attention, he said, ‘A Muslim slave is but one of the Muslims; his
covenant of protection is also theirs’.” By that ‘Umar meant that his pledge is valid because
he is a Muslim who is just as morally accountable before God as the Muslim who is free of
bondage, and that whatever misgivings his fellow fighters had about his pledge were
baseless seeing that he was given permission to take part in jihad. As for the pledge of
security made by women, Aisha- may God be pleased with her- said concerning them:
“Should a woman need to enter into a pledge of security on behalf of the Muslims, it will be
permitted”.283

In addition to these we have the hadith of Umm Hani’ who said: “O Messenger of God! My
brother is determined to kill a man to whom I have given sanctuary. The Prophet (pbuh)
said, ‘We give quarter to the one to whom you have given quarter, Umm Hani, for even the
lowliest of Muslims may grant safe conduct on their behalf’.” 284

**Granting Safe Conduct: Rights and Limitations**

It needs to be made clear that not all Muslims are entitled to enter into the same kind of
pledges of security even as they all need to be observed. For instance, while there are no
restrictions on the type of pledges a ruler may decide to enter into, individual Muslims can
only grant safe conduct to another individual, or a group of no more than nine or to a small
caravan and the like. Concerning this issue, Ibn Qudama says: “A Muslim ruler (imam) is
allowed by law to grant safe conduct to the disbelievers *en masse* or individually because
his authority over the Muslims is all encompassing. Similarly, the Emir is entitled to grant
safe conduct to all those disbelievers who are under the preview of his authority, but when it
comes to extending this privilege to others, he is like the rest of the Muslims in that his
authority in matters of fighting is limited to those disbelievers leaving in his realm and not
those who live beyond it, and the safe conduct that may be granted by individual Muslims
can either be extended to an individual, or to a group of no more than nine, or to a small
caravan or even a small fort, since ‘Umar- may God be pleased with him- has allowed it as
we have just mentioned. That is because if an Emir were entitled to grant safe conduct to a

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282 Related by Bukhari no. 1870, on the authority of Ali- may God be pleased with him.
283 Related by Abu Dawud no. 2764, and deemed sound by al-Albani.
284 Related by Bukhari no. 375, and Muslim (82/336), and we know that Zaynab, the daughter of the Prophet
(pbuh) has granted given sanctuary to Abu al-‘As B. al-Rabi’ and that this was also ratified by the Messenger
(pbuh). Related by al-Hakim in his Mustadrak, on the authority of Anas- may God be pleased with him-(6841/2439; 6842/2440).
whole city or a village where large populations reside, beyond his realm of authority, he
would be encroaching on the very powers of the Imam (ruler).”285

What Happens after Safe Conduct has been granted?

Once safe conduct or quarter is granted, the enemy is given assurance that no harm will be
inflicted on him by the Muslim who has pledged to protect him nor by the rest of the
Muslims and those with whom Muslims have a covenant, in compliance with the hadith in
which the Prophet (pbuh) has said: “Whoever breaches a Muslim’s covenant, on him is the
curse of God, the angels and all people, and neither repentance nor ransom will be accepted
from him.” And so Ibn Qudama has stated that “Once Muslims have pledged safe conduct
to people from the land of the enemy, it is prohibited for them to slay them, damage their
property or cause them any harm”.

Now although, as we have argued above, there are important parallels between the pledge of
security or safe conduct (‘ahd aman) in Islamic law and visa which is the document most of
us need to obtain before travel, someone might object and say: “this visa cannot be regarded
as an assurance for protection because it issued by regimes that do not rule according to the
Revealed Law, which means that it is issued by either a government that is not recognised
by the Sharia or by the People of Disbelief”.

In reply to this objection, we say the following:

To begin with, the claim that the authorities who issue the visa nowadays do not enjoy any
legal authority from the view point of Islamic law does not reflect at all a conviction which
is shared by all the members of the various Islamic movements. Moreover, even if we were
to concede that this claim is true, this alone is not enough to debunk the argument that the
visa document is akin to a pledge of security (‘ahd aman) as we know in Islamic law in that
this travel document is issued following a request made by a Muslim to grant the foreigner
in question permission to enter the country for either the purpose of a visit, tourism or work,
and the promise of safe conduct made by an individual Muslim is incontestably valid.
Indeed, even an assurance of protection made by a dhimmi is valid when he can show that
in doing so he is acting upon the request of a Muslim. Concerning this point, the author of
Sharh Tanwir al-Absar, says: “The safe conducted granted by a dhimmi is void unless a
Muslim has authorised him to do so”.286

Ibn ‘Abidin has elaborated further on this statement in his Hashiya, saying: “This implies
that in this situation a Muslim has said to the dhimmi ‘Grant them safe conduct’ and the
dhimmi has to say to them either ‘I have thus granted you safe conduct’ or ‘so and so, a
Muslim, has granted you safe conduct’, both of which are accepted. But if the Muslim has
clearly stated to him ‘tell them that so and so has granted you safe conduct’, only the latter
would be accepted and not the former, because if he declares himself to be the guarantor, he
would be issuing his own contract without having the prerogative to do so, whereas if he


acts on the authority of the Muslim to grant them safe conduct, the dhimmi would by virtue of that compliance become a full guarantor just as any other Muslim, as it has been explained in detail in Sharh al-Sarakhsi. There, it is stated that the safe conduct granted by a dhimmi is valid whether he acts on the authority of a Muslim military leader or an ordinary individual Muslim, because such an authorisation would assuage any lingering fear that he may act on their favour.”  

But if the assurance of safe conduct has been granted by a dhimmi and the foreigners to whom this assurance was made believed that he was entitled to grant it, it would not be permissible to target them, for in this case too one would be under obligation to ‘deliver them to their place of safety’. On this point, the Maliki Qadi, al-Mawwaq said: “According to the preponderant view, the safe conduct granted by a non-Muslim does not count, but I heard Ibn al-Qassim say ‘if they say: “we thought that the dhimmi was a Muslim”, in that case it is required that they be delivered to their place of safety’.”  

As for the Maliki al-Khattab, he says: “should the people from the land of the enemy say: “we believed that the person who granted us safe conduct was a Muslim”. In that case the Imam has the choice of either upholding their safe conduct or delivering them to their place of safety, as held by Ibn al-Qassim whom I heard also say once, ‘they have no excuse [for falling in that confusion], and are considered booty’.”  

From all of the above, it is clear that whether we take the view that their safe conduct is upheld or that they are to be taken as booty or we abide by the view that requires us to deliver them to their place of safety, we are not allowed in any circumstance to kill them. 

Next, we tackle the claim which purports that the visa document does not constitute a non-verbal security agreement which prohibits the killing of the foreigners and the tourists

2. The Security agreement and how it is perceived by the Seeker of Safe Conduct

When safe conduct is granted or a pledge of security is concluded, it is important to remember that consideration is not only given to what the pledger intends by this agreement but also what the pledgee understands from it. It is in fact for this reason that in his missive to his army, which had laid siege to the palace of the Persian King, ‘Umar- may God be pleased with him- sent a missive in which he wrote in it: “…Strom their fort and remember that if anyone of you were to say to one of them ‘do not be afraid’ [whether in Arabic or Persian] he has effectively given him quarter, for God knows all languages”.  

The same kind of evidence may be gleaned from the exchange that took place between Umar the caliph and al-Hurmuzan. Anas Ibn Malik narrated: “Abu Musa had asked me to take al-Hurmuzan to ‘Umar for questioning. Umar asked him several times, ‘Explain [why

289 Mawahib al-Jalil. Vol. 4, p. 561 
290 Fath al-Bari. Vol. 6, p. 312
you have violated the treaty!' but he would not speak, saying that ‘I am afraid you will kill me whether I explain or not’. ‘Umar then promised that he would not kill him but after he spoke, he wanted to execute him. it is then that I said to [the commander of the faithful]: ‘you may not do that, you have just made a promise to him he would be safe if he spoke’. He said [furiously], ‘who are your witnesses?’ and at that point Zubeyr added his testimony to mine. ‘Umar then spared him and al-Hur muzan accepted Islam, following which ‘Umar had decided to allot to him an income from the treasury.”

Security Agreements and Safe Conduct as Conceived by the Jurists of Islam

The jurists of Islam have provided us with many examples of pledges of security and promises of safe conduct to illustrate for us the kind of language and actions which are usually used and practiced to signify that a security agreement has been reached or that an assurance of protection has been granted. For instance, they have agreed that certain expressions like: ‘you have nothing to fear’ (la ba’sa ‘alayka), or ‘you are free to act as you please’ (anta ‘ala ma tuhibb), and that certain signs like pointing with the index to the sky or certain gestures like opening of the Qur’anic codex and many others which we will review in detail shortly, may all be considered as signifying the granting of safe conduct when they are used or expressed by any of the parties involved in the negotiations of an security agreement, and most have agreed that these and other statements like them are sufficiently binding. What is striking about these measures and conditions appear to be far less stringent by comparison to those which are usually required before the issuance of the visa, which have argued ought to be considered nowadays as akin to a pledge of security (‘ahd aman).

Again, the author of Sharh Tanwir al-Absar, says: “A safe conduct takes effects as of the moment the party seeking assurance of protection is told explicitly ‘you are safe’ or ‘you have nothing to fear’, but it can also be expressed indirectly such as by your saying to him ‘come here’ or by your pointing your finger to the heavens, which he may also suggest to him that such an assurance has been granted”.

Commenting on this statement, Ibn ‘Abidin added: “As for how expressions like ‘come here’are tantamount to an assurance of protection , al-Sarakhsi said that Muhammad [al-Shaybani] has deduced the evidence for it from the hadith of ‘Umar- may God be pleased with him- in which he said: “If any of the Muslims make gestures to any of the men of the enemy to come over to our side, hoping to imply to him that if he if he dared to so he would kill him, should that man come he would be assured safety”, which means that if the enemy did not understand what that gesture of the Muslim implied or did not hear him say to him ‘If you dare to come I shall kill you’ he would be safe because if he did understand or did hear he would in these circumstances be taken as a booty. And pointing the finger ‘to the heavens’ signifies safe conduct because such a gesture implies that one is making a vow to
grant safe conduct to the seeker of protection in the name of the Lord of the heavens-exalted is He". 292

Also, the Shafii scholar, Jalal al-Din al-Mahalli has said: “Any expression signifying the granting of safe conduct is fit to constitute an assurance of protection. It can either be explicit one such as in the instances when one says ‘I assure you safety’, ‘I give you quarter’ or ‘you are under my protection’, or it can be an implicit one such as in the instances when one says ‘you are free to act as you please’ or ‘do as you please’. Additionally, safe conduct may be conveyed via a missive or a letter even if the messenger is one of the infidels. And it is also necessary in all of these instances that the disbeliever from the land of war understands from all these expression that safe conduct is being granted”. 293 The Maliki scholar, Al-Mawwaq, says: “Safe conduct is communicated with expressions or gestures which are understood by those seeking it, either in Arabic or in a foreign language”. 294

In his commentary on the Muqni`, Shams al-Din Bin Qudama, has stated: “Whoever says to a disbeliever from the land of the enemy things like ‘you are safe’, or ‘you have nothing to fear’ or ‘I have given you sanctuary’ or ‘do not move!’ or ‘lay down your weapon’ or something to that effect in their language has effectively granted that person safe conduct because all of these expressions mean ‘do not fear’, ‘do not panic’, ‘you have nothing to be scared of’ and ‘you have nothing to worry about’ as attested by a text traced to ‘Umar in which he is reported to have said: “When you say to them ‘there is nothing for you to fear about’ or ‘do not panic’ or something to that effect in their language, you have committed yourselves to grant them safe conduct because God knows what all these things mean. Indeed, it has been reported that ‘Umar- may God be pleased with him- said to al-Hurmuza: ‘Explain [why you have violated the treaty] and you will be safe, and when the latter spoke, ‘Umar still wanted to execute him, at which point Anas said ‘you may not do that, you have just assured him safety’. ‘Umar said, ‘I do not’ and Zubeyr said ‘Just now you have said to him, ‘Explain and you will be safe’, and after that ‘Umar decided to spare his life.

About the implications of these expressions, we know of no controversy among the scholars. As for his saying to him ‘do not move’ or ‘stand aside’ or lay down your weapon’, those of our school have also considered it an assurance of security because the disbeliever will take to mean just that: to him, this no different from saying ‘I have given you safe conduct’. Elaborating on this point al-Awza‘i iy said: ‘should the disbeliever claim that he understood from this that he was given quarter and say, for instance, ‘I have stopped [fighting] because of what was said’ then he deserves to be granted safe conduct, but even in the event where he doe not make such a claim and he [is apprehended alive], he should not be killed’. Our master thought that such orders were rather threatening, and more likely

292 Hashiyat Ibn ‘Abidin. Vol. 4, P, 135
294 Al-Taj wa l’ Iklil li Mukhtassar Khalil. Vol. 4, p, 561
to suggest to the disbeliever things like ‘I am going to kill you’ a promise of safe conduct. We say that on the one hand, it depends on the intention of the person who says them: if his intention in saying them was to give sanctuary than they should be regarded as such, and on the other, it has to do with the disbeliever and what he understands from them; for even if the intention behind such expressions was to kill him, he would still be delivered to his place of safety and it would be prohibited to kill him, if he believed these implied an assurance of safety and protection, and would only be denied safe conduct if he understood what was meant by them, for in that situation, he is not unlike those who were given a sign and took it for a pledge of security. That is because in such an instance, namely, if he were to make a gesture which suggested to them a promise of safe conduct, it will be, if he confirms that, regarded as such, but if he were to say I did not intend safe conduct by that gesture, that would only engage his person because he is the one who alluded to it, and only he knows the intention behind it. In that case, should the disbelievers come out of their fort, thinking they were safe, it would not be permissible to kill them; rather they should be delivered to their place of safety, and this in compliance with hadith of ‘Umar- may God be pleased with him- narrated by Saeed and in which he said: “I swear by God if anyone of you raised his finger to the heavens to lure an infidel to sanctuary, and then killed him, I shall kill him for that”. Also, in the situation where the Muslim who has pledged for their security dies or is absent, [they should not be killed] but delivered to their place of safety, this being the position of Malik, al-Shafii and Ibn al-Mundhir.

There are many more statements made by the jurists of Islam that one could cite as examples in support of the argument that the decisive factor in security agreements and promises of safe conduct is ultimately what the foreigner, who is seeking protection, understands from the pledger or the terms of the contract. And here are some more examples:

The Maliki sheikh ‘Alliche has stated: “The promise of safe conduct can be made by an explicit statement or a gesture the enemy can understand and it takes effect as of the moment he understands that the statement or the gesture that was made is a promise of safe conduct. If the Muslims have by these statements or gestures intended to harm him, such as when we open the Qur’an to swear that we would kill him, but they believed we did that to make a vow that they would be safe, that would still be regarded as a promise of safety.”

Al-Khattab adds: “There is no disagreement among us that the merchant who says, ‘I thought you gave quarter to the merchants’ that he too should be offered safe conduct”, and as for al-Mawwaq, he says, quoting from the Mudawwana: “If a foe is captured in the land of the enemy while he heading for our land and he says, ‘I was on my way to seek refuge’, about this case Malik says ‘this is problematic and I see that in this situation it is better to deliver to his place of safety’.

297 Al-Taj wa l’ Iklil  li Mukhtassar Khalil. Vol. 4, p, 561
Also, in *the Sharh al-Kabir*, Shams al-Din Ibn Qudama states:

“If anyone from the land of the enemy enters into the Abode of Islam and claim he is an emissary or is a merchant who has with him goods, they are be extended safe conduct even if they had come without one, and it would not be permissible to cause them any harm, in compliance with the hadith of the Prophet (pbuh) addressed to the two emissaries of Musaylima: “If it were not for the norms preventing the killing of emissaries, I would have certainly killed you”, and also because their merchants have been in the habit of coming to our land, and it has been the norm not to confront them when they have merchandise for sale, exactly as if they had been given safe conduct by a Muslim. Indeed, Ahmad [Ibn Hanbal] had stated, “If a group of Muslims were at sea and they came across some merchants from the land of the enemy sailing towards our lands; they should not confront them or fight them. All who come to the Abode of Islam from the land of the enemy as a merchant should be allowed to sell his goods in our land without being harassed”, and if he does not have anything to sell and sought an assurance of protection, he said ‘it would not be extended to him’, though he seemed to be in two minds about his case; and the above is also the position of al-Awza’iyy and al-Shafi’i.”

The statements of all these scholars when taken together are reflective of a very inventive and profound Islamic ethical philosophy, which consistently seeks to spare as many human lives as possible. Certainly, as the preceding has shown, in order to avoid the slaying of a person, particularly a non-Muslim from the land of the enemy, our jurist did not hesitate taking the slightest evidence for the existence of an assurance of security, and even a semblance of such an assurance, in consideration. So much so that some of them have maintained that in some instances, safe conduct may be granted even in the absence of a formal assurance or pledge of security.

Ibn Qudama says in his *Sharh al-kabir*:

“If someone were to ask: ‘how can you grant safe conduct solely on the basis of a gesture, while more is required before sales, divorces and the freeing of slave take effect, particularly when it is possible to use speech instead? Our response would be: ‘this is because the saving of lives need to be put above all other considerations: a man, even with a non-verbal security agreement is spared due to those considerations. But it is also because, in most cases, the infidels do not understand the languages Muslims speak, nor do Muslims generally speak their languages.” Thus safe conduct ought to be regarded as a measure through which one of the aims of the Sharia is achieved: the saving human lives.

In conclusion, we can safely affirm that the visa granted to foreigners and tourists upon entry to our lands does constitute a security agreement, or at least a non-

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298 al-Sharh al-Kabir. Vol. 10, p, 564
verbal security agreement, recognised by the Sharia, so long as those who are granted such a permission of entry understand it as such. Under these conditions, it is not allowed to cause them any harm, let alone attempt to kill them. Indeed, even if one was to form the view that such a travel document is not equivalent to a pledge of security, a wide variety of jurists, as we saw, continued to maintain that rather than resorting to killing them, the right course of action under such circumstances would be to deliver them to their place of safety.

**What Happens if the Foreigner or the Tourist Enter the Country without a Valid Pledge of Security?**

In the situation where the foreigner or the tourist enter the country with a non-valid assurance of protection but which they assume is valid, one should not hasten to kill them. Rather, they should either be delivered to their place of safety, or taken as booty, or wait until the ruler pronounce his verdict on the legal status of their safe conduct. What is certain is that under no circumstances is it allowed to kill them. Concerning this point, Imam al-Hattab says: “If we were to say to the people from the land of the enemy your safe conduct does not hold because it was promised to you by a dhimmi, and they turned around and said ‘we assumed he was a Muslim’, in that case, the matter, In that case the Imam has the choice of either upholding their safe conduct or delivering them to their place of safety, as held by Ibn al-Qassim whom I heard also say once, ‘they have no excuse [for falling in that confusion], and are considered booty’.”

A similar argument is made by Ibn Qudama concerning a similar issue. He says: “If they were to conclude a truce with a person other than the ruler or his deputy, that truce shall not be regarded as binding. But if some of the people of the land of the enemy were to enter the Abode of Islam based on that truce, they would still be entitled to a temporary safe conduct because they would have entered our land assuming they were secured. However, since that the truce in question is not valid, they would need, in due course, to be delivered to their place of safety.”

Also, Al-‘Asqalani reported that al-Awza‘iyy had stated that “if a dhimmi fighting alongside the Muslims, gives quarter to a foe, the ruler in that situation can either uphold that safe conduct or decide instead to deliver the enemy in question to his place of safety”.

Hence, it is safe to say, in light of the unanimous agreement among the scholars, that even when it is decided that the visa granted to the foreigners and the tourists does not constitute a valid pledge of security which is attested by the Sharia, it would still not be right to kill them, owing to the fact that all along they had

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300 Al-Mugniyy. Vol. 10, p, 520.
believed that such a travel document, was valid, regardless of whether it was issued by a party which had legitimate authority or not. Indeed, we can also conclude, on the basis of the indices which the jurists of Islam have considered as evidence for an assurance of safe conduct, that the prohibition to kill the holders of such travel document has been indisputably established, though this evidence, compelling as it is, should not distract us from the fact that beyond these evidences, be they in the form of explicit or implicit words or in the form of gestures or signs, the most decisive factor establishing the legality of the foreigners’ and the tourists’ safe conduct is ultimately what they, as visitors, understand from such verbal and non-verbal security agreements.

**Does the issue of a warning constitute sufficient ground for targeting the foreigners and the tourists and for permitting their killing?**

Some people assume that the fact that the foreigners and the tourists have been issued with a warning not to come to our countries constitute a ground strong enough to permit their killing, because in their eyes that warning itself should have thwarted all other promises safe conduct. This line of reasoning, however, is mistaken from the point of view of the Sharia, particularly if we bear in mind that such a warning might be issued from obscure quarters which are hardly known to these visitors. Indeed, in these situations, they may not even hear about such a warning and even if they do, they are entirely entitled to assume that these groups are too insignificant to undermine the security apparatus of the country and thus feel confident in the government’s ability to protect them. In fact it is not far-fetched at all to assume that some these foreigners and tourists might actually be invited by certain Islamic organisation to come and visit the country, so much that they form the view that there is no tension between the official religious position and the government in that part of the Muslim world at least, and that perception, an entirely reasonable one has to say, lead them to think that such a warning, granted it reaches them, is coming from a marginal group and is therefore not worth fretting about. Imponderables such as these surely make the claim that warnings constitute enough ground permitting their killing utterly unsustainable. But in addition to this there are also other objections which one might raise against such a claim. For instance, a foreigner may very well enter the country after being invited by an individual Muslim. No warning can permit in this condition his killing, because if he comes on the basis of that invitation, the right course of action, in the worst case, is to deliver him back to his place of safety. And the same is true even in the situation where a Muslim makes a promise of safe conduct after the Imam had warned against giving such pledges of security to any of the people of the land of the enemy. About this, the Maliki scholar, al-Mawwaq says:

“If anyone has given quarter to a foe after or before he had been warned against taking such a step, in that case the Imam shall have the choice of either upholding
that promise of safe conduct or delivering the enemy to the place of his safety. We find in the *Mudawwana* that ‘Umar Ibn al-Khattab had written to Saeed Ibn ‘Amer, saying to him: “If after warning against the granting of safe conduct, you realise that some of you, either due to forgetfulness, or embitterment or misunderstanding or ignorance, had still promised safe conduct [to some of the people from the land of the enemy], then you are not kill these people: you can either deliver them to their place of safety or offer them residence under the provisions of *jizya*, if they insist on staying”. 302 As for the author of *Nihayat al-Muhtaj*, known by the sobriquet of *al-Shafi‘i al-Sagheer*, he held that “safe conduct cannot be granted by a disbeliever because he is not trusted, nor can it be granted by a child, a madman or by anyone under coercion, and if a disbeliever has been granted safe conduct without him having knowledge that the person who promised him safe conduct is not entitled to give such an assurance he should be delivered to his place of safety”. 303

**Is it permissible to slay the foreigners on the basis that they have acted in ways which have cancelled out their safe conduct?**

There are some who argue that it is permissible to target the foreigners as of the moment they commit acts which make their assurance of protection void. This argument is erroneous for the following reasons:

1. It is a mistake to correlate the contraventions that the foreigner might commit in the country and his slaying. If a foreigner has entered out country with an assurance of protection which subsequently needed to be rescinded or became void, the right course of action to follow in that case is deliver this foreigner back to his country or to another place of safety of his choosing. In modern parlance, he would be subject to deportation, but this should under no circumstances make his killing permissible. Al-Ramli says: “whoever has come to our land with an assurance of protection or following the conclusion of a truce is not to be subjected to adversity, except if he breaches the terms of his contract; in that case he is to be delivered to his place of safety.” 304

2. Certainly, some of the infractions committed by some of the foreigners and some of the tourists call for the cancellation of their safe conduct, but others do not necessarily call for that. It is important to punish people in accordance with the contraventions they commit, and it is worth noting that in the vast majority of the cases the offences committed by the tourists or the foreigners in general do not constitute a ground for the permissibility of their killing, and more often than not they do not constitute a

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303 *Nihayat al-Muhtaj*. Vol. 8, p. 80.
ground for the cancellation of their assurance of protection either. Rather, what is
called for in the majority of these cases is to uphold the law and apply the adequate
penalties, but killing them in that case would only apply in exceptional cases.

Indeed, Justice Abdul-Qadir ‘Awda had actually laid down some legal principles
determining in which case it becomes legitimate to subject the musta’min (a non-
Muslim legally protected by Muslim authority) to the death penalty. He says:

“There are two conditions both of which need to be fulfilled before the punishment
of the death penalty may be meted out to the musta’min. Firstly, that the crime
committed calls for a fixed punishment [in the Quran and the Sunna], which
usually pertain strictly to the crimes of hudud and qisas (equal retaliation), as
misdemeanours and such offences do not have a fixed punishment. Secondly, that
the punishment for the crime committed is either death or the cutting of a limb. If
any of these conditions are not fulfilled, the crime in question does not fit the
category of a crime punishable by death. For instance, the case of theft which does
not call for the cutting of the hand, like when the father steals his son, or the case
of intentional killing in which the homicide is liable to blood money are not to be
considered as crime punishable by death because in neither case has the prescribed
punishment been deemed fatal, even though the liability to blood money has been
determined in our example for a crime the punishment of which is fixed, like the
crime of adultery, making unproven accusations of illicit sex, and drinking
intoxicants. These three crimes have fixed punishments, which although corporal
they are not fatal, and therefore cannot be included among the crimes which are
punishable by death. Also, the punishments which can be administered at the
discretion of the judge, they can be fatal but it cannot be said about these
judgements that they are applied to crimes punishable by the death penalty, simply
because a discretionary punishment suggests there is no fixed punishment for the
crime in question.”

The above shows clearly that if a musta’min commits a crime which is punishable
by death, it is only normal that he should be administered a punishment which fits
his crime. However, what is also clear from the above is that one can arrive at a
judgement concerning matters like these by treating the case of each musta’min
individually, because one simply cannot issue a blanket judgement whereby they
are all punishable by death, because even if we assume that every single one of
them has committed an offence, these offences and the circumstances surrounding
them would not be all the same. Indeed, the vast majority of these foreigners and
tourists, if they do commit a crime, it is usually a misdemeanour which do not call
for the death penalty, and should they commit crimes which call for the
cancellation of their safe conduct, in this case the right course of action towards
them would be to deliver them to their place of safety after they serve the sentence

305 Abdul Qadir ‘Awda. Al-Tashri’ al-Islami Muqaranatan bil Qanun al-Wad’iyy. Beirut:
Mu’assasat al-Risala; ed. 1985, vol. 1, p. 532
for the crime committed. Concerning this very point, Shams al-Din al-Ramli says: “[If the musta’min commits a crime], he is either subjected to a prescribed punishment (had) or to a discretionary punishment administered by a judge (ta’zir), and this regardless of whether his assurance of safety is ongoing or it has been cancelled.”\footnote{Nihayat al-Muhtaj. Vol. 8, p. 104.} In the same vein, Shams al-Din Ibn Qudama says: “If the Musta’min commits a theft, a murder or a rape in the Abode of Islam, and then returns to the Abode of War before returning as a musta’min once again. In that case, he should be apprehended upon his return and serve his punishment as if he had not gone back to the Abode of War in the first place.” \footnote{Al-Sharh al-Kabir. Vol. 10, p. 567}
Is it reasonable to permit the killing of all the foreigners and the tourists even though there are in their midst those who have been granted safe conduct according to the norms of the Sharia?

Whilst it is possible to imagine, albeit counterfactually, that some of these foreigners and tourists may not have had a valid safe conduct upon their entry to our countries, it would be hard to imagine that none among them had actually been granted or promised safe conduct in accordance with the requirements of the Sharia. Indeed, it seems only logical, given that the line demarcating a true musta’min from the questionable one is always going to be blurry, to deem the action of targeting them as impermissible, particularly that in circumstances such as these it is highly probable that one ends up slaying people whose lives are protected by the Sharia. Thus, we maintain that the foreigners and the tourists who come to stay or visit our countries nowadays may all enjoy the status of ‘protected’ following the rules of safe conduct in Islamic law. This position can be substantiated with following examples:

1. Among the tourists who visit our countries there are a number of Muslim foreigners who recently have embraced Islam. They come to our land in the hope to be among their brethren in the faith and set foot on the land which is the land of their new nation. Most of these recent Muslims are keen to know more about their new religion, and this sort of travel is for them an opportunity to learn about it from the people who have been born into the faith and have been living in its atmosphere for centuries. While it is true that among these new converts, there are those who are only coming for the purpose of recreation, this is generally because these particular people have not been well instructed by those who have received them into Islam. Thus, they surmise that many of the activities into which many other tourists engage in do not present a problem from the point of view of religion, just like many of our native Muslims naively assume sometimes. But regarding these people, we need to remind ourselves that new converts in Islam have a special legal status, as they are in fact excused for not implementing all of the Sharia injunctions about which no knowledge has reached them yet

2. It is often the case these visitors come to our country following an invitation which has been extended to them by a Muslim, and they may indeed enter the country accompanied by their Muslim spouses or those who have invited them to Islam

3. Apart from the Muslim foreigners, there are also indeed disbelievers but they too enter the country after being formally invited by Muslims, and that alone is sufficient to make them entitled to safe conduct
4. Also among the foreign visitors who enter our land, there are merchants and business people who as per custom have been in the habit of setting foot in Muslim lands without having to seek safe conduct prior to their entry. Moreover, these type of people usually travel to our countries after an invitation had been sent out to them either by their Muslim counterparts or by Muslim companies, for the purpose of making business deals and the like.

5. It is also often the case that many of the foreigners that come here are experts, special technicians or highly skilled workers that are brought to the country by Muslim or Muslim-owned companies for some industrial or commercial ends and the like.

Surely, these last four categories of foreigners are to be included among the people whose protection falls on the shoulders of the Muslims.

In addition to these categories of foreign visitors, there are also among the foreign people who visit our countries, those who were born and raised in the west but yet have Muslim roots.

In light of all the above, there remains no doubt that among the tourists visiting or residing in our country there are a people who are definitely protected by an assurance of security, which makes their lives inviolable. Their numbers are considerable and they vary so much they seem to permeate all of the types of tourists who come to our countries. Hence, targeting the foreigners and the tourists under the pretext that among them one can find some who do not have safe conduct, would be like accepting to kill the majority of them because there is weak probability that in the process we might kill a minority among them who deserve to be killed, and that is just utterly inconceivable, particularly if we bear in mind that above all there is not a single necessity that calls for such a radical action.

In his Mugniyy, Ibn Qudama elaborates on the issue entitled: “If a man is granted safe conduct in return for opening the fort, but then he gets killed, and following his death everyone inside the fort claims ‘safe conduct was granted to me’, they will all be spared”, and adopts a position which comes very close to what we are arguing for here. He says:

“Briefly, this means that if Muslims lay siege to a fort and a man calls out to them seeking their assurance of security in return for opening to them the fort, it would be permissible for them to grant him safe conduct. For indeed when Ziyad B. Labid surrounded al-Nujayr, al-Ash'ath Ibn Qays had said to him, ‘grant ten of my men safe conduct and I will open for you the fort’, and [Ziyad and his soldiers] accepted. However, should the party who has granted safe conduct be confronted with a situation where all the people in the fort claim that they were given such an assurance, he has two solutions before him: either he is able to identify who exactly has been granted safe conduct and then will deal with the situation
accordingly, or he finds himself unable to separate who among them were concerned by his assurance of safety and who were not, and in that situation it would not be permissible for him to kill any one of them, in that in this instance, everyone’s claim has the chance of being genuine. And since this is certainly a situation in which the permissible becomes confused with the prohibited, and one in which no case of necessity has been established, the group as a whole is protected and it is forbidden to slay any one of them, exactly as is the case when one is not certain the animal he slaughtered was dead or not or when one is not sure whether the woman he intends to marry is a blood-related sister or not or indeed when one cannot separate the person who has committed adultery from those are sinless. This is the position of al-Shafii and I know of no disagreement about this issue”.

From these statements, we can draw now the following conclusions:

- It is forbidden to target any of the foreigners and tourists who are permitted to enter our countries today on the basis of what is now commonly called a visa document, aiming to kill them, because they all enjoy, by virtue of that document, safe conduct or because there is at least a probability that they do enjoy such a protection.
- No warning, no matter how loud, can make a dent in the validity of their safe conduct once that document has been granted.
- Should these foreigners and tourists commit infractions grave enough to necessitate the cancellation of their safe conduct, in that case they should be returned back to their respective country or be delivered to their place of safety. If offences have been committed by them, which do not call for the cancellation of their safe conduct, in that case they are to serve their sentences or receive their punishments in accordance with the laws of the Sharia.
- Given that it is practically impossible to separate those who have a true contact of safe conduct from those who do not, it is not permissible to target them because to do so would lead to the killing of those whose life it is prohibited to take in Islamic law.

Some other Lingering Doubts

Even after all of these demonstrations, there are some who continue to have some misgivings about our conclusion, and struggle to accept that it is prohibited to target or kill the foreigners and the tourists who come to our countries with an assurance of security (‘ahd aman) or its equivalent. Before dealing with these objections, let us first explain them.

308 Al-Mughniyy. Vol. 10, p, 439
The First Objection

*Abu Basir and his killing one of his two Qurayshite custodians after he had been sent back to Quraysh by the Prophet (pbuh).*

Some of those who object to our arguments often use the incident of the Companion Abu Basir as evidence for the legitimacy of targeting the foreigners. This incident as we briefly saw earlier, relates how this companion, after the Prophet (pbuh) had surrendered him back to his two Qurayshite custodians in compliance with the terms of the Treaty of Hudaybiyya, killed one of them on the way to Mecca and defected back to Medina. Indeed, one of these objectionists once expressed his remonstration with the herald:

“We disagree that the infidels, who come to Egypt, should be regarded as having a quasi-assurance of security only because they presume they are safe upon entering our soil”, and then proceeded to debunk the position which argued for the protection of the foreigners. He said:

“The following is in our view the decisive text regarding such an issue:

Abu Basir- may God be pleased with him- killed one of the two Qurayshite custodians who came to take him back to Mecca, after the Prophet (pbuh) had surrendered him to them, in spite of the fact that both of them were deemed to having safe conduct as per the Treaty of Hudaybiyya concluded that year between the Prophet (pbuh) and the Pagans of Mecca, which should have at least bestowed on them a quasi-assurance of security in the eyes of Abu Basir. Had the Prophet (pbuh) taken only these facts into consideration, he would have probably reprimanded him upon his defection back to Medina, but as we know he did not. On the contrary, he (pbuh) approved of his action and that alone should be ample evidence that the notion of the quasi-assurance of security does not hold water. Indeed, when Sahl Ibn ‘Amr had heard of the slaying of al-‘Amiri, who was from his clan, and requested the payment of blood money from Abu Sufyan, the latter told him: “Muhammad is liable to no such payment because he honoured his part of the contract, and he surrendered the man to your emissary who was later killed but not by his order. Nor is Abu Basir liable to anything because his loyalty to them is no longer”. Now consider how Abu Sufyan, who was not yet a Muslim, understood and assessed this incident and how those who were asking for blood money did: it is clear the clan of the victim believed their man had at least been granted a quasi-safe conduct while Abu Sufyan did not! And yet it is this same presumption of safe conduct, which is being brandished today as a quasi-assurance of security by those who want us to believe that the infidels have safe conduct in our soil. I conclude, following the position of Ibn Hajar on this issue that Abu Basir is not liable for the death of any person because he did enter into the pledge the Prophet (pbuh) had entered into, and that is because if he had indeed been liable, he (pbuh) would have brought the matter up. Seeing that the Prophet (pbuh)
did not do so, this is proof that there is not a single doubt about the legitimacy of Abu Basir’s action or about the action of anybody who act in like fashion under similar circumstances. Hence the action of this Companion and the fact that it met the approval of the Prophet (pbuh) constitute a fact in issue as far as this controversy is concerned…”
Response to the First Objection

We think it is suitable before we debunk this line of reasoning to narrate again the account of Abu Basir as it was related by Imam al-Bukhari in his sahih, where it is told as follows:

“When the Prophet (pbuh) returned to Medina, Abu Basir, a man of Quryash who was a Muslim, came to him: The Meccans had sent two men to bring him back and they said, ‘In accordance with the treaty which you have given us.’ So he handed him over to the two men. They took him as far as Dhu’l-Hulayfa and there they stopped to eat some dates which they had. Abu Basir said to one of his two custodians, ‘By God, O so-and-so, I see that this sword of yours is excellent!’ The other unsheathed it and said, ‘Yes indeed. By God, it is excellent! I have tested it time and again.’ Abu Basir said, ‘Let me have a look at it.’ So he gave it to him, and Abu Basir struck him until he was stone dead. The other custodian fled until he reached Medina and entered the mosque running. When the Messenger (pbuh) saw him, he said, ‘I see this man is terrified.’ When he reached the Prophet (pbuh), he said, ‘By God, he has killed my companion, and would have killed me as well!’ Abu Basir came and said, ‘Prophet of God, I swear by God, God has let you fulfil your agreement: you returned me to them, then later on God saved me from them.’ The Prophet (pbuh) said, ‘Woe to his mother! What a kindler of war he is if only he had supporters!’ When [Abu Basir] heard that, he knew that he would return to them again, so he went out until he came to the coast of the sea.” He said, “Abu Jandal Ibn Suhayl got free of them and joined Abu Basir. Whenever a man of Quraysh became Muslim, he would only go out and join Abu Basir until there were a band of them together. By God, whenever they heard about a caravan belonging to Quraysh leaving for Syria, they would stop it and kill them and take their property. So Quraysh sent to the Prophet (pbuh) entreating him by God and kinship to send word [to Abu Basir] and that whoever came to him [the Prophet] would be safe. So the Prophet (pbuh) sent word to them and God Almighty sent down, ‘It is He who held their hands back from you and your hands from them in the valley of Makka, after giving you the upper hand over them. God sees what you do... to ... the fanatical rage of the Days of Ignorance’. (48:24-26)”.

On the authority of al-Zuhri, al-Awza’iyy has added that Abu Basir had said: “O Messenger of God! If I had returned to them, they would have compelled me to leave my faith and [relinquish my loyalty], that is why I did what I did; and besides, there is no covenant or pact between me and them.”

309 Related by Bukhari no. 31/2732, on the authority of al-Miswar Ibn Makhrama and Marwan- may God be pleased with them. For a full account of this incident, please refer to; Fath al-Bari. Vol. 5, pp, 329-352. Translation adapted from http://www.sunnipath.com/library/Hadith/H0002P0059.aspx
Now if we examine carefully this account, we will, contrary to what the objector had claimed, find nothing in it that actually gives credence to his argument nor do we find anything in it that debunks our thesis which argues that foreigners are protected due to the existence of a quasi-assurance of security which takes effect as of the moment these foreigners assume they are granted safe conduct when they enter our countries. This can be demonstrated as follows:

1. This incident, which the objector above has cited, has nothing to do whatsoever with the issue of safe conduct and pledges of security. Rather, it has to do with rulings pertaining to peace treaties and allegiances, and their conditions. As for safe conduct, it is of two kinds: 1) one is granted to the foreigner or the person from the land of the enemy that he may safely enter the Abode of Islam 2) the other is granted to a Muslim by the enemy that he may safely enter and reside in the Abode of War. Yet, when we go through the account of Abu Basir, we realise that neither type of safe conducts had ever come into play: first, the two custodians to whom he was handed over were not granted safe conduct by neither the Prophet (pbuh) nor any other member of the Muslim community, including Abu Basir, and when the incident under review took place the two men were neither in the Abode of Islam nor in any other place under the authority of a Muslim ruler. Secondly, there was no safe conduct, as far as we can tell from that account that was promised to Abu Basir by the Pagans of Mecca, as to prevent him from betraying one of theirs and killing him. So we need to ask: where is this safe conduct in the first place before we can even begin to discuss its rulings in this account? And where exactly in this account can one point to case of a quasi-assurance of protection and how exactly has it been thwarted?

2. Abu Basir was not considered at that point in time as a subject of the Islamic state and thus he was not impelled to abide by the terms of the safe conduct- granted there was one- extended to those two custodians, nor did he enter into any peace treaty with Quraysh. Rather, he was a subject of the state of Quraysh who had converted to Islam and wanted to join the Islamic state in Medina at a time when the terms of the Treaty of Hudaybiyya stipulated that any person from Quraysh or its allies who is found in the Islamic state in Medina must be returned to them. In this instance, Abu Basir had actually understood that he was bound by neither the terms of a safe conduct nor by the terms of the peace treaty between the warring parties. The proof for this is that he said to the Prophet (pbuh) ‘O Messenger of God! If I had returned to them, they would have compelled me to leave my faith and [relinquish my loyalty], that is why I did what I did; and besides, there is no covenant or pact between me and them’. Not only that, Abu Basir was also fully aware of the position of the Prophet
(pbuh) vis-à-vis this incident, that is why he said to him: ‘Prophet of God, I swear by God, God has let you fulfil your agreement: you returned me to them, then later on God saved me from them’. Indeed, he knew that if was going to be handed over, it would have to do with the terms of the Treaty of Hudaybiyya, which the Prophet (pbuh) had concluded with Quraysh, and therefore he also knew that when the Prophet (pbuh) did in the end hand him over to them, he (pbuh) by virtue of that action was faithful and did what was incumbent on him. Certainly, Abu Basir would have not have spoken those words had there been any case of safe conduct or quasi-safe conduct having been granted. Indeed, if this account proves anything, it highlights the fact that much of it around the implementations of peace treaties and their conditions, and have nothing to do with either safe conduct or quasi-safe conduct, which is why although we agree that this is indeed a text, we do not agree that it is a decisive fact in issue, and the reason for that is simply that it has been adduced in the wrong context.

3. The incident which saw the killing of one of the two custodians at the hands of Abu Basir took place in an area which was outside the authority of the Imam (the Prophet), and it occurred after he (pbuh) had handed him over to them, all of which exonerate him from any liability. This fact is attested by the narration of Ibn Ishaq in his Seera. Indeed, the narrator reported that when Suhayl Ibn ‘Amr had heard of the slaying of al-‘Amiri, he requested the payment of blood money for his death because he was from his clan and that Abu Sufyan had told him: “Muhammad is liable to no such payment because he has honoured his part of the contract, surrendering the man to your emissary, who was later killed but not by his order. Nor is Abu Basir liable to anything because his loyalty to them is no longer”. This is indeed a true representation of how Quraysh had dealt with the issue; for, in the end they reached a conclusion that there was no breach of the terms of the peace treaty as a result of this incident, or that, at least, there was no such a thing as a quasi-assurance of security which had been violated, which is why they relinquished their demands for blood money altogether. Nor had Abu Basir himself believed that either of his custodians enjoyed a quasi-assurance of security, which prevented their killing. On the contrary, he acted in the manner that he did because he knew that between him and his two custodians, there was neither covenant nor peace treaty.

4. One is hard-pressed to understand the reasons that led the previous objector to maintain that that the two custodians of Abu Basir believed they enjoyed a quasi-assurance of security. How can such a thesis be advanced when the other man who was able to flee from Abu Basir did not make any mention or reference to it, and when the whole of Quraysh did not make any demand for blood money, as mentioned above? How can anyone conceive that those custodians any such protection in relation to Abu Basir, when the latter was
not actually bound by the peace treaty concluded between Quraysh and the Prophet (pbuh), but was actually handed over to them in compliance with that treaty, to be taken by them beyond the vicinity of Medina, where the Prophet (pbuh) had no authority?

At this conjunction, it is worth making mention of what Ibn al-Qayyim concluded from this incident. He says:

“If a Muslim kills any one of the people with whom there is covenant after he had been handed over to them according to the norms, he is not liable to any blood money or retaliation, nor is the Imam (Muslim ruler) liable for his act. Rather, the law should treat him as the person one who has committed a homicide in the land of enemy where the Imam has no authority. For, indeed Abu Basir had slain a man from among the people who had a covenant with the authority of Medina, but the incident took place after he had been handed over to them, and was therefore under the jurisdiction and the authority of the imam no longer”.

Notice that his saying ‘...the law should treat him as the person one who has committed a homicide in the land of the enemy’ suggests that in that case, it may be possible to maintain the existence of a quasi-assurance of security, particularly that in that context (his killing one of them on the soil of the enemy) Abu Basir would have been bound by the terms of that peace treaty, but it is clear that outside of that context, any talk of a non-commitment to quasi-assurance of security is simply inapposite.

Now that we are in a position to conclude that neither the two Qurayshite custodians nor Abu Basir had entertained any thoughts over the possibility of there being a quasi-assurance of security, we can safely confirm that the use of this incident by our objector as a fact in issue is irrelevant, particularly if we bear in mind that the crucial factor determining whether an is assurance of security or safe conduct or not is what the seeker of such protection understand following their requests.

The Second Objection

There are also some who object to our argument saying that the foreigners and the tourists who come to our countries do not enjoy any safe conduct based on a quasi-assurance of security because most of their destinations are actually considered to be either part of the Abode of War or places where there is no Islamic state ensuring that such security agreement be upheld. We shall deal with this objection from four different angles:

310 Zad al-Ma'ad. Vol. 2, p. 130
1. To include the countries of the Muslim world among the countries which form the Abode of War is a grave error, and labelling them as such does not constitute a sufficient ground for thwarting the rulings of the Sharia and their implementation, at least in some of these countries. Indeed, many scholars have refrained from deeming these lands part of the Abode of War or disbelief because according to their judgement not apply the rules of the Sharia by any of these states is no ground for including a country of the Muslim world in a such a category. Some of them have even upheld that these countries would have to be regarded as part of the Abode of Islam based on the fact that Islam is manifestly present in these lands, even while some its rulings appear to be suspended.

About this issue, al-Ramli says: “Any territory where people feel enabled to fight against the people of the land of the enemy becomes by virtue of that capacity an Abode of Islam, and from that point onwards, it cannot be reverted back to an Abode of Disbelief even if the enemy manages to overwhelm it, as attested by a narration. The reason being is that, in all circumstances, Islam prevails and cannot be prevailed over. This, when it is said about this land that it has become an Abode of War, it is to draw a likeness with that Abode and it is not a judgment on the status of that land. To think otherwise would mean that any Muslim land that falls in the hands of the enemy turns into an Abode of War and that is just far from the truth.”

Also, Ibn Taymiyya was asked about the people and the city of Mardin: Should it be considered an Abode of War or an Abode of Islam and its people as Muslims? In response to this query, he said: “Neither is this territory wholly part of the Abode of Islam, given that it is under the domination of the non-Muslims (Mongols), nor is it part of the Abode of War, seeing that its population is Muslim. It is in fact a composite of the two, and thus it belongs to a third category: one where the Muslims living therein should be treated according to their rights as Muslims…”

It is clear from the above that even the very principle premise of this second objection is far from being the generally accepted view of the ulema and the majority of the Islamic movements. And given that there are scholars and Islamic movements active in these territories refusing to count these countries among those of the Abode of War, it is a mistake to give credence to any legal ruling advancing that the foreigners and the tourists do not enjoy a quasi-assurance of security in the countries of the Muslim world, particularly when these visitors enter our soil following an invitation extended to them by one of these Muslim scholars or one of these Islamic movements.

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311 Nihayat al-Muhtaj. Vol. 8, p. 82
312 Majmu’ al-Fatawa
2. As we have already shown at the beginning of this sub-section, what the guarantor intends exactly by his promise of protection and what the seekers of this protection, whether they are foreigners or tourists, understand from such a pledge, is decisive in deciding whether an assurance of security or a quasi-assurance of security is in force. Based on that, we can safely conclude that it becomes incumbent on us to protect the life and property of any foreign visitor who enter our territories with a valid visa; for indeed, these visitors, as they prepare to travel to our land, consider the countries they are about to set foot into as Muslim countries and they come with the assurance that their request to visit them has been granted by the representative authorities there and following the legal procedures which are in place in those countries. It is not at all obvious in these conditions that a warning which may be issued by a non-official organisation or individual end up being brought to their attention. Indeed, even if we concede that may have wind of such warning, they are in all likelihood going to not heed it. Why should they if there are, after all, many other Islamic movements who encourage them to accomplish their visit, and not to pay attention to such threats?

3. Should a disbeliever enter inside Muslim territory with the intention of seeking safe conduct or is captured by the Muslims either in the Abode of War or in an area between the Abode of War and the Abode of Islam, and he says ‘I assumed you were not going to oppose a merchant’, in all of these cases, the right course of action is to either deliver him to his place of safety or uphold his safe conduct. Concerning this issue, the Maliki jurist Khalil says: “In the situation where a man from the land of the enemy assumes that he has been beneficiary of safe conduct or where people, either due to forgetfulness or ignorance or due to their belief that he was a Muslim; grant such a man safe conduct even after warning has reached them not to do so; in that case the safe conduct of that man should either be upheld or he should be delivered to his place of safety. And if he is captured in the land of the enemy while heading towards our territory and he said, ‘I was on my way to you to seek safe conduct’ or he is captured inside our territory or between ours and theirs, and said ‘I assumed you did not oppose the passage of the merchants’, in all of these cases he should be delivered to his place of safety…”. 313

Notice his saying ‘If he is captured in the land of the enemy’ through to his saying ‘I assumed you did not oppose the passage of merchants’! Is not this statement most equivalent to the tourist’s saying, ‘I assumed you did not opposed the coming of a tourist when he enters your country with a valid visa’?

Commenting on this statement of Khalil, another Maliki jurist, namely al-Hattab has added further clarification and weight to this judgement, saying:

There is no disagreement among the legal scholars [of our school] concerning the merchant who enters our land: he is to be delivered to his place of safety if he says, ‘I assumed you did not oppose the passage of the merchant’.

As for al-Mawwaq Ibn Bashir, he said: “If one of the people from the land of the enemy is captured within Muslim territory or in a territory that lay between our land and theirs, he is to be dealt with in accordance with the rulings regulating the treatment of the people from the land of the enemy if it is established that he is an enemy alien (muharib), but if it is established that he is a beneficiary of safe conduct (musta’min), he is to be dealt with in accordance with the laws regulating the treatment of people who are under such protections. However, in case there is doubt about his status, there are, in this instance, two legal opinions to abide by: either he is safe and his goods are not confiscated owing to the existence of evidence indicating to the truthfulness of his claim, or his claim for safe conduct is denied and his goods are confiscated owing to the existence of evidence indicating that he is deceitful. Should his truthfulness or deceitfulness prove hard to ascertain, that is precisely where the jurists differ: some have maintained that he should be taken captive and his goods confiscated due to the lack of clear-cut evidence giving credence to his claim, and others have upheld that his claim for safe conduct should be accepted, for fear that he may be truthful after all, and decided that his goods could not be confiscated on the basis of a lingering doubt; and this position, in our eyes, is the most appropriate.”

The above is clear proof that the grant of safe conduct to merchants from the land of the enemy upon their entry to the Abode of Islam or their delivery to their place of safety in the worst case, has been always the norm. Similarly, should not the foreigners and the tourists who enter our country with an entry visa, as is the norm, be granted safe conduct or at least be delivered to their place of safety? Ibn Qudama, the author of al-Sharh al-Kabir, says: “If he claims that he is a merchant, given that their merchants have been in the habit of entering our land as per convention, he should be left alone if he has brought along with him merchandise to sell. That is because merchants would enter our territories assuming they are safe, which is no different from entering our land after a Muslim has given them a sign to come in.”

4. We need to highlight a contradiction: after he had expressed his rejection of the safe conduct of the foreigners and the tourists on the basis that such assurances were given by the Abode of War, which include both the governments of these countries and the Muslim citizens residing therein, the person who raised this second objection proceeded to make a significant contradicted when he declared that a safe conduct granted by Islamists leaving in Europe can be

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314 Mawahib al-Jalil. Vol. 4, p, 562
315 Al-Taj wa l’Ikil li Mukhtasar al-Khalil. Vol. 4, p, 562
316 Al-Sharh al-Kabir. Vol. 10, p, 564
regarded as valid, even though this continent represent in his eyes an Abode of War. In response to the question “Do the mujahedeen commit a sin when they kill those who come to visit Egypt after safe conduct had been promised to them by Muslims residing in Europe?” he says:

“If the mujahedeen are informed of this safe conduct and an appeal is made to them to grant it if those guarantors residing in Europe are able to determine who exactly these foreigners with safe conduct are or at least when and where exactly they happen to be in the country, in that case we hold the view that they should be spared by virtue of the existence of an assurance of security promised by a Muslim. But this protection does not apply in the situation where the area of the enemy is not confined and his identity is not known. And thus, if the mujahedeen, in this instance, decide to reject this safe conduct in analogy to the action of Abu Basir, there is no blame on them. For indeed there are scholars who, based on the account of Abu Basir, have permitted to certain Muslim kings to fight against disbelievers who had actually been granted safe conduct by other Muslim kings, and if the safe conduct granted by Muslim kings cannot be upheld, then, a fortiori, neither can the safe conduct granted by others”.

Notice how he has both affirmed that safe conduct can be granted by Muslims residing in Europe and that it is allowed for the mujahedeen to uphold such safe conduct. And notice also his contradiction: he bestows to these mujahedeen the authority to reject this appeal for safe conduct, while it was incumbent on him to say in this instance: ‘if they do not accept to grant it, they should in that case deliver them to their place of safety’ but he did not.

If the holder of such an opinion has no issue permitting the Islamists in Europe to grant such promises of safe conduct, is it not only logical that every Muslim residing in Egypt should also enjoy the right to grant safe conducts that would also be regarded as binding for the mujahedeen or would at least render it incumbent on them to deliver these foreigners to their place of safety, if they choose to reject their assurances of security?

Someone might object and say: “These foreigners have never claimed they have safe conduct, and they have never raised it to prevent their targeting. Why are you then raising this issue of safe conduct when they do not?

We say to this objector: know that if this foreigner or tourist were to be asked by the person who wants to slay him, ‘Why are you here’ and ‘How did you enter our land’, he would immediately answer him, ‘I have been given permission to enter the country after I had been granted a valid visa, which was verified by the relevant authorities upon my arrival by plane or boat. Thus, my stay in the country is legal because it complies with the conventions that are in force worldwide nowadays’. This kind of answer, which a realistic representation, of what any typical tourist would say in those situations, debunks the notion that a foreigner or a tourist do not claim they have been
granted safe conduct. Indeed, how can anyone profess the tourist in our example has not sought safe conduct, when he had to apply for a visa that would grant him entry and wait for it to approved for a period of time? How can it be argued that he did not claim safe conduct when he presented his travel documents before the local authorities in the port of entry, and he did not set foot beyond the international zone and finally in the country, only after he had been given permission to do so by these very local authorities? Does not all this amount at least to a quasi-assurance of security worthy of consideration?

Granted that some of the countries of the Muslim world may be considered as part of the Abode of War, is it not incumbent on us in these situations to give considerations to the fact that these tourists and foreigners may have come after an invitation had been extended to them by some local Muslims residing in this particular country? Why would not a foreigner who has received an official invitation sent out to him by a Muslim to come to work in the country as an expert or a highly skilled technician enjoy protection even as his visa application is approved by the authorities of the Abode of War?

The objector might still retort: if we accept the view which says that every foreigner or tourist that enters the country with a valid visa has effectively entered the country with an assurance of security or quasi-assurance of security, we have basically accepted to grant the status of ‘protected’ to all of them without there being a cause for such a blanket protection!

We say in response to this: the laws regulating safe conduct and the assurance of security are based on a wide consideration of all that which is explicitly or implicitly expressed by the pledger of such a promise, as well as the assumptions of the pledgee. And since the aim of these laws is to save human life, there is no harm in considering the entry visa as a quasi-assurance of security which guarantees to its holder the same assurances of protection which come what is known in the parlance of Islamic law as ‘ahd aman, even if as a result of this decision it will no longer permissible to kill any foreigner coming to our country, except in exceptional cases. That is because such a decision is entirely in keeping with the philosophy of the Sharia in matters pertaining to the laws of safe conduct.

An Illustration of the Misapplication of the Rulings Concerning Safe Conduct

Although the Islamic Group of Egypt had, during the beginning of the confrontation in 1993, declared that it had no intention to target the tourists in their operations, there were, contrary to that announcement, a number of attacks which took place afterwards, the attack of Luxor in 17/11/1997 and on Hotel Europa before it in 1996 being the most notorious. Not to mention several attacks with
arm fire on some passenger trains which are frequently used by tourists. These incidents were a result of many errors in applying the related Sharia rulings:

1. All of these attacks had targeted foreign tourists who enjoyed a valid safe conduct or at least a quasi-safe conduct
2. The attack in Luxor and on Hotel Europa had led to the death of women and children
3. There were a number of Muslim casualties as a result of the attacks on the passenger trains

Pondering over these facts, one cannot help but pray for mercy on the soul of al-Awza‘iyy who said: “How can they aim at them when they cannot identify them? Verily! They are killing Muslim children!” And there is no way they can justify these attacks by resorting to the notion of tatarrus, or tabyit or inghimas, because in none of these incidents was there a case of enemy forces being shielded by Muslims, and which could only be vanquished by killing those Muslims nor was there a case of a distinct enemy encampment whose night raiding was permissible because their eradication was necessary for the survival of Islam and there was no enemy rank which needed someone to throw himself at it for the sake of an overriding public interest either. These incidents are all attacks on tourists who have come to the country either with an assurance or a quasi-assurance of security and who lived and walked among Muslim locals, all of which ought to have made their targeting prohibited by law.
5. The Bombings of Riyadh: The Legal and Strategic Debacle

Most of our attention so far has been directed to the evaluation of the strategic and legal vision of al-Qaeda by focussing on the attacks of 9/11. In the following section, we will appraise this strategy and legal philosophy of al-Qaeda by focussing on the bombings which took place in Riyadh in May, 2003, for these occurred in a different context and thus bring to relief a different set of strategic and legal errors. Indeed, the bombings of Riyadh were utterly ill-timed not only from the international perspective, but also both regionally and locally. They were also ill-placed from an Islamic perspective, since not only have these bombings taken place on Muslim soil, they have caused the death of many innocent people, of whom the majority were Muslims.

A Timeline of Events on the Bombings of Riyadh

Before assessing these bomb attacks, we might begin by revisiting the timeline of these incidents in conformity with the legal maxim ‘No matter can convincingly be argued, unless it has been first well-conceived’. As we proceed in this task, we need to draw attention to the fact that our focus will be on the hallmarks of these incidents and its wider outcomes and not on the secondary details associated with them. For although we acknowledge that there has been a number of bomb explosions and firearm attacks here and there in the period before 1996 and 2003 in Saudi Arabia, none were of the spectre of these recent bomb attacks. Indeed, it is worth noting that the bombings of Riyadh were preceded by several attacks, which were certainly a harbinger of things to come. Such was, for instance, the bomb attack on one of the hotels in Riyadh on 17/03/2003, which led to the death of one person, and following which a significant amount of explosives were ceased by the Saudi authorities. This particular attack has also prompted the American authorities to issue a warning to its citizens residing in Saudi Arabia on 1/5/2003, urging them to take their precautions against imminent terrorist attacks in that country. As a matter of fact, not long after that warning was issued, there had been a number of limited clashes between the Saudi security forces and some jihadis in the district of Ishbilya in the east of Riyadh on 2/5/2003, which led to the discovery of large amount of arms and explosives, prompting the Saudi authorities to issue an arrest warrant against 19 individuals, 17 of which were Saudi nationals and the other two were a Kuwaiti and a Yemeni national.317

The bombings of Riyadh occurred on the eve of 12/05/2003, targeting three residential compounds:

317 For details see the Londonian newspaper al-Hayat issued on 8/5/2003
The first bomb attack targeted an administrative and residential compound belonging to Vinnell, the company responsible for the training of the Saudi Arabian National Guard.

The second bomb attack targeted the residential compound of Alhambra, where many Americans and other western nationals lived.

The third attack occurred in the District of al-Nahda, and targeted the building of a company affiliated to the Saudi National Guard, and which a number of foreigners were employed.

What is striking about these attacks is indeed their timing. Although at the time of these incidents there were between 30 and 40 thousand American civilians working in the Saudi Kingdom, the United States of America had begun taking concrete steps earlier that year in order to reduce significantly its military presence in that country and gradually phase it out completely. Thus, on the 29th of April of that year, the American Secretary of Defence, Donald Rumsfeld and his Saudi counterpart, Prince Sultan B. Abdul-Aziz had announced their agreement that America would soon bring its military presence in Saudi Arabia to an end and would thus pull all of its military personnel form there. Thus and following this agreement the American forces had on the 29/8/2003 had pulled their last air force combat unit from the Prince Sultan Air Base, leaving behind only a small contingent which is itself preparing for its departure from the base. We shall come back to this.

Well before the shroud and the smoke of these bombings had dissipated, the fingers of accusation were already pointing to al-Qaeda, no doubt because these attacks had the hallmarks of that organisation, but possibly also because there may have already been of information gathered on the nineteen individuals involved in the attacks.

The Victims

It is really important as we discuss the Riyadh bombings to take stock of the victims as well as the repercussions of these attacks, particularly on the political, security and the religious arenas. Indeed, it is crucial that we highlight the various forms of corruptions which follow from these attacks and lay to bare the many errors which animate them.

As for the victims arising from these bombings, their numbers, according to American counter-terrorism sources, are as follows:

\[318\]

\(Ruz\ al-Yusuf\). Issue no. 3910, 23/05/2003
29 dead, including 8 Americans
194 injured, including 16 Americans

The Saudi authorities have noted an increase in the number of casualties. According to a later estimate there were 43 dead people

- 9 Americans
- 3 Britons
- 16 Saudis, including 9 who were among the perpetrators of the attacks
- 6 Jordanians, among whom there were two bothers aged 8 and 4 years old, and a father and his daughter
- 2 Lebanese

It is possible even by having just a cursory look at the casualties who have fallen victims to these bomb attacks that there were a considerable number of women and children as well as a number of civilians and Muslims. This fact alone raises some serious questions about the legality of such attacks: it must have been very obvious to the organisers and executors of these mayhems that these attacks were in all likelihood going to cause the death of innocent people whose killing the Sharia strongly prohibits. In addition to this, these attacks also raise questions that are equally serious about their strategic merit: what is the point in targeting other people solely on the basis of their nationality and without giving any regard to the Sharia principles controlling the legitimacy of such actions?

An Ill-conceived and an Ill-timed Objective

If we had to make a succinct and preliminary assessment of the bombings of Riyadh, we could certainly reduce to this: an ill-conceived and an ill-timed objective. The objective is ill-conceived for the simple reason that the Kingdom of Saudi Arabia should have never been the target of these bombings, and it is ill-timed because the timing of these operations is completely at variance with the developments that are taking place at the international, regional and local levels: Islam and its followers are now in the eye of the storm and their enemies are growing in numbers everywhere.

The Bomb Attacks and their Bad Timing

The attacks on Riyadh, as we have just said, came at the wrong time internationally, regionally as well as locally, leading thus to the emergence of great social harms and costs. Indeed, these bombing operations through which the attackers had aimed at causing maximum deaths among the Americans occurred at a time when the international community was beginning to witness the rise of unipolar world in which America is the sole major player on the international scene. This American hegemony was announced to the world when the USA has decided unilaterally to pursue its strategy of mounting preventive wars against any
potential enemy anywhere, and anytime it sees fit. Hence, as the Anglo-American war on Iraq was drawing to its end, it became clear to international observers that another pole capable of counterbalancing American power was not on the offing. This was particularly obvious when all of the efforts deployed by countries like France, Germany and Russia to deter America from choosing the military option in its confrontation with Iraq have gone down the gurgles in vain. Certainly, the Anglo-American war waged against Iraq without the backing of the majority of the permanent members of the Security Council of the United Nations was to usher a new era in international relations and was ample proof that a unipolar world headed by America was on the move. The new American strategy had begun the hunt for new countries to prey on even when the war on Iraq had barely started: sometimes it claws were aimed at Syria and other times at Iran. As part of its intent to exercise its hegemony on the entire globe, America needed to be in all of these places to complete its control over the oil fields of the Gulf and all of the areas Central Asia and the Caspian Sea, which are rich in natural gas. Also as part of this strategy and under the guise of the War on Terror, the United States has exercised an unprecedented political pressure on the Muslim world with the aim of bringing certain Islamic governments to change their political system as well as their educational system and curricula in order to prepare the ground for its expansionist plans and serve the aspirations of Israel in the region. Indeed, these Israeli aspirations have become more manifest and are now brazenly expressed, particularly under the leadership of Ariel Sharon and with the impact that now the religious parties of the right have on Israeli political life. Israel today and thanks to America knows that Iraq has finally been struck out of the equation in the Arab-Israeli conflict, and the presence of the American forces in that country have actually rekindled in some Israelis the hope to see the emergence of the Greater Israel whose borders stretch from the Nile to the Euphrates river.

Not long ago Syria has received a list of American demands to comply with if it wants to earn a certificate of good conduct, and be extracted from the axis of evil and the club of countries that harbour terrorism. It is not hard to understand that these American demands aim to achieve one thing and one thing only: to deprive Syria of the means of gaining any capabilities which are strong enough to withstand any future Israeli onslaught. Thus, in less than a year and a half after 9/11, Israel has been able to achieve some crucial gains, and these are as follows:

319 These demands were leaked by certain newspapers and they appeared as follows: 1) No asylum may be granted to any Iraqi leaders who flee Iraq 2) All of the Palestinian Resistance Organisation based in Damascus must be asked to leave 3) Syria must withdraw from Lebanon 4) All aid to the Hizbollah of Lebanon must cease 5) All weapons of mass destruction must be destroyed 6) Syria must not interfere with peace negotiations between Israelis and Palestinians 7) Syria needs to take concrete steps to implement democratic reform. In an interview where he was asked about the kind of message America would be passing to Syria, Colin Powell said: “Syrian President Bashar Assad has no illusion about U.S. expectations that he curb the activities of terrorist organizations in his country or face the consequences: Syria’s relations with America will become worse than they are already and these will have a grave impact on its interests”. Al-Hayat Newspaper
1. Striking Iraq out of the equation of Arab-Israeli military balance
2. Syria is compelled to make concessions in crucial areas, whilst Israel is not asked to make any concessions in return
3. Iran, Libya and the Sudan are having to be in damage control mode for fear that they may become the target of America
4. There is now an effective embargo in place against Hizbollah and the Palestinian resistance groups like Hamas, al-Jihad al-Islami, and the Popular Front for The Liberation of Palestine.
5. Undermining Yasser Arafat and preventing him from exercising and decisive political role. As for Mahmoud Abbas he was left to make a very hard choice: he could either suppress the Palestinian uprising and quell the resistance on behalf of Israel, which would have certainly led to a Palestinian civil war, or else he simply allow the Israelis to go on with their violent attacks against the forces of resistance and the civilian Palestinian population, and that would have seriously weakened his authority in the process.

It is clear that these bomb attacks occurred at a time when Saudi Arabia was also subjected to all sorts of pressures to bring changes to the Islamic way of life in the kingdom, under the guise of human rights, women’s rights or the rights of minorities, be they Shiites or Sunnis. And it is also true that they have taken place at a time America had decided to transfer the centre of its military headquarters from Saudi Arabia to Qatar. In light of all of this and the above, we can safely conclude that these bomb attacks were carried out at the wrong time and at the wrong place, and that its perpetrators have committed gave errors from the viewpoint of the Sharia.

Others Things that Went Wrong
Further analysis of the Bombings of Riyadh will reveal more strategic and legal errors, and they are as follows:

1. Choosing Saudi Arabia as the Theatre of the Bombings
These bomb attacks have targeted a Muslim country which rules by the Sharia as is reflected in its court system, and its social mores. Moreover, this is the country that has so diligently looked after the Muslims pilgrims throughout the decades and its continuous efforts to offer the best maintenance to the pilgrimage sites are undisputed. Since that is the case, one is prompted to ask: on what grounds have the perpetrators of these bombings chosen Saudi Arabia as a target? Does any doubt the legitimacy of a government that implements the rules of the Sharia like the Kingdom of Saudi Arabia does? If not, then how is it conceivable that an abode which is incontestably part of the Abode of Islam, whose people are
undeniably Muslims and whose rulers implement the rules of the Sharia so manifestly be the theatre of such destructive and indiscriminate bombings?

The choice of Riyadh as the site of these bombings emanate from a very erroneous judgment, namely from the notion that the Kingdom of Saudi Arabia is illegitimate because it has allowed American forces to be based on its soil. Indeed, there are some who would as far declaring that the kingdom has defected from Islam on the basis that it has given its loyalty to the American infidels. But there are two strong arguments against this misconstrued notion, one of which is pragmatic and the other legal.

This notion that the Kingdom of Saudi Arabia is illegitimate on the grounds mentioned above fails the test of common sense because when we look back at the conditions in which these American forces were called in, we realise that these were brought to the kingdom in the context of the war for the liberation of Kuwait after Saddam Hussein had invaded that country on 02/08/1990. We all recall that the Iraqi menace could have easily engulfed Saudi Arabia, culminating in the installation of another Ba’th regime in the region, at the expense of the Islamic rule espoused by Saudi Arabia, and that no other Arab state had the means to thwart the threat of the Ba’th regime and put a stop to Saddam Hussein’s adventure.

This notion fails the test of the Sharia because it is established in Islamic law that is permissible for a Muslim ruler to seek assistance from the People of the Book and from other non-Muslims for the sake of defending the borders of the Abode of Islam and for the vital interests of religion. Surely the vital interests of Islam were not going to be achieved by dominance of the Iraqi Ba’th regime over Kuwait, Saudi Arabia and the Gulf region in general.

2. Presumptuous with the Outcome where Doubt runs in Large Sums

If the objective behind these bombings is to drive the American forces out of the Holy Places and the Gulf region in general as al-Qaeda had intended, should we not ask whether this objective was realistic in the first place?

It is clear to anyone who fully grasp American foreign policy that the United States would under no circumstance relinquish the Gulf region and that is due to a number of considerations, all of which we have dwelt upon on many occasions during the course of this exposition. If anyone is in doubt about the extent to which America is ready to cling on to this region of the world, let him be reminded that during the recent past, namely between 1980 and 2003, America has involved

320 We have good evidence for this in the exemplary Sunna of the Prophet (pbuh): when in Medina the Messenger had entered into a covenant with the Jews residing in that city as a result of which both parties made a commitment to defend the city together against any enemy or aggressor. More examples of such cooperation have been provided in the previous chapters of this book.
itself in three separate momentous wars in the region: The Iraq-Iran war (1980-1988), the War for the Liberation of Kuwait (1990-1991) and finally the Anglo-American invasion of Iraq in March 2003. All of this also shows that America is no longer content with installing proxy governments that will ensure the protection and the promotion of its interests, and keeping a symbolic military presence there; today America is determined to implement its hegemony by upping its military clout in the region and elsewhere in the world.

In light of the above, we can say that al-Qaeda has indeed been too presumptuous with the outcome of their bombing campaign in Riyadh. Indeed, these bombings, instead of driving the American forces out of the kingdom or at least making a dent in their resolve to stay on its soil, have only led to the exacerbation of the situation of Saudi Arabia both at the local and the regional levels, if not to facilitating the implementation of the American expansionist strategy in the region. The 9/11 attacks may have caused losses to America, the Twin Towers, but the losses of the Muslim world were far greater: Afghanistan and Iraq. And let no one have any illusions that the American appetite is going to be satiated soon. Any further bomb attacks on its military personnel or its citizens will entice it to want to gulp down more.

3. The Legal Debacle

The bomb attacks of Riyadh has caused the death of 43 individuals, including 9 Americans, 3 Britons, 7 Saudis, 6 Jordanians among were 2 brothers aged 8 and 4, and a father and his daughter, 2 Lebanese and the 9 Saudi nationals who perpetrated the attacks. As for the injured, there numbers have reached 194, including 16 Americans. Now just by looking at these figures, we can easily see that the majority of the people killed and injured are the Muslims and non-Americans who were not the primary target of these attacks. As for the number of Americans and Britons killed, it did not rise beyond the third of the total of the people who were dead on that occasion and the ratio of injured Americans was no more than 8%. Is it conceivable to kill 4 Muslims in order to kill 1 American and to maim 12 Muslims in order to maim 1 American? Because that is what these figure are telling us.

Is it Permissible to Kill and maim these Muslims?

If we are to assess these bomb attacks in light of the rules of the Sharia, we are certainly going to find that they are fraught with errors. Among these we cite the following:

1. As a result of these attacks the lives of many Muslims were taken without right. Those who have committed those attacks cannot claim that their act was
permissible under the pretext that these Muslims were never targeted: it was known that the residential compounds that were the object of these attacks were constantly frequented by Muslims and indeed some of them were residential compounds where the majority of the inhabitants were Muslims.

Also, it would not be fitting to defend those attacks by resorting to the principle of *tatarrus*, for the simple reason that in all of these situations there was neither human shield nor an enemy being shielded. How can anyone seriously claim that these foreigners had taken Muslims as human shields, or that those Muslims who were killed on that day had thought of themselves as human shields prior to these attacks? If there is a fatwa to be had about this event, it should be elaborated on the premise that this was a situation in which foreigners were willingly mixing with Muslims in a Muslim country and in which Muslims too were willingly mixing with foreigners in a context that has nothing in common with war or fighting, and so *tatarrus* does not apply here at all, as we have shown in the third section of this book. Nor can the incident of the sudden night raid (*tabyit*) and the use of the catapult serve as legal precedents for the justification of the killing of these Muslims in attacks such as these ones. That is because these attacks have targeted non-Muslims who were in the midst of Muslims, whereas the night raid has been aimed at a clearly distinct encampment of Pagans. Moreover, it is worth remembering that while the Prophet (pbuh) may have given permission to raid Ibn Abu al-Huqayq, he warned against targeting their women and children, yet they were not Muslims and not a Muslim was to be found in their midst. So how can it be permitted to take the lives of Muslims and those whose lives are protected by the Sharia based on this corrupt interpretation of the law? Also, it would not be consistent to try to justify the permissibility of this slaughter of innocent Muslims by reclining on the principle of *inghimas* (storming an enemy rank single-handedly to inflict damage) and the desire for martyrdom, because this military tactic is allowed when it is aimed at those enemies against whom fighting is permissible, and yet in the city of Riyadh, Saudi Arabia, this sort of attack cannot but target a group of people comprised of both Muslims and foreigners who are actually not a rank of enemy fighters. If the person who has committed these attacks saw that his *inghimas* was for the sake of gaining martyrdom, we need to ask whether the objective of martyrdom can be a warrant for killing Muslims particularly when the number of victims of Muslim faith in these instances was three times greater than the number of victims among those who were supposedly the primary target of these attacks? This is not to mention other corruptions and all sorts of other considerations which mitigate against this practice in this context, for a lot more need to be addressed before one can actually make *inghimas* permissible.

2. As a result of these bomb attacks a number of foreigners from among the Americans and the Britons were killed although upon their entry to the
Kingdom of Saudi Arabia they were beneficiaries of safe conduct which was granted to them by a Muslim ruler. Even if the attackers had any doubt about the validity of their safe conduct, rather than slaying them in the fashion that they did, they ought to have delivered to their place of safety, as has been demonstrated earlier.

It does not make any legal sense, also in this instance, to claim that the assurance of protection granted by the Saudi authorities are void under the pretext that the Saudi government is an apostate state, because no other country in the Muslim world implements the rule of the Sharia as faithfully as the Kingdom of Saudi Arabia does. Nor does it make any legal sense to thwart the safe conduct granted by the authorities of this country under the pretext that the Saudi government had become an apostate state once it had sought the assistance of the American infidels. How can such a request for assistance be interpreted as giving allegiance to the disbelievers when, as we have shown on many occasions in this book, such forms of cooperation are clearly permissible should the vital interests of Islam and Muslims be at stake? Or have the proponents of such a thesis forgotten that only days before these bomb attacks the Americans had announced their decision to withdraw their troops from Saudi Arabia and station in other parts of the Gulf, and to move their command centre to Qatar? They need to be reminded of this, because this is ample proof that there is no such allegiance.

It is hoped that our focus on the bombings of Riyadh as an example has been a useful in highlighting the jihadists’ lack of awareness about reality, their lack of pragmatism and most importantly their erroneous ways of applying the Sharia rulings to the concrete circumstances in which we live; for these attacks were indeed the example of the wrong operation-wrong time-wrong place par excellence.
Conclusion

What is the Alternative?

Although the strategy of al-Qaeda is defective to every rational person and keen observer, its military operations continue to be well received particularly among the youth and the downtrodden. This sympathy which the organisation still enjoys has surprised a number of pundits, and so many of them are asking:

Why does an organisation with such a deficient strategy continue to enjoy the backing of some segments of the Muslim populations?

What is it exactly that these people find attractive about this strategy?

How is al-Qaeda still able to draw everyday more supporters to its cause?

Al-Qaeda: The Light at the End of a Dark Tunnel

Al-Qaeda’s ability to harness support and empathy despite its overtly defective strategy and vision has indeed raised a number of questions among many observers, which may perhaps call for a variety of answers. I am of the opinion, however, the reasons behind this ongoing sympathy towards this organisation may be reduced to two essential reasons.

1. The Beacon of al-Qaeda Versus the Dark Policies of America

a. From Kabul in the east to Casablanca in the west, the vast majority of Muslims are deeply aggrieve by the unjust western and particularly American foreign policies vis-à-vis the countries of the Muslim world. Thus, for instance, Muslim public opinion put the blame for the suffering of the Palestinian, the Kashmiri, the Chechen and the Moro peoples on America and its policies.

b. Among the vast majority of the Muslim population, America is perceived as using double-standards in its dealing with the Muslim world. America is seen by many to be constantly calling for the promotion of ideals of liberty and democracy, but it fails to uphold these very ideals in its dealings with Islam or an Islamic counterpart. For instance, it has caused hell to break loose when it suspected that Iraq had WMD’s, and it had invaded that country in order to prevent it from using them, and yet it continues to lend unlimited military and economic support to Israel even though the latter has acknowledged WMD’s are part of its arsenal.

c. America continues to treat Israel as an oasis of democracy and a beacon for freedom and human rights in the region, in spite of the fact that it conducts daily massacres against the civilian Palestinian population. Worse still, America has no qualms labelling the Palestinian people as ‘terrorist’ simply
because the Palestinians are brave enough to mount a resistance to one of the most ruthless occupying armies.

d. America is seen to be constantly putting pressure on the countries of the Muslim world that aspire to adopt an Islamic model of governance and rule by the Sharia to Abandon those aspirations, in spite of the fact that for America the aspiration for liberty and freedom of choice is at the heart of its mission in the world and constitute the basis of its security.

e. Even while America insists on the rule of democracy and the protection of human rights, it constantly gives support to dictatorial and despotic regimes in order to protect its interests.

The list of grievances among Muslim public opinion is long, and the above is far from being exhaustive. Indeed, it has even become longer particularly after America has clashed with al-Qaeda at the point of ‘no return’, on 9/11, which was followed immediately by the invasion of two Muslim countries: Afghanistan and Iraq, while other invasions are still pending.

Muslims too cannot understand the policies of America, particularly its foreign policy, and they too are prompted to raise a number of questions:

- Why are Muslims deprived of WMD’s while others are free to possess them?
- Why does America give full support to a Jewish state, a state founded on religion, while it declares wars against countries who aspire to implement the rule of the Sharia when these countries and their populations are clearly Muslims?
- Why does America not lift a finger about the violations of human rights in places like Chechnya, Kashmir, Western China and the Philippines?
- Why does America not fight Israeli terrorism the way it fights Islamic terrorism?

So long as these questions are not given convincing and clear answers, the shroud of darkness, which these unjust American policies emit, will continue to obscure the minds of the youth of this Muslim nation, and while this sombre mood permeates almost every aspect of their life, any action susceptible of causing harm to America shines through, because it is seen as a just recompense for wrong done.

This is how the ongoing misguided and unjust policies of America end up giving a glitter to the action of al-Qaeda, and that is how Muslim masses are compelled to be drawn to its cause; to them it is indeed the light at the end of the tunnel. This is exactly where the issue resides, and it cannot be resolved unless America decides to take active steps to reverse this situation.

**The Beacon of al-Qaeda and the Darkness of the Muslim World**

It is not to be discarded also that some feel attracted to the glitter of al-Qaeda because they have become convinced that the Muslim world is in a dead end. Increasingly, these Muslims feel that all of the governments of the Muslim world, including all of the religious institutions and all of Islamic movements have failed
abysmally in their mission to put an end to both the spiral of international injustice against the Muslim nation, and the backwardness which has become so entrenched in many Islamic countries. Looking at things from this prism of despair, some then begin to believe that the strategy of al-Qaeda may actually succeed where others have failed: al-Qaeda is seen as the last bastion against the unjust policies which have humiliated and continue to humiliate Muslims everywhere.

Though it is true that the strategy of al-Qaeda is flawed, as we have seen throughout this book, and it is far from providing a realistic solution to the crisis of the Muslim nation, do not be surprised if you come across people who while they may seem prepared to accept the idea that the strategy of al-Qaeda is erroneous, will challenge you to tell them what the alternative course of action is. We can indeed depending from where we choose to stand describe this line of reasoning as wishful thinking, but as the saying goes, a drowning man will clutch at a straw, and thus the question ‘what is the alternative’ will continue to impose itself on all concerned: 1) the mind of every Muslim, everywhere 2) the governments of the Muslim world 3) the decision makers in international affairs in both America and Europe 4) the members of Al-Qaeda and other Islamic organisations.

**Dialogue or Clash of Civilisations**

It seems that all those concerned about this problem which has now reached unprecedented international dimensions are faced with one choice: they can either choose to communicate with one another and commit themselves to the rules of dialogue or go down the path of confrontation and the inevitable clash. If our choice falls on the latter, we need to understand that we are in it for good, for while it may be possible to put this Osama Bin Laden out of action, there are no guarantees that he will not be replaced by a thousand of Osama Bin Ladens, which is why we submit there is no alternative to dialogue. But dialogue itself requires that we fulfil a number of pre-conditions for it to be fruitful, and among these we would like to suggest the following:

1. The American administration needs to take active steps to end its unjust policies towards the Muslim nation and begin to deal fairly with the various crises in the region, and this by moving away from the logic of ‘the clash of civilizations’ and of imposing with force its American values

2. The confrontation between the various Islamic movements active in the Muslim world and the ruling authorities there needs to stop, in order to act in unison against any aggression aimed at the Abode of Islam, and in order to preserve the Islamic identity and the principles of Islam in the face of any threat which may arise from the logic of the ‘clash of civilization’ that is now being thrust upon the world by some decision makers in the west. For only this sort of unison will provide the Islamic movement
with the opportunity to participate fully in the battle of constructing, preserving and strengthening the various societies of the Muslim world and make it immune against all forms of intrusive corruptions.

3. Al-Qaeda is called to revise its strategy, ensuring that it is more rational, more pragmatic and more compliant with the rulings of the Sharia. If this revision is undertaken with the intention of pleasing God, it will not then be undermined and nor will its leaders.

4. The Islamic movements need to promote a model of action which champions dialogue and cooperation with any party that works towards the strengthening of Islamic identity and the defense of the principles of the Islamic faith and Sharia. In this way, we would be able to marshal our resources of jihad and self-sacrifice to thwart any wanton foreign ambition from getting the better of our Islamic countries, but without slipping into the trap of the clash of civilisation.

Following this proposal, we now say that the alternative is as follows:

- A fairer American foreign policy
- All the sons and daughters of this nation become united and committed to the principle of ‘freedom for all and participation for all’. This means vowing not to exclude anyone who is able to make a contribution to the societal project that aims not only at preserving the principles of Islamic identity and those of religion, but also at relaunching that great civilisation that was Islam
- Marshalling the stored energies of jihad and self-sacrifice of every youth in this nation to any spot where a tyrannical invader or a wanton occupier is to be found on the map of this nation

We hope that this study goes some way towards formulating a solution to a crisis that has lasted for a long time. More than anything, it is hoped that this study will impel not only those who are in confrontation with America today to revise their strategy, but also America and others to revise theirs and relinquish their wanton ambitions so that their policies in our region become fairer and wiser.

“And God will surely support those who support Him. Indeed, God is Powerful and Exalted in Might” (22:40)
Addendums

I. Extract from the al-Gama'a al-Islamiyya’s ‘Initiative for the Cessation of Violence’
(Launched in Egypt on July, the 5th, 1997)

In the Name of God, the Compassionate and Most Merciful

“The historical leaders of al-Gama'a al-Islamiyya call upon all its brethren in the group, be they in leadership on non-leadership roles, to unconditionally cease all armed operations inside Egypt and abroad, and to refrain from issuing any announcements enticing for the carrying of such operations, in consideration of the interest of Islam and the Muslims”

II. A Statement Issued by al-Gama'a al-Islamiyya of Egypt Following the Bomb Attacks of Riyadh and Casablanca

“An Appeal to Muslim Youth in the Wake of the Bomb Attacks of Riyadh and Casablanca
Al-Gama’a al-Islamiyya of Egypt wishes to call upon all the Muslim youth of the Muslim world and beyond to steer clear from the indiscriminate violent operations the kind of which al-Qaeda has conducted recently in Riyadh and Casablanca because such operations involve obvious legal errors. Indeed, they lead to the slaying of innocent Muslims whose life it is prohibited to take, but they also lead to the slaying of women, children, the elderly, as well as those have been granted safe conduct from among the non-Muslims, which in addition to being wrong, belies a treacherous attitude that has been strongly condemned by the Prophet (pbuh). Besides being at variance with the Sharia, these operations are also flagrantly pernicious: they put the whole Muslim nation on a collision course with the entire world, and drag into a confrontation which is actually far from being in its interest.

We are certainly aware that operations like these are but the reflection of the sombre mood and anger which has engulfed the Muslim world as a result of the ongoing injustices committed in Palestine and elsewhere; injustices about which the major powers not only turn a blind eye on, but also encourage and applaud, and in some instances even perpetrate, yet none of these can ever be a justification for indiscriminate killing. Moreover, the Islamic Sharia has taught us that the foreign policy of a nation, particularly in relation to issues such as war and peace, and covenants and safe conducts, is not of the domain of individuals and not even
of groups which have no wherewithal: when in Mecca, our Prophet (pbuh) has fought against neither the Persians nor the Byzantines nor anybody else, and this was not only due to lack of capacity at the time, it was also due to the fact such course of action would have impaired the dissemination of his message and would have seriously imperilled the small community of believers around him.

Know that the ideal plan of action for the crisis which we all face does not reside in the attack and retreat tactics of al-Qaeda; these would only attract enduring pressures to thee Muslim nation and would only serve to entice it to make further concessions on its identity and its legal rights. Rather, it resides in the unification and the closing of the ranks of this nation in order to protect what is left of the hallmarks of Islam and perpetuate its identity. That includes taking a unified position vis-à-vis the non-Muslim nations of this world: we need to make it plain to them that we do not intend to cause them any harm and they also need to make a commitment not to causes any”.

III. The Communiqué of the Council Senior Ulema in Saudi Arabia Regarding the Riyadh Bombings

All Praise is due to God, the Lord of the worlds; and may His peace and blessings be upon our Prophet and his family and companions. The Council of Senior Ulema in its extraordinary session in Riyadh, today Wednesday, has deliberated on the bomb attacks which have targeted the city of Riyadh and on the trail of death, destruction and mayhem which affected many Muslims and non-Muslims alike.

The Council wishes to re-affirm that the vocation of the Islamic Sharia revolves around the protection of religion, life, property, progeny and the intellect. Thus all Muslims agree that committing an act of aggression which leads to the death of a protected life is haram. In Islam, by a ‘protected life’ we usually refer to the life of a Muslim, which is considered strictly inviolable so much that whoever commits such an act without justification is believed to have committed a destructive sin indeed. The gravity of this deed is manifestly expressed in the Qur’anic verses in which God- may He be exalted- says: “Whoever kills a believer intentionally - his recompense is Hell, wherein he will abide eternally, and God has become angry with him and has cursed him and has prepared for him a great punishment” 4:93 and also, “Because of that, We decreed upon the Children of Israel that whoever kills a soul unless for a soul or for corruption [done] in the land - it is as if he had slain mankind entirely” 5:32. Commenting on this verse, Mujahid- may God have mercy on him- said, “this is ample evidence that taking the life of any human being in defiance of right is certainly a sin of the greatest magnitude”.

Also the Prophet (pbuh) has said:
“The blood of a Muslim who testifies that there is no god but God and I am the Messenger of God is not lawful except in three cases: life for life, the adulterer, and the one who leaves his religion and then leaves the Community”.

“I have been commanded to fight people until they testify that there is no god but God and that Muhammad is the Messenger of God and then establish the prayer and pay the zakat. Once they abide by these, their lives and property are protected from me except if they breach the right of Islam, in which case their reckoning is up to God”.

“Verily, the obliteration of this world, in the sight of God, is far more negligible than the slaying of a Muslim”.

It has been reported that on one occasion, Ibn ‘Umar- may God be pleased with him- was gazing at the Ka‘ba and then said: “How great you are and how grave is your sanctity, though, in the sight of God, the inviolability of the life of the believer is graver”.

All of these textual proofs and others which we have not included constitute strong evidence for the inviolability of Muslim blood and for the prohibition of taking his life irrespective of the motives. Hence, unless warranted by the clear texts of the Sharia, no one is permitted to slay a Muslim in defiance of right.

Indeed, Usama Ibn Zayd- May God be pleased with him- narrated: “The Prophet, may God bless him and grant him peace, sent us to al-Huraqa whose people we defeated in the morning. I and a man of the Ansar caught up to one of their men, and when we overcame him, he said, ‘There is no god but God.’ The man from the Ansar had let go of him but I stabbed him with my spear until he was slain. The news of this incident had reached the Prophet (pbuh), and upon our return he said, ‘O Usama, did you kill him after he said, ‘There is no god but God’? I replied, ‘He was feigning it in order to save himself.’ He continued to repeat it until I wished I had not become Muslim before that day.’” This hadith is no doubt the strongest evidence against the permissibility of taking the life of a Muslim: in spite of the fact that the man in question, was, for all they knew, a Pagan who professed the shahada only after he had been prevailed over, and although they were fighters and they apprehended him in the context of a war, the Prophet (pbuh) still refused Usama’s argument and justification for killing him.

Furthermore, it is not only the lives of Muslims which are inviolable, it is their property too. For indeed the Prophet (pbuh) has said: “‘Your blood and your property are inviolable to you, like the inviolability of this day in this sacred

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321 Related by Bukhari no. 6878, and Muslim (25/1676, on the authority of Ibn Masud- may God be pleased with him)
322 Related by Bukhari no. 25 and Muslim (22/36), on the authority of Ibn ‘Umar- may God be pleased with him.
323 Related by Tarmidhi no. 2032, and deemed sound by al-Albani.
324 Related by Bukhari no. 3269 and Muslim (96/158).
month of [Muharram] in this sacred city [Mecca].\textsuperscript{326} This saying of the Prophet (pbuh), he pronounced during the sermon of Mount Arafat, and the like of it can be found in his sermon of ‘Eid al-Adha which has been collected by Bukhari and Muslim.

In Islam, however, a ‘protected life’ also refers to the lives of those with whom Muslims have a covenant, the Dhimmis and those who have been granted safe conduct. Indeed, Abdullah Ibn ‘Amr B. Al-‘As- may God be pleased with him-narrated that he heard the Prophet (pbuh) say: “Whoever kills someone with a treaty will not catch a whiff of the fragrance of Paradise although its fragrance wafts from at a distance of forty years”\textsuperscript{327}

Thus, it is clear that whoever enters the land of Islam after permission has been granted to him by a Muslim ruler on the basis of a pledge of security or a promise of safe conduct, his life and property are protected and considered inviolable too. It is because of this that whoever kills such a person “will not catch a whiff of the fragrance of Paradise” is menaced with perdition as the Prophet (pbuh) said. It is worth reminding ourselves that the pledge and the promise of protection is one and indivisible, for the Prophet (pbuh) said: “The blood of the believers is equal; the lowliest among them [in status] can make a promise of protection on their behalf”. Indeed, when Umm Hani’- may God be pleased with her- had given sanctuary to one of the Pagans during the year of the Conquest, she feared that Ali Ibn Abu Talib may kill him, and went to see the Prophet (pbuh) who said to her: “We give quarter to the one to whom you have given quarter, Umm Hani, for even the lowliest of Muslims may grant safe conduct on their behalf.”\textsuperscript{328}

Thus, again the point is that whoever comes to our country with a pledge or an assurance of security extended to him by Muslim ruler, for an interest that he deems suitable, his life and property are protected and it will not be permissible to harm him under whatever circumstances.

Consequently, we declare the bomb attacks that took place in the city of Riyadh recently to be acts which are prohibited in Islam. They are indeed prohibited in four ways:

- They are an aggression against the inviolability of the land of the people of Islam and amount to acts which undermine the safety of its residents
- They have caused the death of people whose life it is prohibited to take according to the Sharia
- These acts constitute a corruption on the earth
- They have caused the destruction of property which is protected in the Sharia

\textsuperscript{326} Related by Bukhari no. 67, and Muslim (29/1679), on the authority of Abu Bakra- may God be pleased with him.
\textsuperscript{327} Related by Bukhari no. 3166
\textsuperscript{328} Related by Bukhari no. 375, and Muslim (82/336)
As it issues this legal ruling, the Council of the Senior Ulema would like to seize this opportunity to warn Muslims against these sorts of destructive sins, and from the deceptions of the devil, who will relentlessly attempt to lure the believer either into extremism or into aversion against religion, God forbid. No doubt, for the devil, it matters little which trap the servant of God falls into because both extremism in religion and aversion against religion are paths of Satan, and both cause the wrath of the all-Merciful and are punished by Him.

As for those who have perpetrated those attacks and have killed themselves as a result of the ensuing explosions, their act comes under the provisions of his statement, peace and blessings be upon him, when he said: “Whoever kills himself with something from this world, God will punish him with it on the Day of Judgement”.

Also the Prophet (pbuh) has said: “If someone kills himself with a spur, he will have his spur in his hand, stabbing his belly with it forever in the Fire of Hell, and if someone throws himself off a mountain and kills himself, he will be throwing himself down forever in the Fire of Hell”.

It is also worth reminding everyone that the Islamic nation today is surrounded by enemies waiting for any opportunity to encroach further into its affairs. Indeed, these enemies will welcome any alibi they can use in order to justify their oppression and humiliation of Muslims, and the plundering of their resources. Hence, whoever assists them in reaching their goal, and in breaching our borders, has in fact contributed to the undermining of the security of all the Muslims and to the oppression of their country; which amounts to a grave crime indeed.

Finally, attention need to be given to religious knowledge based on the Qur’an and the Sunna and as understood and conveyed by the salaf of our community. It is indeed imperative that this knowledge be disseminated in our schools, universities, mosques and through our mass media. Also, care and attention must be directed to the practice of promoting virtue, combating vice and advising one another to truth, for such practices are needed today more than ever before. It is necessary for the Muslim youth to have a good opinion of their scholars and learn from them. Our youth should be in no doubt that one of the things our enemies are desperately trying to do these days is to create a rupture between them and their scholars and also between them and their rulers, in order to make a dent into their impregnability, making them thus amenable to their domination. We say to our youth, ‘be careful of these schemes!’ May God protect everyone against the conspiracies of the enemies! May the Muslims be conscious of God and fear Him in secret and in the open, and may they repent in earnest from all the sins committed; for behind every trial there is sin and no trial is lifted but with true

329 Related by Ahmad [Ibn Hanbal] in his Musnad, on the authority of Thabit Ibn al-Dahhak- may God be pleased with him.
330 Related by Bukhari no. 5778, and Muslim (109/175)
repentance. We beseech that He may improve the conditions of Muslims and safeguard the land of Islam against every evil and harm, and may He bless him and grant him peace, to our Prophet, his household and his companions.

The Council of Senior Ulema
Abdulaziz bin Abdullah bin Mohammad Al-Sheikh
Chairman of the Council of Senior Ulema
Saleh bin Muhammad Al-Luhaidan
Abdullah bin Suleyman AL-Munee‘
Dr. Abdullah bin Abdulrahman Alghidayan
Dr. Saleh bin Fawzan bin Al-Fawzan
Hassan bin Ja’far al-‘Atmiyy
Muhammad Ibn Abdullah al-Sabil
Dr Abdullah bin Muhammad bin Ibrahim Al al-Sheikh
Muhammad bin Suleyman al-Badr
Dr. Abdullah bin Abdul-Muhsin Al-Turki
Muhammad bin Zayd Al Suleyman
Dr Bikr bin Abdullah Abu Zayd (did not attend due to illness)
Dr. Abdulwahab bin Ibrahim Abu Suleyman (did not attend)
Dr. Abdullah bin Mohammad Al-Alshaikh
Dr. Saleh bin Abdullah bin Humayd
Dr. Ahmad bin Ali Sirr al-Mubaraki
Dr Abdulllah bin Ali al-Rakban
Dr. Abdullah bin Muhammad Al-Mutlaq
All praise is due to God, the Lord of the worlds, and may His blessings and peace be granted to our Prophet, his household and his companions.

Know that the majesty of Islam revolves around two exalted fundaments: Guidance and Truth, as attested by the verse “It is He who sent His Messenger with guidance and the religion of truth to manifest it over all religion” (61:9). Thus, the first fundament pertains to the station of knowledge and clear exposition, and the second to the station of action and faith, and they are interdependent.

Now in compliance with God’s command to the believers to advise one another to kindness, to moral responsibility, to truth and to patience, and for the sake of good advice to God, His messenger, and to the leaders of the Muslim community as well as their common folk, we have endeavoured, in the following, to convey our determinations regarding some of the issues surrounding the ‘incidents of Riyadh’.

Firstly, we, the signatories of this document, strongly condemn the bomb attacks on Riyadh, and we confirm that they are prohibited and starkly at variance with the tenets of the Sharia and its objectives. Certainly, any resolution to a grave incident like this one needs to start with an unequivocal condemnation of this heinous act.

For indeed this country is a sanctuary for the Muslims, and it has been established among the jurists of Islam that whoever has entered a territory from the land of the Muslims after having been granted with safe conduct or with an assurance of security, his life is protected and as such it is prohibited to take his life even if his security agreement may not comply entirely with the requirements of the Sharia. This law of ours contains within its fold clear arguments and guidance, and thus its commands and prohibitions are never obscure or found wanting. No doubt, one of the hallmarks of this Sharia is jihad, so much that whoever denies such a duty has actually violated a host of clear-cut texts of this Revealed Law. However, our point is that jihad is a vast chapter of Islamic jurisprudence, regulated by all sorts of rulings and conditions, which constantly require the exertion of the legal scholars. That is because, the topic of blood shedding in the words of Ibn Taymiyya is “one of the gravest topics and most sacrosanct in the sight of God and His Messenger”. Indeed, says Ibn Taymiyya, “that is why many Qur’anic verses and hadiths of the Prophet on this issue are full of menace and warnings to those who dare shedding the blood of others unjustly. God- may He be exalted- has said: “Whoever kills a believer intentionally - his recompense is Hell, wherein he will abide eternally, and God has become angry with him and has cursed him and has
prepared for him a great punishment” 4:93, and He also has said “Because of that, We decreed upon the Children of Israel that whoever kills a soul unless for a soul or for corruption [done] in the land - it is as if he had slain mankind entirely” 5:32. As for the Prophet (pbuh) he has said: ‘Whoever kills someone with a treaty will not catch a whiff of the fragrance of Paradise although its fragrance wafts from at a distance of forty years’.”

Hence, such a topic does not really allow for liberal interpretations, particularly the kind of which results in the undermining of security, resentment and causes public interests to be impaired. The security of the people is not a trivial matter in the sight of God, nay it is of His greatest boons, one that He bestowed on His servants, especially in this privileged country, which has, by His Grace, a very special place in the hearts of the believers. Thus, God has said:

“Have they not seen that We made [Makkah] a safe sanctuary, while people are being taken away all around them?” (29:67)

“Have we not established for them a safe sanctuary to which is brought the fruits of all things as provision from Us?” (28:57)

“Let them worship the Lord of this House, Who has fed them, [saving them] from hunger and made them safe, [saving them] from fear” (106:3-4)

Indeed, safety is such a boon that God Almighty punishes whoever denies His bounties with lack of security. He- exalted is He- says: “And God presents an example: a city which was safe and secure, its provision coming to it in abundance from every location, but it denied the favours of God. So God made it taste the envelopment of hunger and fear for what they had been doing” (16:112)

In this country, just like many others, society is comprised of people who have diverse ethnicities, come from different regions, hail from different tribes and follow different religious predilections and schools. So long as security reigns, they are united, but as soon as that is undermined, each one of these elements of society will begin to pursue its own interests to the point of rivalry and there you have the recipe for civil war. Certainly, the worse situation a society can find itself in and the biggest threat it can face is that in which people find themselves on opposite sides, being split along lines which combine the religious, the tribal, the regional and the personal factors at once; for that will be the greatest Tumult indeed. Concerning such horrifying trials, God has said: “Say, "He is the [one] Able to send upon you affliction from above you or from beneath your feet or to confuse you [so you become] sects and make you taste the violence of one another." Look how We diversify the signs that they might understand” (6:65).

Moreover, spreading fear and distress among the people is considered a great corruption, and the Prophet (pbuh) has clearly alluded to that fact when he has said: “No Muslim is permitted to cause another Muslim to be afraid”. 332

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331 Related by Bukhari no. 3166
332 Related by Abu Dawud no. 5004, and was deemed sound by al-Albani.
We should note that it is also wrong to confuse these recent attacks with the jihad recognised in the Sharia as some of the mass media do, for this a defamation of religion. No doubt, these mass media are actually following in the footsteps of their western counterparts which are wont in confusing between the two intentionally in order to make wider accusations and unfounded generalisations, and ultimately tarnish this religion.

Secondly, it needs to be said that the enemies of Islam abroad, whoever they are and wherever they may be, are always lying in wait for us; they are constantly looking to pick a fight against the Muslims in the hope that such a confrontation will in due course enable them to have a firmer grip on the situation on the ground and manage it to their advantage. One needs to only look around him to confirm this truth. Hence, there should be no doubt that any destructive action, which the enemy can use as a justification to intrude into the land of Islam, constitutes in fact a major corruption.

Thirdly, the ulema have long established unanimously that a wrong deed cannot be turned into a good through sheer good intention. For a deed to be good it is necessary first of all that it complies with the demand of the Sunna, then it needs to be accompanied with good intention. Therefore, religious fervour, no matter how laudable it might be, can never override the Sharia: one could argue that the potential for fighting was there in Mecca since the beginning, but it was delayed by thirteen years in order to protect the matrix of Islam. The oppression of Quraysh and the disbelievers against the Muslim residents of Mecca is known to all, yet despite all of that evil, the Muslims in Medina were not granted permission to fight against what was Pagan Mecca at the time. Also, what God and his messenger (pbuh) have determined concerning Treaty of Hudaybiyya and the concessions made by Muslims in that treaty are known to all. We, as residents of this country are fearful for the matrix of Islam that it may exposed to the evils of those who are lying in wait for us, from among the disbelievers and the hypocrites, although we have complete faith that God will protect His religion and the message with which he has sent His Prophet (pbuh).

Fourthly, we would like, in light of the above, to implore all the Muslims who live in this country, especially those who are in positions of authority, to use all of their wisdom and sense of justice as they deal with these recent incidents, for it is vital to refrain from taking any action which would lead declaring war against some of the youth. We need to realise that we are facing a crisis that we have to solve according to the principles of wisdom and equity which are the only way of achieving the balance of justice in Islam. We are indeed facing a situation which requires understanding and imparting guidance, particularly to the youth, and if this duty is not taken up by those who have been endowed with discernment in matters of religion and concerning the challenges facing our nation, then it will be taken up the cheaters and the opportunists.
Fifthly, we would like to warn against taking any measures which would result in the transfer of this confrontation inside the country; for this country is the bastion of Islam and the spring of its Message. Indeed, we wish to draw the attention of the scholars and the student to the importance of this evil and corruption and urge them to divulge it. For indeed, it is imperative that these incidents are not used as a pretext to declare a war against our educational system, our judiciary, the Sharia and the institutions which promote virtue and prevent the spread of vice in this country. Also, it is recommended that those in authority should act to prevent the dissemination of extremist literature whose authors are bent on using these incidents for their personal ends and for the settling of scores that can only undermine the unity of this society and enticing its members to be against one another. After all, all of our present teachers and lecturers came through our educational system, yet none of them has been encouraged to take the path of misguidance as a result of being trained in its intuitions of learning. Indeed, the solution to the problem that we are facing today can only come at the hands of the scholars of the Sharia and those with expertise in education, sociology and so forth, who are fond of Muslims and care for their well-being.

Sixthly, religion is a worthy buffer against aggression, and it is because of this quality that the Prophet (pbuh) has said: “Faith keeps a tight leash on the will to kill; a believer does not commit murder”. Indeed, if it were not for the protection of religion, people’s well-being and their safety would been compromised: those who are desperately attempting to make a link between these latest incidents and religious commitment or the institutions which are committed to promoting religion in society are in fact making a malicious argument in that arguing in this way only serves to widen the scope of the confrontation. Rather than pushing things in that direction, they should deal with these incidents as a case apart and put them in their proper context if they want to engage with this crisis responsibly and realistically.

Seventhly, we say that if we are going to commit ourselves to give these incidents their due consideration, we should then begin to think how we can turn this calamity into a godsend particularly in these days when more than ever before, we are called to restrain our evil-commanding souls, to make earnest repentance to God, to rule by the injunctions of the Sharia, to spread justice, to promote a level-headed and open dialogue that is not censured by exaggerated security concerns, to implement consultation and the right to participation, and finally, to make sure that all litigations are resolved in light of the Sharia, such that human rights, both moral and material, are protected and all who dare to violate them are brought before justice regardless of who they are. That is because a just society is by God’s leave immune against the menace of tribulations and earth-shaking transformations and their effects is dampened should they ever occur to it. It is with these aims in mind

333 Related by Abu Dawud no. 2769, on the authority of Abu Hurayra- may God be pleased with him- and was deemed sound by al-Albani.
that we strongly urge those in authority and those holding a position of influence in the field of knowledge to ensure that knowledge of religion and the Sharia is imparted to the widest possible audience in our society, and to enable those who have the capabilities to carry out such a task to perform this task, particularly in relation to correcting some of the widespread misconceptions and laying bare some of the statements and actions which some would like to associate with religion.

We, therefore, call upon our sincere and proud youth to take upon themselves the task of safeguarding the achievements of their country and of protecting the advancements that have been realised in the religious arena. They certainly need to fully aware of the dangers that are lying in wait to undermine their country, and which can only be surmounted by making a commitment to internal unity and social cohesion under the umbrella of the Sharia and as required by the principle of mutual-advice and frankness. God has indeed said: “By Time! Mankind is verily in loss; except for those who have believed and done righteous deeds and advised each other to truth and advised each other to patience” (Q:103)

Eighthly, opposition to the imperious, tyrannical and unilateral policies of America is not of the exclusive domain of a religiously oriented country like Saudi Arabia, nor any other Arab or Islamic country. For indeed the feeling of aversion is growing in the entire Muslim world, which knows full well that its religion, territory, natural resources, and its way of life is the primary target of these corrupt policies. The Americans have certainly exceeded their limit in slighting the peoples of our regions and treating with discourteous reserve their aspirations and despite all this, the American Administration, or at least some of its hawks welcome instability and the undermining of security in any Muslim country, because they think that this instability would serve as an ideal pretext for interfering, sooner or later, in that country under the guise of protecting their own security and interests or in order to close down this or that institution. If this were allowed to happen things may turn very quickly into a situation which will no longer be in our control.

Hence we would like to call upon all of our brothers, including ourselves, to be conscious of God and to have foresight in matters of religion; whoever is unsure about an issue, let him refer to the Quran and the Sunna and the insights of the leading scholars of this community, and consult with the people of knowledge today, while being always mindful not give in to seditious ideas and devious interpretations which pave the way to the shedding of blood and the plundering of the property of others.

May God safeguard for Muslims their religion and protect their well-being, unity, and safety; He is the All-Bountiful, the Generous, and may He grant all His blessings and peace to our Prophet, his household and his Companions.
The Signatories:

Ibrahim Abdullah al-Duwaysh, Prof. in Hadith Studies in the Faculty of Education; Prof. Ahmed bin Saad Hamadan al-Ghamidi, the University of Umm al-Qura; Ahmed bin Suleyman Ali al-Faji, Member of the Committee for Teaching at the University of al-Imam; Ahmed bin Muhammad al-Husayri, Member of the Committee for Teaching at the University of al-Imam; Ahmed bin Musa al-Sahli, President of the Association for Qur’anic Recitation of the City of Ta’if; Hamd bin Ibrahim al-Haydari, Member of the Committee for Teaching at the University of al-Imam; Hammoud bin Ghazi al-Harbi, Member of the Committee for Teaching at the University of al-Imam; Khalid bin Abdullah al-Muslih, Lecturer at the University of al-Imam, Department of Islamic Jurisprudence; Khalid bin Ali al-Mushayqih, Prof. in Jurisprudence Studies, the University of al-Imam; Sami bin Abdul-Aziz al-Majid, Member of the Faculty of the Sharia in Riyadh; Saud bin Abdullah al-Qunaysan, ex-Dean of the Faculty of the Sharia in Riyadh; Safar bin Abdul-Rahman al-Hawali, ex-Head of Department of Doctrinal Theology, The University of Umm al-Qura; Salman bin Fahd al-‘Awda, Manager of the Institution Al-Islam al-Yawm; Suleyman bin Hamd al-‘Awda, Member of the Committee for Teaching, the University of al-Imam; Al-Sharif Hatem bin ‘Aref al-Hawli, Prof. in Hadith Studies, the University of Umm al-Qura; al-Sharif Hamza bin Hussein al-Fa’r, Prof. in the Principles of Islamic Law, the University of Umm al-Qura; Saleh bin al-‘Aziz al-Tuwaityari, Prof. in Doctrinal Theology, the University of al-Imam; Saleh bin Muhammad al-Sultan, Prof. in Islamic Jurisprudence. The University of al-Imam; Saleh bin Muhammad al-Winyan, ex-Head of Jurisprudence Department, the University of al-Imam; ‘Ayedh bin Abdullah al-Qarni, Member in the Committee for Teaching, the University of al-Imam; Abdul-Rahman bin ‘Allouche al-Madkhali, Prof. in Hadith Studies, the Education Faculty of Jizan; Abdul-Aziz bin Ibrahim al-Shahwan, Prof. in Doctrinal Theology, the University of al-Imam; Abdullah bin Ibrahim al-Tariqi, Prof. in Islamic Culture, the University of al-Imam; Abdullah bin Saleh al-Hammoud, Preacher; Abdullah bin Abdul-Rahman al-Jabrayn, Retired member of the Fatwa Committee; Abdullah bin Abdullah al-Zayed, ex-Vice Chancellor of the Islamic University; Abdullah bin Ali al-Ju‘ayn, Prof. in Hadith Studies, previously at the university of al-Imam; Abdullah bin Fahd al-Salloum, Preacher; Abdullah bin Muhammad al-Ghaniman, previously Head of Department for Higher Research, the Islamic University; Abdullah bin Wakil al-Seikh, Prof. in Hadith Studies, the University of al-Imam; Abdul-Muhsin Abdul-Rahman al-Qadhi, Preacher; Abdul-Wahab Ibn Nasser al-Tariri, General Deputy Supervisor at the institution of al-Islam al-Yawm; Ali bin Ibrahim al-Yahya, Head of Department of the Sunna Studies, previously at the University of al-Imam; Ali bin Abdullah al-Jumu‘a, Head of Department of the Sunna Studies, the University of al-Imam; Ali Hassan ‘Assiri, Prof. in Doctrinal Theology, the University of King Khalid; ‘Awdh
V. Public Statement of the Lebanese Grand Ayatollah Muhammad Hussein Fadlallah Concerning the Bombings of Riyadh

The London Newspaper al-Hayat, 20/05/2003
Title: Raddan ‘ala As’ila ‘an Tafjirat al-Su’udiyya wa l’Maghrib

Sayyid Muhammad Hussein Fadlallah has issued a fatwa prohibiting bomb attacks targeting civilians similar to those in Morocco and the Kingdom of Saudi Arabia. Asked several questions concerning the legality of such attacks by a number of his followers from Morocco in particular, he had this to say:

“From the legal perspective of the Islamic Sharia, we are of the opinion that the targeting innocent civilians in such a barbaric fashion and the destruction of civilian institutions, causing thus the death of men, women and children from both the Muslim and non-Muslim population without any justification, such as aggression or war, is a matter that is prohibited in Islamic law. That is because, not only these acts are regarded as deliberate killings and aggression on innocent people, they also undermine the reputation of Islam and Muslims”.

After denouncing these attacks strongly, Fadlallah appealed to the highest authorities in religious affairs, urging them “to organise awareness campaigns against such aggressive methods, which masquerade as religious piety but have nothing in common with it”.

Fadlallah also confirmed to the newspaper al-Hayat that the fatwa which he issued the day before concerning the bombings of Morocco applies to the bombings which had occurred a week earlier in Riyadh and to all such attacks which are a deliberate aggression against innocent civilians or civil institutions, be they official or residential, and regardless of the nationalities of the people who are targeted, even if they are non-Arabs and non-Muslims and even if they are foreigners and
westerners. “The religion of Islam”, he said, “prohibits aggression against innocent civilians, and against mankind, irrespective of their religious, and ethnic affiliation and regardless of their identity and nationality”.

VI. Essam Derbala’s Interview with the Magazine *al-Musawwar*  
Concerning the Topic of Jihad, the Initiative for the Cessation of Violence, and 9/11

*Al-Musawwar:* 15/6/2002

Q: What are the motives behind your initiative [for the Cessation of Violence]? Why at this particular moment in time? On what legal basis does it recline? And finally what guarantees can you give that following this initiative you are not going to revert back to your older beliefs?

E.D: Praise be to God, and may God grant all of His blessings and peace to our Prophet. To begin, I would to express my thanks to your judicious magazine *al-Musawwar* for giving me the opportunity to address its wide community of readers. As for your question about the motives behind our decision to launch the Initiative for the Cessation of Violence, there were indeed several responses and analyses in that regard ever since the initiative was announced on the 05/07/1997. Hence, some have claimed this was a deal struck behind the scene, [between us and the regime], according to others, this was just a ploy and still others have claimed that it was some kind of recantations. Only, there was also a fourth thesis, which saw the initiative as a new vision worthy of being given an opportunity, and this to us represents the equitable view, because the Initiative [for the Cessation of Violence] is neither a backdoor deal, nor a devious tactic or some sort of declaration of repentance. Indeed, to us the Initiative is a vision of many dimensions.

First, it aimed at ushering a new phase and putting an end of the long history of collision and bloody incidents of which Egypt had been the theatre from the summer of 1992 until the launch of the initiative. It was meant to pave the way for the creation of a climate that was conducive for the resolution of the problems that were still outstanding between the members of the Islamic Group and the regime once and for all and thus to make of it a model for others in similar situations.

Secondly, it was meant to be a basis from which the duty of revising the Islamic activity of the group during the last twenty years may be accomplished. Such a revision is what every organisation ought to be doing if it wants to discover its strengths and weaknesses, for only in this way it can decide to consolidate what it is doing well already and correct what it deems has gone wrong. In our case, we have found that the Group had done a lot of good things for Islam and its mission,
but we also noticed that there was a number of deficiencies which required attention, and we made these revisions public through the four revision works and others which have been published so far.

Thirdly, this initiative was meant to be an opportunity for us to proclaim our legal perspective vis-à-vis a number of issues, which have been wrongly associated with us and with our religious action. Apart from this, we also felt that it was necessary to clarify the correct view concerning those matters, which remain vague or misunderstood by many Muslim activists.

Thus, during the tribunal hearings during which the initiative was launched, a number of announcements regarding several matters were proclaimed: for instance, one dealt with the new law on land leasing and whether it was in conformity with the Sharia or not, another contained the Islamic Group’s condemnation of the targeting of the Copts, and yet another made public our support for the Palestinian Uprising, the liberation of Jerusalem and the Occupied Territories, and in which we have also urged everyone to act in unison with all the forces keen to make a contribution to that courageous uprising regardless of their political predilection and regardless form which government institution that contribution came.

Those announcements and others were made in order to inaugurate a new logic of engaging with the regime and other parties: from that point onwards, the Islamic Group was committed to give their backing to all the government policies that are not misguided, and prove to be in conformity with the tenets of the Sharia.

Fourthly, that initiative came to reflect a vision which was the fruit of our meditations on the reality of Egypt and the world today. Indeed, upon reflection, we came to the conclusion that [our country] was on the verge of facing numerous challenges, which could not be dealt with unless we took the step of putting an end to combat operations and ending violence. Among the challenges that posed the most threat we can cite the following:

1. The theses of the ‘End of History’ and the ‘Clash of Civilisation’ were a harbinger of bad things to come: they signalled the danger emanating from the will of certain centres of power to make western civilisation prevail at the expense of Islamic identity. In that context, our combat operations in Egypt served to consolidate the standing of western civilisation and were to the detriment of the standing of Islamic values

2. There was also the danger emanating from the international political embargo and the anti-Islamic strategies of world powers which aimed at eradicating the manifestation of Islam whether these were at the level of a state, a movement or a minority. In that context too, to continue with combat operations would have created the right conditions to press ahead
with that policy of eradication or consolidate the embargo under the pretext of the war on terror and the need to conduct pre-emptive wars against it.

3. Israel has been diligently pursuing the dream of imposing its hegemony over the region or achieving its vision of the Greater Israel by constantly urging the world to confront what it calls Islamic fundamentalism. We came to the conclusion that ongoing combat operations in Egypt were actually in the interest of Israel, helping to attain two great objectives: getting rid of a fundamentalist movement that has caused it trouble for some time, and weakening the position of Egypt so that it would have no foot to stand on in any future confrontation with Israel, and in order that it would no geo-political influence in the region

4. There was also a danger emanating from certain Coptic circles overseas which were bent on adding their weight to the international pressures that Egypt was already under. In order to achieve certain illicit gains, these circles had begun using the pretext that they were being the target of the Islamic Group’s operation, while the Egyptian government stood by and watched. Had we continued with combat operations, some of which aimed at the Copts, we would have given these circles the perfect alibi for continuing with their exercise of pressure and blackmail, especially at a time when there appeared to be an international agenda at work which was emboldening minorities, particularly those living in the Muslim world, to rise up against their governments. It was in fact owing to such international agitations that some of the Copts overseas have requested the United Nation to interfere in order to protect the Copts of Egypt, while others have called upon the American Administration to play the same role and for the same reason under the provisions of ‘The Freedom From Religious Persecution Law’. It was absolutely necessary to thwart these malicious plans and prevent them from having a negative impact on the peaceful Egyptian Coptic community

5. There was a danger emanating from the escalating confrontation between the proponents of Islamic ideology and those of the secular ideology. This danger has become manifestly obvious when some of the opponents, not all, to the Islamic ideology began to use the combat operations in Egypt to entice the authorities to take action against everything that any relationship with Islam in a desperate effort to give a final and decisive blow to the political forces which continued to uphold the banner of Islamic ideology. For fear that the tide might be going in their favour, it was necessary to deprive them of such an opportunity

6. There was the danger emanating from the increasing instability in Egyptian society. We have indeed began to witness the emergence of several social scourges which were so dangerous, they threatened to undo our social cohesion, such as thuggery, debauchery, devil worship, drugs, illicit
marriage, the widening of the gap between rich and poor, obscene extravagance and the list goes on. To continue with combat operations in such a context meant allowing those social ills to go from bad to worse, in that the climate of confrontation would have distracted everyone’s attention from these problems, including the preachers who are best qualified to inject into society the sort of moral compass that we so desperately need.

So these were from our perspective the kind of challenges and perils that we were facing as a nation and what motivated us to take the decision to launch the initiative cannot be understood in isolation of these factors, for the initiative after all was aimed simply to provide an adequate response to these realities.

Furthermore, If we can just focus on the Islamic Group, we were beginning to realise that ongoing combat operations were only exacerbating the situation: not only have we noticed that things were becoming unbearably hard for those members of the group who were incarcerated, those who were sued, and their families, but we also noticed the gradual infiltration of devious religious attitudes as a result of these long confrontation. Indeed, it seemed to us that some individuals who like to affiliate themselves with our group were increasingly developing this notion that the central mission of the Islamic Group of Egypt revolved around jihad and nothing else but jihad, in spite of the fact that our vision of Islam as a group is far more comprehensive and is by no means limited to fighting. Seeing that there was a growing trend in that direction, however, it was only logical to bring forth our legal perspective on those violent incidents which had marked that period and we decided to prohibit all future military confrontation in the country.

Our position in relation to these incidents relied on the following legal principles:

1. The decision to launch the initiative aimed amongst other things to put an end to the kind of operations which came after the infamous incident of Sanbo in the summer of 1992, causing the death of 14 Copts. That is because those attacks involved a grave legal error, and when errors of such gravity occur there is no harm in calling for the cessation of operation. After all, the Prophet (pbuh) too had abandoned the fighting of Ta’if, withdrawing along with his companions from the contours of that city and he (pbuh) had no qualms praising Khalid Ibn al-Walid for his decision to end the fighting between the Muslim and Byzantine armies. Indeed, we feel there is no harm in taking such a decision particularly at a time when fighting seems to have become an end in itself instead of being a lawful means.

2. The initial objective behind these combat operations was the liberation of our members who were detained in jail. However, instead of achieving that objective, these operations had only led to the detention of a greater number
of people and to more members being sued by the authorities, and thus it was clear that something was wrong; our scholars have said, “Any action that falls behind in achieving its aim is useless”. Seeing that things were going from bad to worse, we became more convinced that it would have been possible to achieve that objective through a variety of peaceful means, and we were proven right later on. Thus, the initiative was also to reflect this alternative choice and to set into concrete that conviction.

3. Before fighting is declared, a number of causes and conditions need to be fulfilled first, and a number of legal impediments need to be surmounted as well; otherwise the implementation of jihad and even continuing with it cannot be permitted. Yet, what we came to notice was that the combat operations conducted during the nineties either did not fulfil all of the conditions of jihad or they did not surmount the legal impediments prohibiting their performance.

4. The Sharia has permitted the cessation of jihad when fighting does not achieve any significant lawful benefit. Considering what we were able to achieve during that period, it became obvious to us that on balance the ongoing combat operations had neither achieved the interests of Islam and the country nor that of the members and the sons of this nation. It is rather the opposite that happened as these operations have resulted in major costs for society: now the Group as a force in society was weaker, and so was the state and the condition of religious activism, while the winners were only those who were constantly lying in wait for Islam from among the Jews, the people of sedition from among the Coptic community overseas and those who reject Islam as a religion and a way of life.

5. The Sharia has permitted the conclusion of peace treaties with the enemy when these help to safeguard God’s boundaries and ensure that the hallmarks of religion are revered, and the initiative did no more than reflect the provisions contained in that ruling.

You ask why at this particular moment in time? Let me first precise that in a few days this initiative will be five years old; the initiative did not come about just now, and even then, it was the result of a process that had long been in motion. For instance, one of the things which were done to stymie the tie of violence before 1997 was the setting up of the Committee of the Elders and Mediators (Lujnat al-Hukama’ wa l’Wisata) which was actively engaged in February 1993 to finding a solution to the crisis at the time. We gave unequivocal support to this committee and its work back then, and so our efforts in this direction go a long way back. As for your question regarding the guarantees that following this initiative we are not going to revert back to our older beliefs, we say that the central guarantee resides in the very legal basis underpinning the initiative, and which can be found
in the four publications dealing with this issue.\textsuperscript{334} Another guarantee stems from the fact that the initiative, as I pointed out before, is a fruit of a long experiment and experience. It was felt that the real causes behind the incidents that have marked the previous decade needed to be addressed, and that a climate conducive to their resolution needed to be provided. Indeed, we felt it was high time our Muslim youth, particularly those segments of it which are engaged in religious activism, developed wise approaches of dealing with the phenomenon of Islamic revivalism. Among such wise approaches today is that which has allowed the Initiative to become a reality. And while we are on this topic, I often wonder why some of us who belong to the Islamist camp are asked to give assurances about our commitment while those who belong to other political trends are not, in spite of the fact that some of their beliefs have undergone a dramatic shift. For instance, why are the Marxists who are always berating us for being slow on assurances left alone, even though they had shifted from total commitment to the dictatorship of the proletariat to singing the praises of liberty and democracy? If this not a case of double-standards, then what is it?

Q: What was the message that you wanted to convey through your four recent publications?

E.D: Above all, we wanted to say that re-assessing the direction of one’s line of action is a legal duty which is incumbent on any movement that is courageous enough to undertake it, without any fear of what might be said as a consequence. In other words, we wanted to say that human thought, after all, is not infallible and it therefore needs to revise its ideas from time to time. Indeed, as humans our role is to constantly assess our knowledge to consolidate what has proven to be right and rectify what proven to be wrong, and then start the journey anew, but each time with more rectitude and a clearer vision than before.

We wanted to say that before moving to the stage of executing the rulings of the Sharia, we need to make sure that all the causes and conditions which have been ordained by God in this regard are fulfilled, and that all the prohibitors which prevent the implementation of this or that ruling are surmounted. In fact, even when this issue is ascertained, we are still called to consider the extent to which this or that action, lawful as it might be, does ultimately achieve the interest of Islam if implemented; and the same applies to the rulings related to jihad or those pertaining to the promotion of virtue and the prevention of vice.

We wanted to say that fighting in Egypt is prohibited for many reasons, all of which we have detailed in those publications, and that today what is most pressing

\textsuperscript{334} This is in reference to the Revision of Concepts Series, published by \textit{Maktabat al-Turath al-Islami}
is for Muslims to present to the world an ethical model that is neither extremist nor lax, for indeed it is this balance that our world needs most today, hence that model would in itself constitute an important contribution to the moral progress of humanity.

Indeed, we wanted to say that imparting spiritual and moral guidance today is the highest duty of all and that this responsibility rests on the shoulders of every Muslim.

Finally, through those four publications, we wanted to say that we more than welcome calling on people unto their Sustainers path with wisdom and goodly exhortation, and we more than welcome reconciliation and cooperation against the enemies of the nation, such as the Jews and their ilk.

Q: There are some who argue that you took the step of launching the Initiative only after the security forces had actually succeeded in giving some significant blows to your organisation. What do you say to that?

E.D: I can assure you that the initiative is not a ploy through which we hope to regain our strength or catch our breath after being long pursued by the security forces. In our eyes at least, we see it as a long-term strategy which we seek to implement and consolidate, as these four publications have clearly shown.

I say to everyone who thinks that the initiative is a ploy that if they cared to pay attention to our previous initiatives and endeavours to end the cycle of violence, they would not have concluded that this time around, we have launched this initiative because we felt weak and incapacitated. For indeed we had taken concrete steps much earlier in that direction, particularly towards 1992 when the number of operations were at all time-high. Can those who harbour such suspicions about this present initiative answer why they think we had endeavoured to end the violence at a time when our capacity to do damage was by no means minimal?

Certainly part of conducting a proper legal assessment of any action or activity is to look into the level of its pragmatism and its capacity to carry out the task assigned to it, but those who raise the issue of capacity need to pay attention to the fact that capacity is only one of the conditions which need to be fulfilled before fighting is decreed. Indeed, besides capacity, there are many other conditions, as well as, prohibitors and legal impediments which also need to be surmounted. For instance, it is prohibited to fight against the Copts and kill them because they are from the People of the Book, and as long as there is no effective cause permitting such an action, no amount of capacity to fight against them is ever going to make their slaying permissible. This is just one this example, but you may certainly apply it to many other situations.
Q: As you launched the initiative to end the violence, were you hoping that it would help you get out of jail?

E.D: We have so far spent 21 years in jail, and despite being sentenced for 20 years we are still not going to abandon our commitment to the Initiative, even if we have to remain in jail for the rest of our lives. Only because we firmly believe that it is the fruit of a pragmatic vision and a religious conviction that we have long sought to convey. I remember that in meetings which we have had with other detainees of the Islamic Group in jail, some of my comrades used to say to them, “our position about this is not going to change even if we have to stay in jail longer than we have stayed already”.

Q: While I find great pleasure reading your most recent publications, I am not sure whether it is these latest works or your previous ones that should be regarded as reflecting your original thoughts and position. Could you elaborate on that?

E.D: You are absolutely right in pointing out that these four recent publications of ours ought to be regarded as the scientific method and syllabus which the sons of the Islamic Group need to abide by in the future. However, it is worth pointing on the other hand to a very telling paragraph which the publisher has put on the back cover of each of the four publications, and in which he explains that the authors of these works have sought through these publications to explain the correct meaning of rulings which were misunderstood, and to rectify certain practices which have proven wrong, as well as, to elaborate further on matters for which elucidation was critically needed. Therefore, we need to emphasise that the intention behind these four publications is to explain, rectify, and perfect; they do not aim to question any definitive ruling of the Sharia over which there is consensus.

Q: What has according to you driven men in the flower of their youth to rebel against their society? When I look at footage on the violent incidents that have marked the last decade, I can’t help but notice that the age of the perpetrators of such violence is often below twenty. Is it just the foolishness of youth that’s pushing them towards such acts or are there other factors to consider, the socio-economic ones perhaps?

E.D: In both of these questions are looking to find out the reasons which lead to the occurrence of such incidents. More precisely, what we want to know are the reasons which entice the youth towards religious extremism. This is certainly a crucial question which requires a most objective answer. I, just like you, do not see
that this phenomenon can be dealt with from one narrow angle, simply because I consider there are a whole hosts of reasons at play here; indeed they change from one individual to another, so much that the motives that lead one young person to become extremist in his religious views may have nothing in common with the motives that lead another to adopt the same attitude.

Besides the foolishness of youth and the socio-economic situation of these young people, there are other factors, such as oppression, the persecution of those who sympathise with the Islamic cause, the widespread of unislamic values and practices in society and the disregard towards the rule of the Sharia, which need to be also taken in consideration if we want to understand what is at stake here.

Q: I am aware that you have always distanced yourself from the quagmire of ex-communication, a practice which has attracted quite a number of people. But what can you say about those who have bestowed to themselves the right to ex-communicate others and what is your advice to them?

E.D: One of the good things that God has bestowed on the sons of the Islamic Group is that He has guided us to the beliefs of the People of the Sunna and the Majoritarian Community and the teachings of the pious scholars of that community, and it is certainly, this guidance which has saved us from falling into the pitfall of ex-communicating whole societies and individuals alike. As for the takfiris (those who ex-communicate others Muslims), they are, as you know, of several kinds and they espouse varying positions. Thus among them, there are those who ex-communicate Muslims for sins committed, and those who ex-communicate Muslims for ignoring some fundamental principle of divine unity, and while there are others who would suspend their judgment about someone’s faith until they investigate his creeds, there are those who hasten to ex-communicate a Muslim simply on the basis that he works for the government, and the list goes on. But among all these types of ex-communications, I consider those deeming the entire Egyptian society as apostate to be the most pernicious of all, and the ones which most require to be exposed with legal evidence in hand because such judgements aim ultimately to make licit the slaying of Egyptians and the destruction of their property. You have asked me what would be my advice to them; let me tell you that this kind of people are not affected by mere declarative statements, whether they are issued by the al-Azhar of Egypt or any other authoritative institution in any other Islamic country; for these people can only be won over when they are challenged with the textual proofs of the Quran and the Sunna. So if I were to address them, I would begin by calling on them to: “Come to common terms as between us and you” (3:64), and I only advise that they stand with us “before for God, [seeking truth] in pairs and individually” (34:46), after which we would invite them to lay down their thoughts, and deal with all of their arguments with counterproofs and evidence and would buttress these with the sayings of the highest authorities in Islamic scholarship. We say to these brothers:
be like a shining light with the purity of your faith, for in this way you will overcome the scourge of ex-communication in your villages, cities, campuses and everywhere else.

Q: A young person asked me: “I observe the requisites and teachings of Islam but I refuse to join any Islamic group. Am I right in this?”

E.D: It is established that any Muslim who observes the requisites of Islam is already part of a community and by virtue of that alone he is not required to be formally affiliated with any group, or party or association. This is clear. But it needs to be said that if he were to come together with other Muslims for the sake of good and promoting what is beneficial to society, this would certainly count among the actions which are meritorious, following the Qur’anic verse: “Help ye one another in righteousness and piety, but help ye not one another in sin and rancour” (5:2). As a matter fact and depending on the kind of good and benefit sought in such a gathering, acting in concert with others would not only be meritorious, it might even become obligatory. In the end, the organisations which are devoted to the promotion of Islam in society are but a framework through which our efforts to safeguard the requisites and teachings of Islam are joined together. From this perspective, it is clear that the existence of such Islamic groups would not be an issue; indeed, they would be no different from any other Jewish religious organisation devoted to the causes of Judaism. What is most important is for the person who wants to be involved in such activity to ensure he joins those who are guided and have fear of God in their hearts, and that he and his group commit themselves to the principle of calling on people unto God with wisdom and goodly exhortation and make it central to their approach and religious activism.

Q: In the past, you have rivalled some governmental institutions, almost taking over their role in terms of promoting virtue and preventing vice. With hindsight, how do you perceive your action today?

E.D: First of all, let me say that from the viewpoint of the Sharia, it would be wrong and unwise to insist upon depriving the common individual of his sense of duty in promoting virtue and preventing vice, because if that were to happen, and moral deviations are left unchecked, it would allow for the worst kind of pessimism and moral atrophy to take root, preventing society as a whole from taking an active role in finding the mechanisms suitable for combating the social ills and scourges it faces, and causing it to weaken and loose its vitality in time. Therefore, the plan of action required here is for all the social forces to come together and agree on a framework facilitating the practice of this duty, such that it
does not descend into chaos or lead to unjustifiable aggressions against our citizens. This needs to be done because we may be confronted at times with moral transgressions which require an immediate response from those who happen to witness them. For certainly, all the revealed laws as well as the positive and customary laws are in agreement that one needs to intervene, even if by force, to stop any attempt which involves, for instance, the killing of a child, rape, murder, robbery and the like. I think this work should start by first correcting our understanding of this duty and explaining its rulings as well as the underlying principles controlling its legitimacy. We are of the opinion that our work entitled ‘Al-Nush wa al-Tabyin fi Tashih Mafahim al-Muhtasibin’ does actually constitute a modest contribution to that much needed groundwork, because in it we have already began outlining these principles, rulings and also the ethical standards related to the duty of promoting virtue and preventing vice. We have for instance explained that it was not permissible to enact this duty over religious matters which are of the domain of ijtihad and over which there is no consensus among the community of scholars, or when it causes harm to others like the father or the mother of the transgressor. We have also discussed and highlighted some of the mistakes that some of our youth had committed in their endeavour to uphold such a duty. We have said to them loud and clear that, unless the matter calls for an urgent intervention, there is absolutely nothing wrong in contacting the relevant authorities to inform them of any transgression that has come to their attention.

Q: What do you think of the principle which affirms that the only legitimate sovereignty in a well-governed polity is that of God (al-Hakimiyya): should this principle according to you be considered as part of the immutable doctrines of the faith or is the jury out on this one?

E.D: First of all, let me clarify that even when an issue or a principle is considered as part of the doctrines of Islam, it does not necessarily imply that it is one over which there is consensual agreement, just as the mere fact that an issue is considered as part of the domain of jurisprudence, does not necessarily imply that it is open to different opinions. Indeed, there are a number of issues which normally would be classified as jurisprudential, yet they hardly lend themselves to differences of opinion: no one has or ever will posit that the noon canonical prayers contain five and not four prostrations. However, there are issues which are clearly of the domain of doctrinal theology, and yet Muslims have differed over them; thus, the companions could not agree whether the Prophet (pbuh) had, during his nocturnal journey, seen His Lord or not. Therefore, that way of looking at things, as the people of knowledge have already noted, cannot be a reliable yardstick for measuring whether an issue is of the domain of the mutable or the immutable, nor whether an issue is one which calls for consensus or is open to different interpretations. Given that this is the case, it will not be of much use to us
to classify the issue of Hakimiyya among the topics of doctrinal theology or jurisprudence in order to judge whether it lends itself to differences of opinion or not. Furthermore, I have come to notice that different people have given different definition to the concept of Hakimiyya, no doubt because it does suggest a variety of meaning, but I have to say that although I find some of these definitions closer to its intended meaning, I find many others to be erroneous. It is for this reason that in a context like this one I prefer to use the Qur’anic terminology and say, “Ini l’hukmu illa lillah” (Legislation rests with none but God) which is in line with the understanding expounded by the scholars of legal Islamic theory. Indeed, when these scholars deliberate on God’s sovereignty, or when they say “God is the Sovereign” (al-Hakim huwa God), they mean that it is God alone who enjoins upon his servants the rites they need to observe and that it is He alone who decrees the laws they need to uphold. That is a fundamental truth over which there is no difference of opinion. However, this exclusivity of legislature, which is God’s, does not rob the servants of the right to exert their intellect to best implement the laws of God and achieve their objectives and their benefits. In this realm, the realm of deliberation over the law, it is entirely possible for the Muslim scholars to differ and yet their divergence would not contravene His sovereignty one iota.

Q: Do you allow the use of force and the expression of dissent when rebelling against the ruler?

E.D: If by use of force you mean resorting to military operations in order to depose the ruler, my view is that it is wrong to have recourse to this sort of armed confrontation, except if a number of legal qualities, which God has determined, have been shown to exist. These qualities which are required in the Sharia are what the legal scholars have termed the ‘effective cause’ permitting such a rebellion, in addition to the conditions and prohibitors which need to be fulfilled and surmounted. However, once these qualities viz., the effective cause, the conditions and the prohibitors- have been addressed, one is still required to deliberate on the potential benefits and costs which are likely to ensue from such armed rebellion. From what I understand this is the general rule to follow regarding armed rebellion. Now of course, we need to bear in mind the differences that may exist between one form of rule and another: a ruler who is a Muslim and just cannot be put in the same pedestal as ruler who is an atheist, or a Jew, and so forth.

Today, we see that it is not permitted to resort to armed rebellion against the ruler in Egypt, and this for the following reasons:

- Several conditions which need to be met for this sort of rebellion cannot be fulfilled
- There are several prohibitors impeding the conduct of such a rebellion
If an armed rebellion is allowed to go ahead in the current environment, it will lead, according to a number of observers, to great social harms and unforeseen costs. The scholars have agreed, however, that rebellion against the rulers, regardless of their qualities, is not permissible whenever it is feared that the harms and cost resulting from such an action would outweigh the most sought-after benefits.

Thus, it is worth mentioning at this conjuncture that the initiative for the cessation of violence launched recently is indeed a pledge to which by the Islamic Group of Egypt is committed in compliance with the Qur'anic verse: “fulfil (every) engagement, for (every) engagement will be enquired into (on the Day of Reckoning)” (17:34)

The expression of dissent though is a different matter. Islam has permitted its followers to differ with their rulers on issues because it does regard the people in authority as infallible. As a matter of fact, I see that the biggest challenge before the Muslim intelligentsia today, particularly in Egypt, is for this segment of society to present to the Islamic nation and to the world in general, effective mechanisms of Islamic inspiration through which our citizens are enabled to exercise their right of dissent with the powers that be without being afraid, or feeling the need to resort to adulation or excessive flattery.

Q: Are you part of the society and state of Egypt or are you a parallel entity? Do you generally support or oppose the policies of the regime, particularly in relation to its dealings with the Jews?

E.D: We are definitely part of the Egyptian society, we share all of its concerns and we work hand in hand with the Egyptian people to see to it that our society is strong and united. Indeed, all we have all along endeavoured has been to come up with a vision that may contain the suitable solutions to its problems. Now such a vision may or may not be acceptable to the government of the day, our initiative, however, is one which has ushered a new era in our relations with the authorities because it founds them on a new logic: we are, following the spirit of the initiative, in support of all the governmental positions which are in harmony with the objectives of the Sharia and its rulings and the public interests of Muslims. we have demonstrated this will soon after the initiative was launched when we gave our support to the government’s decision to annul the law on Land Tenure which gave the tenant permanent and heritable land rights even against the wishes of the owner. It is also only normal that we stand by the side of the government, especially in relation to its effort to protect our holy places in Palestine, and in relation to its policies which aim at thwarting the expansionist Israeli plan in the region since Ariel Sharon has been in power.
Q: Clandestinity is certainly not an ideal psychological environment for young people to develop and grow. Do you agree?

E.D: Believe me, no one disagrees that there is a lot of things that are wrong with clandestine activity. However, focussing just on the downsides of such an activity is simply a way of avoiding a crucial question: we need ask ourselves why the youth are drawn to such clandestinity. The simple answer to this question is that young people meet all kinds of obstacles when they try to exercise their political rights in the open, or they are simply denied that right due their affiliation to certain political trends.

Q: In one of your writings, you had stated that one of your objectives is to reinstate the caliphate and bring about an Islamic state in Egypt. Do you still pursue that goal today?

E.D: I do not believe there is one Muslim who does not want to see the Islamic Sharia being applied. Indeed, the application of the Sharia counts among the aspirations and goals of 90% of Egyptians, according to a poll conducted in the eighties of the last century. Therefore, seeing the rule of the Sharia take hold in Egypt does not constitute an objective that is exclusive to us, but one which the vast majority of Egyptians aspire to achieve, as you can see. Frankly, we do not see eye to eye with the regime over this issue.

Q: I would like to ask you about the religious institutions in Egypt and about al-Azhar in particular: Do you think, respect of their role, that you owe them an apology?

E.D: There has never been a quarrel between us and al-Azhar and its body of scholars. On the contrary, we hold its scholars in the highest regard, and they have always had our deepest respect. How can anyone forget the enlightening and brave position of al-Azhar in the face of the colonizers and its relentless defence of the Sharia and our faith against the onslaughts of the atheists and all the other devious sects? Recently, the current Sheikh of al-Azhar during an interview with your illustrious magazine was asked about his opinion regarding the initiative after it had been launched, and his reply was most fair. He said: “Everyone who says, ‘we want to end combat operations’, we will express to them our thanks and tell them that we are here to help” or something to that effect. We, in the Islamic Group, have certainly taken note of that statement and are grateful. How can there be a quarrel between us and al-Azhar when the Islamic Group had designated Dr Omar Abdurrahman- may God bring his affliction to an end- as its leader. And there isn’t
just him; many of our members are affiliated with the Azhar and other Islamic Institutions of learning.

However, our tender solicitude for al-Azhar prompts us to encourage others to look for the reasons which have caused the scholars of an Institution like al-Azhar to lose credibility among a wide section of the youth. You agree with me that this issue deserves investigation and research, do you not? And I also think it is about time for an institution like al-Azhar to undergo a real overhaul; it needs to regenerate its role and lift up its performance, don’t you think?

There is no place for sacerdotalism in Islam, but in deference for knowledge and its people, we are certainly ready to present our excuses to any scholar of al-Azhar or any other institution who feels he has been wronged by us. If we are serious about reconciliation and healing the nation, however, I am going to ask you, dear friend, to allow me to say a word of consolation to the thousands of Muslim youth who have often been accused of being the enemy’s fifth column inside the country, or have been labelled as Khawaridj. But how do you console this youth, among whom many are still incarcerated behind the walls of their cells, after more than ten years? And how do you console the mothers, wives, and children of this imprisoned youth, who have themselves been deprived of the love of their children, spouses and fathers? Dear friend, don’t you agree with me that we need to heal our wounds, all of them?

Q: Some people continue to maintain that the writings of Sayyid Qutb and his ideas have been affected the pressure and the brutal treatment [to which he was subjected to in jail]: do you agree with such a thesis?

E.D: In principle, I agree to the idea that pressure and brutality promote a climate in which extremist ideas are developed, particularly when we are talking not about any brutality, but about oppression, torture and the violation of dignity. When anybody is subjected to this type of treatment regularly, so much that it becomes part of their everyday life, it will certainly have an impact on his outlook on things. Indeed, if that person is a religious person, it would not be surprising to see that most of his judgment about matters which are at variance with religion will be harsh and extreme, and even contrary to the laws and rules of society. But can a person who is subjected to this sort of brutal and humiliating treatment be expected to control himself and put aside all of his pains and chagrins in his dealings with the law or in voicing his views on the things happening around him?

As for Sayyid Qutb, he is certainly one of the giants of Islamic thought, and I do not think that the treatment he was subjected, harsh as it was, has had a significant impact on his views concerning such topics as God’s sovereignty (al-hakimiyya), oppression (taghut) and heedlessness in society (jahiliyya). I honestly cannot fault Qutb on his ideas, or on his interpretations and writings concerning these issues, in
that he deliberated on those things from the vantage point of a thinker and an interpreter, and not that of a theologian or jurist in whose discourse specificity is required and abstractions are to be avoided. And that is precisely where the confusion about Qutb resides: there are some who have applied his abstract notions on the above topics to a specific context but without giving due consideration to the principles, which are abided by in law, in this regard. As such, we do not recommend the writings of Qutb to the novice, and we much prefer that he approaches after having read other things, in this way, he can gain the kind of familiarity with the fundamentals of the faith and the Sharia that will protect him from understanding or applying the intended meanings of Qutb erroneously.

Q: In light of the Initiative, what would be the difference between your organisation and the Muslim Brothers?

E.D: The facts on the ground suggest that the Islamic Group is one thing and the Muslim Brothers are another. And this means that we cannot come together under the same entity, due primarily to differences between us regarding a number of principles, positions and operational methods, which are all ultimately due to the disparity which exists between our conception of the Islamic system and contemporary reality, and their conception of these.

No doubt, the most important difference between us revolves around what we, in the Islamic Group, call ‘the rallying programme’ (manhaj al-tajmi’) which we have endeavoured to promote as a point of encounter that would bring together various segments and forces in society on the basis of the beliefs of the People of the Sunna and the Majority (ahl al-sunna wa l jama'a). When you look at the Muslim Brothers, you’ll find no such programmes, as such one can find among them people who follow dubious creeds, and that we consider a mistake from the viewpoint of the Sharia. Thus, the keen observer, as he examines our recent publications, will not fail to notice that most of our differences with the Muslim Brothers are still there, though they may be of varying degrees. If there are any similitude’s between us that organisation in the way we both strive to ground our deliberations on the Sharia regarding certain issue, we view this as perfectly normal because we both draw from the same source that is Islam. Indeed, whenever such legal deliberations are pertinent, whether they are offered by the Muslim Brothers or any other party, we would not hesitate to at least regard it as worthy of respect.

Hence, I wish to remind those who allege that we have become an instrument in the hands of the regime to undermine other Islamic groups and the Muslim Brothers in particular, that to the best of our knowledge we are an organisation whose central mission is nothing more and nothing short of imparting guidance, and providing society with the correct model for spreading the teachings of Islam.
It is definitely not part of our agenda to be an instrument in someone’s favour and at the expense of another; a closer look at reality would have shown those who come up with such allegations that it is actually us who have been and continue to be under attack from all sides. Now we used to come under all sorts of attacks from the Muslim Brothers and other organisations during all these past years, were these also done on behalf of the regime at our expense? It is a fair question to ask!

Q: We have heard that some of the leaders of the Islamic Group do not back the Initiative. Is this true?

E.D: All I know in this regard is that the overwhelming majority of its leadership overseas are behind it. Indeed, the honourable sheikh Omar Aburrahman, in spite of his dissatisfaction with the outcomes of the initiative, has entrusted the historical leadership of the group to take the stance they deem suitable concerning its status. I am also of the view that the few off our members who have not yet joined our proposal, will not hesitate to do so, God willing, if are given the opportunity to discuss with them the issues raised in the Initiative. Now concerning some of the Islamic factions based overseas, I think it is wise to refrain from seeing their members as people engrossed by the good life, particularly in the aftermath of 9/11 when they were all being chased across the globe. Rather than attacking their person, I think it is better to deal with their arguments if we want to arrive at a positive result in our engagement with them. We should insist, however, that our conviction about the Initiative and its future cannot be hostage of any opponent.

Q: [In your recent writings], you have commented on the violent incidents [which marked the nineties] as if you were a remote onlooker. Any reason why you adopted that stand?

E.D: For the simple reason that we were locked up behind walls during that period. However, regardless of whether we took part in these incidents or not, we do not shirk our intellectual responsibility in this regard. As for our role in the 1981 incidents, the time for setting the record straight concerning them is nigh, and we will do so soon, God willing.

Q: Some people prefer to work for Islam by joining or forming a political party. What are your views on that?
E.D: Religious activism through political parties is a matter of personal opinion, the legality of which hinges on the one hand on the kind of laws regulating such political formation and its course of action, on the other, it hinges on the kind of people who want to embark on this kind of work. Otherwise, once it is established that these political formations meet the principles of legitimacy of the Sharia which regulate such activity, I do not have a problem with the idea of promoting Islam through political parties.

Q: What would be your reaction, if following your release from jail; you were harassed by the security services?

E.D: If this were to occur, I would say, “For me, forbearance is most fitting” (12:83). Indeed, I regard forbearance as an ideal choice in the face of adversity, and one which is befitting for the believer and for all the believers in general. You see, even the verses of jihad have not abrogated the way of forbearance; rather, it continued to be regarded as a permissible moral action and as policy of choice well after the permission for jihad had been given, as attested by the Medinese Qur’anic verse in which God- may He be exalted- addressing His Prophet (pbuh) has said: “None the less, forgive and forbear, until God shall make manifest His will” (2:109). No doubt, he (pbuh), following this revelation, observed forbearance in his dealings with the Jews, the hypocrites and all sorts of other people. Now if that which the Prophet (pbuh) had done with these people was considered a laudable thing to do, it would be hard to imagine how it could ever be impermissible to show forbearance towards our fellow Muslims. Also, the Companions who migrated to Abyssinia continued to observe forbearance in the face of adversity even while the verses giving permission for jihad had been revealed.

Q: What do you think the future holds for you personally?

E.D: I hope that out of His grace, God will make me a sincere preacher to the Islamic way until I die, and if he were to bestow on me the favour of release from jail, I will spare no effort in proclaiming high the greatness of the Islamic ideology as a political system by embarking on a Doctorate at the faculty of law, at Cairo University, and which I intend to title “The Right of Opposition in the Islamic Political System and the other forms of Democracy”. I will also look to be a lawyer to assist the oppressed, the downtrodden and the victims of those violent incidents from among the population. But above all, I look forward to returning the many favours of my beloved mother, my wife and family who have all stood by my side ever so steadfastly. Indeed: “Could the reward of good be aught but good? (55:60). If, however, my life is to end in jail, I pray to God that he bestow
on me good health and good spirit to keep up with reading and continue my spiritual progress in order to give more each time there is an opportunity.

Q: What are your thoughts on the events of 9/11?

E.D: Before I answer that, please allow me to begin by making two remarks. First, I would like to make clear that my disagreement with Osama Bin Laden and Dr al-Zawahiri over the attacks on America on 9/11 should in no way be interpreted as an indictment against their good intentions or their dedication to Islam. Only, in their endeavour to promote its causes, they have made the wrong choices and used the wrong means. So while we count them among the sincere elements of the Islamic movement, we do not regard them as infallible. In my second remark, I want to say that while we may consider that the 9/11 attacks as wrong, we do not by the same token exonerate the United States of America of all responsibility: the wave of discontent against it which can be witnesses in parts of the globe are the result of its double standards particularly in its dealing with the issues of the Muslim and Arab worlds. Indeed, it is high time the United States of America abandoned its unfair policies especially towards the Palestinian people, for by adopting such a hostile stance vis-à-vis the issue of Palestinian it is only creating enemies for itself.

If we now move to your question, and looked at these attacks by taking stock of their outcomes, we will most certainly conclude that they were devastating on various fronts: they have brought destruction to the people and government of Afghanistan, have put in great difficulty the Islamic movements worldwide, they have undermined the just causes of the Muslim world, particularly in Palestine, Kashmir, Mindanao, and Chechnya, and they have put under enormous pressure the Muslim minorities of Europe and America; though it suffices to say, these attacks have been directly responsible for the demise of an existing Islamic state, even if one does not endorse all of its religious policies.

Also, these attacks have served as fodder for Samuel Huntington’s thesis on the imminent and inevitable clash of civilisations, at a time when the Islamic nation was least prepared for such a clash.

And if we looked at those infamous attacks from the strategic perspective which al-Qaeda had adopted throughout the nineties, we will also most certainly come to the conclusion that it has failed to settle on clear objectives and draw a suitable strategy. Indeed, throughout all of that period leading up to 9/11, al-Qaeda has set for itself impossible targets: it has vowed to drive the American forces out of the Gulf region, and has embarked on a collision course against the whole world, to the extent that ‘rallying the foes’ became the hallmark of its strategy. Indeed, it was in conflict with United Russia, a nuclear power, when it dragged along with it the Taliban regime to be part of the fighting in Chechnya. At the same time, it
confronted India, another nuclear power and a powerhouse of the Asian continent, when it moved there to lend support to the Kashmiri resistance. Not to mention its ongoing conflict with Iran, the Jews, the American and the Crusaders. Instead of pacifying the enemies and isolating them, al-Qaeda has pursued the strategy of all-out war against the entire world, encouraging the foes to band together, and once that was done, it was only a matter of time before it would break up, and the state of Afghanistan would be lost.

If we now turn to look that these attacks for the perspective of Islamic law, their biggest debacle resides in the fact that they have targeted the kinds of people whose life it is prohibited to take in the Sharia, such as children, and women, as well as, American and Muslim civilians who were either in those planes or in the twin towers. We can argue all we want that these attacks have inflicted severe damages to the United States of America in a desperate attempt to justify them, it simply will not do, because the damages inflicted on Muslims as a result of these attacks were much more serious, and worse still, they were expected. Indeed, a detailed appraisal of these events is highly desirable today and important for Muslims all over the world

Q: I now would like to invite you to say a word to the family of the little girl Shayma’

E.D: I believe that Shayma’- may God have mercy on her- was hit unintentionally and died after being injured fatally in one of the operations conducted by the Jihad Organisation. I want to say to her family that we mourn the death of Shayma’ as much as you do and we are grieve stricken by her tragic end just as you are; nay we are grieve stricken by the death of all those who fell victim to those attacks and we share the sorrow of all their families, be they from the police or from the members of the Islamic Group. What is really adding to our distress and pain is the fact that we had tried right from the beginning, as early as 1992, to put an end to the cycle of violence, but alas we our endeavors were not successful at the time. We strongly believe that everyone who suffered a loss during those incidents should be compensated in order to pave the way for a new dawn which would announce the beginning of our national reconciliation and the end of conflict.

Q: Do you have anything to say to the members of the Islamic Group who are still being pursued?

E.D: I say to them you are from us and therefore your issues are always of concern to us, including your safety and your needs. It is out of this vigilant concern that we call upon you today to commit yourselves with us to the Initiative, with the
assurance that an honourable settlement commensurate with your positions will be reached in your favour. Please do not turn down this invitation on the pretext that the Companion Abu Basir kept on attacking the caravans and the men of Quraysh in spite of the existence of a peace treaty between the Prophet (pbuh) and that tribe, because that would be a fallacious argument. Had the Prophet (pbuh) demanded that Abu Basir enter into his treaty with Quraysh, he would have had no other choice but to oblige. Thus, we beseech you to enter into our Initiative, though we should note that we are not like the Messenger of God, but then again, nor are the people of Egypt like Pagans of Quraysh.

_This interview was not published immediately after it was conducted for technical reasons._