The Revision Series

The Document for the Guidance of Jihadi Action in Egypt and the World

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November 2007
Recently Dr Fadl, a well-known ideologue of the jihad movement, has published his proposal to overhaul jihadi activity in a booklet which he titled ‘The Document for the Guidance of Jihadi Action in Egypt and the World’.

Dr. Fadl begins the document with an introduction in which he reveals that what prompted him to revisit jihadi action and activity was the deviant interpretation of jihad prevailing among the Islamic movements in general and among the members of the ‘Jihad Organisation’ (Tanzeem al-Jihad) of Egypt in particular. In their continual clash with the authorities, these Jihadi groups, have, according to his view, gravely misinterpreted and misused the laws that regulated the conduct of jihad in Islam. He, for instance, takes issue with their understanding and application of the jurisprudential principle of tatarrus (shielding). No doubt this principle allows, in some extreme situations during armed conflict, the killing of both non-Muslim and Muslim non-combatants, when members of this section of the population are used by the enemy as ‘human shields’ or are unwittingly shielding the enemy. But, this principle Dr Fadl argues, has been used rather as a pretext for the spilling of much innocent blood. He deplores for instance the fact that this deviant interpretation of jihad has often led to the killing of people on the basis of their nationality, the colour of their hair or their legal or theological schools, in the case of Muslim victims. He also deplores the fact that in the course of their armed confrontation with both the governments of the Muslim world and the governments of the West, jihadi action has also often led to the destruction and plundering of both public and private property. These killings and destruction of property which the jihadists perpetrated in recent times, amount, in his judgment, to serious and many a violation of the Sharia.
In the first sequel, Dr Fadl sets out the theoretical framework of the document, putting emphasis on Islam. It is only Islam and its Revealed Law which ought to be the source and criteria for regulating and controlling all of the actions and conduct of the jihadists. Following this vision, he condemns the jihadist’s principle of “the end justifies the means”. Non-Muslim activists and revolutionary movements, he argues, may find that motto appealing, but Muslims, whose conscience is imbued with Islam and its laws must repudiate it.

Dr Fadl has also written a separate section entitled “Cautionary Remarks” to address the growing controversy surrounding his earlier publications. He, particularly, laments the way these works have been distorted by both the Jihad Organisation and al-Qaeda in their jihad activity. Al-Jareeda newspaper has decided to include this section and has published it here as a preface to Dr Fadl’s main document.
Some Cautionary Remarks

Before this document, I have written three books on Islam before, and these are:

*Al-‘Umda fi I’daad al-‘Udda (The Reliance of the People of Jihad), published in 1408 AH. 1988 CE

*Al Jaami’ fi Talab al-‘Ilm al-Shareef (The Complete Source on the Quest for Noble Knowledge), published in 1423 AH/1993 CE

*Al-Naseeha ila al-Taqarrub ila Allah Ta’ala (An Advice on How to Draw Closer to God, may He be exalted), published in 1427 AH/ 2006 CE

The following section contains some cautionary remarks about these books. I advise my readers to pay particular attention to them.

1. I am not a scholar nor am I a mufti or a mujtahid, and in none of my books have I tried or intended to delve into the domain of fatwa. Rather, my aim and my primary duty have always been to transmit religious knowledge which does not require of me to attain the rank of ijtihad.

Indeed, the Prophet (pbuh) has said: “Let those among you who are present in this gathering convey this knowledge to those who are absent” (Agreed upon hadith).

“Do not shy from acquainting people with me, even if all you can convey is a simple preachment and wisdom of mine” (Related by Bukhari).

It is obvious that whoever is only able to convey the most basic and simplest of the Prophet’s preachment is not to be counted among the
scholars, but notice how in view of this hadith, Muslims were still commanded to pass it on. To make this point even clearer, we may cite another hadith, in which the Prophet (pbuh) has said:

“May God make radiant that person who upon hearing my discourses, comprehend them and safeguard them, and then endeavour to convey them as he has heard them; for not all transmitters of knowledge are of equal understanding: indeed, many a transmitter of knowledge may convey knowledge to one who is more knowledgeable than himself” (hadith related and deemed fair by Tirmidhi).

It is evident here again that irrespective of how little knowledge one has, even when not a scholar or a mujtahid, one is never exempted from the duty of conveying knowledge. This is a subtle point, for it is undoubtedly through injunctions like these that knowledge of the Sharia has spread widely amongst the wider community and the successive generations of Muslims.

2. Since it is the scholars and the muftis who author books in the domain of fatwa, and my books aim solely at transmitting religious knowledge to people, we need to bear in mind then the significant difference between books written for the purpose of fatwa and those, such as mine, whose purpose is the transmission of religious knowledge.

The person writing for the sake of conveying religious knowledge, as the majority of our guiding ancestors among the salaf did, addresses all the people regardless of their time and place; whereas, the person writing for the purpose of making fatwa, introduces a major shift in his focus and audience, for the task of his scholarship consists of taking from that transmitted religious knowledge that which is deemed by him to obtain and be applicable to a particular reality on the ground and therefore suited to a particular people, living in a particular time and place.
Indeed, the knowledge of fatwa pertains to the knowledge of what becomes legally binding in a particular context. Hence, I would like to caution those who might suspect I do delve into the domain of fatwa that they should not confuse between the pronouncement of legal edicts (fatwa) and the expression of personal opinions: what appears to be of the domain of fatwa in my books should not be considered anything more than my personal opinions, which no one, including myself, is obliged to follow or feel bound to. I would like to also caution that while I do acknowledge that these opinions of mine do certainly reflect what I believed to be true at the time of their writing, I did not hesitate abandoning many of them as soon as I had found a more cogent legal proof and a better argument in their stead, and this in compliance with Qur’anic verse: “Give, then, this glad tidings to [those of] My servants who listen [closely] to all that is said, and follow the best of it”(39:18); may God counts us among them!

3. Nearly all of the legal rulings that are found in my books belong to the category of the ‘absolute rulings’ which obtain and are valid in all time and places. They are therefore for the most part not ‘specific rulings’ which are by definition restricted either to a particular people or a particular place and time. There is an important difference between the two: an ‘absolute ruling’ is one which pertains to the act which has generated that ruling and is its cause, as to the ‘specified’ ruling it pertains to the actor, and thus to the application of the ‘absolute ruling’ to a specific situation and a specific individual or individuals; all of which requires, besides the knowledge of the ‘absolute ruling’, a rigorous deliberation on the conditions which makes that ‘specific ruling’ valid, as well as on those instances of its invalidity, as stipulated by the legal
maxim which says that “A ruling may be obtained from a cause only when the conditions of validity have been affirmed and all conditions of invalidity have been excluded”. Hence, whenever ‘specific rulings’ are found in my books, I insist that these rulings be appraised in light of the abovementioned legal maxim, and by those who are really apt to delve into these legal issues.

4. As I have made it clear in the first point, and in keeping with the Prophet’s (pbuh) example in da‘wa (call), I have ensured that my books are intended to both the broad Muslim and the non-Muslim communities, and are never targeted to a specific group or organisation. As such, it would not be right to consider the following document as aiming to critique a particular religious group or individuals. Far from it! The overall aim of the document is rather to discuss legal issues along with its legal proofs in order to draw attention to some colossal contraventions of Islamic law that some of us are committing in the name of jihad for the sake of God. It behoves me to add in this context that the use of any of my writings as a pretext to violate the law is not permissible, because such interpretation and use of my writings do not reflect my thoughts on the subject matter. Let me more explicit: if it is established that there are statements in any of my books which in any way shape or form contravene the Sharia, then I would like to seize this opportunity to formally retract and disavow them.

5. Now, in view of the obscene distortions, plagiarism, and erroneous summaries my previous books have been subjected to, I would like to make it clear today that from now on no one is allowed to publish any of my books prior to obtaining my consent; and for us God suffices, and He is the best disposer of affairs.
I. The Document for the Guidance of Jihadi Activity in Egypt and the World

Why this Document? What is Islam?

God, may His name be exalted, has sent the Prophet (pbuh) with the guiding light and the true religion in order to bring people out of darkness and lead them to the light of His straight path. God has supported the blessed Prophet with many clear victories and with faithful companions so that through him (pbuh), His religion has become manifest. Indeed, He had secured his conquests in the face of relentless enmity, enabling him thus, with the help of his companions, to erect, from practically nothing, the state of Islam, which in the space of a very short time grew from a burgeoning coalition to a vast state comprising within its rule, not only the Arabs, but also the Persians, the Turks, the Berbers, and the Europeans. This was a grand Islamic caliphate, which stretched from the Indian subcontinent in the East to Morocco and al-Andalus in the West, and from Tashkent, Azerbaijan, and Caucasia in the north, to the Yemen and the Sudan in the South. For one thousand and three hundred years, all lived and the rule of this revered caliphate, until the fall of the Ottoman caliphate during the course of the First World War (1914-1918), when Muslims became weak, disunited and in utter disarray from then onwards.

As the Ottoman caliphate weakened towards the end of the 19th century, the European nations were able to conquer the vast majority of the Muslim world. They soon proceeded to its division and the plundering of its resources, preventing it from achieving any industrial advancement, and ensuring in the process that its population would remain in a constant state of disunity, poverty and backwardness. Moreover, following military occupation, these European nations were able not only to impose their own culture and laws on the Muslim lands, they have also found a state for the Jews (Israel) in the heart of the
Muslim world in order to strain it to the utmost extent and also to humiliate it. There is no doubt that Muslims found themselves in this calamitous downfall because of sins they had committed: God the Almighty say: “Now whatever calamity may befall you will be an outcome of what your own hands have wrought” (42:30)

To this day, this transgressing coalition continues to impose its hegemony on the Muslim world, relentlessly asking Muslims to make one compromise after another, thus giving credence to the words of the Almighty: “For, never will the Jews be pleased with thee nor yet the Christians, unless thou follow their own creeds” (2:120)

The diffusion of Western culture and the implementation of Western laws instead of Islamic law have significantly contributed to the proliferation of corruption, perversity and the degeneration of morality in the countries of the Muslim world. The virtuous among the Muslims have taken heed of this danger and have been urging the community to contain it, lest God’s wrath descends upon us all. They have argued ever since that to achieve salvation in this world and the next, it was imperative, for individuals and the nation alike, to return to the dictates of the law of God, in that abiding by the Sharia is, above all, an obligation upon every Muslim by virtue of their faith in God. Yet, people’s faith is prone to corruption and perversity unless that obligation is upheld, as is clearly stated in many verses of the Qur’an:

“But nay, by thy Sustainer! They do not [really] believe unless they make thee [O Prophet] a judge of all on which they disagree among themselves, and then find in their hearts no bar to an acceptance of thy decision and give themselves up [to it] in utter self-surrender” (4:65)

Also:

“Now whenever God and His Apostle have decided a matter, it is not for a
believing man or a believing woman to claim freedom of choice insofar as they themselves are concerned: for he who [thus] rebels against God and His Apostle has already, most obviously, gone astray.” (33:36)

Just as deserting the Sharia, which is God’s Revealed Law, is the most fundamental source of destitution in this world and perdition in the hereafter, abidance by it is the source of both the good of this world and the next, as attested by God’s words: “Yet if the people of those communities had but attained to faith and been conscious of Us, We would indeed have opened up for them blessings out of heaven and earth: but they gave the lie to the truth - and so We took them to task through what they [themselves] had been doing” (7:96)

Islamic history shows unambiguously that so long as Muslims have abided by the Sharia, they were always revered, victorious and prosperous, so much so this radiant history is virtually the only source of pride for the Muslims today

In response to the onslaught unleashed by the superpowers whose aims have always been to undermine and humiliate the followers of Islam, Muslims have devised several and diverse strategies in the present Age. Some Islamic groups, for instance, have, in their quest to restore Islam’s dignity through jihad, followed the path of confrontation, either with the ruling authorities of their own countries or with the governments and the citizens of those superpowers. As a result of the strategy followed by this group, we began to witness a rise in violent collisions in the four corners of the world, and with these collisions we began to also witness numerous violations and contraventions of the Sharia, such as the killing of innocent civilians, among both Muslims and the non-Muslim populations, on the basis of their nationality, skin and hair colour or because of their adherents to this or that legal or theological school. Many of these violations to the Sharia stemmed from a misinterpretation and a flagrant abuse of the principle of tatarrus, which was misused by the followers of this strategy as a pretext to widen the circle of their confrontation and killing, and to
legitimise the seizure and plundering of the assets and properties of innocent civilians. There is nothing that attracts the wrath of God and His vengeance more than shedding the blood of other human beings and destroying their property in defiance of right. Indeed, actions like these bring to their perpetrators only dishonour in this world, and much horror and blame on the Day of Judgement. Has not God said, may He be exalted: “… so let those who would go against His bidding beware, lest a [bitter] trial befall them [in this world] or grievous suffering befall them [in the life to come]. (24:63)

As they proclaim their condemnation of these violations to the Sharia, the signatories have signed this document to be a reminder as well as a reference to all Muslims in matters pertaining to the jurisprudential and legal principles (al-dawaabit-al-shar‘iyya) controlling the conduct of jihad, and thus, they solemnly swear they would be the first to abide by these principles as they are contained in this document and would invite all Muslims, particularly the youth, to also do the same, in order to avoid falling, wittingly or unwittingly, into the legal pitfalls of their predecessors who, in the end, were neither able to strengthen the religion of Islam nor were they able to achieve any worldly success for themselves or for their nation.

Now, it is obvious that the duty of jihad has always been incumbent on Muslims ever since it was decreed by God. This decree will continue to take effect until the time when the last of the Muslims will fight the Dajjal (The Anti-Christ). The Prophet (pbuh) has also taught us that “Jihad is the epitome of Islam”, for it is through jihad that Muslims are able to safeguard their religion, their standing among other nation, their honour and their dignity in this life and the one to come. Such is the importance of jihad in Islam, it is absolutely crucial to clearly understand what this noble duty means and what it entails.
In this document, you will find that the aforementioned principles controlling the legitimacy of jihad action and activity (al-dawaabit al-shar‘iyya), have been formulated as contract clauses. We pledge our commitment to abide by them and we urge all Muslims, particularly those jihadi organisations to enter with us in this pledge. This invitation we are extending in compliance with the duty of giving advice for the sake of God, His book, His Prophet (pbuh) and for the sake of all Muslims. Let us reiterate, as we invite these jihadi organisations to join us in this pledge, that we hold the highest esteem for our brothers in jihad everywhere; for we are under no illusion that the overwhelming majority of them are fighting for the noblest of causes and are truly ambassadors of a most sublime message. We totally reject the idea that these fighters are only pursuing worldly and personal gains. How can that be the case when the majority of them are clearly risking their lives, and giving up what is most precious and most dear to them, only to restore the dignity of Islam and of Muslims?

We now proceed with the writing of the document, asking God to grant us success, for in His hands are the keys to all success!

Clause One

The Religion of Islam

Islam is the last revealed religion; it is God’s light and guidance to humanity, which He revealed to the seal of the Prophets and messengers, Muhammad, peace be upon him.

Ever since the beginning of Muhammad’s prophetic career (pbuh), it has become incumbent on all humans and jinn who are morally accountable (mukallaf) to have faith in Islam. Indeed, God almighty has said:
"NOW [as for thee, O Muhammad,] We have not sent thee otherwise than to mankind at large to be a herald of glad tidings and a warner ..." (34:28)

"Say [O Muhammad]: "O mankind! Verily, I am an apostle of God to all of you,"” (7:158)

Also the Prophet (pbuh) has said: “Every Prophet was sent for a given nation, but I was sent for all nations” (Agreed upon and sound hadith). It is on this basis that all human beings, from the time the Prophet (pbuh) was sent to the Day of Resurrection, constitute together a nation that God has invited to Islam (ummat al-da‘wah), for it is they who are addressed by the Almighty in the Qur’an with the oft-repeated call “O people!”; as for those who have accepted that invitation, the ‘nation of response’ (ummat al-ijaaba), they are the Muslims who are addressed by the Almighty in the Qur’an with the oft-repeated words “O you who believe!”

You may refer to the end of the chapter al-Ahqaaf and the beginning of the chapter al-Jinn of the Qur’an for clear indications that the Prophet (pbuh) has also been sent to the Jinn

Now, what does it mean that Islam is incumbent on all and what does that entail?

Firstly, that all human beings who are morally accountable, from the time the Prophet (pbuh) was sent to the Day of Judgement, will be judged by God may He be exalted on the basis of Islam, as of the time they meet the Angel of death and enter the grave to the Day of Resurrection and Reckoning. Whoever has not embraced Islam or has after Islam deviated from its Sharia by committing those sins which nullify Islam, is definitely doomed unless he or she has repented before death; for God has said: “For, if one goes in search of a religion other than Islam, it will never be accepted from him, and in the life to come he shall
be among the lost” (3:85) Also Sheikh al-Islam, Ibn Taymiyya, may God have mercy on him, wrote in his *Majmu’al-Fataawa* (vol. 28): “It is known through the self-evident truths of Islam and through the unanimous agreement of Muslims that whoever follows a religion other than Islam and follows a law other than the Sharia brought by Muhammad (pbuh) is considered a disbeliever (*kafir*).

**Secondly**, Islam entails surrender; that is total submission to the law revealed by God may He be exalted. This is what it really means to worship God alone, as is made clear by the verse in which God Almighty revealed: “*When his Sustainer said to him, "Surrender thyself unto Me!" - he answered, "I have surrendered myself unto [Thee,] the Sustainer of all the worlds."*” (2:131). Indeed, this surrender, submission and servanthood are achieved only when we worship God as He wills, and not as we see fit. It requires following the dictates of His Revealed Law, the Sharia, in all matters concerning our life, be they small or great, in conformity with His words, may He be exalted: “*Say: "Behold, my prayer, and [all] my acts of worship, and my living and my dying are for God [alone], the Sustainer of all the worlds, in whose divinity none has a share: for thus have I been bidden - and I shall [always] be foremost among those who surrender themselves unto Him”*” (6:162-3). For just as Islam is incumbent on all people irrespective of place and time, it is also binding in all of their affairs: for this law of ours, the Sharia, is adequate till the end of time. How can it not be when no other revelation will superseded it and no other Prophet will come after Muhammad (pbuh)?

Since faith in Islam is attained when we respond to the will of the Lord rather than the whims of the self (*nafs*) and its desires, it is evident when the contrary takes place, that it would be diminished or undermined. This lack of response to the will of God is of varying degrees:

**a.** Has committed rebellion (*‘isyaan*), whoever puts the desires of his self before
the will of His Lord, in issues that are minor, for these trespasses amount to minor sins

b. Has committed wickedness (fusuuq), whoever puts the desires of his self before the will of His Lord in issues that are major, for these trespasses amount to major sins

c. As to the person who puts the desires of his self before the will of His Lord in issues that are supreme, he has committed disbelief (kufr), because God, may He be exalted, has described disbelief in the Qur’an both as heinous sinning (al-hinth al-azeem), and a supreme sin when He has said:

“For, behold, in times gone by they were wont to abandon themselves wholly to the pursuit of pleasures, and would persist in heinous sinning” (56:46-47), and also “VERILY, God does not forgive the ascribing of divinity to aught beside Him, although He forgives any lesser sin unto whomever He wills: for he who ascribes divinity to aught beside God has indeed contrived a supreme sin” (4:48)

God, may He be exalted, has indeed warned against all of these varying contraventions when he has said: “But as it is, God has caused (your) faith to be dear to you, and has given it beauty in your hearts, and has made hateful to you all disbelief, and all wickedness, and all rebellion [against what is good]” (49:7), yet all of these contraventions, despite their seriousness, are forgivable so long as one repents from them whilst alive. We do not have room to dwell here on the fate of those who die in these sinful states, but readers may refer to the relevant works on creed (‘ageeda) and Islamic jurisprudence (fiqh), particularly to Shu’ab al-Iman whom al-Bayhaqi which were devised following the scholarship of al-Hulaymi, may God have mercy on them, for further clarification and detail.

In his al-Muwafaqt fi usul al-Sharia, Imam al-Shatibi, may God have Mercy
on him, says that: “God has revealed the Sharia in order that human volition is made to comply with the aims of the Law-Giver”, and that is precisely what the meaning of accountability (takleef) revolves around: no Muslim is allowed to twist or distort the texts of the Sharia to make them suit his desires.

Equally, in relation to jihad, which constitutes one of the divisions of faith, and is regarded as “The epitome of Islam”, we attain surrender, submission and servanthood (ubudiyya) to God, may He be exalted, by also putting what is willed and intended by our Lord before the vain desires of our selves. To do this require knowledge about what and when has God made this or that an obligation (wajib) for us. It also requires knowledge of our capacities to carry or not carry those obligations, such that person is clear about the context in which his action attracts a reward when carried out and the context in which he is absolved of sin even when that person fails to carry a given obligation.

When a Muslim person aims to achieve a moral goal without taking in consideration his incapacity to achieve it, as is the wont of many a jihadist, he is not only, almost inevitably, led to resorting to whatever means he can muster to get to his goal, but ultimately also to act in total disregard of the principles controlling the legitimacy of the course of action he is engaged in. But this oversight is grave: it is certainly tantamount to putting one’s desires before those of God, however noble, moral, and legitimate that goal may be from the Islamic point of view.

This way of operating and this sort of conduct is not part of our religion, it is the method of the secular revolutionaries who abide by the motto: “The aim justifies the means”, which we reject no matter how noble or legitimate is the aim. A Muslim worships his Lord and seeks to submit to Him when he ensures that both the means he follows and uses to achieve his aims and the aims themselves are licit and in compliance with the Sharia. It has been actually established that if a Muslim follows this path and is overtaken by death before
achieving his aims, he would still earn in the hereafter the reward for that which he had striven for or endeavoured to do in this world and that he would not be asked to give accounts for that which he did not realize in this lifetime, so long as he continued to pursue them with the means at hand. This profound ethical philosophy is attested to by the verse in which God may He be exalted has said:

“And he who forsakes the domain of evil for the sake of God shall find on earth many a lonely road, as well as life abundant. And if anyone leaves his home, fleeing from evil unto God and His Apostle, and then death overtakes him - his reward is ready with God: for God is indeed much-forgiving, a dispenser of grace.” (4:100)

Know that whoever has pursued jihad for the sake of God as his aim, but has relied on illegitimate means in his pursuance of that aim, his jihad will be considered void and will be rejected (batil) by God; for “Behold! God accepts only the actions of those who are fear Him and are Conscious of Him” (5:27). Also the Prophet (pbuh) has said:

” [O People] know that any of your deeds which are not in keeping with our Way (Sharia) will be rejected” (Related by Muslim).

Muslims are then only required to act according to the Sharia to reap the rewards for their endeavours and avoid blame. In rewarding them God will take into consideration their striving, their uprightness and their capacities, He will not hold them accountable for not reaching the objectives of their actions, for these relate to the realm of His dominion that He alone commands. Let us remind ourselves of the hadith in which the Prophet (pbuh) has said:

“Some Prophets might have been followed only by two men, others by only one man, whilst others have had no followers whatsoever” (Agreed upon hadith)

Does not this hadith show distinctly that Muslims are only asked to act in strict accordance with the Sharia, and not achieving the results of their actions as the
outcome of these depend on the will of God? Indeed, we may harness and garner all the causes and conditions of success- and that is our prime responsibility- but these will only bear fruit when they are not incongruous with what God has willed and destined. What the above hadith has taught us is that not all actions which have not been crowned with success may be deemed by the Almighty as invalid. Are we to judge any of the Prophets who were not able to attract a single person to their cause as Prophets whose prophecy is invalid because they have failed to achieve their aims? God forbid! Certainly not! God, may He be exalted, has said: “We have never sent any apostle save that he should be heeded by God's leave” (4:64). So know that it is wrong to call actions which do not achieve their objectives as invalid (batil), so long as those actions conform to the Sharia. Let us reiterate Muslims, whether they achieve their ends or not, are rewarded primarily on the basis and in accordance with their effort and striving for the sake of God: “And so, he who shall have done an atom's weight of good, shall behold it; and he who shall have done an atom's weight of evil, shall behold it.” (99-7-8)
II. The Document for the Guidance of Jihadi Action in Egypt and the World

Jihadists refer to the works of the salaf without ever taking into account the difference between the circumstances and historical context in which that scholarship emerged and the changing world in which they now live.

In the second part of the document, Dr Fadl puts emphasis on knowledge of Islamic law and its indispensability for members of jihadi organisations. He particularly takes to task those jihadists who, having no scholarly qualifications whatsoever in the field of law-making, use the books of the ‘salaf’ to derive from them highly sensitive legal rulings. He warns against their legal practices, which he labels as ‘exonerative jurisprudence’ (fiqh al-tabreer), because this jurisprudence does not stem from sound scholarship and is not backed up by incontrovertible arguments, but consists, instead, of finding textual alibis in order to get off scot-free and avoid the negative consequences of their own follies.

This second sequel of the document finishes with an addendum in which Dr Fadl writes yet another note of caution (one of many in which he is clearly locking horn with al-Qaeda organisation). Using rigorous and strong legal arguments, he attacks this time those who had sought to use the fact of his imprisonment as a pretext to undermine the value of his books, and his reversals in particular, by quoting the adage “No prisoner may enjoy[legal] authority” (laa wallayata li aseer).

The following is the full text of the second sequel of the document.
Clause Two

The Sphere of Moral Accountability (*takleef*)

Moral accountability (*takleef*) hinges on three things: sound intellect, knowledge and individual capacity. The exemption of people of unsound intellect from giving account for their actions, may be gleaned from the famous hadith which evokes the three types of people exempted from moral responsibility, the proof for the exemption of those who have no knowledge may be found in the Qur’anic verse “…nor would We visit our wrath until We had sent an apostle to give warnings” (17: 15), which incidentally is also the source of the well-known legal maxim “No verdict may be pronounced concerning the actions of rational human beings until they are given textual proofs regarding those actions”, as for the proof indicating that incapacity exempts individuals from moral accountability (*takleef*), may be also found in the Qur’anic verse: “*On no soul does God place a burden greater than it can bare.*” (2: 286)

Knowledge of the Sharia

Knowledge of the Sharia, which is the Revealed Law, pertains to that knowledge which clarifies how the Law-Giver, God, expects us to act and behave. We have no means of gaining this knowledge except by becoming fully acquainted with the science of Sharia, as is attested to by the verse: “*And thus, too, [O Muhammad,] have We revealed unto thee a life-giving message, [coming] at Our behest. [Ere this message came unto thee,] thou didst not know what revelation is, nor what faith [implies]: but [now] We have caused this [message] to be a light, whereby We guide whom We will of Our servants*” (42:
Although human beings are originally ignorant, following the verse: “And God has brought you forth from your mothers' wombs knowing nothing (16:78), they are nonetheless commanded to learn and seek knowledge, and warned against proceeding with any action before gaining knowledge particularly of its legal status and ruling in the Law. This point has been made amply clear by God may He be exalted when He has said: “…if ye realise this not, ask those who know the Message” (21: 7)

Equally, the Prophet (pbuh) has said: “Seeking knowledge is a duty incumbent on every Muslim” (hadith made sound by al-Suyuti). Indeed, God has bestowed on human beings all sorts of means in order that they may use them for the sake of His obedience. One of way of performing this obedience is through the constant seeking of knowledge, which is in itself a pathway to thankfulness for the bestowal of those means of learning. Did not God may He be exalted say: “And God has brought you forth from your mothers' wombs knowing nothing - but He has endowed you with hearing, and sight, and minds, so that you might have cause to be grateful” (16:78)? We are of course excluding from this obligation those who are exempted. For details please, refer to the legal impediments exempting a person from religious obligation, particularly those humanly acquired impediments to legal capacity (mawani‘ al-ahliyya al-muktasaba), as cited in a book entitled Sharh al-Talweeh ‘ala al-Tawdeeh of Sa’d al-Din al-Taftazani and also Abu Mas‘ud Bukhari for details regarding the pursuance of religious knowledge and the circumstances that affect the individual’s legal capacity in such endeavour (takleef).

As we affirm that the search for religious knowledge is a duty of every Muslim, in order that all are clear about their obligations, and about what is permitted and prohibited, we want to also stress that the path to this knowledge hinges on
asking the trustworthy from among the true custodian of that knowledge. We ought to only approach those who have really proven to be trustworthy for in this context any other source would be regarded as of dubious origin. This is in obedience to God Who has said in His Glorious book: “O YOU who have attained to faith! If any iniquitous person comes to you with a [slanderous) tale, use your discernment” (49:6). No one should, therefore, seek knowledge from an ignorant person even if that person dons the garb and the air of the scholars; for anyone who does use his discernment to distinguish between the true and false scholar runs the risk of leaving himself open to misguidance and perdition. The Prophet (pbuh) has actually said :” God does not seize knowledge from people like you seize the property of one another, but He does so by seizing the souls of the scholars, such that their passing away would lead to a penury in knowledge. Bereft of knowledge, people will begin to resort to the ignorant in their midst, who would deliberate in religious matters without due diligence, so much so that they will err and cause others to err too” (Related by Buhari)

In his saih, Bukhari, may God have mercy on him, has also said in a section entitled kitab al-I’tisaam: “After the Prophet (pbuh) passed away, the leading imams used to consult the trustworthy from among the custodian of knowledge.”

There is another sensitive issue associated with the acquiring of knowledge: some of us do indeed gain knowledge by referring to reliable sources, but without auditing the teachings of the author of that source or at least of those who have a licence to impart his knowledge. This method of acquiring knowledge, which is a sort of ‘education by distant learning’, is known in the scholarly tradition ‘al-tahammul bi l’wijaada’. This method of learning has rarely been looked upon favourably in the tradition, because it creates problems, especially for the beginners. Typically, beginners, when reading books without proper guidance, struggle with the meaning intended by their author; even when
this meaning appears to them to be straightforward. Indeed, beginners who approach the works of certain scholars without adequate supervision may read, for instance, statements which they perceive as unqualified, when in fact these may very well have been qualified by their authors in other books or other parts of the same book. How are those of us who find themselves in these situations able to overcome doubt and be confident that their understanding is sound without recourse to those who are more knowledgeable or are at least licenced to impart such knowledge?

In the context of jihad, which is the topic of this document, the obligation of seeking knowledge requires that we attend to a number of issues and they are as follows:

1. It is not permitted to those members of jihadi organizations who are not legally qualified, to derive from the books of the *salaf* universal and absolute rulings and apply them to our contemporary context. Those who are not in the know in matters of Sharia ignore that our prime textual sources, namely the Qur’an and the sunna, contain, despite their immutability, ample flexibility and offer ample alternatives making them suitable to every situation and to all sorts of circumstances. We need to remind ourselves that the scholars of the *salaf* authored their books during a time that bares hardly any resemblance with ours. During their time Muslims lived in the abode of Islam (*Dar al-Islam*), under the reign of a caliphate and the rulership of a caliph, a time in which there was a distinction between the various ranks and various types of people in human society: Muslims resided in the abode of Islam and the non-believers resided in the abode of war (*Dar al-Harb*). In the abode of Islam, for instance, the *dhimmis* (mainly the Christians and the Jews) had to wear, as residents of the Islamic state, a distinctive attire so as to set them apart from the Muslims, but all of those things which characterised human society are virtually non-existent
in today’s world. Nowadays, peoples of all kind are conflated in the same society to the point where you cannot easily establish who is who.

**b.** Since fatwa consists of knowledge of the legal imperative, the obligatory, which ought to be abided by in a given and real situation, it follows that no legal ruling may be derived from the books of the salaf; unless it is derived by one who is qualified to do so: one who is both an expert in Islamic law and a keen decipherer of the reality of our present context. Failing to observe this principle, we will be confronted with the hadith mentioned earlier in which the Prophet (pbuh) has said “People, then, will begin to resort to the ignorant in their midst, who will deliberate in religious matters without due diligence…. ” Please refer to Ibn al-Qiyam, may God have mercy on him, in his “I’laam al-Muwaqqi ‘een”, where he clearly argues that the legal scholar is the one whose fatwa embodies the legal imperative (wajib) most commensurate to the reality and the situation on the ground.

**c.** Books which purport to be on religious knowledge and which appear in the worldwide web, ought to be approached with utmost care and caution, particularly those that entice Muslims to clash with others and commit violence against them. It is not permitted to accept everything that gets published in the internet without deliberating on the ideas being presented and foremost establishing the identity of their authors and whether they are legally qualified to write on such matters.

**d.** It is prohibited for those who have not acquired the legal pre-requisites, authorising them to make law, to give advice and counsel to those who, like them, are unqualified, in matters related to jihad and the conditions of its
conduct. It is absolutely essential that such precautionary measures be taken, because these matters almost inevitably involve human lives and property. Indeed, God may He be exalted has said: *O ye who believe, when ye go abroad in the cause of God, investigate carefully*” (4: 94). At this conjunction, it is worth recalling that the Prophet (pbuh) has even abstained from eating a date he picked up from the street for fear that it may have been destined for almsgiving and would not be licit for him to consume (Based on an Agreed upon hadith related by Anas, may God be pleased with him). Now, if the Prophet (pbuh) had abstained from allowing himself to eat even a trivial date fruit, how much more abstinence should a Muslim observe in matters of high significance such as those involving the blood, property and dignity of others? Once a person finds himself dealing with issues which are ambiguous, and one is often bedevilled by ambiguity in matters pertaining to jihad, it is obligatory to refrain from action, in conformity with the sound hadith: “Whoever among you follows the path of surety in matters of religion and avoids ambiguity when confronted with it, has certainly acquitted his religious dues and obligations vis-à-vis his Lord, and whoever fails to do so, preferring to tread the path of dubiety, he has certainly slipped into sin”. How often have I met those who, while they do not have the slightest idea on the jurisprudence regulating the canonical prayers or the ablutions, still have no qualms whatsoever in giving fatwas which calls for the indiscriminate killing of people and the plundering of their rightful properties! For the life of me, I just cannot fathom how these follies can be reconciled with the religion of Islam!

Do not accept any of the rulings which involves such highly sensitive matters like blood or property without a manifest proof (*hujja*), and know that what constitutes a proof is that legal indication which is derived from the Qur’an, the sunna of the Prophet (pbuh), in addition to the accepted consensus (*Ijmaa’*) and
valid analogy (al-qiyaas al-saheeh). As a matter of fact, and strictly speaking, even the statements of the ‘ulema are not meant to be considered as proofs for God’s religion, nor do they rise for that matter to the status of the legal rulings which mentioned in the foundational sciences of jurisprudence (usul al-fiqh). Understand that it is due to the fact that it is often said “The deliberations of the scholars ought to be contested and not relied upon as proofs during contestation” (inna kalaam al-‘ulamaa’ yuhtajju lahu wa laa yuhtajju bihi), and this means that their deliberation inherently lack the perfect proof which makes them irrevocably valid. It needs to be made clear that the role of the scholars consists mainly in bringing to relief the rationale behind a given ruling (ratio legis), in highlighting the indications surrounding a particular legal issue, and in making exegesis of the foundational texts of the Sharia with the aim of making its obscure senses explicit and understandable to a wider audience.

No one is regarded infallible after the Prophet (pbuh). Imam Malik Ibn Anas, may God have mercy on him, has said: “No one’s discourse is perfect, and everyone’s authority is open to question; save the discourse and authority of the one who is in this grave” and he pointed to the grave of the Prophet (pbuh). As for Ibn al-Qiyam, may God have mercy on him, he has stated in his I’laam al-Muwaqqi’een (Vol. 4), that there are no records of the caliph Abu Bakr having ever committed a fault against the sunna, and that the faults of Umar were a few by comparison to those of Ali, may God be pleased with the all. Now, if this is true of the deliberations and actions of the Rightly Guided Caliphs, what are we to make of those of the rest of the companions who are truly the guiding masters of all the Muslims? And, what are to make of the deliberations and actions of those who came after these companions? I urge the readers of this document to refer to both Jaami’ Bayyan al-‘Ilm of Abu Umar Ibn Abd al-Birr, and Al-Ihkaam fi Usuul al-Ahkaam of Ibn Hazm, as they each contain a chapter on the
statements and actions of the companions which did not tally with the sunna, and the debates between the two authors over the issue. I would have happily included examples of these here, but I am afraid they may take us a bit off our main topic.

Concerning those who came after the companions, such as the legal scholars of the four Sunni schools of law, Ibn Taymiyya, may God have mercy on him, has said: “The discourse and deliberations of the leading imams of this community, including those of the four imams of the Sunni legal schools, should not be considered irrevocably binding, nor should they be regarded as consensus upon which all the Muslims have agreed. Why should we regard them as such, when it has been established that they, themselves, have been the first to advice people not to imitate them blindly (taqlid), urging their followers to disregard their deliberations whenever these are found wanting and they are able to find guidance for their issues in the Qur’an and the sunna.” Elsewhere, and to make his point even more explicit, Ibn Taymiyya has also said: “Know that the imitation (taqlid), which we censure pertains to accepting the deliberations and discourses of others without clear proof and understanding.” If you want to hear for yourself how deplorable is blind following, then ponder the verse: “But when they are told, "Follow what God has bestowed from on high," some answer, "Nay, we shall follow [only] that which we found our forefathers believing in and doing. "Why, even if their forefathers did not use their reason at all, and were devoid of all guidance?” (2:170).

We warn against this ‘exonerative jurisprudence’ and we deplore its diffusion particularly in our time. Nowadays, it is typical of many individuals and groups to go on committing follies, on the basis istihsan (equity), which some of our scholars used to express their preference for particular judgements in Islamic law over other deemed too restrictive. Only, how whimsical is the istihsan of
these groups! All they do is rummage erratically through the Book of God and his sunna to justify their ruinous actions, and come out smelling like a rose! Of course, no one disputes that in their desperation, jihadists might stumble upon an argument which favours their position- or so it would appear to them at first blush; but the problem lies in their grasp of these issues, which often leads them to use these arguments in a fashion which to their great loss is seriously at odds with the aims and objectives of the Law-Giver. Indeed, God may He be exalted has said: “We sent down in the Qur’an that which is healing and a mercy to those who believe: to the unjust it causes nothing but loss after loss.” (17: 82).

Know that this is but the approach to religion which has characterised the people of blameworthy innovation (Ahl al-Bida’). Our salaf used to say: “The People of bid’a first commit themselves to certain beliefs and then proceed to justify them by arguments, as to the People of the Sunna, they first establish the proofs and the arguments and then attain belief thereof.” In his book Ighathat al-Lahfan Min Masa’id al-Shaytan, in the chapter dealing with legal stratagems in particular, Ibn al-Qiyam, may God have mercy on him, has outlined several types of people using the Qur’an and the sunna to argue in vain for all sorts of innovations, debaucheries and sins. I challenge these so-called scholars to harness all of the arguments surrounding a single issue of law if they can, and then to deploy each of one of them properly and make the correct legal inferences from them (istidlal)! Let them do that, for only then their aberrations will become manifest. Know that this ‘exonerative jurisprudence’ is most deviant, and every Muslim should be careful of this path.
Cautionary Remark

“No prisoner may enjoy [legal] authority”: A Rebuttal

First, it needs to be made clear that the adage “No prisoner may enjoy [legal] authority” does not always hold water, it is simply not universally true. In fact, both authors of ‘Al-Ahkaam Al-Sulataniyya’, Al-Mawardi and Abu Ya’laa, may God have mercy on them; have mentioned in their work that in the case where the leader of the Muslims (al-imam) is imprisoned by the enemy, he should retain his status of leader (imam) so long as there is a hope about his eventual release.

Now, of course, those who resorted to this adage in the past from among the scholars, such as Ibn al-Qiyam, have done so, because they doubted whether the statements given by the one who was coerced and oppressed carried any weight or had any consequences. For the coerced the person is the one who acts according to the wishes and demands of others in order to avoid their harm, and the oppressed person, is the one who approbates what is asked of him by those who deny his rights, in order to recover his rights. In short those scholars who had given credence to this adage viewed the prisoner as staggering between the state of coercion and oppression.

A Rebuttal

The following is a three-pronged rebuttal of this dubiety:

1. To begin with I have never claimed to be a custodian of legal authority and have not asked for anyone’s obedience or loyalty on that basis. To say otherwise
is simply false. Rather, I see myself as a truehearted adviser whose sole aim is to transmit religious knowledge to the rest of the Muslims. What I exhort them to do is not to accord loyalty to me but to the lawful arguments of the Sharia (al-daleel al-shar’iyy). Whilst, it is clear that none of the readers of this document are under any obligation to give allegiance or accord loyalty to me, they are, however, obligated to follow the dictates of a higher authority, namely, that which has been inferred from and supported by the legal proofs stemming from the words of God and the words of the Prophet (pbuh), as required by their faith, for God may He be exalted has said: “The answer of the believers, when summoned to God and His Messenger, in order that He may judge between them, is no other than this: they say, “We hear and obey”: it is such as these that will attain felicity” (24:51), and also, “Now whenever God and His Apostle have decided a matter, it is not for a believing man or a believing woman to claim freedom of choice insofar as they themselves are concerned: for he who [thus] rebels against God and His Apostle has already, most obviously, gone astray” (33:36).

I cannot recall a single statement in any of my books which is not supported from the Qurán and the sunna of the Prophet (pbuh). After all, should not that which is incumbent on us by Divine Law be put before that which is made incumbent on us by human contract? Indeed, it should, because obedience to God and His Prophet (pbuh) comes first, before the obedience that we may have towards a particular leader or those in the higher echelons of an organisation, in compliance with the Qur’anic verse: “… and if you are at variance over any matter, refer it unto God and the Apostle, if you [truly] believe in God and the Last Day” (4:59)

2. The claim that “the testimonies of the coerced, the oppressed, which includes the prisoner, carry no legal consequence”, holds true when the statements or
declarations are made under duress, and relate to legal cases which would have only been settled through the prisoner’s testimony. For instance, if and when a prisoner is charged with murder or is found to be a debtor purely on the basis of his testimony or admission before the court, we would be fully entitled to have reservations about his testimony on the basis that the prisoner may have testified to having committed these crimes under duress. Even the prisoner’s filing for divorce cannot be taken in consideration in the circumstances. But notice that this claim against the legal aptitude of the prisoner loses its currency when the testimonies of the prisoner pertain to legal matters not brought against him, and which, contrary to the previous case, do not absolutely require his testimony before they can be settled. Indeed, in this the statements and testimonials of a given prisoner may be deemed reliable and taken into account by the Sharia court, so long as he is known to be upright. The upshot is this: all the statements which I make in this document are buttressed with the most rigorous and soundest of legal proofs (*al-daleel al-shar’iyy*), and are not my mere words. So, rather than judging this document on the basis of the location of its writing (the prison), I urge my readers and interlocutors to judge it on in light of its legal merit and integrity.

3. It is not true that all writings produced during imprisonment are invalid and of no legal force. Only the validity of the arguments presented or lack thereof should determine that, and not the place of their production. The Prophet Yusuf (pbuh) has also been in jail and yet that did not prevent him from giving counsel on a number of issues. Now, should we regard whatever the Prophet Yusuf has said as void simply because he said those things whilst in jail? Certainly not, no Muslim, or indeed any sane person would say that. In the words of God may He be exalted, Yusuf said in the Qur’an: “*O my companions of the prison! [I ask you]: are many Lords differing from among themselves better, or the One God,*
the Supreme and Irresistible? If not Him, ye worship nothing but names that ye have named, -ye and your fathers,- for which God hath sent down no authority: the command is for none but God. He hath commanded that ye worship none but Him: that is the right religion, but most men understand not.” (39:40)

Equally, sheikh al-Islam, Ibn Taymiyya, may God have mercy on him, wrote many of his books whilst imprisoned in the fortress of the city of Damascus, also the imminent scholar al-Sarakhsi, known as the sun of the imams, had authored al-Mabsut, a summity in hanafi jurisprudence, after being thrown in jail. Shall we do away with the legacy of these towering figures and their works, solely because they have produced them while in prison? Again, Certainly not!

So concerning this document and other writings that I produced in prison, let me reiterate, that the statements contained in this document should be judged on the basis of their intrinsic value and not on the location of their production. Again, I should seize this opportunity to also reiterate and state loud and clear that I disavow and repudiate any statements in my writings which are shown to collide with the Sahri’a, the Revealed Law, and that I would be willing thereafter to follow the guidance and truth demonstrated by sound legal proof.
III. The Document for the Guidance of Jihadi Action in Egypt and the World

Stealing Money and Property is prohibited and The Use of misappropriated Funds for the Financing of Jihad is Invalid

“The appropriation of people’s property is unlawful (haram) and the jihad financed by such means is inevitably invalid (batil)”

Having highlighted the importance of gaining Islamic legal knowledge (al-‘ilm al-shar’iyy) and the need to elaborate the necessary tools for controlling the legitimacy of jihadi activity, Dr Fadl discusses in this section an even more sensitive and subtle issue, namely, capacity (al-qudra). After much analysis and legal reasoning, he concludes that the duty of jihad is actually not incumbent on today’s jihadi organisations because they are either incapable of carrying that duty as it ought to be carried, or have been incapacitated to do so.

Dr Fadl derides the jihadists for attempting to change the reality on the ground without having in their possession the wherewithal to implement such a grand project. Without citing anyone by name, he makes reference to a “conceited fool” (maghroor), who, he argues, has become in a space of only a few years a mufti for his organisation, as well as, a military leader wont to lead his members from one disastrous calamity to another.

Dr Fadl’s arrives at another important conclusion; one which al-Qaeda always suspected to be true, and feared it would come to light: it is not licit to enter into a military confrontation with the authorities of the countries of the Islamic world for the purpose of implementing Islamic law, nor is it licit for anyone to remove what they perceive as moral vices in society by force; except in cases
involving a father and members of his household.

The highlight of this section of the document is also Dr Fadl’s attack on what became known as ‘the Fatwa of Permissiveness’ (fatwa l’istihlaal), which was used first by the Jihad Organisation (tanzeem al-jihad) to allow the burglary of jewellery shops in Egypt, and was adopted later on by al-Qaeda in Iraq. Such was the impact of that fatwa, some estimate the value of monies and property seized in hold-ups carried by the jihadists to have reached about 1.5 billion dollars in only a few years.

The author insists that monies and properties seized by jihadists in order to finance jihad is only a put-off to conceal their incapacity. Neither jihad nor jihadi operations financed by these stolen goods are regarded as valid in the Sharia.

The following is the text of the third sequel of the document.

We have said earlier that moral accountability (takleef) revolved around three elements, namely, the intellect, knowledge, and capacity. The principle of capacity in this context entails that the rational and knowledgeable person is under no obligation to fulfil the commands of the law until they also fulfil the condition of capacity, and this following the verse: “…Pilgrimage is a duty to God, those who can afford the journey…” (3:97). God makes it clear that not every single person who knows about pilgrimage is required to perform it, unless they have, beside their knowledge of that duty, the means to do so. This principle applies to the rest of the religious duties, including the duty of jihad, and is supported further by one of the universal proofs found in the Qur’an: The Almighty says: “God does not burden any human being with more than he is well able to bear” (2:286), as well as by the hadith in which the Prophet (pbuh)
has said: “Steer clear of that which I have proscribed for you, and implement that which I have commanded you to do but only to the extent of your capacity” (Agreed upon hadith). Based on this a Muslim person must know that whenever he finds himself in a position where he has no room or ability to perform a religious duty, he would be under no obligation to perform that duty, and this following the legal maxim: “No obligation may be imposed where there is incapacity to do so” (I’laam al-Muwaqqe’een (vol. 2)

**The Capacity for Jihad Means More than Physical Capacity**

After highlighting the role of the intellect, knowledge and capacity in any deliberation on moral accountability, Ibn Taymiyya, may God have mercy on him, wrote:

“Whoever has failed to accomplish or ill-performed a requirement of the faith, either due to lack of capacity or to lack of knowledge, is exempted from that obligation as long as he is not able to or has no knowledge of it. His case ought to be seen as analogous to the prayers of the sick, the unsecure, the menstruating woman, and all those who have genuine excuses preventing them from accomplishing the normal requirements of that obligatory duty.” (Majmoo’ al-Fataawa, vol. 12)

Also, the Prophet (pbuh) has said: “O people! Perform your duties without exceeding your capacities” (Agreed upon hadith). All of the above should draw our attention to an important issue in Islamic law: there is a difference between the ‘universal or unconditional obligation’ (al-wujuub al-shar’iyy al-mutlaq), and the ‘specific or conditional obligation’ (al-wujuub al-mu’ayyan). For indeed, the former pertains to that which God has made obligational in the foundational texts of the Sharia, namely, in the Qur’an and the sunna; and is applicable to all the believers regardless of place and time; whereas the latter
pertains to that which is incumbent on specific people, and in specific and varying circumstances; such that for an obligation to obtain in this instance, a particular knowledge and a capacity to perform is required from those who are called to carry it out. It is worth noting this difference between these two types of obligations, for the ‘universal’ and the ‘specific’ is one that consistently regulates the whole spectrum of our religious duties and obligations.

The obligation of jihad, the main topic of our document and one of our most important religious duties, is definitely one which is conditioned on our capacity to perform it, so that whenever the condition of capacity, for instance, is fulfilled the ruling for jihad secures an important aspect of its obligational force and whenever that condition is not fulfilled the ruling or the fatwa for jihad is seriously undermined. We should stress, however, that capacity, be it ‘physical’ or even ‘financial’ capacity, is not the only condition required, in that the proper conduct of jihad necessitates also knowledge of the environment and the circumstances surrounding such activity. For instance, in the Qur’an, God may He be exalted, has not only praised those who have actively engaged in Battle for His sake, He has also equally praised those who shunned their society and withdrew to the cave, and that believer who concealed his faith from pharaoh and his entourage for fear of reprisal. Notice how despite the fact that all these believers had confronted the same reality, an overwhelming opposition, they each produced a distinct response to that reality: the first one went to jihad, the second withdrew and the third harboured. But, even though their actions appear to be at variance with one another, they all did this for the sake of their religion and consequently all of their actions, diverse as they were, fall under the category of praiseworthy (mahmood) in the eyes of the Sharia: each of these believers acted on what the Sharia has prescribed for him at a specific time and specific place, and each acted in accordance with his capacity. That is why I call every Muslim today to make an effort to be more acquainted with their religion;
only in this fashion they would be in a position to be guided to the lawful course of
action, which can only be the one suited to their context and their capacity.
Since Islam has sealed all the revelations sent by God, it inevitably contains all of the legal alternatives, which Muslims are under obligation to pursue in their dealings with the opponents of religion. Most of these were acted out by the Prophet (pbuh) during his prophethood and by the companions during the Rightly Guided Caliphate: whether it is the concealing of the faith, withdrawing and emigrating to Abyssinia and then to Medina, pardoning the polytheists and bearing their transgressions, striving against the disbelievers, the polytheists, the apostates and the People of the Book, or the signing of truces and treaties, all these prophetic actions, which attested by the Qur’an and the sunna, are but examples of the alternatives and legal options open before us in our relations with our opponents. Taking in consideration their capacity to honour His law, God in His wisdom has revealed His Sharia to the first Muslims gradually, beginning from the stage when they were weak and powerless through to the stage when they became fully capable of running their affairs and in a position of superiority and decisive advantage. In his ‘Zaad al-Ma’aad’, Ibn al-Qiyam, may God have mercy on him, has indicated that because of this divine wisdom in the revelation of the Sharia, none of the legal options mentioned briefly above should be made preferable to another: they are all lawful to Muslims depending on their capacity and circumstances. This position is supported further by the statements of Ibn Taymiyya, may God have mercy on him, who wrote in his ‘al-Sarim al-Maslool’: “If you find in a position of control and domination, you should implement the verses which command the fighting of the polytheists and the disbelievers, but if should find yourselves powerless, or not in control of the war, then implement the verses commanding leniency, tolerance and peaceful accommodation with the polytheists.” In his book ‘Ahkaam al-Dhimma’, Ibn al-Qiyam, may God have mercy on him, makes a
very similar argument: jihad is obligatory when the capacity to perform it is there, and it ceases to be when that capacity is absent.

Related to our discussion of the principle of capacity is the concept of ‘empowering’ (tamkeen). God may He be exalted has mentioned it in the Qur’an in several places,: “…That He will empower them to establish their religion…” …walayumakkinanna lahumdeenahum… (24: 55); “…Generations We have empowered to establish their authority on Earth…” …makkannaahum fi l’ardh…(6:6). In Arabic the term tamkeen refers then to the circumstances in which Muslims have their own land, a land which they dominate and are able to protect and defend as was the case in Medina after the Hijra. Any person who has no power or capacity to fend for himself, is considered powerless (mustadh’af) and has therefore no obligation nor right to engage in removing wickedness by force; unless he is attacked by an aggressor. Only then is he permitted to use force but he is never obliged (jawaazan laa wujuuban), as Imam Ahmed Ibn Hanbal argued on the basis of the hadiths which condemned physical confrontation during time of tumult and turmoil. Indeed, while in Mecca, the Prophet (pbuh) has not had recourse to physical confrontation to correct wickedness (munkar), both before and after the Hijra. Did not he perform his circumambulation around a Ka’ba surrounded by idols, when he did his ‘umra in the 7th year of the Hijra? But did he not a year later, triumphed and then was able to remove these very same idols, without physical confrontation, once he was empowered to do so? Without doubt, there is an intimate link between the type of actions one is called to adopt to remove wickedness and one’s capacity and circumstances. This point is made clear by the hadith in which the Prophet (pbuh) has said: “Should any of you witness that which is wicked in the eyes of God, let him confront it with his hands until it is removed; if this proves to be not possible for him, then let him speak against it with his tongue; and if that too proves not possible, then let him fight shy of wickedness
with his heart, which is the least faith requires” (related by Muslim)

What Alternatives are open to the Powerless?

In Mecca, God did not make it incumbent upon Muslims who were powerless to carry out the duty of jihad, but as soon as the conditions for performing this noble duty were gathered in the ‘city of helpers’, Medina, He did. But the ruling on jihad before the Hijra is not necessarily abrogated; rather it remains valid as one of the alternatives open before Muslims when powerless, as they were then in Mecca. The proof that the ruling exempting the powerless from carrying jihad is still effective, resides in the fact that neither God, may He be exalted, nor the Prophet (pbuh) have asked the Muslims who were not able to leave Mecca to carry out this duty, even when it was clearly incumbent on those who had migrated to Medina. On the contrary, knowing their circumstances, God has made allowances for them, and the Prophet (pbuh) used to include them in his prayers, for he knew that they were powerless. This ruling, which has once exempted the powerless and the incapacitated residing in Mecca from jihad, will continue to be effective even until End times. Indeed, it is established in the sources that God, will dissuade the Messiah (pbuh) upon his return to earth from fighting Gog and Magog, for the simple reason that their forces would be superior to his. This command will be given despite the fact that the forces behind the Messiah then will be the army, which will have defeated the Dajjal (the Anti-Christ) and will have among its ranks the most excellent and competent believers. The details of those momentous events are found in a long hadith; let me quote from it what is pertinent to the point of our discussion. In this very hadith, the Prophet (pbuh) has Related that: “[Upon his returns to earth], God will reveal to Jesus (pbuh): “I am about to fill the earth with a people [of such vile and mischievous character] that none of the believers will
be under any obligation to fight against them. So do shelter my servants and do take refuge in the al-Tor mountain.” Then God sends the people of Gog and Magog, and you shall see them from every higher ground descending in droves, the first among them will stop by the lake of Tabariyya (Tiberias), from which they will drink and then move on, and the last among them, will stop by the same lake but will find nothing to drink: it will have dried up through sheer consumption. In dismay, they will say: there used to be water here once! In these times, the Prophet Jesus (pbuh), and his companions will be so besieged that a bull’s head to them would be worth more than the equivalent of your hundred dinars. Such will be the calamity and the horror of those days, Jesus (pbuh) will beseech God for relief so the Almighty, inflicting them with worms around their neck, will cause all to die at once and swiftly as though they were one soul” (related by Muslim)

If we now return to focus on the reality on the ground to examine the state and condition of the jihadi organisation and their venture to implement the Sharia and steer away the general public from committing vice and wickedness, we shall notice that these organisations oscillate between powerlessness and incapacity. Indeed, all the ruinous experiments which these organisations have embarked on till most recently are clearly the result of such a state and condition and a sad proof for it at the same time. Surely, he must be a conceited fool, whoever attributes to himself qualities which are definitely not his, and still continues to labour under the delusions that victory is at hand when he has no power! And surely he is a conceited fool, whoever used to be a simple observant of his religious duties one day, only to become, and in a space of only a few years, the mufti as well as the military expert who leads his followers from one disaster to another!

Based on what has been established in this clause, we can safely affirm that it ought to be prohibited to remove vice or wickedness by coercion or by taking
the law into one’s own hands; unless it is a case of a father in his household or for the sake of saving the life a Muslim from certain death or great harm. We equally can safely affirm that it ought not to be permitted to use the pretext of jihad to enter into violent confrontations with the ruling authorities in the Muslim world for the sake of implementing the Sharia: neither the implementation of virtue by force nor the violent confrontation with the authorities would count as the suitable alternatives from among the lawful alternatives which the Sharia has opened before us, and so neither is obligational. If we should feel that we have an obligation towards the general public, it would be to invite them to religion with wisdom and kindness. Even if we were left without the capacity to carry this obligation as it fully deserves, we will still be rewarded for having endured the challenge that comes with it. Certainly, in the hadith about Gog and Magog, there is an irrefutable proof that the ruling exempting Muslims from the duty of jihad when powerless, will be effective until the End Times. So let no Muslim feel they have sinned when they actually do not have the wherewithal to carry such a duty, and let no one believe that this ruling is confined to the Meccan period and that it has been abrogated ever since. Nay! It is a lawful alternative valid until End Times as we have already demonstrated. None of us is better than Jesus (pbuh) and the companions who will be with him, yet God has chosen for them the path of restraint, and commanded them to annul their jihad in view of their powerlessness, and the futility of their endeavour. And let no one use one legal proof to the detriment of another, particularly if that other proof serves to contextualise it and specify its application. Indeed, let all the proofs of an issue be brought to the fore, each in their hierarchical and logical order as prescribed by the rules of legal deliberation; for it is only in this way, that the breadth and diversity of the various texts of Sharia may be assimilated and harnessed. To this effect, Ibn Taymiyya, may God have mercy on him, mentioned a golden rule in his book, ‘Minhaaj al-Sunna al-Nabawiyya’. He wrote: “A person of
intellect has to abide by certain universal principles (*usool kulliyya*) which he needs to apply to the particulars (*juz’iyyat*) in order for his discourse to be scientific and upright and in order for him to know how these particulars came about and where they fit in the general scheme of things. For failing to do so, he would remain ignorant of both the true nature of the particulars and the true nature of the universals, eventually becoming a great source of corruption and confusion.”

**Clause Three**

**Jihad is not permitted to those who are not financially Independent**

Financial independence is a condition that must be met by all those who want to engage in jihadi activity; otherwise it would not be deemed an obligation in their case: financial independence is intimately Related to the principle of capacity and capability which we outlined in the previous clause. Indeed, a person who has not gained financial independence is regarded as being deprived of capacity and is exempted from the duty of jihad on that very basis. The proof for this is in the events that took place the Battle of Tabuk: the Prophet (pbuh) had urged the companions, may God be pleased with them, to take part in it, and did want anyone of them to trail behind. Indeed, it was on this occasion that God, may He be exalted, revealed: “*Go forth to war, whether it be easy or difficult [for you], and strive hard in God's cause with your possessions and your lives*” (9:41). What is striking is that despite all of the urgency surrounding this battle, God had also made allowances for several kinds of believers from among those who could not join, including in particular those who were not financially independent. He has freed them from the feeling of shame and sinfulness by exempting them from jihad, though by then it had been made an
absolute obligation for all Muslims (fard ‘ayn). Listen with me to what God has said about those exempted:

“[But] no blame shall attach to the weak, nor to the sick, nor to those who have no means [to equip themselves], provided that they are sincere towards God and His Apostle: there is no cause to reproach the doers of good, for God is much-forgiving, a dispenser of grace. Nor [shall blame attach] to those who, when they came unto thee [O Prophet, with the request] that thou provide them with mounts, were told by thee, "I cannot find anything whereon to mount you" - [whereupon] they turned away, their eyes overflowing with tears out of sorrow that they had no means to spend [on their equipment] (9:92-3), and in return, they were indeed graced with God’s magnanimity and generosity.

Not only did God forgive them, but He also granted them the reward of participation in that battle on the basis of their utmost sincerity and not on the basis of their physical capacity: concerning them the Prophet (pbuh) has said to his companions: “There are in Medina men who shall share with you the rewards of any path you trod and any valley you cross [in the course of this jihad]; for they would have done anything to be with you, had God not exempted them” (Related by both Bukhari and Muslim). About the importance of intention the Prophet (pbuh) has also said: “Whoever strives to perform a good deed, but does not manage to do so, God will still grant him the reward of that deed as if he had done it” (Agreed upon hadith).

We should stress that is meant by financial independence here does not simply refer to the funds the mujahid needs to cover his own expenses during jihad; it includes expenses towards his family and all other dependents during all the period of his absence. Even the Prophet (pbuh), who had utmost trust in the grace of God, would still set aside funds which covered the expenses of his household from the booty of Bani al-Nadir, when he was away. The Prophet (pbuh) has said: “Has committed a sin, he who slacks the duty of feeding those
under his care” (Related by Abu Dawud). So let any person who is not able to cover his own expenses or those of his family, understand that it is not incumbent upon him to carry out the duty of jihad, even though, it is by universal command, obligatory on all Muslims. Lacking funds, his case would not be different from those who were exempted from the Battle of Tabuk.

It is very sad as well as bewildering to see those who have barely any money to live on taking on obligations, which God has exempted them from unambiguously. Is it not this sort of misconception, which constrains the jihadists to follow illicit paths under the pretext that they are gathering funds for the cause of jihad? Is it not this misconception of the Sahri’a as well as their obligations which entices them to the taking of innocent civilians as hostages for ransom money in return for their release, and to resort to the tactics of armed robbery, appropriating in the process property and funds unlawfully and killing people in defiance of right? Does not the killing and the plundering of the property of those who are protected by Islamic law constitute a major sin? Are not the perpetrators of such acts committing unlawful acts, only to carry out duties the law of Islam does not demand of them in the first place? Which jurisprudence is this which allows such insanities? Which intellect is this which formulates such hideous rulings and allows such perilous outcomes to occur? Or are these the consequences of ignorance going rampant: ignorance at the helm of military strategy, and ignorance as a source of fatwa for jihad?

For years now, we have been hearing about hold-ups or the collection of donations to further the cause of jihad, but when is this going to stop? Why bother with these practices when it has been clearly established that without financial independence and self-sufficiency, jihad would be void ab initio!

We have already stated in the first clause that Islam means to worship God as He would like to be worshipped, and not as we would like to, and we explained that there is nothing in Islam which can be reconciled with the motto “the end
justify the means”. So let every Muslim be mindful of these treacherous paths, which we reject in toto and let every Muslim steer clear from them: robbery, kidnapping and the like have never been permissible for the sake of furthering jihad. Did not the Prophet (pbuh) say in a hadith: “The whole of a Muslim for another Muslim is inviolable: his blood, his property, and his honour” (Related by Muslim)? And let every Muslim know that no amount of good intention in such a deviant jihad is going to absolve the perpetrators from their unlawful acts. In his ‘Mukhtasar Minhaaj al-Qaasideen’, Ibn Qudama, may God have mercy on him, said: “The scholars are in agreement that intention does not alter the status of a wrong deed”, and he also said: “Wrong deeds remain wrong deeds irrespective of the intent of the doer: whoever has built a mosque (the end), using money that was earned through illicit means (the means), will not alter the status of his action (his gift of the mosque is rejected), even if he intended good, because to intend the good using evil will count only as evil in the end. Know that the good is established through the Revealed Law and is achieved through its means; no way can evil lead to good…!” Understand also that when the Prophet (pbuh) has said: “Verily, actions are judged but in accordance to the intention behind them”, he was referring to the intention which affects the value of the pious actions and all those actions which belong to the realm of the permissible, he was definitely not referring to a sort of intention that would transmute an evil action to a good, God forbid! There is no permission to indulge in the illicit in order to accomplish a moral duty, particularly that which is not an obligation in the first place. Jihadists may concoct all the jurisprudence they like to make their action to be licit and exonerate them from their crimes, it simply will not work: deviance will always be deviance, and jihadi action based on such deviance will never be permissible.
That which is based on Corruption is bound to Be Corrupted

You should know by now that whoever has seized a property unlawfully to purportedly accomplish a religious duty has indulged in sin (haram) and that his duty towards God will therefore not be accepted, in conformity with the verse: “Behold, God accepts only from those who are conscious of Him” (5:27). Indeed, that person who is engaged in such action has feared God neither in the means he pursued nor in the end he sought to achieve, if his end has been to seek God’s pleasure. Notice what the Prophet (pbuh) has said against those who like to fish in murky waters: “God is supreme Good, and He only accepts what is good [without blemish]”, and understand that it is from verses and hadiths like these that the legal maxim “That which is based on corruption is bound to be corrupted” has emanated. Let us conclude this section by reiterating that while God has forbidden the committing of sinful actions as a means for carrying out religious obligations, He conversely has promised the reward of jihad to those who earnestly strive to join it but are prevented from doing so due to lack of means. We have I hope made that very clear when we discussed the hadith and the verse dealing with those believers who were not able to partake in the Battle of Tabuk.

Finally, let us remember: “He is aware of the [most] stealthy glance, and of all that the hearts would conceal” and recall the words of the Prophet (pbuh): “Every nation is prone to endure a great affliction (fitna), and the great affliction of my nation is wealth” (Related by al-Tirmidhi). Also the words of Anas Ibn Malik, may God be pleased with him, who once said to the people: “I see many of you nowadays committing offences without taking much notice: to you they may appear as trivial as a strand of hair, but we considered them tantamount to the [seven] destructive sins during the time of the Prophet (pbuh)”
IV. The Document of the Guidance for Jihadi Action in Egypt and the World

The Approval of the Parents and the Issue of Parity in Military strength

This fourth sequel begin by elaborating on another condition that needs to be met in jihad, namely that of the approval of the parents and the creditor. We want to stress on this in this sequel, because we know that many of our youth who are leaving their countries to join the ranks of al-Qaeda, do so without even informing their parents; except may be through a brief and cold letter or a note [which the parents usually discover only after they had departed].

After this introduction, we may now proceed with this fourth sequel.

Clause Four

One of the conditions needing to be fulfilled before jihad becomes an obligation on those who want to pursue it, is the explicit approval of the parents and the creditor.

Before we begin to discuss the intricacies of this point, it is worth highlighting from the outset that when many obligations and conditions altogether come to the fore, as they usually do when one deliberates on jihad, it is useful to consider them according to an order of priority. If we proceed in this fashion, it would only most logical that the first condition that would need to be met before engaging in jihad is to seek parents’ approval, as well as, the approval of the creditor. Let us first elaborate on why the settlement of debts is important before we turn our attention to parents and the importance of their approval.
If the aspirant to jihad has debts, he would not be permitted by law to partake in such action, unless he pays them back, reach a settlement with his creditor or finds a guarantor who would oversee his debts and ensure they are settled during his absence. This is a crucial point because martyrdom (*shahaada*), cleanses the martyr of all his sins, but it does not absolve him from the sin of indebtedness, following the hadith of the Prophet (pbuh): “*God forgives the martyr all of his sins except his debts*” (Related by Muslim). None is absolved from the sins of indebtedness, according to the Islamic tradition, except those who die as a result of drowning (*shaheed al-bahr*). Regarding debt, the Prophet (pbuh) has also said that after death: “*The journey of the believer’s soul would remain suspended until his debts are settled*” (Related al-Tirmidhi,).

The Prophet (pbuh) has also said to a man whose brother had just died: “*Your brother’s soul is suspended; hurry and settle his debts!*” (Ahmad and Ibn Maja,)

We now turn to the issue of the parents and their approval which is a crucial condition to fulfil before jihad becomes permissible, and we start with this account. “*While a youth was preparing to go for jihad one day, the Prophet (pbuh) asked him: ‘Are your parents alive?’ to which the youth replied in the affirmative. The Prophet (pbuh) then said to him: ‘[Attend to them], that is your jihad’*” (Agreed upon hadith). What the Prophet (pbuh) meant is that in the case of that person- and this another good example of a universal command made specific- what was obligational and incumbent was not to engage in fighting, but to stay around the parents to serve them and treat with reverence. It is lamentable to see nowadays some of our Muslim brothers travelling to other parts of the Muslim world to partake in jihad or in martyrdom operations without seeking any approval from their parents or even informing them. At times they do so without even leaving behind any money that covers the expenses and need of those under their responsibility. Those jihadists who breach this condition may die in sin, as they may get killed before reconciling
with their parents. We are not of course closing the possibility that God may not forgive them, but we need to remind ourselves and them that God’s forgiveness is dependent on His will. What guarantees do they have that God is going to forgive them these transgressions? Remember! The Prophet (pbuh) has said: “You will be judged in accordance with your last actions.” We reject these violations of the Law, and we urge every Muslim to abstain from them.

In his ‘kitab al-Umm’, Imam al-Shafi‘i has stated that “It is not permitted for a man to go for jihad, if he does not feel that his family is well protected against the potential attacks of the enemy.” Indeed, during the Battle of al-Ahzaab, the Prophet (pbuh) had gathered all of the women in a safe shelter for fear that the enemy who had encircled Medina, might harm them. If that is so, what are we to make of these jihadists who venture into jihad without ensuring the safety of their wives and children, leaving them open to the attacks of the enemy, and to all sorts of other dangers?

Some readers may have misgivings about our preceding argument, and might be thinking that all what we said so far amounts to a deterrent against jihad. I would like to comment on a hadith Related by Ahmad al-Nisa’ee to address those very apprehensions and possibly others that the readers of this document might have in relation to others arguments we have raised. The hadith in question mainly narrates how the deceiver, Satan, whispers in the heart of the Muslim to weaken his resolve and get him to shirk his religious responsibilities. We read in that hadith how Satan, for instance, attempts to dissuade the believer from taking part in jihad. He says to him: “you will fight, and when you will get killed, your wife will marry another man, and your wealth will be split among strangers.” Now some may want to try to undermine the point we are making here by resorting to this sound hadith. We say to them that their argument amounts to using a proof out of its proper context, and the difference is glaring:: we are deterring those who want to join jihad while not financially independent,
we are not making concessions for those who are financially independent and shirk the duty of jihad for fear that will lose their wealth. This document is not a deterrent against jihad it is good counsel. Did not the caliph ‘Umar, may God be pleased with him, on one occasion summoned some people to prepare for jihad, and said to them, when he became aware of their apprehensions: “Get on with your jihad! I will be responsible for your families.” I ask you, would the caliph have made that pledge had their apprehensions and concern for their families not been genuine?

O Muslim! Do not allow any of these ignorant demagogues entice you with their fiery slogans and hubris to enter into violent confrontations with others, when you are not apt and capable to engage in jihad. Neither the Prophet (pbuh) nor the companions, may God be pleased with them, have taken that course when they were powerless. Indeed, before the Hijra, the Prophet (pbuh), used to say: “Who among you shall help me spread the message of God?” and this was entirely in keeping with God’s guidance:” And say [in thy prayer]: "O my Sustainer! Cause me to enter [upon whatever I may do] in a manner true and sincere, and cause me to leave [it] in a manner true and sincere, and grant me, out of Thy grace, sustaining strength!" (17:80). Notice how despite the fact that the Prophet’s (pbuh) mission was backed by Divine revelation, he still asked for help and assistance, and felt powerless at some stage of his prophetic career. The condition of capacity is central: even when the Prophet (pbuh) reached a stage in his career where he was capable to declare jihad he was still mindful of the fact that not all the believers were. Remember what he was revealed to say to those companions who were not in a position to partake in jihad: “Nor [shall blame attach] to those who, when they came unto thee [O Prophet, with the request] that thou provide them with mounts, were told by thee, "I cannot find anything whereon to mount you" - [whereupon] they turned away, their eyes overflowing with tears out of sorrow that they had no means to spend [on their
Finally, know that we cannot simply rely on miracles and extraordinary events to resolve our plight. Yes, it is in God power to do whatever He wills, but miracles are not part of His norms. On the contrary, God may He be exalted, has ordered this universe in such a way that to operate in it properly, we would need to take orderly steps and follow the norms which are adequate for obtaining the desired effect.

Clause Five

The Security of the Muslims and the Protection of their Standing are at the Heart of the Objectives of the Sharia

Know that jihad aims essentially at making religion manifest and making its followers ascendant, as is made clear by the verse: “And fight against them until there is no more oppression and all worship is devoted to God alone” (8:39) It is for the sake of these aims that Muslims are commanded to exert themselves, and it is because of the importance of these aims that, when we come to look at how the five objectives of the Sharia are ordered, we notice that the protection of religion and its ‘furtherance’ are placed even prior to the objective of protecting Muslims. But we need to remind ourselves that the command to exert oneself in jihad to maintain those objectives remains a priority only when there is overwhelming evidence that victory, and consequently the advancement of religion, are at hand. Indeed, once it transpires that the opposite is in the offing or there is a presentiment that engaging in jihad would only imperil Muslims and jeopardize the standing of Islam consequently, then and in that case it is the objective of protecting Muslims which would be prioritised, because it is not permissible to put Muslims and their families before a peril which can,
ultimately, be avoided. There are numerous proofs for this; we shall in the following highlight some of them.

*The Protection of the lives and Well-Being of Muslims*

1. As we mentioned earlier, God has made it permissible to Muslims to withdraw from society or conceal their faith in times of powerlessness. God, may He be exalted, has said: “Thereupon exclaimed he who had *attained to faith*” (40: 28). Notice that with these words God Almighty has clearly attested to the faith of the believer in the entourage of pharaoh despite the fact that this believer, by concealing his faith and keeping it low, as it were, did not do anything to make religion manifest. The same applies to the youth who, in times of powerlessness, withdrew from their oppressive society with permission from God: “…now that you have withdrawn from them and from all that they worship instead of God, take refuge in that cave…” (18:16). Concerning them God, may He be exalted, has also said: “Behold, they were young men *who had attained to faith* in their Sustainer: and [so] We deepened their consciousness of the right way” (18:13). Again, despite the fact that these youths had withdrawn to the cave, because they were not a match for their oppressive opponents, and even though by this withdrawal they were certainly not making religion prevail, God, may He be exalted, praised them still, describing them as those “*who had attained to faith*”. Indeed, in neither concealment of faith nor in the withdrawal from society and the affairs of the world are there any furtherance or advancement to the cause of Islam and its standing, yet, God, may He be exalted, has clearly made both permissible and looked at both actions most favourably. Two important wisdoms can be derived from this:

a. The protection of the lives of the believers, in certain contexts, becomes
paramount, and is put before jihad for the purpose of furthering the ascendency of Islam and making religion manifest.

b. The right thing to do when one is faced with several legal alternatives is to choose the option most commensurate with one’s capacity.

2. God, may He be exalted, has never made it incumbent upon Muslims to mount a jihad, nor uphold the principle of ‘allegiance and dissociation’ (al-walaa’ wa l’ baraa’), or remove wickedness by force when Muslims were powerless in Mecca before the Hijra. Although, in principle, it is conceded that those religious duties have been crucial to the ascendency of Islam, they were, nonetheless, deemed harmful to Muslims then, and such action would only have encouraged the disbelievers to mount an even fiercer opposition against them during a period when they were most vulnerable. Indeed, before the Hijra, most Muslims in Mecca were still dependent on the assistance of their relatives from among the polytheists for their livelihood and protection. Such was the position of Muslims at that stage of their history, even the prohibition of marriage between Muslims and polytheists came into effect only well after the Truce of Hudaybiyya, as is made evidenced by the verse: “O YOU who have attained to faith! Whenever believing women come unto you, forsaking the domain of evil, examine them, [although only] God is fully aware of their faith; and if you have thus ascertained that they are believers, do not send them back to the deniers of the truth, [since] they are [no longer] lawful to their erstwhile husbands, and these are [no longer] lawful to them. None the less, you shall return to them whatever they have spent [on their wives by way of dower]; and [then, O believers,) you will be committing no sin if you marry them after giving them their dowers. On the other hand, hold not to the marriage-tie with women who [continue to] deny the truth” (60:10).

In light of the above, we conclude that, binding as they are, it would not be
permissible to carry out the type of religious duties mentioned earlier; when there are ominous signs they would contribute to putting Muslims in a perilous situation. The logic behind this is clear: whenever a matter attracts more harm than benefits, it becomes appropriate to make it forbidden. Indeed, there is a legal basis for our conclusion, and that is the legal maxim “The preclusion of harm precedes in order of priority the procurement of benefit” (dar‘u al-mafaasid muqaddam ‘ala jalbi al-masaalih).

3. Even after jihad was decreed by God, may He be exalted, the Prophet (pbuh), while in Medina, did not make it incumbent on those who stayed behind in Mecca, just as he did not make it incumbent on those who migrated to Abyssinia, even though they continued to reside there until the year seven of the Hijra. It is obvious the Prophet (pbuh) took such a decision because he knew the jihad of either group of Muslims would have been harmful rather than beneficial (maslaha) in view of the powerless state in which they were. Conversely, Muslims leaving in Medina, were strongly urged to engage in jihad and save their brothers and kin from their oppressors in Mecca. To them God, may He be exalted, revealed: "And how could you refuse to fight in the cause of God and of the utterly helpless men and women and children who are crying, "O our Sustainer! Lead us forth [to freedom] out of this land whose people are oppressors, and raise for us, out of Thy grace, a protector, and raise for us, out of Thy grace, one who will bring us succour!” (4:75).

So let us not reverse the roles here, and let us stop this confusion: the oppressed and the powerless is the one who calls for help and needs others, who are capable, to do jihad on his behalf in order that he may be saved from oppression and tyranny; the powerless and the oppressed is certainly not the one calling for jihad! Muslims who lack capacity, as we have demonstrated earlier, have been forgiven and excused by God; indeed, concerning them, the Almighty has said: “But excepted shall be the truly helpless - be they men or women or children -
who cannot bring forth any strength and have not been shown the right way: (4:99) as for them, God may well efface their sin - for God is indeed an absolver of sins, much-forgiving” (98-9).

4. It is not permissible to impel Muslims to enter into armed conflicts when their forces are not match for their opponents

Again, it is for the sake of protecting Muslim lives and in order to ensure that Muslims survive and outlast their enemy that the early believers around the Prophet (pbuh) had seen the burden of their jihad duties either lightened or suspended altogether. Indeed, after being asked initially to each withstand the equivalent of ten enemy combatants in the battlefield during the earliest jihad campaigns, Muslims were subsequently each asked to withstand only the equivalent of two enemy combatants, following the verse: “For the time being, [however,] God has lightened your burden - for He knows that you are weak” (8:66). Had jihad been confined to just confrontation with the enemy and no more, why then did God lessen their burden, why this relief if capacity to endure did not come into it? At any rate there are ample proofs and evidences for the importance of capacity as a sine qua non for jihad, including the issue of military parity which we now discuss. Ibn Abbas, may God be pleased with him said that “When a fighter flees from two enemy combatants, he may be regarded a deserter, but if he flees from three enemy combatants or more, then he is not.”

After examining the rationale behind this relief in the burden of Muslim fighters, as expressed, for instance, in the Qur’an and other authoritative statements, such as that of Ibn Abbas, some of the scholars have even gone as far as to argue that in the case where the enemy’s weaponry is superior to the Muslims’, it would be permissible for a Muslim fighter to flee even if the number of their soldiers were equal to those of their opponents.

Even during jihad, God Almighty has on occasions allowed Muslims to avoid
the enemy in order to give themselves time to revise their tactics, or join together with other Muslim troops: “...for, whoever on that day turns his back on them - unless it be in a battle manoeuvre or in an endeavour to join another troop [of the believers] - shall indeed have earned the burden of God's condemnation, and his goal shall be hell: and how vile a journey's end” (8:16). Further evidence for this may certainly be gleaned from this the following accounts of the caliph ‘Umar, may God be pleased with him. In his capacity of the commander of all the believers, ‘Umar, may God be pleased with him, had troops fighting in various fronts, from Persia to Byzantium. He anticipated that in a vast operation of that scale it was very possible that some Muslims squads might find themselves in situations where they might be outnumbered. To discourage them from mounting futile resistance, and also to relieve them from the guilt of decamping, he would say: “I am the commander of all the troops, any one of you can retreat to me”, meaning there is no shame on you or sin committed should you decide to retreat to team up with other Muslim troops fighting in another front; it is better to do that than die in vain in a suicidal mission. So anxious was he about the safety of Muslim lives, he also used to warn the commander of his armies against hastiness and the taking of unnecessary risks in battle. He would say to them: “Be aware that a life of a single Muslim is dearer to me than the conquest of any city of the cities of the polytheists.” On another occasion, he said: “what prevents me from appointing Salit Ibn Qays as commander is his hastiness; war requires men who are thorough and careful”, and yet Salit, for those who have not heard of him, was regarded as an expert in military strategy.

We have also a very telling account about the need to avoid confrontations where the forces are unequal in the example of Khalid Ibn al-Walid, may God be pleased with him, when he retreated his army in the Battle of ‘Mu’tah. The Prophet (pbuh) has described Khalid’s decision to withdraw in that battle as a
victory (*fath*). Commenting on that event in his’ *Sharh Kitaab al-Maghaazi bi l’Bukhari’*, Ibn Katheer has said in gist that “What is meant by victory here is that by his decision to retreat, Khalid Ibn al-Waleed had that day truly saved the Muslims from an inescapable massacre at the hand of the Byzantine army.” Notice that in jihad it is not just the victory over the enemy which is considered *fath*, but also the decision to back down to avoid exposing Muslims to unnecessary harm. Jihad does not mean confrontation with the enemy as an end in and of itself, without weighing the consequences of that action. Indeed, in the Battle of ‘Mu’ tah’ the Muslim army comprised of only three thousand fighters, and that of the byzantine army comprised two hundred thousand, and by the time Khalid Ibn al-Waleed was at the helm, the Prophet (pbuh) had already appointed Zayd Ibn Haaritha, and then Ja’far Ibn Abi Taleb, followed by Abdullah Ibn Rawaaha, all of whom had fallen martyr in swift succession. Anas Ibn Malik Related that the Prophet (pbuh) was so grieved, he mourned the death of his commanders at length, and then burst into tears saying: “Zayd took the banner and got killed, then Ja’far took over and he got killed, he was followed by Abdullah Ibn Rawaaha, he also got killed. Finally, a sword from one of the swords of God took over that banner, and through him God granted us victory.” Yes, it was through this ‘timid’ action that Khalid came to be known as the sword of God (*sayfullah al-maslul*); it was through this ‘timid’ action that Khalid won a victory (*fath*)!

**Jihadists and their Futile Collisions**

The protection of Muslim lives such as by preventing them from engaging in futile jihad which will not further the ascendency of Islam, but only imperil the Muslim community ought to be considered obligatory (*wajib*) according to the Sahri’ a, and this ruling ought to continue to have effect until End Times, given
that God, may He be exalted, has forbidden the Messiah, Jesus, (pbuh), and his forces to fight Gog and Magog and their forces. There is no doubt, when you ponder over the implications of what we have established so far, and look critically at the actions of the jihadi organisations in various Islamic countries, most particularly their futile and harmful confrontations (mufsida) with the authorities, you will surely come to realise the magnitude of their wrong and the extent of their deviation from the right path.

In the accounts of the Battle of Mu’ta, we have just discussed, we have a shining example and a most cogent proof that when a Muslim is guided to the lawful alternative, which is indeed the one most suited to his environment and circumstances, it is called victory (fath); even when that alternative involves retreating from the battlefield as was the case of Khalid Ibn al-Walid, may God be pleased with him, or it involves the signing of a truce with the enemy as was the truce of Hudaybiyya; for God has certainly described that truce as a victory (fath), when He said: “Verily, We have granted thee a manifest victory” (48:1), and : “Not equal are those of you who spent and fought [in God’s cause] before the Victory” (57:10).

Some readers might be wondering whether victory here also pertain to another ‘timid’ action: Did not Ibn Mas’ud, may God be pleased with him say: “You seem to think that the manifest victory mentioned in the Qur’an relates to the victory of Mecca, while in fact it relates to the victory of Hudaybiyya.”?

Understand that just as God, may He be exalted, has made it incumbent upon Muslim to perform the duty of jihad after the Hijra, when the conditions for its success were optimal, He also has permitted them to conclude truces and treaties when it was felt they were needed. Indeed, throughout his prophetic career in Medina, the Prophet (pbuh) had not only engaged in fighting, he had also concluded treaties, truces, and had turned a blind eye even to the provocations of those with whom he had neither truce nor treaty. What is certain
is that whatever he (pbuh) decided to do was always dictated by the benefit (maslaha) of Islam and the Muslim community. When you reflect on the meaning of the verse: “But if they incline to peace, incline thou to it as well, and place thy trust in God: verily, He alone is all-hearing, all-knowing!” (8:61), you will notice that God, may He be exalted, has made the seeking of peace in this instance lawful because of a clear necessity and a clear social benefit. Also, were you to reflect on another verse, such as when God, may He be exalted said: “Be not weary and faint-hearted, crying for peace, when ye should be uppermost; for God is with you, and will never put in loss for you (good) deed” (47: 35), you will notice that the prohibition to seek peace is qualified by the words “when ye should be uppermost”, making it clear that it is only when Muslims are in control of the war that they would not be permitted to seek peace. Some might not see the benefit (maslaha) in seeking peace with the enemy arguing that it would only lead to the gradual abandonment of the duty of jihad, and that this deferment would only allow the enemy to gather his strength and pose even a greater danger. We say to these Muslims that while these concerns of yours are not devoid of truth and not disingenuous, it still remains that the call for jihad obtains only when the condition of domination and capacity are fulfilled, not when powerlessness and inaptitude prevail as they do among the present jihadi organisations. Let us not forget that when the Prophet (pbuh) had concluded a truce with the disbelievers of Mecca in Hudaybiyya he had made allowances that some of the companions could not fathom and struggled to accept at the time. Did not ‘Umar, My God be pleased with him, on that day kept saying to the Prophet (pbuh) in stupefaction: “Aren’t we on the side of the truth? …Aren’t they on the side of falsehood? … Aren’t we by signing this truce selling our religion short? (Agreed upon hadith). The truce of Hudaybiyya is actually quite a compelling development, and one which those who are cynical about peace should pay attention to: in Hudaybiyya, the Prophet (pbuh), had made allowances and compromises despite the fact that he
enjoyed not only the support of an independent and feared state, an outstanding army, and an unqualified allegiance (bay’at al-ridwaan), but he also enjoyed the support of the Revelation and the Angels peace be upon them. And, he made those concessions also despite his foreknowledge, since the aftermath of the Battle of the Ahzaab, which had actually taken place only in the fourth year of the Hijra, that Quraysh was forever going to be defeated. Did he not say in the wake of that battle: “From now on, Quraysh will never be victorious on you, but you will be forever victorious on them”?

Thus, the Prophet (pbuh) was successful both during war and during peace. By acting in each context according to what was deemed suitable and praiseworthy, he was able to leave to the Muslim community a law that regulates all of their undertakings in similar situations. That truce which some of the companions had found hard to accept, soon became a victory by virtue of the spread of the feeling of security which ensued its signing, a security that much advantageous to the spread of Islam subsequently. Now, compare this achievement of the Prophet (pbuh) embodied in that famous truce with the total failures achieved by some of our contemporaries in the peace and war front alike and you will understand how far they have deviated from the true path of jihad.

*The Jihad against the Apostates*

Know that even with the apostates, Muslims have always behaved in accordance with their capacity to fight and with the principle of benefit (maslaha). For instance, during the Prophet’s (pbuh) stay in Medina, Musaylima, a well-known renegade, came to Medina accompanied by a delegation in order to negotiate with the Prophet (pbuh), and sent on that occasion, Ibn al-Nawwaha, who had also renegaded from Islam, to act as his
emissary. Although the bulk of the members of that delegation had seceded from Islam and were disloyal to it, and the Prophet (pbuh) was not in a city where he was powerless, he still chose to let them go instead of killing them as the law dictated. Indeed, the apostates and their tribes were left alone throughout the career of the Prophet (pbuh), and no one Muslim had ever fought them before the caliphate of Abu Bakr, may God be pleased with him. Now, it is true that Ibn Taymiyya, may God have mercy on him, did highlight that “It has been established by consensus that the unfaithfulness (kufr) of the apostate is far more rooted and sinister than the original faithlessness (al-kufr al-asliyy) of a disbeliever” (Majmoo’ al-Fataawa, vol.28), and he did also affirm that “It would not be proper from the point of view of Islamic law to seek to secure the acquiescence of the apostate through the payment of jizya, as is the case of the ‘original disbeliever’”. But again we need to remind ourselves that these statements apply to the context in which Muslims are ascendant and in a position to fight the apostates, and not when they are weak and ineffectual. In his book ‘al-sayr al-Kabir’, some five hundred years before Ibn Taymiyya, Muhammad Ibn al-Hassan al-Shaybani, may God have mercy on him, had already stated: “Should Muslims feel powerless and weak, it would be permissible for them to pay the apostates from some of their riches in order to secure their peace.” Now, Is not this a sort of reversed jizya? Two towering figures of Islam, have given us what appears to be two contradictory statements over the same issue. But you see context, time and place are also important interpreters of the law and they can make each of these statements true: Ibn Taymiyya lived during the seventh century of the Hijra, whereas al-shaybani (d.189 AH) had lived during the second century.

Let us conclude this section by reiterating that the protection of Muslim lives and the protection of the welfare of the Muslims, by steering them clear of futile and perilous conflicts constitute not only an absolutely essential objective of the
law; but also an objective whose importance, as our various arguments have shown, can surpass both the objectives of making Islam manifest and the furtherance of the Islamic community. It is also one that ought to be taken in consideration during both war and peace.
“Some of the jihadists have turned into mercenaries fighting proxy wars on behalf of foreign powers”

The topic of the rebellion against the ruler or the ruling authorities is certainly of the most important ones of this document. It needs to be made clear from the outset that the rebellion that is at the centre of this discussion does not pertain to civil dissent, which is usually a rebellion through peaceful means, but to armed rebellion. In Dr Fadl’s analysis, this armed rebellion against the ruler or the ruling authorities is unlawful and he urges Muslims to treat it as such. Instead of armed rebellion, Dr Fadl argues that Muslims may have recourse to other alternatives, which the Sharia offers them to express their dissent against the ruler or the ruling authorities. He proposes, for instance, the path of da’wa (inviting to Islam), migration and disassociation, leniency, patience, and condonation, as means which would not only be considered lawful, but constituting smart political moves, to use a modern jargon.

In this section, Dr Fadl does not shy away from tackling a very controversial issue in Islamic law, namely, the legal ruling regarding the authorities which do not implement the dictates of the Sharia in an Islamic country. His conclusions on this issue are highly important: he, for instance, takes the view that when the condition of ‘capacity’ to lead a successful rebellion has not been fulfilled or when corruption and chaos prevail in society, it would be prohibited by laws of the Sharia to rebel even against a ruler who is a disbeliever.
Having realised that armed rebellion against the local authorities constitutes today one of the most significant developments in the strategy of jihadi organisations ever since their inception, Dr Fadl’s discussion of the topic ends with some very poignant cautionary remarks against such a move. We have published these remarks but included them at the end of the document. Besides making the case for the prohibition of armed rebellion against the Egyptian authorities, these remarks include a very conscientious use of the historical approach in order to show that the use of arms in the confrontation with Egyptian authorities is bound to fail.

The following is the fifth sequel of the document.
Clause Six

The Prohibition of the Rebellion against the Rulers of the Muslim Countries

To begin with let us define what we mean by ruler (hakim) or rulers (hukkam) in this exposition. In our foundational texts, the Qur’an and the Sunna in particular, the word hakim denotes the judge (qadhi), and so one reads in the Qur’an: “And do not eat up your property among yourselves for vanities, nor use it as bait for the judges…” (2:188). Also in the hadith one reads: “Whenever the hakim (the judge) makes a ruling, exerting his intellect etc., …”. Following this usage, Ibn al-Qiyam has, for instance, titled one of his works ‘al-Turuq al-Hukmiyya’ (The Ways to Determining Court Rulings), and Ibn Farhoon has titled one of his ‘Tabsirat al-Hukkam’ (A Guide for the Judges). In other words, it is only recently that the word hakim has begun to pertain to those in authority (sultan), and to denote president, king or prince and other such titles. To make this discussion less contrived, we have adopted this new meaning as it is the one that prevails in the discussion of this topic.

Now, in relation to this issue of rebellion, we may on the outset concede that there are several examples of such happenings having taken place during the history of Islam, even during its earliest period. These rebellions, though they were in the main spurred on by flagrant injustices (mazzaalim) and were aimed at restoring justice, have themselves led to the occurrence of great harm (mafaasid). Let us take a few examples of these to illustrate our point and focus, for instance, on the rebellion led against Yazid by some of the people of Medina in the Battle of al-Hurra in 61AH, the rebellion of al-Hussein son of Ali, may God be pleased with them, in 64 AH or the rebellion of Ibn al-Ash’ath...
in 81 AH. All of these armed rebellions have erred because they have misapplied ‘elevated’ hadiths (traced back directly to the Prophet) which have an unconditional and universal import to guide their actions. Among such hadiths are “Whoever among you is witness to a wrong or wickedness, let him take action to remove it” (narrated by Abu Saeed)

“…Whoever fights them in the name of jihad, is counted among the believers…” (narrated by Ibn Mas’ud). They have misapplied the hadiths because whilst these statements of the Prophet (pbuh) may give licence to enter into such confrontations between the subordinates of the sultan or the ruler, they in no way permit insubordination and armed rebellion against the ruler himself, in that there is a ‘specific prohibition’ (nahy khaas) to that effect, and that ‘specific prohibition’ takes precedence over the type of ‘universal commands’ (amr ‘aam) couched in the aforementioned hadiths. This ‘specific prohibition’ is clearly contained in the following hadith in which the Prophet (pbuh) has said:

“If any of you sees in the ruler an attribute which he cannot bear, let him be patient, because whoever foments the slightest rebellion against his ruler will die as if he had not come to Islam (maata maytatan jaahiliyya)”(Agreed upon hadith). Indeed, elsewhere, he (pbuh) had given permission to enter into armed rebellion in the ‘elevated’ and Agreed upon hadith narrated by ‘Ubada Ibn al-Samit, but that was also qualified. There he was asked: “[O Prophet] should we then never quarrel with the ruling authorities? And his answer was: “Only if it involves an unqualified disbelief (kufr bawwah), and for which you have an absolute proof from God.” Bukhari has reserved a whole section on this hadith in his sahih, in the chapter entitled ‘The Trials’ (kitaab al-fitan). Also, in his book ‘Minhaaj al-Sunna al-Nabawiyya’, Ibn Taymiyya has said: “Armed rebellion against corruption and for the purpose of restoring justice was the method followed by the earliest followers of the people of the Sunna”, but then, he added: “however, when the harm of this method became obvious, the
scholarly community had finally deemed it prohibited by consensus.” may God have mercy on all of them and be pleased with them all.


**The Rulers: the Nature of their disbelief and the Conditions that must be met before Armed Rebellion against them becomes Lawful**

Concerning the hadith which says: “Only if it involves an unqualified disbelief…”’, Ibn Hajar, in his commentary on Bukhari’s own commentary on the ‘Trials’ (al-fitan wa l’ahkaam), affirmed that: “It is incumbent on those who are leading the rebellion against such a [disbeliever] ruler to have the capacity and the wherewithal to carry it out and bring it to terms, for armed rebellion in instances such as these only becomes an obligation when these conditions are met.” This is a crucial point: knowledge of the disbelief of the ruler, and granted that it has been established beyond doubt, does not directly entail the permissibility of armed rebellion. Again, armed rebellion is clearly not permitted at times of powerlessness and incapacity, and when the potential harm resulting from it outweighs the benefits, particularly if that harm may reach proportions that far exceed the losses generally associated with jihad.

Armed rebellions against the ruling authorities in the name of jihad, and for the sake of implementing the Sharia have become a recurring jihadi theme during the last decades in various countries of the Muslim world. Ignoring the legal maxims “Two wrongs do not make a right” and “A wrong cannot be made right with that which is far worse”, these recent armed rebellions have led to great harm being inflicted not only on the jihadist organisations, but also on the countries in which these armed rebellions have taken place.

What has eluded these jihadist organisations is that armed jihad is not the only lawful options open to them to confront the unlawfulness of the environment
they find themselves in. For there are other alternatives to surmount this vexed situation, such as da’wa (inviting to Islam), migration and dissociation, leniency, forgiveness, condonation, forbearance and faith concealment, to name but a few. The person endowed with legal discernment (al-faqeeh) is the one who is able to choose from the lawful alternatives before him, the one which is most suited to his context. There is nothing new in this, and we have a good example for it in the person of the Prophet (pbuh) and the companions, may God be pleased with them, who have all consistently acted in accordance with their capacity, and their circumstances, and always with the aim of securing that which is beneficial for Islam and the Muslims and not that which is harmful and destructive. To them applies fittingly the adage:” The person of wisdom and discernment (faqeeh) is not the one who knows the difference between right and wrong, but the one who when compelled to choose the least wrong and least harmful manages to do so.” As a matter of fact, Ibn Taymiyya has also something profound to say on the topic of balancing the benefits and the harms (al-muwaazan bayna al-maslaha wa l’mafsada). He says: “There are two contexts in which a wrong deed may be tolerated: either in the circumstances where it is the only means by which to ward off a greater harm or in the circumstances where it is the only means by which to procure a good. Also, there two contexts in which a good deed may be abandoned: either when it leads to the loss of a higher good or when it would lead to a harm that would exceed its benefit.” Indeed, we have in the account of al-Khidr (pbuh) in the Qur’an and his decision to sink the ship another powerful example of the exacting trial, wisdom and foresight which the choice over the least harmful involves and requires.

*The Premises and Fundamentals of Jihad*

Whether abandoning the implementation of the Sharia by the ruler amounts to a
flagrant disbelief, a minor disbelief or a transgression (ma'siya), we do not consider that armed confrontation with the ruling authorities in Muslim countries in the name of jihad constitutes the adequate course of action for the implementation of the Sharia. We say this because we believe that the call or the fatwa for jihad is based on certain premises and fundamentals necessary for its obligational force. Among these are the existence of the abode of migration and assistance (daar al-hijra wa al-nusra) as was Medina to Muslims in the past, the abode of safety and security, as was Abyssinia to the fleeing companions, and the existence of a safe base, as was the case with the base of Abi Baseer. In addition to this, for the call for jihad to retain its obligational force, there has to be an adequate source of fund to finance it, and to look after the families of those engaged in it. There has to be also military parity between the belligerent parties with clear knowledge of the forces and troops each party is allowed to join forces with and of the circumstances in which that occurs, not to mention the need to delineate the battle lines so that the lives of innocent civilians and their property are not exposed to danger. Sadly, all of these fundamentals that we have just cited are completely ignored by the jihadist organisations today, and that can in no way lead to a jihad serving the ascendency of Islam, or the implementation of the Sharia which are the purported aims of these groups and organisations. These are the facts which can be verified on the ground. The overwhelming majority of these jihadist organisations and groups have utterly failed in their mission, despite their massive sacrifices. Know and understand that the reason why God has not made it incumbent on Muslims to carry out the duty of jihad in Mecca before the Hijra is because, then, they were powerless and were hence not in position to fulfil the conditions, which are crucial for its success. All those who have tried nowadays to fiddle with these fundamentals under the pretext that they may not all be harnessed, have committed several transgressions against the Sharia, chief among these are the following:
• The killing of innocent people on the basis of the jurisprudential principle of *tatarrus* (we shall discuss at length this principle and its misuse, God willing).

• Making licit the financing of jihad through the pursuance of illegitimate means, such as hold-ups and kidnapping

• Breaching the pledges which guarantee the safety and security of the disbelievers and committing treason against them (the details of this transgression shall also be discussed at a later stage, God willing).

• The inability to secure the safety and livelihood of the families of those engaged in jihad, and thus exposing these families to serious hardship and unsurmountable tribulations

• The acceptance of funds coming from governments, which are no less evil than their own, in order to kill their own people and kin, conducting proxy wars and acting as a fifth column in many cases. I do not want to give names, but many a jihadist turned into a treacherous mercenary, even though it was jihad they had initially sought.

• Some of the jihadist felt compelled to seek asylum in foreign countries, the land of the ‘original’ disbelievers, for their safety, and were consequently willing to accept to abide by the rule of the disbelievers and their laws, at a time when these same laws apply to them in their original countries without their choice. Had they stayed in their own countries, they would have at least been in a situation that morally justifiable from the point of view of Islam. Indeed, our scholars from among the *salaf* have warned us against this, and affirmed that any Muslim who chooses to enter the lands of the ‘abode of war’ (the abode of the disbelievers) in order to attend to an expedient need, must know that it would not be permissible for him to do so if his intention is to settle down there or stay
for a long period, because that would be tantamount to willingly accepting to abide by the rules and laws of the disbelievers, which would effectively make him an apostate, and this is certainly in gist the position of Ibn Qudama, and others. Let no one be under the illusion that political asylum these days is equivalent to the protection pact reached between the Prophet (pbuh) and the Ibn ‘Adiy al-Mut’im, or that which was reached between Abu Bakr, may God be pleased with him, and Ibn al-Dughna; for in both of these pacts, protection did not entail abidance by the rules and laws of the infidels. Indeed, it is known that when Ibn al-Dughna had added certain conditions to the pact he had with Abu Bakr, the latter, finding Ibn al-Dughna’s conditions excessive, did not hesitate to revoke it altogether. Though I recognise the action of these asylum seekers as a potential transgression against Islamic law, I am not suggesting that those who have sought political asylum are apostates, because we are no longer in a situation, as was the case in the past, where one had at least the right to migrate to any other part of the Muslim world for his protection if he so wished. Indeed, the situation today is different, and the authorities in Muslim countries would often be the first to refuse Muslims asylum or protection visas. So it is possible that political asylum is equivalent to migration to the abode of safety, as was the migration to Abyssinia or it may be justified on the basis of ‘the least harmful’. In his Muhalla (vol. 11), Ibn Hazm also came to the conclusion that the stay of the Muslim in the lands of ‘the abode of war’ (daar al-harb) is permissible and does not amount to apostasy, provided that he does not partake in any fighting against Muslims, and it is this view that we subscribe concerning this matter.
Defying the Norms

Hence, following these transgressions against the Sharia (al-mahdhuraat), jihadists were then impelled to defy the divine norms; they began to take upon themselves tasks which were beyond their humble means, seeking to make obligatory that which is beyond human capacity and is clearly rejected by the law and by the consensus of the people of knowledge in the major works of Islamic legal theory (usul al-fiqh). It is this utter defiance of theirs to the divine norms, and to the context of our present world, which has prompted us to consider unlawful their armed confrontations with the authorities in Egypt or elsewhere, be they in the name of jihad or in the name of uprooting vice and wickedness from society. Similarly, we have come to the view that it is unlawful to mount violent attacks against the members of the security forces from among the army and the police, as these collisions only serve to engender massive social harm (mafaasid. On the other hand, we consider that focusing on da’wa (inviting to Islam) and on bringing Muslims closer to their religion is far more beneficial to Islam and the Muslim community as a whole, because this is the best way to curtail corruption and slow its rampant progress in our society. We sincerely pray that Muslims, all Muslims abide by this advice. Otherwise, what did those who have not heeded our advice and have chosen the path of confrontation achieve? Absolutely nothing! They have neither implemented the religion at the state level as they set out to do, nor have they protected themselves, their families, and their countries against corruption and destruction. A well-known legal maxim says: “Whoever is bent on reaping something before its time, will be deprived of it fruits altogether” and another says: “Precipitation is the source of deprivation”. The path of da’wa itself (inviting to Islam) should not be rigid either, for whoever cannot partake in the implementation of change through preaching, should still be able to take part in
such undertaking even if his actions were only limited to repudiating vice and baseness inwardly. Indeed, God may He be exalted has said: “God does not burden any human being with more than he is well able to bear” (2:286). God willing, we shall have more to say on this point in our second note of caution included at the very end of this document.

But to come back to those transgressions against the Sharia, it is also worth making a mention, before we close this section, of those jihadists who, after failing to make a dent in the resolve of the authorities, had resorted to underhand tactics; such as attacking civilians, foreigners or tourists in Muslim countries as a means to disoblige the state. What do you think has led them to this practice, of resorting to one wrong after another, if it were not for the fact that they had assigned to themselves obligations that God had never made incumbent on them in the first place? No doubt, practices such as these defy the norms of jihad, and they are, as we will show in the coming clauses, absolutely unlawful.
VI. The Document for the Guidance of Jihadist Action in Egypt and the World

The Prohibitory Grounds for the Killing of Tourists

“There is in the Sharia six reasons why the killing of tourists and foreigners ought to be considered unlawful (haram).”

Clause Seven

It is prohibited to inflict harm on tourists and foreigners residing in or visiting our countries.

We firmly believe that it is not permitted to kill, rob or inflict any sort of harm on those who visit or reside in the countries of the Muslim world for the purpose of tourism, work, business and the like. The grounds for this prohibition are as follows:

1. Some of them may be Muslims

The premeditated killing of a Muslim unduly and in defiance of right is not only considered a heinous crime, it is also one of the seven destructive sins in Islam. Certainly, God may He be exalted says:

“But whoever deliberately slays another believer, his requital shall be hell, therein to abide; and God will condemn him, and will reject him, and will prepare for him awesome suffering” (4:93).

“O you who have attained to faith, when you go forth [to war] in God's cause, use your discernment, and do not - out of a desire for the fleeting gains of this
worldly life - say unto anyone who offers you the greeting of peace, "Thou art not a believer" (4:94)

Also the Prophet (pbuh) has said: “Three things of a Muslim are wholly sacred and inviolable for his brother in faith: his blood, his honour, and his property”, and “Any believer is entitled to continue to aspire to the largess of Islam so long as he does not spill the blood of another unlawfully.”

Since the position of the Qur’an and the Sunna over the killing of a Muslim by another Muslim is so unsparing, and since both of these authoritative sources command the believers to observe such rigorous standard of discernment in order that Muslim blood is not spilled without a clear justification during conflict, what is the right course of action to follow in relation to the foreigners and the tourists who come to our countries neither as fighters and nor as nationals of countries with who we are at war?

The Abode of Islam and the Abode of War

In the past, the peoples of the world were easily distinguished: Muslim resided in the abode of Islam, and the disbelievers resided in the abode of war. If anyone among the peoples of the abode of war embraced Islam, they made sure they migrated to the abode of Islam, and in the case where there were non-Muslims in the abode of Islam, such as the dhimmis (usually Christians and Jews), measures were taken to ensure they were recognised and distinguished from the rest of the population: dhimmis were to wear, for instance, a distinctive attire. This sort of society and social system no longer exists nowadays: it is not possible today to accept the migration of someone who has embraced Islam in the countries of disbelief on the basis of his conversion because there is no longer an abode of Islam that can host him on that basis, nor is it possible to compel the disbelievers who reside in or visit our countries to wear a distinctive
attire because the governments of the countries of the Muslim world are not even capable of implementing the Sharia in their own backyard in the first place. Equally, Muslims too are now residing in or visiting many countries of the world where they also are not compelled to wear any distinctive attire. We indeed now live in a world where it is no longer possible to distinguish between a Muslim and a non-Muslim with the ease that was once possible, so much so that any attempt to distinguish between Muslims and disbelievers on the basis of their nationality, language, skin colour or of their dress style is bound to arrive at erroneous conclusions. This sort of ad-hoc profiling, which is resorted to these days by the jihadists, is definitely not the way to identify the disbelievers and can never be used as evidence for the permissibility of their slaughter. Indeed, as long as we are not in a position to demand of both Muslims and non-Muslims to make themselves distinct from one another, and as long as we cannot enforce that distinction between them as was possible in the past, separating the two in a crowd anywhere would always be fraught with doubt and unpredictability. This being the case, the exercise of discernment is incumbent on us, particularly when it involves a Muslim tourist or a Muslim resident of the West: a Muslim life is sacred and inviolable wherever it may be. In the sahih collection, the Prophet (pbuh) has said: “whoever avoids the morally dubious paths has ensured his religion and his dignity are without blemish and whoever follows them will have slowly but surely slipped into sin (haram).” Given that discernment between Muslims and disbelievers is fraught with uncertainty, it would then become incumbent on all Muslims, on the grounds of this dubiety (li al-shubha), to refrain from harming any of the civilians in our society, be they nationals, foreigners or tourists. The existence of dubiety is no small matter: Did not the Prophet (pbuh) refrain from eating a date that he once found in one of the streets of Medina for fear that it may have been destined for charity? If the exercise of discernment has led the Prophet (pbuh) to take such a stance vis-à-vis a date when the possibility of that date being
destined for charity were extremely remote, what should be our attitude when the matter does not involve a trivial date, but the blood and property of other human beings, who may include in their midst Muslims whose blood and property are inviolable (haram) beyond the shadow of a doubt? So paramount is the importance of dubiety in the Sharia, there is in Islamic law a celebrated legal maxim which stipulates that “Whenever the lawful is mixed with the unlawful to the extent that it becomes impossible to separate between the two, the matter must be then considered unlawful and be prohibited by law.” This legal maxim has been adduced by many renowned scholars such as al-Suyuti and ibn al-Nujaym in their ‘al-Ashbaah wa al-Naza‘ir’ and by al-Nawawi in his ‘al-Majmu’. The proofs for the validity of this legal maxim are also numerous: we have just cited the hadith of the date, narrated by Anas, and the hadith on the necessity to avoid the paths of dubiety narrated by al-Nu‘man, but we may also cite others such as:

“Desist from that which brings you doubt and give over to that which does not” (Related and considered fair by al-Tamidhi)

“Whenever in doubt about which game was hunted by your hunting dogs and which game was hunted by the free-ranging dogs, give it up for its consumption would be unlawful to you” (Agreed upon hadith)

All of these incontrovertible proofs make a strong case for putting over the ruling of prohibition whenever the unlawful matter is confused with that which is permitted: indeed, the unlawful constitutes a pure harm and the lawful constitutes a pure benefit, and “the preclusion of harm is put before the procurement of benefit”.

2. The majority of the foreigners are on an official Visit or have a Working Contract
In all likelihood, the foreigners who are today living in any of the countries of the Muslim world have, prior to their travel, received an invitation from either Muslim businessman or a Muslim manager of a tourism agency. Consequently, they are in most cases either guests who are on an official visit or hold a working contract. Even before the visa is granted, as usually the case in these situations, these sorts of arrangements by themselves constitute a pledge of security or ‘Legitimate Safety’ that is recognised under the Sharia (amaan shar’iyy). Indeed, the issuance of the visa, though it may be granted by a state which is regarded as not Islamic, does not alter or diminish in the slightest the shar’iyy (legal) status of that pledge, nor does it absolve the members who have entered into it from their responsibility towards it. As such, whenever a Muslim-inflicts harm on those foreigners he had invited to his country, he ends up actually breaching the pledge of security he was commanded to honour, and has consequently a committed grave sin (fusuq), whose punishment is damnation.

Indeed, we read in the Sahih that the Prophet (pbuh) has said:

“The pledge of the Muslims is one and indivisible, so all of you should honour the pledge made by a Muslim to others, whoever they may be. Beware! Whoever fails to do so, has failed his brother, causing to him to commit a grave breach. May the curse of God, the angels and all the people be on those violators!”

“Let whoever among you kills a dhimmi or any other person, with whom we have covenant, be warned that he will not be permitted to smell even a whiff of paradise’s perfume until the first forty years of our time in heaven had lapsed.”

Given that establishing the religious denomination of the foreigners in our countries is fraught with doubt, and given that it is difficult to know who exactly among them has been offered pledges of security, Muslims are under obligation in the Sharia not to inflict harm to any one of them in order to avoid slipping into the morally dubious ways (li al-shubha).
3. It needs to be made clear that even the view which calls for the killing of the foreigners on the basis of their faithlessness (*kufr*) and of their not being protected by a contract or a pledge runs into serious and unsurmountable difficulties and is found wanting in Islam. We would like to argue that even if we consider the foreigners in our countries not included in any pledge or pact, as some would have it, it would still be unlawful for Muslims to kill them. We begin this argument by asking the following question: If the Sharia has forbidden, for instance, the killing of women, children, the elderly, the workers and the priestly caste from among the population of the disbelievers even in the thick of pitched battles, how on earth would it permit their killing as civilians? This question is fair to ask as many of you, no doubt, are familiar with the many authentic hadiths narrated to us by companions such as Ibn Umar, Anas, Burayda Ibn al-Husayb and others which clearly prohibit Muslims from committing such transgressions. No doubt you are also familiar with the commandments that the Rightly Guided companions like Abu Bakr or Umar gave to their armies, which reiterated these same prohibitions. Know that there is a deep consensus in Islam that the premeditated killing of such people constitutes in the eyes of all these guides a flagrant contravention of the Sharia. Let us review these hadiths again for the benefit of some of our readers, to understand how such a scholarly consensus was reached and why the killing of foreigners unduly constitutes, without equivocation, a crime in Islam:

“The Prophet (pbuh) has prohibited the killing of women and children” (agreed upon hadith, narrated by Ibn Umar, may God be pleased with him).

“Go about your raids, but do not be excessive or treacherous, do not mutilate, and do not kill the infants” (narrated by Burayda and related by Muslim)

“Kill neither women nor bondmen” (related by Ahmed and Abu Dawud),
“Do not kill the elderly, the children and the women” (narrated by Anas, and related by Abu Dawud).

“Do not be treacherous, and excessive in your fighting, and do not maim your victims, and do not kill the children and the people who take refuge in the houses of worship” (narrated by Ibn Abbas and related by Ahmed)

In another hadith, the Prophet (pbuh) has said: “Avoid the killing of the children during fighting”, then he was asked “are they not the children of polytheists?” and to this, his reply was: “Are not the best among you the sons of polytheists?”(Narrated by al-Aswad Ibn Saree’ and related by Ahmed)

All of these above hadiths state clear prohibitions against the killing of all these people even during fighting. Moreover, they also clearly prohibit treachery, such as by reneging on pledges and pacts, and they prohibit the mutilation and the disfiguring of the bodies of the victims. Now, if all of the above is prohibited what are we to make of the jihadists’ military actions, and the bomb explosions which lead inevitably to the killing and maiming of these foreigners who are in our countries for the purpose of tourism or work?

I will come back to this question, God willing, in clause eight of this document.

4. Except where the Sharia specifically states otherwise, the basis for Muslim relations with the disbelievers is the principle of reciprocity or you could say, ‘return like for like’, as attested to by the words of God, may He be exalted: “…so long as they remain true to you, be true to them: for, verily, God loves those who are fearful and conscious of Him” (9:7). Besides being the principle which ought to regulate Muslim relations with their non-Muslim counterparts, reciprocity, according to this Qur’anic verse is presented as the quality of those
who are fearful and conscious of God (*taqwa*) and thus are highly aware of their moral responsibility. Reciprocity has been upheld by Muslims in many of their dealings with non-Muslims since the earliest history of Islam. For instance, when the soldiers whose duty was to protect the borders of the Muslim lands asked Umar, may God be pleased with him, one day about the type of taxes they should levy on the traders of the abode of war, he advised that they ought to impose on these traders what Muslims themselves have to pay when their goods go beyond their borders. The principle of reciprocity (*al-mu’aamala bi l’mathal*), which animates some of the ideas of jurists like al-Shaybani, in his ‘*kitaab al-Kharaaj*’ or Yahya Ibn Adam in his ‘*kitaab al-Amwaal*’ is derived from this precedent of Umar, may God be please with him, when he famously said to the border guards: “*Take from them what they take from you.*”

There are today millions of Muslims who reside and work peacefully in several countries of the ‘original’ disbelievers. To say that their security is never compromised in those countries of residence, would not be true, but it would be equally not true to regard these breaches if and when they do happen as being the norm rather than the exception. Indeed, it is known that whenever a Muslim person enters these countries with a valid visa, he usually finds himself dealing with authorities and a population committed to ensuring his own safety and the safety of his property. That is why it is often the case that when crimes against that Muslim are committed, they are taken as serious offences because they breach the ‘pledge of security’ which this population and their representative authorities gave upon the granting of the visa. Now, if such are the facts on the ground, if indeed non-believers are assuming their responsibilities towards the Muslim community residing in their countries; are not Muslims, following the principle of reciprocity, in turn, under obligation in the Sharia to honour their pledge with the foreigners they have accepted in
their country? Make no mistake that they are, and that is regardless of the nature and legal status of the authority which issues their visa or work permit!

5. We may understand that some of us may be in conflict with their own government or some other foreign government, but what is not understandable is the unlawful premeditated killing of others. Even if it has been established they are disbelievers, why should these foreigners who are staying or visiting our countries pay the price for our belligerence with our government or with theirs? Is not this sort of retaliation redolent with the vengeance of the pagan era (tharat al-jahiliyya)? Be assured that God has severely denounced such vengeance when he has said: “And whatever [wrong] any human being commits rests upon himself alone; and no bearer of burdens shall be made to bear another's burden” (6:164)

“O YOU who have attained to faith! Be ever steadfast in your devotion to God, bearing witness to the truth in all equity; and never let hatred of anyone lead you into the sin of deviating from justice. Be just: this is closest to being God-conscious and God-fearing” (5:8).

Listen with me to the account of this companion to appreciate how Islam transformed the Arabs and their ways. It is related that although the Companion Khabib Ibn Adiyy, may God be pleased with him, became certain that the Meccans were going to kill him during his imprisonment, he still let go of a small infant of the enemy who had inadvertently crawled near where he was held. He could have killed the infant in revenge or taken him hostage, but he preferred to return him to his mother. He assured his stupefied mother and explained to her that it was not lawful for him to do any harm to the child. The mother of the child then said “I have never seen a prisoner as correct as
Khabib.” Notice how while this companion had fear of God in his heart, the fear to end his life with a sin, which may never be forgiven, some of us today have no qualms slaughtering people by the tens and the hundreds without even knowing to which faith they belong! What is the ultimate fate of those who are behind the killing of such foreigners and Muslims alike without making any effort discern before the killing as the Qur’an commands (fa tabayyanu)?

6. Generally, these foreigners and tourists neither come to our countries as fighters nor as nationals of countries we are at war with. The foreigners and tourists in our countries are mainly here for the purpose of leisure and work, and we ought to entertain good and kind relations with them, in compliance with the Qur’anic verse: “As for such [of the unbelievers] as do not fight against you on account of [your] faith, and neither drive you forth from your homelands, God does not forbid you to show them kindness and to behave towards them with full equity: for, verily, God loves those who act equitably” (60:8)

This is then what may He be exalted has required of us in the case of those foreigners residing in our countries. He commanded that we hold cordial relations with them, and that we treat them with fairness; God has not asked that we kill them treacherously. With this I have concluded my exposition on the six reasons and prohibitory grounds against the killing of foreigners and tourists

Nota Bene

Granted that each one these reasons is as compelling as the next and granted that each one of them constitutes by itself ample prohibitory ground against the killing foreigners and tourists in our countries, I leave it to you to decide how
much more compelling would the case be against such heinous crimes when
the six reasons are fused together?

Also, notice that I have not made mention of the visa that our government
grants to these foreigners among the reasons against such killing, because I did
not want to encumber those who would find it hard to accept such argument
from the point of view of Islamic law. Although, I have to say that I find in
what Abu Umar Ibn Abd al-Barr had to say on the topic, in his book ‘al-
Istidhkar fi Dhikr ‘Ulama’ al-Absar’ an undeniable support for the idea that
the granting of visas in itself constitute a legal reason (sabab shar’iyy) against
such crimes. Abu Umar says: “The majority of the people of knowledge came
to the conclusion that even when it is conceded that he may not have been
granted ‘pledge of security’, it still remains that a disbeliever continues be
entitled to security as long as he assumes, even if mistakenly, that such a
pledge has been granted.” Moreover, where Muslim and non-Muslim relations
are concerned, tourism falls under the category of the ‘permitted’ (mubaah),
just like selling and buying, rental and the exchange of gifts and so on do. You
may indeed refer to the collection of Bukhari under the relevant chapters to see
for yourself that all of these activities between Muslims, the polytheists and the
disbelievers had actually taken place and were permitted.

Furthermore, the immoral actions that certain tourist commit, such as the
drinking of alcohol and the consuming of swine, do not warrant their killing,
however reprehensible these actions are to us. In the history of Islam, these
things were after all permitted to non-Muslims living in our midst by virtue of
their status of dhimmis. We should also always bear in mind what we have
already established in the previous clauses, namely that it is not permitted for
the powerless to take the law into his hand by resorting to force, let alone
killing. Did you know that the disbelievers used to commit the most
unimaginable obscenities in Mecca, even after the conquest? Indeed, the
disbelievers used as roam unclothed around the Kaaba, but without anyone interfering with their behaviour for almost the entire prophetic career of Muhammad (pbuh)? It is only a year prior to his death that he (pbuh) expressed his opposition to that behaviour, and had sent to them Ali, may God be pleased with him, who addressed them with his famous words: “No polytheists shall perform the hajj after this year, and none shall circumambulate around the Kaba unclothed” (related by Muslim).

Conclusion

The Obligation to Abide by the Legal Ruling

We maintain that it ought to be prohibited by law to kill or inflict any sort of harm on the foreigners who come to reside in our countries for the purpose of tourism or work. We urge all Muslims to abide by this ruling and not to contravene it. We also maintain that it ought to be totally impermissible to kill any other human being on the basis of his nationality. This is truly an unprecedented innovation (bid’ah), because never in the history of Islam has nationality been regarded as a reference to determine whether someone was a Muslim or a disbeliever. Affiliation to a country is no more than a token which makes it easier for us to have some peripheral idea on the identity of the person, such as his culture, language, and so forth. To this effect the Qur’an says: “O men! Behold, We have created you all out of a male and a female, and have made you into nations and tribes, so that you might come to know one another. Verily, the noblest of you in the sight of God is the one who is most deeply conscious of Him. Behold, God is all-knowing, all-aware” (49:13) Hence, God has made it possible for us to know a person as we come to know
the people or the tribe to which he belongs, but then He explicitly stated that
that affiliation by itself does not give us sure knowledge about the nobility or
lowliness of that person, though it is affiliation to religion and the extent to
which people are God-fearing which constitute the criterion for nobility and
status. It is this criterion, not nationality, skin colour and the rest which
allowed Islam to have among its ranks personalities who belonged to various
nations such as Salman the Persian, Suhayb the Byzantine, Bilal the Ethiopian,
and Abu Bakr the Arab, may God be pleased with them all. Outward
appearance is indeed misleading and killing others on the basis of their
appearances is an offensive innovation that is unheard of in our Islamic
history.

So we insist that since discerning between disbelievers and Muslims is not
always a straightforward matter, it should under no circumstances be made
permissible to kill others on the basis of their skin colour, type of hair, the
language they speak or their dress style. These are definitely not markers
indicating to their Islam or disbelief. Did not the Prophet (pbuh) say: “God
does not look into your form and your outer appearance, but He looks into
your heart and your action” (Related by Muslim).

Also, during the period of the companions, may God be pleased with them,
when the Muslim armies had been able to conquer most of the lands which
were under the reign of Persia and Byzantium, they did not go on a rampage
killing all of the population of the disbelievers and the polytheists, but have
killed only those who confronted them with the sword. Does not this simple
fact of Islamic history demonstrate that not all who disbelieve deserve to be
killed? Know that the ultimate punishment for disbelief is postponed until the
Day of Judgment; in this world we confront the deniers of the truth only with
the aim of warding off their transgressions to the borders of our lands and to
halt the spread of their corruptions therein. Ibn Taymiyya, may God have mercy on him, said:

“we need to understand in this conjuncture that this Sharia may demand, in the case of a given, that the worldly punishment (hadd) of the death penalty, or flagellation and the like, be implemented and then absolve that person from all punishment in the hereafter… Conversely, we also need to understand that many will evade the Sharia punishments (hadd) in this world, but they will not be able to evade them the in the hereafter: the dhimmis who have consented to pay the jizya, and the hypocrites who had enjoyed the status granted to Muslims because they feigned faith will ultimately be called to account for that which they were spared in this world; for these people, as the Qur’an has shown in many places, will be known as disbelievers only in the hereafter.” He then concludes: “The world is too narrow a place to punish all the crimes and implement all of the potential punishments; it is the hereafter which is the ultimate realm of punishment and reward. Indeed, the laws of punishment that God has urged us to implement in this world aim only to avert transgression and oppression among mankind; they have never been intended to settle all the wrongs of the world.” (Majmu’ al-Fataawa, vol. 12)
VII. The Document for the Guidance of Jihadist Action in Egypt and the World

What of the Treacherous Actions against the Foreigners in their Countries?

“It is not permissible to attack foreigners in their countries even when their governments attack ours”

“Never has the Prophet (pbuh) or any of the companions sent anyone to destroy or cause havoc in a country before its conquest”

“Some of the jurists in the past, have permitted fighting against the enemy even when there were Muslim hostages in their midst, based on what is known in Islamic jurisprudence by the principle of tatarrus. This principle forms the basis of the fatwa that al-Qaeda relied on in carrying out the 9/11 attacks which had caused the death of thousands of civilians, including tens of Muslims”

In this sequel, Dr Fadl, who for years used to be jurist of the Jihad Organisation (tanzeem al-Jihad), reveals the legal pitfalls in which the members of al-Qaeda have fallen by focussing on their understanding and application of the principle of tatarrus, particularly as it was used to warrant the attacks on Manhattan, Madrid and London.

He also discusses at length the attacks that some Muslims have carried against the foreigners overseas and qualifies them as a perfidious act whose perpetrators would be counted among the corrupt and flagrant transgressor of the Revealed Law (fasiq). Dr Fadl takes to task the perpetrators of such
attacks insisting that the visa granted to them to enter these foreign countries amounts to a ‘pledge of security’ which they as covenanters have agreed to enter into, even if the visa they have used to enter into these countries is falsified.

Finally, the author expresses his stupefaction at the practices of some jihadists in the West who brazenly go on committing crime against Islamic law under the pretext these acts are committed against the disbelievers and in a country where disbelief reigns.

The following is the seventh sequel of the document:
Clause Eight

It ought to be prohibited to enter the countries of the foreigners with their consent only to betray them. Indeed, there is a need to revise and assess the issues Related to the actions and attacks carried out by jihadists inside the abode of war.

In their jihad, the Prophet (pbuh) and his companions, may God be pleased with them, had always confronted the armies of the disbelievers when these were outside their original borders, and they have never sent anyone from among the Muslims to infiltrate inside Persia, Byzantium or Mecca to carry out a jihadi action. The jihadi actions carried out by some Muslims inside the lands of the disbelievers are in our view illicit in the Sharia and this for two main reasons:

1. Muslims are permitted to Live among the Disbelievers

Since Muslims nowadays may be found in great numbers in many parts of the world, the likelihood of them falling victims in attacks that aims at foreigners is very high, particularly when these attacks involve bombings, which not only causes a lot of casualties, but does so in the most indiscriminate fashion. To discuss the killing of foreigners in their own countries, let us recapitulate how we came to view their killing unlawful as resident of our own countries, since we may be able to build on that here. We have already established in the previous clause, which looked into the killing of foreigners residing in our countries, that it was prohibited on the grounds that it may involve the killing of Muslims, a crime regarded as one of the seven destructive sins (mubiqaat). We have shown that the killing of a Muslim in such attacks can only be avoided if a clear distinction is made between Muslims and non-Muslims, but
that such distinguishing is often fraught with great difficulty and unsurmountable doubt. We have dwelled upon several prohibitory grounds in that section to show that the killing of foreigners was illegal. One of these was the fact that such attacks, due to the confusion between disbelievers and Muslims in the one society can potentially lead to the killing of Muslims, as they indeed have. It was mainly on the basis of this lurking dubiety that we came to the conclusion that Muslims and jihadists in particular were under obligation today to cease all attacks and all other forms of inflicting harm on the non-Muslims in our countries. Against the killing of the foreigners in their own countries, we can argue in a somewhat similar vein, namely that the abode of war today is not one which is strictly confined to the disbelievers as was the case in the past: Muslims in constitute in this abode a sizeable portion of the population. Furthermore, this Muslim population is not just comprised of those who have been naturalised over recent times but also those who have been born there or have converted to Islam from among the original population. We should begin by making it clear before we embark on this argument that the presence of Muslims in the countries of the disbelievers is permissible, for God, may He be exalted says:

“Now if the slain, while himself a believer, belonged to a people who are at war with you...” (4:92) and also: “Was, then, God’s earth not wide enough for you to forsake the domain of evil?” For such, then, the goal is hell - and how evil a journey's end! But excepted shall be the truly helpless - be they men or women or children - who cannot bring forth any strength and have not been shown the right way” (4:97-8)

Also, the presence of Muslims in the midst of the disbelievers’ population may be so subtle that we can hardly notice it: God may He be exalted says: “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).

To those who have endorsed the killing of Muslims in the West, we say that it is prohibited to kill Muslims who live in the midst of disbelievers under the pretext of tatarrus. There is absolutely no clear text in the sources which permits the killing of the Muslim human shield: this jurisprudential principle of tatarrus is in fact nothing more than a legal opinion (ijtihad) which can only be resorted to in extreme situations, following the general rule: “He has so clearly spelled out to you what He has forbidden you [to eat] unless you are compelled [to do so]” (6:119. What also delegitimises the killing of Muslims during these types of military operations is the fact that these operations are not defensive in nature: they are offensives, which take place inside the lands of the disbelievers, and Muslims are under no obligations whatsoever to mount such offensives. Any jurist who had permitted the killing of the Muslims, whom the enemy had taken as human shield, had done so in relation to vital defensive operations which involved the very safety of the Muslim population at large. This is indeed an important caveat: the jurists who had advanced such a principle approved these killings when it was clearly anticipated that unless the Muslim army is given the permission to kill those Muslims who, wittingly or unwittingly, served as human shield to the enemy, it would not be in a position to mount an efficient counter-attack, and the enemy would have been in a position to endanger the abode of Islam, killing the majority of the Muslim population including those human shields. With this reasoning, the jurists were
only complying with the rule of “opting for the least harmful”. But this has nothing to do with the operations which the jihadists are mounting inside the countries of the disbelievers: the killing of Muslims in such circumstances makes these types of operations unlawful and the use of the principle of tatarrus erroneous. Imagine the difference between a situation where, on the one hand, you have an advancing army threatening your borders and the safety of your population, using in the front line a score of Muslim prisoners as human shields in order to unnerve the members of the Muslim army who needs to avoid at all costs the shedding of Muslim blood because it is haram, and the situation where, on the other hand, you have a Muslim community merged with the population of disbelievers, in a country where they are neither prisoners nor human shields for an army advancing on your borders; in which of the situations do you think the principle of tatarrus may have been applied? Definitely not the latter: tatarrus does not give carte blanche for the killing of these Muslims in such treacherous attacks, and in an offensive mounted by intruders. Even when it was required, which is not the case here, the Muslim scholars who advanced such a principle never did so lightly, as it involved the permission to kill Muslims, and the lives of Muslims are sacred and inviolable by textual legal evidence (al-nass al-shar’iiyy), namely the hadith in which it is clearly stated that it is unlawful for a Muslim to kill another Muslim. To suspend this clear prohibition and universal command, the jurists who formulated the principle of tatarrus had to find an ‘incontrovertible universal necessity’ (dharura qat’iyya kulliyya) in parallel, because only such a necessity allows the jurist to suspend a clear text (nass), and that had to be in conformity with Qur’nic verse: “He has so clearly spelled out to you what He has forbidden you [to eat] unless you are compelled [to do so]” (6:119). Know that ‘necessity’ in our present context pertains to the fear of seeing the Muslim army exterminated and the abode of Islam endangered, and ‘incontrovertible’ refers to the fact that this dangerous situation was not hypothetical or
imaginary but real as to ‘universal’ it is in view of the of the safety not of one individual or a group, but of the general community of Muslims as a whole. If this is what is meant by ‘incontrovertible universal necessity’ (dharura qat’iyya kulliyya), upon which the validity of the principle of tatarrus revolves, how can the bombings of airplanes, trains and buildings occupied by civilians be permitted?

For more details on the conditions allowing the suspension of clear textual legal evidence, readers may refer to Ghazali’s ‘al-Mustasfa’ (vol. 1), and al-Amidi’s ‘al-Ihkaam fi Usul al-Ahkaam (vo. 2).

Let us see now what al-Qurtubi had to say about the killing of Muslims in his exegesis of the verse 106 of the chapter al-Nahl in the Qur’an, which deals with the issue of compulsion: “There is unanimous consensus among the ulema”, he writes, “that compulsion (ikraah) does not constitute for a Muslim sufficient ground to kill another Muslim or harm him because both are Muslims; nor can a Muslim redeem himself by causing harm to another Muslim. Regardless of his difficulty, a Muslim needs to show patience and resign himself to what has befallen him.” Notice how the scholars have by consensus permitted disbelief on the grounds that none shall be compelled to Islam, but have by the same token refused for this compulsion to serve as ground for the killing of another Muslim. Does not this speak volume about the sanctity of Muslim blood? Know that the Muslim scholars, who advanced the principle of tatarrus, have permitted the killing of the Muslim shield only in extreme situation, and not for the purpose of satisfying some frivolous need or expedient benefit, and that some, like Imam Malik, were not even inclined to accept such principle.

2. The Pledge of Security and the Inviolability of Human Life and Property
The second reason which ought to prohibit the killing of foreigners in their land is that entry to their countries, for the purpose of work, study, business or tourism, usually requires that Muslims obtain a visa. Muslims who are granted these sorts of visas need to know that by virtue of this grant they have actually entered into a pledge of security, they cannot betray. The crux and essential aim of the pledge of security is none other than the protection of human life and property. Generally, the disbelievers do their utmost to honour their pledge: there are laws and a legal system which ensure that Muslim life and property are protected, and when these rights are violated they take these offences seriously bringing to court the perpetrators, and finding otherwise ways of compensating the victims. Since Muslims are treated and regarded in this way, it is only befitting that they return the favour and act the same, as attested to by the verse: “O YOU who have attained to faith! Be true to your covenants” (5:1). So crucial is this issue of trust and reciprocity that Muhammad Ibn Hassan al-Shaybani, who was both a companion of Imam Abu Hanifa and a student of Imam Malik, wrote in his ‘al-Sayr al-Kabir’:

“In the case where a Muslim person has entered the lands of the disbelievers with faked travel documents which they, the disbelievers, have not detected as false, he is still obligated to honour his pledge: the falsity of the documents does not absolve him from that responsibility.” Muslims are to understand that the visa which is granted to them is not to be breached, and that the disbelievers do not grant this visa in order to be betrayed, but in order that the holder of the visa contribute to the safety and security of the host country. This ought to be understood by Muslims even when that condition has not been explicitly stated; in conformity with the legal maxim: “The conditions known implicitly through custom are akin to the conditions known explicitly through statements”. know that whoever has betrayed the disbelievers after this
manner, has committed a major sin that will cause his demise in the Day of Judgment, for the Prophet (pbuh) has said:

“Whoever among you kills a dhimmi or any other person with whom we have covenant, let him be warned that he will not smell even a whiff of paradise’s perfume, until the first forty years of our time in heaven had lapsed.” (Agreed upon hadith)

He also has said: “every traitor will be known by a particular flag on the Day of Judgment, and it will be said this flag stands for the treason of so and so.” (Agreed upon hadith)

There is no doubt that bombing the disbelievers’ planes, trains, buildings, hotels and the rest of it, constitute a betrayal, treason and an affront to the sanctity of their lives, property and dignity. Those who try to warrant such killings and transgression by citing the hadith: “War is but deception” (Agreed upon hadith) are being misled because what is meant by deception here is not of course treachery and perfidy which are not permitted, but the use of decoy and ploy as tactics to ensnare the enemy during battle. Did not the Prophet (pbuh) say: “There is no room for treachery in our religion” (Agreed upon hadith)? Did not he (pbuh) also say about the signs of the hypocrite that “Whenever he enters into a covenant he acts treacherously and whenever he enters a security pledge he betrays it” (Agreed upon hadith)?

It is certainly on the basis of all of the above that Ibn Qudama, may God have mercy on him, wrote in the chapter on jihad of his book ‘al-Mughniyy’ (vol.9): “It is not permitted for a Muslim to betray the people of the Abode of War if he had entered their lands on the basis of a security pledge; for in that case their betrayal would be unlawful (haram), and there is no room for treason in
Islam.” We do not know of any scholar who has opposed or expressed reservations about this view of Ibn Qudama.

a. Treachery is Hypocrisy and a Major Sin

Based on what has been established so far, know that actions committed by certain Muslims in foreign lands, like bombings, killing, destroying private and public property, stealing, cheating insurance companies, disappearing from one’s address without paying the rent and the bills and so forth, are all considered as acts of treachery (ghadr) in Islamic law, and are therefore unlawful (haram). Know also that treachery is a form of hypocrisy (nifaaq), which counts among the major sins (kabaa’ir), and that the one who commits a major sin and dies prior to repenting is bound for the punishment of hell in the hereafter; unless God, may He be exalted, bestows on him His forgiveness. We need to take this divine menace seriously, especially when we have no knowledge of what the future holds for us and no one is guaranteed God’s forgiveness: God may He be exalted says: “VERILY, God does not forgive the ascribing of divinity to aught beside Him, although He forgives any lesser sin unto whomever He wills” (4:116).

We reiterate, therefore, our call to Muslims and warn them against committing treachery, treason, killing and destruction because we firmly believe they are unlawful and not in keeping with the values and ethics of a Muslim. Many of the disbelievers in the past have embraced Islam when they came into contact with Muslims and witnessed firsthand their moral character, of which justice, equitability, loyalty, and leniency in both their speech and their actions were the main traits. Ponder the hadith of the Prophet (pbuh) when he has said: “No
faith has he, he who betrays the trust, and no religion has he, he who has breached his pledge.” (Related by Ahmed)

b. God has forbidden to us Aggression in all of our Affairs

It is a fact that some of the countries of disbelief have and are openly aggressing some of the countries of the Muslim world. This, however, does not entitle us to respond with aggression. Indeed, God, may He be exalted, has informed us that the disbelievers are wont to aggression: “…respecting no tie and no protective obligation with regard to a believer; and it is they, they who transgress the bounds of what is right! (9:10). But despite this quality of the disbelievers, He prohibited us from being aggressors in all of our affairs with them including during jihad and fighting. Indeed, to this effect, the Almighty says: “AND FIGHT in God's cause against those who wage war against you, but do not commit aggression - for, verily, God does not love aggressors” (2:190).

This stance against blind aggression is backed further by this hadith of the Prophet (pbuh): “keep your pledges and if one betrays you do not betray them” (Related by al-Tirmidhi and Abu Dawud)

Certainly, aggression and treason do not count among the things which Muslims are allowed to reciprocate, and the definitive texts that we have just cited clearly forbid such action. Hence a number of things are not permitted against aggression committed by a foreign state: Muslims are not allowed to kill those whose murder the law has clearly prohibited, particularly from among the civilians of these countries, also they are not allowed to commit treachery, renegade on pledges and covenants, and destroy building and properties which do not constitute a clear target in jihad. It is because of all
these caveats that the legal maxim, which we cited earlier in the context of our discussion of reciprocity as a principle of Muslim relations with the disbelievers clearly states that “reciprocity is the principle of relations with the disbelievers and the people of war except in those instances which are prohibited by law”. It should be clear then that the principle of reciprocity which ought to regulate Muslim relations with the disbelievers and which has been hailed throughout the period of the companions and maintained by later scholarship is not to be understood unconditionally and without caution or rules controlling its legitimacy (dhawaabit). God has warned us against following their ways including their aggression when He has said: “And thus clearly do We spell out Our messages: and [We do it] so that the path of those who are lost in sin might be distinct [from that of the righteous]” (6:55). Equally, the Prophet (pbuh) he has said in this regard: “Verily, you will follow the ways and the steps of those nations before you so blindly and meticulously even if they were to enter the barrow of a dabb.” They asked him: “Are you referring to the Jews and the Christians? The Prophet (pbuh) replied: “Who else?”(Agreed upon hadith). Just as the Prophet (pbuh) has warned us against the danger of following the aggressors in their steps towards transgressions and the like, he by the same token has informed us that this inclination and potential to following them has always existed within the Muslim community: it is very crucial that Muslims act above this immoral war though the enemy may revel in it. Even in the context of an open jihad and when fighting was in full swing with so much bloodshed and so much destruction around, God has continuously warned Muslims against aggression in order to tame the ego (nafs) of the fighters and in order for their jihad to be for His pleasure not for the sake of revenge, looting, status and other pleasures of the evil-commanding self. The Prophet (pbuh) was asked: “[O Prophet!] People fight for various motives: to show their courage, for the sake of tribal solidarity, to secure a booty or to advance their standing and prestige....Who among these is fighting
for the sake of God?” He (pbuh) has said: “Whoever among them has fought in order that the word of God and His commands remain ascendant is the one who has fought for the sake of God” (Agreed upon hadith). Know that jihad for the sake of God has been qualified by the verse: “AND FIGHT in God's cause against those who wage war against you, but do not commit aggression - for, verily, God does not love aggressors” (2:190).

C. On the Killing of Civilians in the Countries of the Disbelievers

Some argue that it is permissible to kill civilians from among the population of the disbelievers based on the legal ruling which has permitted their killing when they are used as human shields during conflict. Those who follow this argument often rely on the hadith of Sa’b Ibn Juthama, may God be pleased with him. In gist, this companion came to the Prophet (pbuh) one day to explain to him that his army was having great difficulty avoiding the children and women of the disbelievers as fighting was taking place at dark. Seeing that Sa’b agonized over this, the Prophet (pbuh) told him: “They [the children and the women] are also from them” (Agreed upon hadith). Now, arguing for the killing of civilians from among the foreigners using the hadith in this line of argument is wrong and misleading because this argument completely ignores the fact that once one has entered into a pledge of security he cannot betray it and that on the basis of that prohibition it is not permitted to him to kill any of the disbelievers in their country, be they army personnel or civilians. As a matter of fact, even if we suppose counterfactually that jihadists engaged in the killing of civilians on foreign lands do not have a pledge of security or any other form of covenant with the disbelievers, and even if we suppose counterfactually that they are also able to know for certain that all of the civilians of that society are disbelievers, their killing by bombing their planes, trains, residential buildings and hotels, would still not be made permissible on
the basis of the aforementioned hadith of Sa‘b Ibn Juthama: the rationale and
the legal basis which made it permissible to kill the disbelievers when they
become shields (qatl al-tars al-kaafir) during conflict simply do not apply
here. Does not the bombing of buildings destined for civilian use imply
directly the targeting of civilians? If so how on earth can it be reconciled with
the principle of tatarrus? Know that the premeditated killing of these civilians
is not permissible in the Sharia, and recall the command of the Almighty when
He says: “O YOU who have attained to faith! Be true to your covenants” (5:1),
and if this was not sufficient to convince you, then recall the words of the
Prophet (pbuh): “There is no room for treachery in our religion”.

[Dear reader], do not be led to think that I am making this point under some
duress or enticement. No, I have raised this argument for the first time back in
1993, in my book ‘The Complete Source on the Quest for Noble Knowledge’
(al-Jaami’ fi Talab al-’Ilm al-Shareef). There I had already clearly stated that
whoever has entered the countries of the disbelievers with a visa -whether that
visa is genuine or fake and whether it was granted at the consulate or the
airport- must understand that by that acknowledgement of that visa he has
entered into a pledge, which the Sharia does permitted him to betray. We insist
that whoever acts contrary to that has committed a major sin, even if they try
to use the Qur’anic verse: “…because nothing could they suffer or do, but was
reckoned to their credit as a deed of righteousness,- whether they suffered
thirst, or fatigue, or hunger, in the cause of God, or trod paths to raise the ire
of the Unbelievers, or received any injury whatever from an enemy: for God
suffereth not the reward to be lost of those who do good”(9:120): although
causing the ire of the disbelievers is coveted it is restricted by the conditions of
not committing treason, aggression and the impermissible, and we have
already made it clear in the sixth clause that a ‘specific prohibition’ (nahy
khass) is put before a universal or general command (amr ‘aam). Indeed,
though the Muslim is obligated to heed specific prohibitions in all of his dealings, he should heed them most of all when conducting jihad for the sake of God, in that negligence of the requirements of the Sharia in this context constitutes the primary cause of destitution and defeat. Thus, in the chapter on jihad of his *sahih*, Bukhari relates that Ibn al-Darda’ would say: “O people! do good deeds before you embark on your conquests, for you will surely do battle with your actions”. Also worth mentioning here what Umar, may God be pleased with him, has said to Sa’d Ibn Abi Waqqas when he, Sa’d, was about to conquer Persia:

“I bid you and those who are with you in this conquest to fear God...Do not transgress the boundaries of God, while you are treading His path, and do not say: “our enemy is far more wicked so he will not come to have the upper hand, for it is possible that a wicked people may have the upper hand over those who far less wicked...Recall how God set up the disbelievers from among the Zoroastrians of Persia as absolute masters over the Jews of Banu Israa’eel. Verily, they deviated from the path of God and sinned and then the disbelievers “entered the very inmost parts of their homes; and it was a warning (completely) fulfilled” (cited by Ibn Abd Rabbih al-Andalusi in his book ‘al-‘Aqd al-Fareed’ in the sequel entitled *Kitaab al-Hurub*).
VIII. The Document for the Guidance of Jihadist Action in Egypt and the World

The Legal Ruling Regarding the Killing of Civilians

“The champions of the internet and the slogan peddlers cast their followers in fire”

In his addendum to the argument prohibiting the act of treachery against the foreigners, Dr Fadl mounts the most virulent attack on Ayman al-Zawahiri without mentioning him by name, but he alludes to him by making reference to “those who flee combat leaving their wives and children behind”, since al-Zawahiri is the only one among the leadership of al-Qaeda who has lost all the members of his family following the American bombardment of Afghanistan. The author addresses what he calls the champions of the internet and the slogan peddlers, a condescending reference to those who employ funds supplied by foreign intelligence services to ensnare Muslims into dubious activity, and he taunts them with his knowledge of their secret dealings with the enemy.

Dr Fadl also addresses in this addendum the issue of the civilians in the countries of the Muslim world who are constantly attacked by the members of jihadist organisations because they represent an easy target. He discusses the legal status of these citizens of the Muslim world and affirms their killing unlawful on the basis that their legal status is often opaque and indeterminate. Towards the end, he focuses on the attacks against the Shi’a particularly those carried by al-Qaeda in Iraq. He insists the differences between the Sunni and Shi’a schools are no grounds for such heinous crimes, especially that the Shi’a
has constituted a segment of the Muslim society since the first century of the Hijra. The following is text of the eighth sequel:

We want to elaborate here more on treachery: those who seek the face of God do not commit treachery, treachery is the hallmark of the hypocrites, and hypocrisy and true faith are antipodes. Treachery is also what distinguishes between those who seek the hereafter and those who seek the pleasure of this world. Recall the dialogue between Heraclius the Roman emperor who wanted to know about the Prophet (pbuh) and Abu Sufyan who was not yet a Muslim. “Is he treacherous?” the emperor asked Abu Sufyan. “No, he is not” was replied Abu Sufyan. The emperor then retorted: “this is indeed the trait of the true Prophets” (Agreed upon hadith). O Muslim! do not boast about your treacherous acts, there are not meritorious, they are unchivalrous.

On Military Actions

I want to end this clause with a word addressed to some of the Muslims residing abroad and who are bent on inflicting harm on their host countries and its populations. In addition to the prohibitive grounds mentioned earlier in this clause which makes a compelling case against mounting military actions in these foreign countries, I would like to also affirm that it is utterly dishonourable to betray a people who have given you permission to enter their land and to live among them, a people who have pledge to protect your life and property, and have given you an opportunity to work and to study, or have granted you political asylum so that you can lead a dignified life. It is utterly dishonourable that in return for all of this kindness and trust, you betray them by treacherously killing their countrymen and women and destroying their
property and hard work. These were never the traits of the Prophet (pbuh) about whom God, may He be exalted, has said: “VERILY, in the Apostle of God you have a good example for everyone who looks forward (with hope and awe) to God and the Last Day, and remembers God unceasingly” (33:21)

Indeed, the Prophet (pbuh) was always thankful to others and never ungrateful towards those who have shown him kindness or given him support throughout his trials: thankfulness and gratitude were some of the main attributes of his character. Illustrations of these noble traits of his are numerous and can be found even before the beginning of prophetic career. We shall cite only a few here, focussing only on those that have a direct bearing on our topic.

For instance, when the polytheists were negotiating the ransom of their captives with the Muslim army in the wake of the Battle of Badr, the Prophet (pbuh) remembered the kindness shown to him by al-Mut’im Ibn Adiyy and has said: “Had al-Mut’im Ibn Adiyy been alive and negotiated with me regarding those despicable people (the captives), I would have released them for him” (Related by Bukhari) Indeed, al-Mut’im, a polytheist, had been a protector of the Prophet (pbuh) at a very crucial point of his message: with the death of his uncle Abu Talib, the Prophet (pbuh) had lost his last bulwark against the danger of his enemies. One day, when he (pbuh) was returning from his unsuccessful and perilous trip from Taif, he feared for his safety in Mecca, a city where his assassination was now sought by the powers that be. Such was the danger; he was only able to enter the city under the protection of al-Mut’im who had readily accepted to offer his succour.

Another example may be gleaned from the account surrounding the miracle which saw the whole Muslim army quench their thirst from a small water skin gushing from his fingers (pbuh).This event took place after the Hijra and after jihad had been made obligatory and lawful. That day the Prophet (pbuh) and his companions, may God be pleased with them, had gone on a trip and found
themselves without water. So thirsty were they, they stopped a pagan lady, and asked if they could help themselves to her water skin, for some dates and saweeq (a mixture of ground wheat and barley) in return. Soon after that event, which saw the happenings of that most famous miracle of the Prophet, Muslims were engaged in battle against the surrounding. They fought against all which were in the vicinity, but remarkably, left hers untroubled as a gesture of gratitude for her earlier kindness. You may read the details of this fascinating hadith in Bukhari and there you will find how this exchange of gallantries had led that lady’s clan to embrace Islam voluntarily. (Related by Bukhari)

**Watch Out for the Tahreef (distortion)**

There are many more of these examples of the Prophet’s gratitude as you know, but I hope these have illustrated how he (pbuh) continued to show gratitude even towards the polytheists. So do not lend an ear to those who preach to you the opposite, they are ignorant about this religion and do not count among the people of knowledge, nor should you be deluded by their argumentation, which purports to draw from the verses of the Qur’an and the hadith. All these people are doing amounts in fact to distortion: they cite the texts out of their context only to misconstrue them, and their arguments are always amiss. Worse they preach falsity using arguments from the truth. About this Ibn Taymiyya said in gist:

“People cannot be conned into falsity in droves unless it is mixed with some element of truth. We need to be mindful of dubiety (shubha) precisely because though it is a falsity, it bears an unmistakable resemblance to the truth.” Indeed, the discourse of those people is not unlike that of the soothsayers who make sure what they say is an admixture of falsity and truth in order that people continue flocking to them. I warn the leaders of the foreign countries,
and all the Muslims as well, against those ignoramuses. Watch out for those
champions of the web and those cunning slogan peddlers who cannot restrain
themselves from giving announcements and communiqués in which they spur
on everyone to the blistering fire of bomb explosions, while they, themselves,
take flight, leaving behind their children and wives. Beware of these so-called
jihadists, who have sent many before you to the graves and to the dungeons
with funds obtained from various secret and intelligent services. We know the
names of the beneficiaries and we know the amounts given. I say to everyone
who is still conned by these soothsayers: look before you leap! These are but
callous and treacherous people who set blistering fires only for others to burn.
As for the jihad against the disbelievers and the means of warding off their
aggressions, they are clearly stated in the books Islamic law, and they have
nothing to do with their underhand tactics: there you will find no arguments for
treachery and the breaching of pledges. So ponder again over the words of the
Prophet (pbuh): “There is no room for treachery in our religion”, with which
the Prophet addressed al-Maghira, and reflect as to why he, (pbuh), refused to
accept what al-Maghira had offered to pay as compensation for his treachery.
Clause Nine

The Prohibition against the Killing of Civilians in the Countries of the Muslim World

On Armed Confrontations with the Authorities

In the sixth clause of this document, we have already expressed our view that armed confrontation with the governments of the countries of the Muslim world, for the purpose of implementing the Sharia ought to be prohibited. We have also expressed our view that inflicting any sort of harm on the military and security forces of these governments ought to be also prohibited for reasons that were outlined in the same clause.

After failing to unnerve the ruling authorities, it now has become common practice among the jihadists to target the general public; that is the civilians who have neither guards nor guns. There is no doubt that jihadists have turned to this dangerous strategy because they consider the civilians to be an easy prey or an easy target in military parlance. Little did they know that sometimes God, in His wisdom, makes an illicit act easy to do, only to test our faith and our fear of Him. For instance, in the past and in an environment when food was scarce, people’s faith was tested when the opportunity to kill an easy prey presented itself to them during the period of hajj, when hunting was forbidden. To that effect God may He be exalted, says in the Qur’an:

“O YOU who have attained to faith! Most certainly God will try you by means of the game which may come within the reach of your hands and your weapons
[while you are on pilgrimage], so that God might mark out those who fear Him although He is beyond the reach of human perception. And as for him who, after all this, transgresses the bounds of what is right-grievous suffering awaits him! O you who have attained to faith! Kill no game while you are in the state of pilgrimage” (5:94-5). Similarly, the Prophet Yusuf’s (pbuh) faith was put to test when he found himself in an environment where he was much sought after by women who had made themselves available to him. Indeed, there is also the example of those Jews who upon seeing that fish was abundant on Saturday were lured to cast their nets even when they had been prohibited by God from fishing on that day. Simple and easy actions which appear to offer so much in return are very luring but are usually a snare or a ruse, our faith and rectitude are often tested in situations like these. A Muslim is to understand that vigilance is required particularly in situations that are expedient and in relation to actions which are burden free. He needs to always follow the course of action which is warranted by the Sharia and acquaint himself with relevant divine rulings, particularly in relation to those easy actions which seem to offer a big yield in return: we should assess the killing of the civilians, the easy targets, with the same vigilance. Indeed, only those who have attained to true faith and only those who are saved by His grace are able to forebear the temptation of sin which comes with ease. When the caliph ‘Umar heard of those Muslims who refrained from committing sin even when it was eased for them, he praised them with the verse: “…it is they whose hearts God has tested [and opened] to consciousness of Himself; [and] theirs shall be forgiveness and a reward supreme”. Notice how high is the rank of the abstainers; according to ‘Umar they are even worthy of the divine address.

Disobeying and Transgressing the Laws of God (al-Fusq wa l’ Ma’aasì)
Know that neither disobedience to God (fusq), nor the transgression of His laws (‘isyaan), nor the forbearance of injustice and disbelief constitute by themselves enough ground to excommunicate a person from Islam, and yet some of us have accused the whole of their societies of disbelief on the flimsiest of basis. Arguing for instance that the forbearance of disbelief amounts to disbelief, whole societies have been deemed apostate because they did no revolt against the injustices of their governments, while at other times individuals or large section of the society is charged with disbelief on the basis of ‘whoever does not excommunicate a disbeliever becomes one’. Some of these Muslims hastily pronounce these dangerous fatwas ignoring the fact that many of their coreligionists may very well reject disbelief and its manifestations with their heart, a form of rejection which is totally acceptable in our religion as we had highlighted in an earlier occasion, and hardly paying any attention to the fact that the powerless person, when menaced, is not obligated to enforce the removal of wickedness or speak directly against it, as the Sharia has made allowances for him in these circumstances. Those who have accused their societies of all these trespasses simply on the basis of their ‘quietism’ should have payed heed to the legal maxim: “No statements may be attributed to those who observe silence” before making those highly controversial judgments. How can we be so easily inclined to label the silent person, whose inward thoughts remains unknown to us, a disbeliever when God Himself affirmed both the faith and the sincerity of many a person who, for fear of persecution, concealed them? Did not God may He be exalted say about the man in the entourage of pharaoh: “At that, a believing man of Pharaoh’s family, who [until then] had concealed his faith (40: 28)? Similarly, the Prophet (pbuh) attributed faith to the person who rejects wrong with his heart, if he is not able to reject it with his hand and his tongue, when he has said:
“Should any of you witness that which is wicked in the eyes of God, let him confront it with his hands until it is removed; if this proves to be not possible for him, then let him speak against it with his tongue; and if that too proves not possible, then let him fight shy of wickedness with his heart, as that is the least faith requires” (Related by Muslim), and “Whoever among you makes jihad against them with his heart, he is a believer indeed” (Related by Muslim)

Finally, it should be made clear, lest our argument is misunderstood, that this ‘secret’ or ‘inward’ rejection of disbelief that God and His Prophet (pbuh) consider harmonious with faith is not just a mere heartfelt rejection, but one which entails that the rejecter loathes the wrong and the evildoers and is committed to steer clear from wrongdoing. Indeed, the Prophet (pbuh) has said: “Whoever loathes evil and wrong is innocent [in the sight of God]” (Related by Muslim)

On the Civilians Whose Belief Status is ‘veiled’

The people whose belief status is ‘veiled’ are those who manifestly profess Islam and against whom there is no proof of overt disbelief. In Islam we may pray behind these Muslims or eat from what they sacrifice in the name of God, without being required to test their inward beliefs or the soundness of their belief system (‘aqeeda). Thus, the blood and property of such Muslims are absolutely inviolable in conformity with hadith “Three things of a Muslim are wholly sacred and inviolable to another Muslim: his blood, his property and his honour” (Related by Muslim). Indeed, the killing of these Muslims, as we have explained earlier, constitutes a major sin which not only lead its perpetrators to heavy punishment in the hereafter, but also in this world. Those who want to be saved from such a calamitous end need to avoid questioning the belief of others for no obvious reason. Anyone who upholds and shows reverence to the rites of Islam (sha’aair al-Islam) and does not show any
outward sign of disbelief ought to be regarded as a Muslim, in compliance with the verse: “...do not - out of a desire for the fleeting gains of this worldly life - say unto anyone who offers you the greeting of peace, "Thou art not a believer" (4:94), and in compliance with the hadith: “Whoever performs the prayers that we perform, face the qibla which we face, and eat from our sacrifices is a Muslim” (Related by Bukhari). Hence, questioning of the belief of those who show reverence to the rites of Islam and excommunicating them constitute a flagrant deviation from the texts of the Qur’an and the Sunna. Let us ponder over the words of God may He be exalted when He commands His Prophet (pbuh): “Hold to condonation…” (7:199). God Almighty in spite of all the harassment the Prophet (pbuh) urging His messenger to show a magnanimity of spirit (‘afw) by not only forgiving his detractors but also ignoring their wrongs and not delving into their motives. Indeed, the Prophet (pbuh) has said: “I was not asked to peer into people’s heart” (Agreed upon hadith). Ad hominem slurs and attacks on people are not the traits of a Muslim: know that dealing with people and judging them based on knowledge in hand is one of the most unwavering fundamentals of this religion, so much so that Umar, May Go be pleased with him, said on day: “Verily, during the prophethood of the Messenger, peace be upon him, we used to engage with certain people in light of knowledge divulged to us by revelation, but now that revelation had ceased, we cannot but engage with you in light of your manifest actions towards us: when they exhibit good we take them as such wholeheartedly without inspecting their inner motives, for these are of the domain of God, but when they exhibit evil we also take them as such regardless of their possible good motives” (Related by Bukhari)

Now, there may be situations when dealing with Muslims whose belief status is veiled, which demand that we exercise a modicum of discernment. There have been indeed situations during the prophetic era when Muslims were
compelled to scrutinize, if you like, the faith of fellow Muslims in situations where the manifest or formal faith of these fellow Muslims was not deemed sufficient. For instance, in the Qur’an God had urged the Prophet (pbuh) and his companions when He revealed to them: “O YOU who have attained to faith! Whenever believing women come unto you, forsaking the domain of evil, examine them...” (60:10). Here Muslims in Medina, due to their circumstances, had to ensure that those women who fled Mecca were genuinely Muslims and not undercover agents. Also in compliance with the Qur’anic verse: “… and take for witness those among you endued with justice...” (65:2), and “… As adjudged by just men among you…” (5: 95), Muslims were urged to be discerning: those who were to act as witnesses in certain legal matters, or were involved in the conclusion of the terms of marriage or divorce, and those who were destined to occupy leading governmental positions needed to show that beyond their allegiance to Islam, they have also achieved the quality of being fair and just. There is further evidence for this need to scrutinize the faith of fellow Muslims in the Sunna. The Prophet (pbuh) has said:

“Whoever marries his daughter to a corrupt man it is as if he has cut off his relations with her” (Related by al-Tirmidhi)

“Once you have ascertained that the person asking the hand of your daughters is upright in character and in faith accept his request” (Related by al-Tirmidhi)

This also what Umar, may God be please with him, said to a witness whose character was not known to him: “I do not know you, can you get [a just man] to introduce you to me”
The meaning of justice in Islam is broad, and there in fact many definitions of justice, particularly in the books of Islamic law. Al-Shawkani, may God have mercy on him, compiled a good number of these in his book ‘Irshaad al-Fuhul’. Taking stock of these definitions, we may safely say that justice includes observing one’s religious obligations, shunning the major sins, and all that which is not keeping with honourable conduct. Muslims establish that a person has attained the quality of justice only after scrutinising the conduct of that person, and only when that person’s just character has been endorsed by others who are already known to be just. This gives us an idea as to why ‘Umar had gone to the extent of asking the witness to be introduced to him in the example above. Indeed, God, may He be exalted, says: “And thus have We willed you to be a community of the middle way, so that [with your lives] you might bear witness to the truth before all mankind…” (2:143). Also, after the companions praised the qualities of a deceased person, unreservedly endorsing his moral rectitude, the Prophet (pbuh) has said: “[Funeral prayers for him] are then incumbent on us... for you are a witness over the people on earth” (Agreed upon hadith). All of these are strong proofs for the importance of scrutinizing the character of the Muslim whose belief status is veiled and of the role that endorsement plays in establishing someone’s just character. This section has dealt with civilians whose belief status is veiled. We have explained that many Muslims would be in that category because it is not an Islamic practice to scrutinize people’s faith beyond their manifest and formal affiliation to Islam, except in specific situations or for the occupation of specific roles. We now move to tackle the case of those among us whose belief status is known neither inwardly nor outwardly.

_On the Civilians whose Belief Status is ‘Unknown’_
Indeed, among the Muslims there are those about whom we know nothing: they have neither shown an overt allegiance to the faith nor have they shown the opposite. Their case is a particularly sensitive issue as it does actually concern the majority of the people. Though with this type of people we may be obligated to exercise discernment and scrutiny, we are not to inflict any harm on them. We are in fact obliged to scrutinise them only in those situations which requires that we have knowledge of their faith and their sense of rectitude and justice. In the past and particularly during the Prophet’s era dealing with such people as Muslims was the norm. Evidence for this may be gleaned from the hadith in which the Prophet (pbuh) has said to his companions: “You shall greet with salam (the peace of Islam) both the people you know and those you do not” (Related by Bukhari). This is certainly not an authorisation to greet non-Muslims with such greetings, but rather an authorisation to regard those whose status is ‘unknown’ as Muslims. In other words, when the Prophet (pbuh) had given that permission there was already a system in place which allowed the identification of those to whom such greetings were not permitted: non-Muslims stood apart from Muslims, in that as dhimmis they were obliged by the Muslim government at the time to wear distinctive attire which set them apart from the Muslims subjects, and anyone other than the dhimmis who had been found to be recreant or disloyal, would have been pronounced an apostate and would have already been punished [by death] according to the law. Those whose status was ‘unknown’ were in fact in neither of the preceding categories, they were neither dhimmis nor apostates, they were you might say, in that context, de facto Muslims. If that is the case, the issue is what are we to make of those Muslims today about whose faith we do not have a definitive knowledge? In other words, how are we going to deal with those Muslims whose manifest and inward affiliation to faith is unknown to us, in a society where the system which used to distinguish between Muslim and non-Muslim is no longer in place? Then matters would surely be more
complicated because in today’s society the possibility that this section of the population may include non-Muslims and possibly apostates is not to be excluded. Yet, despite the complexity of the situation some have ventured to apply to this large section of the native Muslim population the rulings which apply to the abode of disbelief and its inhabitants deeming that all inhabitants of the abode of disbelief are disbelievers. With one stroke they have done away with the complexity of a very important issue, and allowed the killing of the majority whose belief status we maintain is unknown. Their error is doubly horrible because even if we go by their reasoning and accept that a given native Muslim population and society may be regarded as an abode of disbelief, we find that God has permitted the powerless who live in such an abode to conceal their faith. Did not God say about those ‘unknown’ Muslims who lived in Mecca: “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”(48:25)?

Indeed, even until the eighth year of the Hijra, there continued to be in Mecca, which used to be an abode of disbelief, a powerless Muslim minority among the population who they has aspired to follow the Prophet (pbuh) and his companions to Medina were not able to do so. What is striking about this situation, however, is that at no point had the Muslims under the leadership of the Prophet (pbuh) ever considered those powerless Muslims who remained ‘unknown’ to them as disbelievers, even though in this case they resided in what was indisputably an abode of disbelief. Another example against this wholesale takfir (excommunication) of Muslims, may be found in what Ibn Taymiyya had to say about those Muslims who resided in the city of Mardin, which was once not under Muslim reign and was inhabited by both disbelievers and believers alike. To avoid the pitfalls of an indiscriminate and a
radical position vis-a-vis those Muslim residents, Ibn Taymiyya argued that that the wise thing to do in such situations was to consider a Muslim subject as a Muslim and deal with him accordingly and to consider the disbeliever as such and deal with him also in accordance with his status. As a matter of fact none of the *ulema* had ever argued the status of the residents of a given land or country based on the status of the abode in which they resided. In other words, they have never considered people disbelievers merely based on the fact they resided in the abode of disbelief, except in very extreme cases, such as the case of the foundling and the deceased who is utterly unknown. Some scholars had difficulty to accept even these two extreme cases, like Ibn Qudama in his *Mughniyy*, Ibn al-Qiyam in his *'Ahkaam Ahl-Dhimma* and Ibn Rajab al-Hanbali in his *'al-Qawaa'id* who basically argued that it is simply not sensible to pronounce anyone a disbeliever, from among those whose belief status is 'unknown', before first ascertaining that they truly are, even if they are residents of the abode of disbelief. I am inclined towards the positions of these scholars, particularly in view of the Qur'anic verses in which God, may he be exalted says:

“... *never concern thyself with anything of which thou hast no knowledge*” (17:36), and “[Hence.] *O you who have attained to faith, when you go forth [to war] in God's cause, use your Discernment*” (4:94)

Two Levels of Discerning

There are two kinds of discerning that are absolutely crucial to keep in mind if we want our dealings with the Muslim general public, who are in the main the civilians, to be guided. We have said before that one kind of discerning pertained to ascertaining the person's affiliation to Islam in view of that person's behaviour in relation to manifest or formal Islam and that the other kind pertained to ascertaining a person's sense of justice by scrutinising their
behaviour in those realms relevant to that sphere. As shown earlier, the latter applies particularly to those whose belief status is considered 'veiled'. Crucial as these discerning of Muslims may be, succeeding in delineating the belief status of Muslims is not easy matter and represents a real challenge. But this challenge has been completely brushed aside by today's jihadist organisations. Thus, I would like to reiterate that civilians in the countries of the Muslim world form an admixture of different types which cannot be easily and readily separated. killing civilians in such an indeterminate climate and such ambivalent circumstances presumes that one is hitting at both permissible and prohibited targets, which is unlawful: as we have demonstrated earlier, in matters where the permissible is intertwined with the unlawful, the adequate legal ruling is prohibition (haram) on the basis that the unlawful in cases like these always prevail. So how are these civilians targeted in such an indiscriminate and deadly fashion and what are the legal grounds for such killings?

What makes the killing of those civilians whose belief status is 'unknown' licit before ascertaining their status, when God, may He be exalted, says: “O you who have attained to faith, when you go forth [to war] in God's cause, use your discernment, and do not - out of a desire for the fleeting gains of this worldly life - say unto anyone who offers you the greeting of peace, "Thou art not a believer" for with God there are gains abundant. You, too, were once in the same condition- but God has been gracious unto you” (4:94), particularly that this verse, if you recall, came after the verse in which God menaces those who premeditatedly kill a believer? In this verse as the one before it, God demands that discerning be observed to underscore its obligational aspect. God has also warned against the killing of those whose belief status is 'unknown' for the sake of worldly gains, and has scolded those tempted by such overtly aggressive actions reminding them that they themselves used to be not much
different from the people they now aim to undermine. I really do not think that the killing of civilians by bombings hotels, residential buildings and various means of transport has anything to do with jihad and cannot be warranted even under the pretext of tatarrus as outlined already in the eighth clause. Indeed, it is not permissible to kill civilians in the countries of the Muslim world while these are a mixture of Muslims, and non-Muslims, and counting among them both those whose belief status is 'veiled' and those whose status is 'unknown'. Their killing in these circumstances would be in the eyes of the Sharia either a 'definitive prohibition' (haram qat'iyy) or 'dubiety' (shubha) at least, and we have seen that according to the hadith: “Whoever slips into dubiety has slipped into the realm of the unlawful”. We have also demonstrated throughout the seventh clause that in Islamic law each time the lawful and the unlawful are mixed the whole matter becomes unlawful.

There are no legal grounds for such actions and we warn ourselves and all the Muslims against such hubris, for the wrongs that are committed by some of these civilians, if these wrongs ever came to the open, do not go as far as to deserve the death penalty by explosion. If these civilians have indeed infringed the law, this is surely not what the Sharia demands in their regard. We need to also reiterate that the Prophet (pbuh) has strongly rejected the killing of people indiscriminately, and has predicted for its perpetrators a calamitous end, in that such killings amounts to a major sin. Indeed, in one hadith he has said: “He is not of me whoever among you turns against my community, attacking it indiscriminately, without even distinguishing between the noble and the morally corrupt in its midst” (Related by Ahmed and Muslims).
**About the Difference in Theological schools**

Killing and inflicting harm on other Muslims are among other deviations that plague the jihadist organisations today.

The Prophet (pbuh) has said: “**A Muslim is entitled to continue aspiring to the merciful largess of this religion so long as he continues to shun spilling blood unlawfully**” (Related by Bukhari). Those who are wont in spilling the blood of their fellow Muslims in violent sectarian clashes appear to completely ignore this prophetic admonition. But they have ignored many others, as if, for them, there were an authority beyond the authority of the Prophet (pbuh). Concerning these type of people, there is a very telling hadith which I will quote in full. The Prophet (pbuh) has said:

“**Let me tell you who are the insolvent from among my community on Day of Judgement! They are those who alongside their prayers, fasting and almsgiving (zakat) have also insulted, robbed, killed, defamed or assaulted others...Good deeds will be taken from them as reparations for wrong deeds incurred, only these good deeds of theirs will run out before they have settled all of their wrong deeds, and falling short in the end, they will perish in hell**” (Related by Muslim)

“**Beware of the seven destructive sins (al-mubiqaat al-sab’)**” the Prophet (pbuh) has said and he went on to include among these sins “**...the killing of a soul in defiance of right**” (Agreed upon hadith).

“**Among the matters that people will be asked about on the Day of Judgement the spilling of blood will be foremost**” (Agreed upon hadith)
If these are not strong deterrents against the killing of Muslims, regardless of their spiritual, theological, or legal predilections, what then shall bring these jihadists to the path of guidance?

Jihadists nowadays advance all sorts motives and grounds for their killing sprees. Besides, killing on the basis of nationality, appearance, identity, and names, they also encourage the killing of civilians on the basis of their legal and theological schools. The primary target of these sectarian attacks are the Shi’a who although formed a distinct school during the middle of the first century of the Hijra, have remained part of the Islamic fold ever since. Let us make it clear that the blood, the property, and the honour of the Shi’a Muslims are also considered inviolable by virtue of the fact they too are obviously Muslims. In his ‘Minhaaj al-Sunna al-Nabawiyya’, Ibn Taymiyya has aptly argued that: “None of the scholars of the salaf has ever stood for a wholesale takfir (ex-communication) of the Shi’a community.”

Irrespective of the belief status of the civilians residing in the countries of the Muslim world, be they ‘veiled’, ‘unknown’ or Shi’a, it is not permissible for Muslims to partake and assist in any of these aggressions, because whoever participates in them by far or close will also have sinned, following the verse: “… and do not help one another in furthering evil and enmity” (5:2)
Having explained in the three preceding sequels, the reasons for the prohibition against the targeting of the tourists and the civilians in the countries of the Muslim world, and the targeting of the foreigners in their countries, Dr Fadl here draws attention to another crime committed by al-Qaeda, namely to its strategy of displaying footage of its military operations. He deplores such jubilations, considering them to be tantamount to boasting about sin (al-tafaakhur bi l’ma’aasi). He urges Muslims not to be impressed by such footage and not to take pride in it in order to avoid sharing in the sins committed by the perpetrators of these filmed operations.

The main topic of this sequel, however, revolves around Dr Fadl’s exposition on the ruling of takfeer and particularly the six principles which ought to control its legitimacy. Although, the author does not seem to oppose takfeer as a legal ruling and as a component of Islamic law, he insists that it ought to be confined to those who are fully qualified to undertake it. Indeed, the principles controlling the legitimacy of takfeer, which Dr Fadl has introduced here, constitute a giant step towards curtailing the overuse and rampant spread of excommunication emanating from the pervasive religious fanaticism of the jihadists.

Regarding the accusation of kufr (disbelief), for instance, Dr Fadl argues that even when a Muslim person has been judged to be a disbeliever; it remains his right to be given the opportunity to repent from or defend his position. Furthermore, he affirms that even when not a single doubt remains about a person’s disbelief, this should not necessarily lead to his punishment, because
a punishment can only be implemented by an Islamic state, and even then, it is carried out only after it has been established that the implementation of that punishment does not cause social harm (mafsada).

The following is the full text of the ninth sequel
On the Non-Permissibility of Boasting about Sin

In the preceding clauses, we have shown that the targeting of foreign tourists in our countries, and the mounting of military operations inside the ‘abode of war’ against its citizens constituted a major sin. We have also shown this legal ruling to apply to the killing of civilians from among the Muslim populations of our own countries. Murder, aggression, pillage, sack, and treachery are all sins that no Muslim should boast about or rejoice in whether they are committed against civilians here or in the abode of disbelief. The Prophet (pbuh) has said: “Whoever takes delight in making a good deed and feels aggrieved by his wrong deeds, is a believer” (Related by al-Tabarani). Now, it is possible that the jubilations and joy with which of some Muslims celebrate these violent aggressions emanate from their long awaited desire to see the enemies of Islam pay for their violence and injustices, but we have to look at the situation squarely and be frank: this sort of rejoicing emanate in fact from ignorance and lack of faith, because the above hadith clearly implies that whoever takes delight in wrong deeds and in the misery of others is not a believer. Not only does gleefulness and false pride in instances such as these insinuate lack of faith, they also thrust people who harbour such vindictive sentiments to actually partake in the sins committed by those aggressors, in that such sentiments are tantamount to lending support to their actions. If you are in doubt about this, ponder over the words of the Prophet (pbuh): “People who have witnessed a wrong taking place on this earth and have loathed it, will be absolved from such wrong for they will considered as if absent, but those who have been actually absent when such wrong took place but rejoiced in it[upon hearing of its news], God will consider them as if present [and serve them the punishment of partaking in that wrong]” (Related by Abu Dawud)
Understand that those who boast about sins and about their treacherous acts are acting in a fashion that makes them excludable from God’s pardon and forgiveness. This is in keeping with the hadith of the Prophet in which he has said: “All of my community is deserving of God’s forgiveness and mercy, except the flaunters” (Agreed upon hadith). Rather than bragging about those sins, those jihadists should have sought forgiveness for themselves and for those who have fallen victims to their treacherous attacks, attacks which the deluded among them continues to see as heroic acts in the field of honour.

**Clause Ten**

**The Principles Controlling the Legitimacy of Takfeer**

The following clause is particularly relevant to those civilians whose belief status is ‘veiled’ or ‘unknown’, and who are usually the main target of takfeer these days. We proceed in this clause relying on God in whose hands are the keys to all success.

We should begin by making it clear that takfeer (charging others with non-belief) or ex-communication is considered a fully legitimate legal ruling when it follows the principles which control its legitimacy and when it is harnessed by them. Indeed, takfeer is neither an innovation, nor a concept and nor accusation. We should say outright that since takfeer is mentioned in the Qur’an and the Sunna, it ought to be regarded as a highly important ruling and not disregarded or disdained; for any such attitude towards the legal rulings of the Sharia does actually amount to disbelief (kufr): God may He be exalted says: *Say: "Were you, then mocking at God and His messages and His Apostle? Do not offer [empty] excuses! You have indeed denied the truth after [having professed] your belief [in it]?* (9:65-6)
To make an objective assessment of how the ruling of *takfeer* is carried out and applied these days, it would be useful to start this section with some notes of clarifications and the definition of some key terms.

If we put aside for the moment the characteristics which are usually the basis for demarcating the various nations of the human race, such as country, race, language, colour and so forth, and turn instead to the word of God, we shall find that the human race is in fact divided into categories: believers and disbelievers. God may He be exalted say in the Qur’an: “*He it is who has created you: and among you are such as deny this truth, and among you are such as believe [in it]. And God sees all that you do*” (64:2), so much so that many of the legal rulings which pertain to this world, and all of those which pertain to the hereafter are based on this divine division.

It is worth noting that the disbelievers however, are themselves divided into two categories:

a. The ‘original’ disbelievers who have never been a Muslim, they are like the deniers about whom God says: “*Verily, those who [despite all evidence] are bent on denying the truth [be they] from among the followers of earlier revelation or from among those who ascribe divinity to aught beside God will find themselves in the fire of hell, therein to abide: they are the worst of all creatures*” (98:6)

b. The apostates who used to be Muslims but have nullified their Islam after committing a blasphemy or an act akin to disbelief. This kind of disbelief is not original and is called ‘accidental disbelief’, meaning that it is fortuitous and liable to occur. About this type of disbelievers God, may He be exalted says:

“*Do not offer [empty] excuses! You have indeed denied the truth after [having professed] Islam*” (9:66)
“They swear by God that they have said nothing [wrong]; yet most certainly have they uttered a saying which amounts to a denial of the truth, and have [thus] denied the truth after [having professed] their Islam (9:74)

“But if any of you should turn away from his faith and die as a denier of the truth -these it is whose works will go for nought in this world and in the life to come; and these it is who are destined for the fire, therein to abide” (2:217)

The Legal Rulings Concerning the Disbelievers and the Apostates

The legal rulings concerning the ‘original’ disbelievers and the apostates are found in all the books of jurisprudence, even the most concise ones. The former are mentioned in the chapters on jihad while the latter are mentioned in the chapters on apostasy. Apostasy for that matter is not a thing of the past, an issue which has disappeared with the death of Musaylima and the repentance of Sajjah. On the contrary, it is one which can occur at any period of history and indeed in all kinds of situations: many of the scholars have, for instance, mentioned apostasy even during their legal expositions on the nullifiers of ablutions, prayers and fasting to name only few of the rites and rituals of Islam which Muslims perform and continue to perform until End Time. Indeed, so long as Muslims are required to know what the nullifiers of prayers are-and prayers are a pillar of the faith, the topic of apostasy would be as relevant today alive as any other time in the past or the future, in that, like polytheism, the acts of disbelief and apostasy undermine the Muslim’s affiliation to Islam and corrupt his acts of worship, as attested to by the verse: “And yet, it has already been revealed to thee [O man,]as well as to those who lived before thee, that if thou ever ascribe divine powers to aught but God, all thy works shall most certainly have been in vain: for [in the life to come] thou shalt most
certainly be among the lost” (39:65). Because apostasy and acts of disbelief are liable to occur, repentance has always been demanded and its renewal required. To this effect God may He be exalted says: “Tell those who are bent on denying the truth that if they desist, all that is past shall be forgiven them” (8:38), and He warns those disbelievers of dying before having truly repented in the verse: VERILY, God does not forgive the ascribing of divinity to aught beside Him” (4:116)

The state of Islam and faith (iman) are then not to be thought of as ‘static’ states or as states that are achieved once and for all. Rather, they are both prone to fluctuation and altering altogether, notably when the believer does not endeavour to readdress them and protect them from all the possible deviations that may befall him: Ibn Abbas, May God be pleased with him, said: “Faith is not unlike your garments, which you put on and then take off”. Indeed, God has likened faith to clothing when he has said: “…but the garment of God-consciousness is the best of all” (7:26), and so did the Prophet (pbuh) when he has said: “I have seen [in a vision] people wearing all sorts of garments”. When he was asked what he thought those garments referred to, he answered: “Various faiths” (Related by Bukhari). It is due to this nature of the faith; namely its fluidity and propensity to change that the Prophet (pbuh) has also said: “Initiate good deeds and [persevere] so as to stave off the affliction of the most distressful tribulations: a person may rise as a believer and becomes a disbeliever in the evening, and he may be a believer during the evening only to rise the next day as a disbeliever who will readily sell his religion for a trivial gain in this world”(Related by Muslim).

The Principles Controlling the Legitimacy of Takfeer in the Sharia

Like any other legal ruling, takfeer also enjoys principles controlling its legitimacy (dhawaabit). These principles ensures that only those who are
qualified to issue such a legal ruling engage in such an exercise and thus that no one is accused of disbelief unfairly. The following is a concise exposition on these principles:

1. Defining the Morally Accountable (mukallaf) and His Actions

The morally accountable person is that person who has reached puberty and is of sound intellect. The child, the mad person and those whose cognitive abilities have been significantly impaired are excluded from such accountability by definition. Having made clear who are the morally accountable or the primary addressees of the Sahri'a, if you like, we ask how does such a person, the morally accountable that is, slip into disbelief? What actions of his, be they statements that he makes or acts that he performs, constitute a case of takfeer against him and under what conditions? As we shall see the matter is not always straightforward. For instance, among the actions that may lead a person to stray towards disbelief, there are those that have an 'explicit' significance and those whose significance is 'contingent': the former constitute a clear case of disbelief, which cannot be interpreted any other way, but the latter is ambiguous and depends, for instance, on the intention of the person behind those actions; such that in this case the person cannot be pronounced a disbeliever before his intentions are known and clarified. This sort of logic, the binary of the explicit and the contingent or the ambiguous, cuts through many issues of Islamic law: before a case is recognised as slander or a swearing of husband as amounting to a solemn divorce, for instance, the law subjugates first these sorts of statements to the rules of the Arabic language. It would examine whether these statements are explicit, and can only be understood at face value or whether they are of the domain of the metaphor in which case they may not be understood literally. You will find
ample examples on issues which are similar in the 'Book of Prayers' in Bukhari's Sahih, particularly in that section where the author, may God have mercy on him, discusses the case of the person who prays to a tomb or a fire or some other object of worship, but with the intention of worshipping God alone, and you may also refer to 'al-Shifaa' of al-Qadi Ayyadh, may God have mercy on him, notably the chapter entitled 'What has Been Said about the Unorthodox interpreters and the Charges of Disbelief Issued Against Them' (Ma Jaa'a Fi Ikfaar al-Muta'awweleen) or indeed to the conclusions of Ibn Taymiyya on the topic in his Majmu' al-Fataawa (vol. 20). All of these authors have highlighted the difficulty of dealing with such ambiguities. Ibn Taymiyya has insisted: “that it would not be permissible to subdue a person's intent to the concomitants of his action, or if you like to the statements or acts associated with it, in that a person's intent is not a necessary corollary, or if you like a natural consequence, of these and cannot therefore be safely deduced from them without further proof” (Majmu’ al-Fataawa. Vol. 20)

2. Defining the Text (nass) Indicating a Committal to Disbelief

One should always ask in this context whether the texts of the Sharia relied upon in such a ruling make reference to the ‘greater’ disbelief (al-kufr al-akbar) or to the ‘minor’ disbelief (al-kufr al-asghar).

We ask this question in Islamic law because the texts of the Sharia has mentioned two kinds of disbelief: a ‘greater’ disbelief which causes the culprit to leave the fold of Islam, and a ‘smaller’ disbelief (al-kufr al-asghar), which does not, in that this disbelief usually pertains to the committing of great sins. Disbelief here is used only superlatively in order to underscore the vileness of those sins and to repel the believers from such acts.
The ‘Greater’ Disbelief

There are a number of texts in which the faith of certain people is disclaimed but not all of them make an explicit reference to disbelief. Indeed some do indicate to the ‘greater’ disbelief, such as the verse: “In this, behold, there is a message [unto men], even though most of them will not believe [in it]” (26:8), but others point to the ‘greater’ sins, which do not by themselves constitute sufficient ground for such a conclusion to be made. Indeed, in all of those hadiths which use the turn of phrase “By God, he does not believe he who does so and so…” or “None shall have attained belief until they do so and so…” or “He is not of us he who does so and so…” or “The fornicator does not commit fornication whilst a believer…” or “Whoever among you has belief in God and the Last Day shall do so and so…”, and the like, do not necessarily denote disbelief as such.

There are some texts which also make mention of the menace of hell and the punishments of that momentous day, which although are distinctly referring to disbelief and the disbelievers, may very well also be referring to great sins, but as an issue associated with the punishment of hell not necessarily with disbelief, and that’s a crucial difference as we shall see. For instance, God may He be exalted, has referred to polytheism, premeditated murder and adultery in the chapter al-Furqan and then says about them:

“And [know that] he who commits aught thereof shall [not only] meet with a full requital [but] shall have his suffering doubled on Resurrection Day: for on that [Day] he shall abide in ignominy. Excepted, however, shall be they who repent and attain to faith and do righteous deeds: for it is they whose [erstwhile] bad deeds God will transform into good ones – seeing that God is indeed much-forgiving, a dispenser of grace” (25:68-70)
Also the Prophet (pbuh) has said:

“O! You assembly of women Do give charity; I have seen that hell is populated mostly by you” (Agreed upon hadith).

Now, what we need to bear in mind here is that the menace of hell and punishment in the case of these addressees is far from amounting to a charge of disbelief or even suggesting that, because even though many Muslims will also be driven to hell due to sins they have committed, they will be leaving it, with God's will, to enter paradise as a reward for their true faith. Did not the Prophet (pbuh) say:

“Verily, some members of my community will be met with a brand blasted from hell due to sins they have committed” Related by (Bukhari)?

“Whoever says la illaha illa God (there is no God save God) shall not remain in hell even if his heart contains a faith lighter than single strand of hair” (Related by Bukhari)?

The believers referred to here are none other than the transgressors who have committed major sins, and did not repent before their death. They will find themselves in hell because their sins will have exceeded their good deeds and God will have chosen not to extend His forgiveness to them, for God may He be exalted has said: “He forgives any lesser sin unto whomever He wills” (4:116). As to the disbelievers, they will certainly perish in hell if they die in the state of disbelief; their case is different from the believers who did deny the truth (Islam), and not commit the sin of polytheism. Concerning them God may He be exalted has said: “And thus shall thy Sustainer's word come true against all who are bent on denying the truth: they shall find themselves in the fire [of hell]” (40:6)
We need to avoid confusion in these matters lest we fall into the same pitfalls of the *khawarij* who have used verses like the preceding one to argue that anyone liable to enter hell is a by necessity a disbeliever. It is this kind of devious reasoning which has led them to accuse a whole section of the community, from among those who had committed major sins, of disbelief. But their arguments never held water then, and they never will. All of the hadiths quoted above give the lie to their nonsense, including the last verse which they brandish against the believers: that verse if read carefully is clearly speaking about those who have lived in denial of God consistently and throughout their lives. That is a clear case of a sustained disbelief, which calls for a sustained stay in hell. As to the transgressors from among the believers, their stay in hell is temporary and they will eventually leave it by the grace of God because they do not count among the people of hell, period. Of course the *Khawarij* have many other spurious arguments and many more misinterpretations of the texts which have all been debunked in the various works of 'aqeeda (creeds). We are not going to dwell on them here, but we will contend ourselves with these words of the Prophet (pbuh) who best describe them:

“They are the immature, the emotionally unstable and the ones of feeble intellect...they would recite the Qur’an but it would not go beyond their throats, and so they veer off the path of religion just as the arrow veers off the prey, totally missing its mark”. Yes, this is who the *khawaarij* are despite their assiduous and ardent worship, a characteristic of theirs which is detailed not only in many hadiths, but also in the accounts of Ibn Abbas who had often debated them.

*Distinguishing Between Disbelief and Major Sins*
One way of distinguishing between disbelief and major sins is to bring those verses in which sin has presumably brought about the nullification of faith and the menace of hell, alongside other verses which mention that same sin, and see whether in all of those instances the faith of the culprit has been totally nullified or not.

The texts which one can cite alongside these verses are those which have associated some of the believer's actions with disbelief though without explicitly suggesting that these amounted to a 'greater' disbelief. Indeed, following the rules of Arabic rhetoric (balagha), there is a subtle but significant difference between disbelief as a noun (kufr) and as a verb (kafara) in the Arabic language, just as there is a difference between the meaning of disbelief when it is an indefinite noun (kufr) and when it is a definite one (al-kufr). Ibn Taymiyya has dwelt upon these nuances in his 'Iqtidhaa' al-Siraat al-Mustaqeem', and following him Ibn al-Qiyam has even gone as far as to affirm, in his 'uddat al-Sabireen', that there would be a difference in meaning even between the terms of disbelief found in the Qur'an and those found in the Sunna.

3. Defining the Circumstances of the Morally Accountable

Even when the morally accountable person has actually performed an action of disbelief which has an 'explicit significance', there would still a number of conditions and preventives which would need to be overcome before that person's actions are found to be an irrevocable committal to disbelief, for he may not be considered a disbeliever if he has made an error of judgement, has forgotten, was coerced or has been ignorant and the like. In fact he may indeed be a confirmed disbeliever by becoming an apostate, but then some other issue
or matter might emerge preventing his punishment. Did not the Prophet (pbuh) say to the apostates whom Musaylima sent as messengers: “Had it not been forbidden to kill the envoys, I would have cut off your necks” (Related by Abu Dawud)? It is in view of hadiths like this one that Ibn al-Qiyam was led to deduce in his 'zaad al-ma'aad': “We have learnt from the Sunna that an envoy must not be killed even if he were an apostate”. See for yourself that even when disbelief and apostasy have firmly been established, their killing was prevented only in order to ensure that the benefits of correspondence would not be undermined and lost.

4. Defining the Conditions of Repentance

Even after disbelief and apostasy have been firmly established in the case of the morally accountable person, he still would have the right to repent and to be given that opportunity. Indeed, in such cases no stone is to be left unturned, as the Sharia requires exacting standard of proof to be met before the punishments (hudud) are implemented. Indeed, the legal maxim says: “Avert punishments so long as doubts have not been completely expelled”. Also, the Prophet (pbuh) has said concerning this issue:

“Do your utmost not to implement the punishments (hudud) on the members of the Muslim community. If a Muslim person is brought before you, look for ways to exonerate him, and set him free rather than [rush] to his punishment; for, it is far better for a judge to mistakenly grant a pardon, then to mistakenly implement a punishment” (Related by al-Tirmidhi)

“Avert the punishments when uncertain, and do your utmost to save Muslims from the death penalty” (narrated by Ibn Abbas).
“Forgive one another those crimes which attract the legal punishments (hudud) [and do not report them] for once they come to my attention, their implementation would become obligatory” (Related by Ibn Dawud)

5. Defining the Conditions Allowing the Implementation of Hudud

Even when disbelief has been established beyond the shadow of a doubt and repentance has not been forthcoming, and even when all sorts of preventives have been overcome, and the punishment in question has been pronounced, the actual implementation of the punishment itself would still hinge on the legal authorities’ capacity to carry it out, as attested to by the verse: “… those who, [even] if We firmly establish them on earth, remain constant in prayer, and give in charity, and enjoin the doing of what is right and forbid the doing of what is wrong…”(22:41)”. This verse is not obviously addressed to the powerless among the Muslims, who cannot count themselves today among those whom God has established firmly on earth. These Muslims are certainly not obligated to enforce the implementation of any of those rites mentioned in the verse. We need to bear in mind, therefore, that even when we can safely pronounce a person a disbeliever, meaning no longer a Muslim in this case, we are not necessarily in a position to implement the punishment relevant to that crime, and hence not obligated to.

6. Defining the Social Benefits and the Social Harms

Even when the conditions of capacity to implement such punishments have been met, there remains the issue of whether the potential social benefits as well as the social harm (al-maslahah wa l’ mafsada) which may accrue from such an implementation have been properly weighed and examined or not. Indeed, if the implementation of the punishment proves to attract all sorts of potentially harmful outcomes, then the Sharia would stand in the way of such an action, however thoroughly proven, and however lawful, and enforceable it may appear. Indeed, Prophet (pbuh) refrained from punishing Abdullah Ibn
Ubayy, the notorious hypocrite, only in view of the grave consequences and social harms his death would have brought to the nascent community in Medina, particularly that those who were not in the know thought of Ubbay as a Muslim. Did not the Prophet (pbuh) say concerning the motive behind his decision to drop his punishment: “Had I done it, people would be saying ‘Muhammad kills his friends’” (Agreed upon hadith)? Notice also that Despite the Prophet’s firm knowledge of Ubayy’s disbelief, he also did not choose to implement the punishment for lack of legal evidence, as Ibn Hazm explained in his ‘Muhalla’ (Vol. 11). Again the Prophet (pbuh) could have easily implemented the death penalty against Musaylima when he was in Medina as we saw, but did not for similar considerations. I will close this chapter with this hadith: “Hands are not to be cut off in times of war”. I ask you, did he not (pbuh) say that only to stave off a potential harm, namely the possibility that those Muslim who will have been found to have committed a theft, might be enticed to join the enemy in the abode of war only to avoid punishment? So know that it is not just a matter of proof, and having the wherewithal to implement punishments, this matter requires also foresight and profound deliberation on the consequences of such punishments.
“We are obliged under Islamic law to hold cordial relations with the Christians, and not to harm them.”

Many believed that the most reconciliatory position the jihadist theoreticians could adopt vis-à-vis ‘the other’ in their society would not go beyond their acknowledging that any assault committed by Muslims on Coptic Christians in Egypt, or on non-Muslim citizens in the Islamic world amounted to a breach of God’s word and his Prophet’s (pbuh) Sunna. In this important study, however, Dr Fadl has surprised nearly everyone, as he came to the view that non-Muslim citizens in the Islamic world ought to be in general regarded as full citizens, enjoying the same rights and responsibilities as the Muslim majority. On this issue, this position of Dr Fadl is by far the most progressive of all the positions taken by other jihadi theoreticians to date. Indeed, upon close examination of some of the expressions he uses in this sequel, one finds he came very close to consider Muslim and non-Muslim relations from the vantage point of ‘civil’ society.

In this part of the document, Dr Fadl also insists that there is absolutely nothing in Sharia which gives credence to the idea that is incumbent on Muslims to kill every Jew and Christian, emphasizing that killing them is not accepted because they are full citizens.

This sequel continues on where we left off in the previous one, and begins with several cautionary remarks in which the author warns people against bypassing the authorities to settle criminal cases and taking unilateral measures to implement the Sharia punishments (hudud).
The following is the full text of the tenth sequel:
1. The ruling on absolute disbelief (al-takfeer al-mutlaq) looks to the action of the individual: it asks whether that action has an explicit import, which means that it can be understood prima-facie or has a ‘contingent’ import, which suggests that understanding of that action hinges on knowledge extraneous to the act itself. The way we assess actions here is not unlike the way we assess, for instance, part of a text or some written statements of an author whose writing comes under suspicion of having breached the norms of religion, as here too we would be looking into the text if it is explicit or contingent before issuing the ruling of disbelief. A ruling for contingent disbelief has to take into consideration the general state of the accused, the circumstances surrounding the crime and has to overcome all of the preventives against such a charge. Ibn Taymiyya, may God have mercy on him, had repeatedly mentioned that it was necessary to differentiate between a ruling for absolute and contingent disbelief and called this difference “the basis for the ruling on disbelief” (qaa'idat al-takfeer). In the case of contingent disbelief, the circumstances surrounding the crime and the preventives against the charge of disbelief must be addressed and brought to light by the judge.

2. It is clear from the above that the ruling of takfeer (ex-communication) cannot be gleaned nor harnessed from the textbooks of the creed alone but also from the books of Islamic law particularly those dealing with judiciary
procedures where issues like, testimonies, apostasy, and the legal ways of determining court rulings, dismissal of accusations, and legal aptitude are discussed.

3. The Sharia does not permit to any normal subject of the Islamic state to implement the legal punishments in society, except in the case of Muslim master and his slave, in compliance with hadith: “your allowed to implement the punishments on yours slaves” (Related by Abu Dawud and Muslim)

4. It is clear from the above and all that has been said in this clause that takfeer is not an easy ruling, it requires a minimum of knowledge in Islamic jurisprudence and a high familiarity with some arcane areas of the Sharia, not to mention a dexterity in the making of fatwa and the workings of the Sharia court system.

5. Rather than be motivated by ex-communicating the general public, Let the beginner’s intention in the study of this subject be aimed to saving himself and others from among those he can reach, and let him steer clear from the trespasses of both the Khawaarij and the Murji’a if he really wants to know the truth about this issue.

6. Implementation of the legal punishments becomes an obligation only after Muslims have been ‘firmly established on earth’: the vulnerable and the powerless are exempted from such an obligation.
7. In light of all that has preceded in this clause, know that ex-communication of the Muslim general public without discernment and including in this ex-communication both those Muslims whose belief status is veiled and those whose status is unknown, is not correct and does not rely on considered evidence: legal rulings are not based on probabilities and illusions.

*The Principles Controlling the Legitimacy of Takfeer (Dhawwabit al-Takfeer)*

I have dealt with the principles controlling the legitimacy of *takfeer* and the basis for the ruling on *takfeer* in the section on the creed in the seventh chapter of my book ‘*al-Jaami’ fi Talab l’Ilm al-Shareef.*

I repeat here what I have said then, namely that the rulings of takfeer should not be regarded as a concoction of Qur’anic verses and hadiths nor is a children’s game. It needs to be taken seriously because it involves people’s lives, and without that seriousness it will cause people to shun religion. Was God in any way rushing to charge people with the accusation of disbelief when he said: “O you who deny the truth”? And was the Prophet (pbuh) advocating ex-communication when he said about certain actions: “*This is disbelief after faith*”?

Although *takfeer* is one of Sharia rulings, and it is discussed in all the books of jurisprudence; our scholars from the *salaf* did not call the *khawaarij* Takfiris or the people of *takfeer* though this group had ex-communicated Muslims on the basis of major sins, like alcohol and adultery, which did not constitute kufr itself. The reason they did not is because *takfeer* is a legal ruling that is taken very seriously in Islamic law, and one which should not be associated lightly with the people of innovation (*ahl al-bida’*). We should also warn that it is also considered ignorance to describe everyone who delves in the topic of
takfeer as a member of the Khawaarij, we are here concerned with those who have no qualification for such undertakings.

Additionally, it is worth reminding those who suspect that they may be acting in a fashion that nullifies their Islam to seek guidance from those who are in a position to show them how to repent if indeed they have erred, so that they rectify their behaviour before they die, particularly in these day and age where the punishment for apostasy are not implemented. It is also incumbent on those who see others veering off from the path of Islam to give counsel to them instead of leaving them to their own devices and then accusing of disbelief. This is rather treacherous: know that the Prophet (pbuh) and his sharia are a mercy for all creatures, and that once the disbeliever meets the angel of death, he would never escape hell. Repentance is open to all throughout our lives but if the disbeliever continues to sin until he meets the angel of death, he will discover then that he was the biggest fool in this world and will be tortured forever from that moment onwards. If you want to know how precious faith is and how it is something you cannot put a real price on, ponder these words of God “Indeed, those who disbelieve and die while they are disbelievers - never would the [whole] capacity of the earth in gold be accepted from one of them if he would [seek to] ransom himself with it. For those there will be a painful punishment, and they will have no helpers” (3: 91). Indeed, the Muslim’s faith is dearer than filling the earth with gold and praise be to God for the grace of Islam.

Deceiving the Public

Such is the value of faith that we all should take it seriously. slacking in acquiring the knowledge about the nullifiers of faith and undermining the
ruling of *takfeer* under the false pretext that it is repulsive and unfair is a deceptive step particularly when it is morally lax. It seems as though, we have, on the one hand, those who rush to charge people with disbelief, causing harassment to Muslims in this world, and on the other hand we have in our societies those who use the magnanimity and leniency of Islam only as a foil to keep people in a state of slumber. They are indeed like the drug peddlers whose sole aim is to numb people’s spiritual feelings, and make them oblivious of the hereafter.
Clause Eleven

The Treatment of the People of the Book living in our Midst

The people of the book living in the Islamic countries like the Christians of Egypt ought not to be considered as dhimmis, for while this status may have been correct in the past, it has ceased to obtain ever since the establishment of a nation state ruled by human civil laws, in the last half of the 19th century AD. The constitution, which is regarded as the ultimate source of law, in many of Muslim nation-states does not use the expression, dhimmis or people of the dhimma (usually Christians and Jews subjects of the Islamic caliphate) to refer to these non-Muslims, instead it mentions citizenship and refers to them as citizens. To Muslims in Egypt and elsewhere in the Muslim world, these non-Muslims are regarded as members of the community of the People of the Book without a covenant. Against this state of affair some argued that the Christians in Egypt, and elsewhere in the Muslim world, ought to be still regarded as dhimmis, a position which is in total contradiction with the concept of citizenship prevailing in these nation states. That is because citizenship equates between citizens, the inhabitants of a single country, when it comes to rights and responsibilities. This is the opposite to the covenant of the dhimmis which stipulates that the people of the book, who obviously reside in the abode of Islam, ought to wear for instance a special attire that distinguishes them from the rest of Muslim society. This is but one example, but one could fish out more examples to this effect in the chapters on jihad of Ibn Qadaama’ Mughniyy’, as well as Ibn al-Qiyam’s ‘Ahkaam Ahl al-Dhimma’ and Ibn Taymiyya’s ‘al-Siraat al-Mustageem’.
The rulings concerning *dhimmis* in Islamic law are unlike those rulings or legal opinions which change and alter according to time and place. Rather, they are binding, all Muslims need to observe them whenever they are in a position to do so, because these rulings are a Sunna of a Rightly Guided Caliph who is none other than ‘Umar, and the Prophet (pbuh) has said “Follow my Way and the Way of the rightly guided successors after me” (Related by al-Tarmdhi). Indeed, Umar and his contemporaneous reached a consensus about the status and conditions of the covenant with the People of the Book, which has never been surpassed or altered by the scholars of posterity, in that the people of knowledge have agreed unanimously that the consensus of the companions always constituted an apodictic proof. Even those who have raised issues with consensus (*ijama’*) like Ahmad Bin Hanbal and Ibn Hazm, may God have mercy on them, did not ever question the consensus of the companions.

*Differentiating the conditions of the Covenant of the People of the Book*

Many of the legal aspects and conditions surrounding the ruling on the dhimmis and the legal requirements that such a covenant with them entail, have their origin in the Sunna of the Prophet (pbuh) who on many occasions commanded Muslims not to imitate the Christian and the Jews, and has said in fact said: “Islam is above all and nothing can rise above it” (Related by al-Tabraani. But to say that the Christians today are still the people of the covenant is not correct, and it defies both the Sharia and reality. Upon hearing such preposterous things one can only find solace in the words of Imam Malik who said once in frustration: “Are we going to relinquish what God has revealed to Muhammad, peace be upon him, each time an astute soothsayer comes along?”
Our argument against the tenability of the covenant of the People of the Book and those rulings related to the dhimmis should not be understood as an argument for treating them well or harming them. We advise all Muslims to hold cordial relations with the people of other faiths for the following reasons:

They are not the ones who cancelled out the covenant. This state of affair is rather the result of the emergence of the modern state which has instituted laws governing Muslims and non-Muslim alike.

The overwhelming majority of these people treat Muslims well, and we should do likewise, in compliance with the legal maxim which commands that we treat people like they treat to the extent that the Sharia allows, as explained earlier and also with the verse: “God does not forbid you to deal justly and kindly with those who fought not against you on account of religion and did not drive you out of your homes. Verily, God loves those who deal with equity.” (60: 8); so equity and kindness are required.

They are our neighbours, and we are with them side by side at work and in the various institutions of learning. Kindness to the neighbor (Muslim and non-Muslim) is not simply meritorious; it is an obligatory duty, for the Prophet (pbuh) has said: “Whoever believes in God and the Last Day let him honour his neighbour” (Agreed upon hadith), and in another version of the hadith we have: “… let him not distress him”. This command of the Prophet was not confined to Muslim neighbours; it included all neighbours, both Muslims and non-Muslims. Nay the Prophet (pbuh) has made honouring thy neighbour one of the traits of faith, suggesting by that any contravention of the rules of good neighbourly relations amounted to a major sin or a major (kabeera) transgressions (fusq) for those who believe. Indeed the Prophet has said: “He is not a believer he who makes his neighbour feel ill at ease” (Agreed upon hadith). Those who cause discomfort, encumber or hurt their neighbour is a transgressor who has committed a major sin. The Law-giver does not disclaim
the faith of those who relinquish a meritorious or a recommended act in the law, but rather the faith of those who abandon aspects of religion that are fundamental to the faith or are part of its exigencies, as has been explained many times by the sheikh and the eminent scholar of Islam, Ibn Taymiyya, may God have mercy on him, in his book ‘al-Iman’. We need not say any more about the texts of the Sharia that makes equity and kindness towards the neighbour an obligation, they are numerous and known to most people. As for the Christians of Egypt, it is worth recalling that the Prophet (pbuh) had a special for them. He has said concerning them: “They are indeed our ancestors and our in-laws at the same time” (Related by Muslim), because Hagar was the mother of Ismael peace be upon him, and so was by extension the grandmother of the Prophet (pbuh), whereas Maria the Copt was the mother his son Ibrahim.

**The Fallacy of killing all the Jews**

Know O Muslim there is a single thing in the Sharia that calls for extermination of the Jews and the Christians or the crusaders as many call them, for if this were true there would not be any Jews or Christians left on the face of the earth to the exception of a small number perhaps, and if so that small number would definitely not have survived in the Muslim world. Indeed, both Jews and Christians have been lived as subjects of the Islamic caliphate, with rights enshrined in Islamic law for centuries. On this basis, it has been permitted for Muslims to do trade with them, and entertain all sorts of other relationships; including marrying their women. Ibn al-Qyam, may God have mercy on him, had gathered a substantial amount of rulings on the topic in his book’ Ahkaam al-Dhimma’. When it comes to fighting against them, we are, if you want to follow the correct stance, to fight only those who aggress us
among them, by mounting what the scholars have called defensive jihad (jihad al-
daf‘), even though it needs to be made clear that offensive jihad (jihad al-
talab) may sought against those Jews or Christians whose desire and commit-
ment to fight against Islam is known. Now this in gist the conclusions reached and settled on by the scholars of Islamic law, before people got sway-
ed by waves of unprecedented zealotry and religious fanaticism. So let every Muslim be careful of the extended diatribes that some ignoramuses have become famous for, particularly when it comes to Muslim-Christian-
Jewish relations. This matter is not a walk in the park, it is regulated by legal prin-
ciples and requires expertise in arcane legal theory, all of which of course makes the notion that somehow the Sharia stand for the killing of all the Jews and all the Christians sound utterly ridiculous.
XI. The Document for the Guidance of Jihadist Action in Egypt and the World

The Ruling Concerning Solitary Jihad

“Jihad does not draw solely from Islamic jurisprudence and its rulings to be warranted, it needs to rely on other matters as well.”

Clause Twelve

The Issue of Solitary jihad

Following the words of the Almighty God:” *So fight in the way of God, do not cost but yourself*” (4: 84), and what had been done by the companion Abu Basir, may God be pleased with him, after the Hudaybiya, some have gone as far as to argue that jihad was an obligation on a Muslim even if he had to carry alone. This is absolutely not true. The evidence used to make such a ruling do not actually show that acting alone in a sort of ‘solitary’ jihad is obligatory on a Muslim.

Let us look at their evidence: with respect to the verse, it is a Medinan one and has been revealed after Muslims had obtained power, settled in an abode of migration (Dar al-hijra), and had found shelter and support. God May He be exalted says:” *And remember, when you were few and reckoned feeble in the land, and were in fear lest men should extirpate you, how he gave you refuge, and strengthened you with His help and made provisions of good things for you, that happily might be thankful*” (8: 26). Now, if that is taken in consideration, it would become obvious that God did not impose jihad on the believers addressed in this verse when they were reckoned weak and few in
Mecca before Hijra. If ‘solitary’ jihad was to be made obligatory, the Almighty God could have imposed it on them in Mecca, but He did not. Instead, and in view of their incapacity, He beckoned them to seek withdrawal, keep a low profile and conceal their faith. Indeed if solitary jihad were to be imposed by virtue of their understanding of that verse, He could have made it incumbent on every new Muslim regardless of his physical and financial capacity. All this shows that those who used this verse to make this solo jihad legal, did not do argue their case correctly. Even more, they used one verse and let another, and they did not know which obligation needed to be upheld and under what circumstances it became one. Even after the migration to Medina and after the jihad was decreed, the Prophet (pbuh) himself never went to fight alone. As further evidence that ‘solitary’ jihad should not be done by a single Muslim is the example of the Prophets Moses (pbuh) and Aaron (pbuh), for they too did not fight alone, when the People of Israel refused to do jihad for the sake of God, although there is not a single doubt that they were very eager to. The Almighty God says:” They said: O Moses, we will never enter the land while they are in it. So, go you and your Lord and fight. We will sit here (24). He said: My Lord. I have control of none but myself and my brother, so, distinguish between us and the wrongdoing folk (5:24, 25). This is because the aim of doing jihad, as we said earlier, is to make religion manifest and Islam prevail: the fight of one or two men, even if they were Prophets, will not achieve this purpose, and to be sure, none of Prophets has ventured in that direction. So, how one single Muslim would do it? Hence, we understand the saying of the Almighty God:” So fight in the way of God, you do not cost but yourself”, (4: 84), as an encouragement to the diffident fighter, a reminder that it is permissible for him to join it, but not as an obligation for him alone. If fighting was compulsory on a single Muslim, the Almighty God could have made it obligatory on all the powerless members of the whole Muslim community to this day, including those who were in Mecca before and after
the Hijra, and He could not have allowed them to pardon and forgive, conciliate and be patient even when short of the wherewithal of jihad.

**Solitary Jihad**

Even If we were to make solitary jihad permissible and not compulsory, that permissibility would still need to be subjected to some conditions, among which:

He who has an *imam* or an *emir* should not be engaging in any such activity without his permission. The Almighty God says:” *They only the true believers who believe in God and His Messenger, and when they are with him on one errand, go not away until they have asked leave of Him …”* (24:62). Also, the Prophet (pbuh) has said:” *He, who obeys me, has obeyed his emir, and he, who disobeys his Amir me, has disobeyed me*” (Agreed upon hadith). It is for this reason, mentioned by Ibn Qudaama al Hanbali in his *Mughniyy*, that the jurists said that the call for jihad is the prerogative of the imam (the leader). Now it is very possible that the emir or the imam might decide to send a Muslim on a solitary mission as for the Prophet (pbuh) had done on two separate occasions with Zubeyr and Huthaifa Ibn Al Yaman – May God be pleased with them, when he sent each one of them as a solo reconnoiterers in some of his military expeditions, but that is quite different from permitting a man who has given allegiance to his emir acts in such a matter alone without receiving his advice and permission. If a man, who has an emir and has pledged him allegiance, goes for jihad without expressed permission and then provokes the enemies, causing them to retaliate and destroy the emirate of his leader, That man would have not only broken the pledge of allegiance with his emir, he would have betrayed and brought destruction to all Muslims, and he would have indeed disobeyed the
rulings of the Sharia, which states clearly that jihad is the prerogative of the imam or the emir.

Know that each one of these transgressions constitute a major sin, for this man has disobeyed, betrayed and fled, and then has made thousands of innocent Muslims pay much for his insolent actions. Believe me, ‘this man’ that we are mentioning in this example is not some farfetched and imaginary character, he is real and one of many; and I know them, but there is no need to give their names here is there?

"There should be neither Harming nor Reciprocating Harm” (Hadith)

If we were to permit solitary jihad, it should not cause harm to religion or to the believers: the Prophet (pbuh) has said:" "There should be neither harming nor reciprocating harm"(Related by Ibn Majah). All actions whose potential social harm and damage exceed its potential benefits are prohibited, in compliance with legal maxim: “The preclusion of harm precedes in order of priority the procurement of benefit” (dar’u al-mafaasid muqaddam ‘ala jalbi al-masaalih). Also, because harm and corruption constitute the underlying principle for prohibition, a Muslim is not permitted to do anything for personal benefit even if it is martyrdom, whenever his action has the potential to cause harm on other Muslims: indeed, the Prophet (pbuh) has said:” Believers are as one man”, and “In their mutual love, mercy and compassion, the believers are like the organs of the one body “(Agreed upon hadith). So know that a Muslim must take into account the conditions of his fellow Muslims, otherwise, he would be cast out of that body: is he part of the Muslim community, he who does not care about what is happening to Islam and its people? Is he part of the Muslim community, he who hits at his non-Muslim and Muslim victims in the most treacherous and horrendous of ways and then runs away to hide, leaving his family, followers and other Muslims bear the consequences of his dreadful explosions; in
particular imprisonment, displacement, starvation, and retaliatory bombardments that mountains cannot withstand. Shame on you! This is neither a part of our religion and our jihad nor is of the nobility of men. Even the pagan Arabs who had not known Islam would have repudiated those acts and disowned their perpetrator, because they were true cavaliers who would defend their families and their clans till their death. This is the problem today: jihad is carried out by cowards who flee, but are not ashamed to trade in the Palestinian cause, which has become the commodity of the losers, and the fake heroes who cannot give up the microphones. A poet said once:

*Every sickness, I have seen, has a medicine which is its cure*

*Only the sickness of folly persists, and we have to endure*

Mind you some of them in their flight made sure they their wives and children to a safe resort, leaving their brothers and their families face the music and what followed you know. I know these runaways also very well, but there is no need to give names, is there?

*Jihad is not Aggression*

Whoever wants to engage in solitary jihad must know that his action must not be an aggression which is forbidden by the Sharia, such as spilling the blood or plundering the property of those Muslims and non-Muslims mentioned in all of the preceding clauses. He also should not be treacherous when confronting the enemy, nor should he break the pledge if there is one between him and whom he is fighting: the Prophet (pbuh) has said:”*There is no room for treachery in our religion”* (Agreed upon hadith).

If we were now to fine-comb these conditions, we will find out that they were actually fulfilled in what Abu Basir, may God be pleased with him, action, and so there is no issue there: he had a secure and independent base from which to
launch his assault, he was not under the direct order of the Prophet (pbuh), and he did not harm Muslims with his actions, nor did he breach a pledge or betrayed. Abu Basir, it needs to be stressed, was not solo but at first. He was joined by many reckoned feeble Muslims who fled from Mecca after the Hudaybiyya Treaty. And even then, they did not fight an army which outnumbered them by several thousand people, nor were they attacking an army which had the sort deadly Air force that some armies have today, nor did they infiltrate inside Mecca to perform combat operations. Once Abu Basir and his Muslim companions were allowed by the infidels to join their fellow Muslims in Medina, a right which was hitherto denied to them in the Treaty of Hudaybiyya, they stopped the fight. It was clear to them that there was no point behind such action: the aim of jihad is to make Islam prevalent, but had they continued they would not have been able to further that end, and would have in all likelihood only brought unnecessary harm to themselves.

**A Note of Caution**

Some, who believe that it is permissible to carry out solitary jihad, have used some verses from the Holy Quran, such as “… how many a little company have overcome a mighty host by God’s permission …” (2: 249), and “And make ready for them all you can of armed forces …” (8: 60), and other evidences that may give the impression it is permissible for a Muslim to confront a column of tanks or a big army holding a knife.

The following are some cautionary remarks regarding such evidence:

Legal rulings, for those who are not familiar, are not taken from a single verse or a hadith but from an aggregate of verses and hadiths so that the import of a given hadith or a verse is analysed alongside others associated with that issue and which may very well specify and restrict its prima facie meaning.
that it is for this reason that God, may He be exalted, has made it incumbent on us to ask the scholars: “...Ask the People of the true knowledge if you do not know”(16: 43). Also, the Prophet (pbuh) has showed that it is irresponsible to seek the opinion of the ignorant who are themselves misguided when he has said: “People will take as their leaders ignorant persons who when consulted will give their verdict without knowledge. So, they will go astray and will lead the people astray” (Agreed upon hadith). Indeed, in Islamic law, it is not permitted to be selective with the evidence, particularly when the evidence disregarded is pertinent to the issue at hand and has a direct bearing on the outcome, the ruling itself. For example, this who gave an a fatwa for the divorced woman to be waiting three months before she can marry again, solely based on the verse: “Women who are divorced shall wait, keeping themselves apart, three months (courses) ...”(2: 228), without getting full information about her case, would misguided himself and others, even though he had made this fatwa based on a verse of the Holy Quran, because not all divorced women are considered alike. Had he been studious in his approach he would considered the case of that woman with a particular attention because there are different waiting periods for a woman before she can marry again, depending on the details and the circumstances leading to the divorce. Indeed, for every divorce there might be a slightly different ruling or fatwa regarding the waiting period. For instance, the divorced woman who did not actually consummate her marriage or did not have sexual intercourse with her ex-husband has no waiting period in accordance with the verse:” (33:49), and the very young woman, who has not yet began to menstruate, and the woman who has never had a period yet, they need to wait three months, while the one who is pregnant, her waiting period shall extend till the birth of the child, as attested to by (65: 4), and the hadith of Subaya’a, may God be pleased with her. Worth mentioning also the case of the Muslim woman who leaves her husband, a disbeliever, in the abode of disbelief; her waiting period is only one menstrual
(course), based on the hadith of Ibn Abbas, may God be pleased him, and also the married slave, her waiting period is two menstrual and the slave girl, her waiting period is one menstrual, based as evidenced by the hadith. This is just but a sample of the work that those who have used a couple of snippets from the Qur’an, need to do before they can make a legal case (hukm shar’iyy) in favour of solitary jihad.

**Military Parity**

Islamic law requires that a modicum of military parity in forces and weaponry be achieved between Muslims and their enemies before it is permissible to call for jihad. If Muslims find that they are no match, they are obligated to retreat or call off the confrontation. This is based on the last verses of the chapter al-Anfaal of the Qur’an, and the hadith of Ibn Abbas, may God be pleased with him, in which he has said - said: “When a fighter flees from two enemy combatants, he may be regarded a deserter, but if he flees from three enemy combatants or more, then he is not” Many scholars did not restrict parity to the number of fighters but extended to weaponry, because the underlying principle behind the lightening of the burden of the Muslim fighters in the Qur’an as we will see shortly is weakness and that is not limited to just the size of the army: The Almighty God says: “Now has God lighten your burden for He knows that there is weakness in you”(8: 66). If military parity was not a condition for the tenability of jihad, God, may He be exalted, would not have said: “Now has God lighten your burden ...,” which was revealed after the Muslim army had gone through many exacting confrontations with the enemy. Indeed, the Almighty God has arranged the affairs of the universe in accordance to norms so that we, humans, make full use of all available means and our intellect, and so as not rely on miracles, even though God is all-Powerful and can do them
whenever He wills, but miracles have never been the norm, least of all in our era. Ibn al-Qayyim, may God have mercy on him, has drawn the Muslims’ attention to this reality by showing how the Prophet (pbuh) engaged with these norms and left nothing to chance, whether it was in the way he prepared for his migration to Medina, or the way he prepared for his military expeditions, despite the fact that he was a Messenger supported by the realm of the unseen.

Some Important Legal Rulings

The decision of war and jihad does not depend on jurisprudence and legal rulings only judgments only, but also on military experience and expertise. Ahmed bin Hanbal, may God be pleased with him, has made a fatwa which states that jihad with a strong sinful emir is better than with weak pious one. Understand that the strengths and the weaknesses in this fatwa refer to experience in war, and not his morality. Indeed, Ahmad said: “his immorality does not affect us as pious while his strength does and should not be lost on us”: The aim of jihad, recall, is to make Islam prevalent. The inequality in numbers and weaponry between Muslims and their enemy in the Battle of Mu’tah, where Muslims were three thousands while the enemy two hundred thousands, led Khalid Ibn al-Walid, as we saw, to retreat. The Prophet (pbuh) has considered this timid action a victory; because Khalid had saved the whole Muslim army from certain slaughter. It is worth mentioning while we are on the topic of that battle that the verse “…and make ready for them all you can of force and horses…”(8:60) had been revealed before the battle of Mut’ah, but it appears that Khalid did not grasp it as well as some of our contemporaries have…haven’t they?
If Jihad was permitted without taking into consideration the principle of parity in military conflicts, the Almighty God could have permitted the feeble Muslims in Mecca, including the Prophet (pbuh) to fight instead of urging them to migrate. To be sure, their piety and faith was irreproachable, but this was not a day for piety and miracles even with the Messenger of God in their midst.

We have already alerted the readers of this document that it would most illogical and irrational that a person be a good young Muslim one day only to become in a few years a mufti and a military general at the same time. Indeed, whoever has been shown his real value has been graced by God: It is not permissible to sacrifice the life of a Muslim in vain, and it is not permissible to assign a Muslim to do tasks which he is unable to endure.

**Do they Practice what They Preach?**

Nowadays, Muslims should know that there are fighters from our community who were defeated and retreated from the battlefield, due to a stark inequality in military capability between them and their enemies, and while they took flight they had left behind their families to be prey to the opposing forces. For the life of me, I cannot fathom how these fleeing men can entice other powerless Muslims like them to face and stand up before the enemy, despite their full knowledge that they would be no match for their enemy. They order others to do what they did not do themselves, this is what stake here. The Almighty God has disparaged such men when He revealed:” *How can you enjoin the righteousness upon mankind while you yourselves forget to practice it. And you are readers of the scripture. Have you then no sense*” (2: 44).
“It is most hateful in the sight of God that you say what which you do not do” (61: 3).

Worse still, in desperate search of an issue to their plight, they constantly seek to negotiate with the enemy, while they continue to give orders to others to fight. They are in fact only sacrificing them to save their own skin, they hope to use then as bargaining chips in their negotiations with the enemy. So, don’t be fooled by them.

**A Final Word on Solitary Jihad**

A feature of sound legal reasoning is that it considers the effects and consequences of any action before that action takes place: what leads to a corruption and a social harm, according Al-Shatibi, may God bless him, is deemed a corrupted action, and corruption is prohibited, even if that act or action is done in good faith and for good purpose. (Al- *Muwaafaqaat*. Vol, 2, Vol 4). Besides, anyone who has caused harm to even if impelled, must compensate him, following the legal maxim “Compulsion does not invalidate the right of others”. The same thing was mentioned by Ez Din ibn Salam in his book ‘*Qawaa’id al-Ahkaam’* Al Qarafi in his book’ *al-Furuq*’, and al- Suyuti in his book (al-*Ashbaah wa al-Nazaa’ir*’ Even more, according to a hadith of the Prophet (pbuh):”*If you do not compensate the harm you do in life, you are going to do it on the Judgment Day*”(Related by Muslim). However, Compensation on Judgment Day will entail the trading of the ill deeds in exchange of the good deeds. The Prophet (pbuh) himself paid blood money when Osama ibn Zaid killed a man by mistake, and he paid blood money for those who were killed by Khalid ibn Al Walid by mistake too. Know that wrongdoing which may result from misinterpretation does not drop the right of others for compensation.
Paying Blood Money

Evidenced by the dialogue which took place between Abu Bakr and Umar- may God be pleased with them - about the delegation of Al Buzakha, no one can object that there should no compensation for those Muslims who die during fighting which the law deemed permissible. Based on this and other evidences there was consensus among the companions about this issue, and the details of this ruling and the incidents which serve as evidence for it are mentioned in the ‘Al- Ahkaam Al-Sultaaniya’ of Al Mawardi and Abu Yaali, may God be pleased with them. However, when fighting is declared unilaterally, and without warning as when Muslim kills civilian Muslims, and causes damages and destructions by planting bombs and explosives, the matter is totally different, and it has nothing to do with the consensus of the companions and reached in the wake of the visit of the delegation of al-Buzakha. This is not a fight between two parties following the normal and the prescribed rule of war of the Sharia. In this case, compensation or blood money must be paid to all those who lost their lives or properties, and their right for compensation drops neither in this life nor in the next. We have already mentioned that the Prophet (pbuh) accepted to pay blood money himself for the mistakes that others have done. In the debacle of Khalid, mind you, the compensation was paid to unbelievers who were wronged because their fighters were killed whilst a truce had been in place, unbeknown to Ibn al-Waleed of course, but that did not change things. Also, recall that no one in debt enters paradise; this is no mean matter.

The people’s sense of sinfulness has weakened, that is what is happening. So, Anas – may God be pleased with him- said on this subject: “I see many of you nowadays committing offences without taking much notice: to you they may appear as trivial as a strand of hair, but we considered them tantamount to the
[seven] destructive sins during the time of the Prophet (pbuh)” (Related by Bukhari).
XII. The Document for the Guidance of Jihadist Action in Egypt and the World

A Piece of Advice to the Followers of the Jihadi Groups

“Having lost Afghanistan, the leaders of Al-Qaeda are chasing for Palestine”

“The true leaders belong on the front lines and not in caves under the protection of the tribes and the intelligence services.”

“The blind application of the principle of ‘listen and obey’ is turning he Islamists into automatons”

Seven pieces of advice are presented by Dr Fadl in this sequel addressed to the followers of the jihadi groups. It appears at first as a typical religious preaching but after deep analysis we realise it is full of implicit political messages, subtle innuendos and ‘encrypted’ clashes with the ideological curriculum that members of Al-Qaeda rally by.

Our eyes can be drawn to the Dr Fadl’s request to Muslims to stop relying on the concept of listening and obeying, which takes away from them their ability to discern and then commit grave violations against the Sharia.

The last piece of advice in today’s sequel enrages an expected dispute, as it openly asks the jihadi organisations to honour the pledge to comply with the decision to stop their armed confrontation with the governments of the Muslim world. This is a clear message that comforts those in doubt until now in the credibility of these reviews but in the same time it questions the government’s
ability to profit from such an advice by demanding its main rival (Israel) to honour its international obligations particularly the Treaty of Camp David, which the Egyptian government signed without any consultation with the people.

The following is the full text of the twelfth sequel:
Clause Thirteen

A piece of advice for the Jihadists and for Muslims in general

1. Learn about your religion

The Prophet has said in one celebrated hadith: “Seeking Knowledge is the duty of every Muslim”. There are indeed issues in religion that every Muslim needs to learn about even before reaching puberty, which correspond to the time when we become morally accountable according to the Sharia. Yes, I am referring to that obligatory knowledge which pertains, for instance, to knowledge of the pillars of Islam, and those issues which nullifies the faith, knowledge of the permissible (halal), and the forbidden (haram) and all that which normally teach our children in preparation for that appointed time. Indeed, teaching the child these crucial matters of religion is the task of the person responsible of him, usually his parents, following the hadith: “All of you are guardians and every guardian is responsible for those under his care” (Agreed upon hadith). Equally, God, may He be exalted has said: “O believers, save yourselves and your family from the Hellfire whose fuel is men and stones” (66: 6) and that effect the prophet (pbuh) has also said: “Teach your kids prayers as soon as they reach seven years of age” (Related by al-Tirmidhi ). Thus, whoever did not learn his religion at a young age must immediately catch up on that. God Almighty has said: “And hasten to forgiveness from your Lord…” (3: 133), also:” So race to [all that is] good.” (2: 148)

Legal Rulings and Moral Accountability
What a Muslim must learn about his religion after obligatory knowledge (fard ‘ayn) is to be clear on the legal status of his actions and be fully acquainted with the five values of Sharia, namely the obligatory, the meritorious, the permissible, the forbidden and the blameworthy. Once he has reached the age of puberty, a Muslim should not engage in any action before being clear under which of the five values of the Sharia it falls. Indeed, there is an action a Muslim does which does not come under the ambit of these categories, whether it is our daily occupation, things we say, things we eat or things we take part in and so forth. God, may He be exalted, says: “O you who believe! Be not forward in the presence of God and His Apostle, and be careful of (your duty to) God; surely God is Hearing, Knowing” (49: 1); meaning, do not proceed to saying or doing anything until you have ascertained what is God’s his prophet’s ruling in that matter. Elsewhere God has said: “And follow not that of which you have not the knowledge; surely the hearing and the sight and the heart, all of these, shall be questioned about that “(17: 36). Know that knowledge occupies such a lofty place God did not beckon the Prophet (pbuh) not to seek any increase from the things that he was allotted in this world, except for knowledge, and so God revealed to him the supplication: have said: “…and say: O my Lord! Increase me in knowledge.” (20: 114).

Once you feel that God has kindled in your heart the love for knowledge and understanding, you must delve into the books of the predecessors from among our scholars (salaf), you will find therein ample knowledge and very few errors indeed. I recommend especially the books of Ibn Taymiyya, Ibn al-Qiyam, Ibn Katheer, Ibn Qudaama, Ibn Rajab, Ibn Hajar, al- Nawawi, al-Suyuti, al- Shaatibi, al-Munzari and al-Shawkaani. These scholars gathered the knowledge of the nation’s ancestors and all the scholars of repute in posterity took from them. Before all of these aforementioned scholars appeared, you
need to consider the scholarship of Bukhari, may God be please with him; he is in my opinion the most knowledgeable of Muslims after the four Rightly Guided successors. His master, Qutayba Bin Saeed, said about him: Had Bukhari been among the companions he would have excelled over many of them”. So imagine what would be his rank among those whose status is less than the companions? This does not mean that Bukhari is better that the companions of course, for they have the privileged place. Indeed their gift on us is comprehensive and his gift on us is unique.

- The best book on ‘aqeeda (the creed) ma’aarij al-Qubul of by Hafez Hukmi

- On jurisprudence (fiqh) there are two books that are fundamental: Bidaayat al-Mujtahid by Ibn Rushd and Nayl al-Awtaar by al-Shawkaani

- The best Qur’anic commentary is Ibn Katheer’s

- Nobody will have a footing in the hadith sciences except by studying the Fath al-Bari which contains the most extensive commentaries and exegesis.

- The best works on language are those of Ibn Hisham al- Ansari with Mohammad Muhyi al Deen Abd Al Hamid’s with commentaries.

- As for the sciences of Quran, sciences of hadith, Islamic legal theory and the science of Arabic language, the commoner or the beginner has really no need of them to learn about his religion; for these are the sciences of the specialist who delve into ijtihad and arcane legal theory. none of these sciences were around the time of the companions, they are basically method of enquiries initiated by the ulema to enable us to grasp the Qur’an and the hadith as did the companions whose native Arabic was the font to all of these sciences.
2. Knowledge is for the Purpose of Action

We certainly seek knowledge to act it out, but this should lead to think that you that are required to do more than what God has made incumbent on you, and in accordance with your ability and capacity. Indeed, God, may He be exalted, ha said: “God does not charge a soul except [with that within] its capacity” (2: 286), and: “Let a man of wealth spend from his wealth, and he whose provision is restricted - let him spend from what God has given him. God does not charge a soul except [according to] what He has given it.” (65: 7). Also, the prophet (pbuh) has said: “Do what you can from what I have ordered you to do” (Agreed upon hadith), and so never feel embarrassed or guilty in leaving out the religious tasks that you were not able to do: there are no obligations outstanding where there is no capacity to carry them out. Indeed, God, may He be exalted, has said about fasting, which as you know is one of the pillars of Islam: “God intends for you ease and does not intend for you hardship” (2: 185), equally the prophet (pbuh) ha said:“ keep aiming at perfection, and if that proves evasive then keep drawing nearer and with that cheer” (Related by Bukhari). And if you should hear about a supererogatory act of worship, whether it is a supplication, a prayer, or an act of obedience there is no harm in doing it at least once in your lifetime, that would be sufficient for you to be counted among the people who have observed supererogatory worship, as reported by al- Nawawi, may God have mercy on him, in his introduction to the Majmu’.

We are in a period where our obedience towards God is far from what it should be and we do not know if God is going to accept it? We have sinned excessively and we do not know if God will forgive us or not? Keep away from sin and always seek much forgiveness, a Muslim has to constantly strive against his evil-commanding soul and change his ways so as to be compliant to
the will of the Lord: “Indeed, God will not change the condition of a people until they change what is in themselves” (13: 11) Thus, if that person succeeds in taming his soul and change, he will have advanced otherwise all of his knowledge will come to naught, as a matter of fact, it would only become a burden on him on the Day of judgement. Indeed, the Prophet (pbuh) has said: “The Quran can either act for you or against you” (Related by Muslim), and to that effect God also has said: “And (as for) those who strive to find the way to do good, We will most surely guide them to Our path and cause them to enter among the good” (29:9). Ibn Hajr related from Imam Al Qushayri on the authority of his master Sheik Abi Ali al-Daqqaq that: “Whoever has not striven in this path (mujahid) will not smell a whiff of that path” (Fath al-Bari. Vol. 11) and the Prophet (pbuh) to Aisha, may God be pleased with her: “Your reward depends on your striving” (Agreed upon hadith)

3. Whatever has Been Built on Corruption is Corrupt

Do not do whatever you fancy in order to carry out what is incumbent on you, like the person who steals to do charity, or the person who expropriates other peoples’ money to fund jihad, all of this is unacceptable in God’s eyes. Indeed, God, may He be exalted, says: “God only accepts from the righteous [who fear Him]” (5: 27), and the Prophet (pbuh) has said: “God is good and does not accept anything except goodness” (Related by Muslim), and elsewhere in the Qur’an, God has said: “And it is not righteousness to enter houses from the back, but righteousness is [in] one who fears God. And enter houses from their doors. And fear God that you may succeed.” (2: 189): Know! That which has been premised on corruption is liable to be corrupt.
4. A Peculiarity in Law

Know that a legal ruling does not solely emanate from the principle underlying it; we must consider, in addition to its conditions, all of the potential preventives that may associated with it. A ruling is based on its underlying principle if the conditions are met and the preventives are non-existent or been overcome. Just like we saw earlier with jihad: the underlying principle might be there (flagrant aggression of an enemy), but where some specific cases and people are concerned that ruling might stumble on some preventives (sickness, incapacity, financial strife, etc.), which would make it not obligatory for them. I hope this makes it clear that underlying principles (asbaab) are necessary but not sufficient to make a ruling, as in this example on jihad. We have actually seen in the second clause the difference between a ‘specific’ ruling and a ‘universal’ or ‘unconditional’ ruling where this point has been discussed in detail. So just a reminder: do not rush to issue ‘blanket’ rulings that address all the people regardless of their circumstances for instance, because that is pure folly and ignorance.

5. Seek Advice

Consult those who are more knowledgeable than yourself and older than you in your affairs. It has been that when ‘Umar Ibn al-Khattaab was confused as to whether he should enter the Levant or not during the year of the plague in 18 AH, he could not find anyone from which he could get guidance, except from the elders of Quraysh, who were the people of experience, when it came to such predicament.
6. Listening and Obeying:

The notion of ‘listening and obeying’, to use the words of the Qur’an, is one of the most central moral obligations and most important moral etiquette in our religious life, particularly in our relations with our teachers, parents, and those in authority in general. Sadly, however, it can be abused by those who don the garb of Muftis and imams, but have in fact neither the requisite knowledge nor are they invested with authority: do not listen and obey, and surrender your intellect to someone you do not know very well. Remember that if you make an error of judgment in matters like these, nobody will carry your burden on the Last Day, for God, may He be exalted, says: “Every soul, for what it has earned, will be retained” (74:38), and: “Then, what can make you know what is the Day of Recompense. It is the Day when a soul will not possess for another soul [power to do] a thing; and the command, that Day, is [entirely] with God” (82: 18, 19). Know also that your reason and intellect is a pathway to both heaven and hell fire; God says in the Qur’an: “And they will say, ‘If only we had been listening or reasoning, we would not be among the companions of the Blaze and they will admit their sin, so [it is] alienation for the companions of the Blaze’” (67: 10, 11). Indeed, what made mankind noble in the sight of God is that compared to the animals they were gifted with intellect, which not only allowed them to predict and deliberate over their worldly affairs, but also about their final ends and afterlife. So do not be led to believe that by simply listening and obeying you absolve yourself from your moral responsibilities, that is wishful thinking: if you are a member of one of the Islamic groups addressed in this document, do not obey your superiors when they order you to do an act which you find immoral and contrary to the ethical values of the Sharia. In his book ‘al-Sayr al-Kabir’, Mohammad Bin
Hassan al-Shaybani said: “He who has obeyed his emir in a matter that was manifestly corrupt is considered a transgressor who has committed a major sin (fasiq), for should have known by that that his emir was but a misleader”, and then al-Shaybani cited as evidence this verse of the Qur’an: “So he bluff his people, and they obeyed him. Indeed, they were [themselves] a people defiantly disobedient [of God]” (43: 54). On this issue, it is also worth mentioning the hadith of the Prophet (pbuh): “Obedience is only in righteousness” (Related by Bukhari), and what related by Ibn ‘Umar: “Whenever any of us made a pledge to the Prophet (pbuh) that he would listen and obey him, he would say: “Just to the best of your abilities” (Agreed upon hadith). So only accept fatwa from a qualified adviser, do not exceed your limits, and know that obedience, at the origin, is meant to God and the Prophet (pbuh), and by extension, we are meant to submit only to the legal proof which is evinced from the Holy Book and the Holy Sunna ultimately. So crucial is this matter that God, may He be exalted, has commanded us to return to such evidence whenever there is a dispute between the leaders and the rest of the community, saying: “O you who have attained to faith! Pay heed unto God, and pay heed unto the Apostle and unto those from among you who have been entrusted with authority; and if you are at variance over any matter, refer it unto God and the Apostle” (  4:59). This verse clearly shows you that obedience to those who occupy the higher ranks is not ‘unconditional’, particularly, when their authority is severed from the Book and the Sunna, which are the source of its legitimacy. So do not accept a matter that disagrees with Sharia, and if your feel unsure about the aptitude of your superiors in matters of the law then do not accept anything from him, and seek legal advice from a qualified person about that which you are uncertain, in compliance with the hadith “Leave that which makes you doubt and settle for that which gives assurance” for surely such a superior or emir is not unlike the commoners from
among the Muslims. It is your responsibility to seek people of knowledge to surmount these ambivalences.

Do not abolish your intellect, and follow blindly the hubris of those slogan peddlers who ‘love the microphone’: they always have a communiqué or an announcement or a preachment to make. Yet while they relentlessly entice the youth to fight, sending many of them either to their graves or to their jailers, they themselves lead a rather undisturbed life either under the protection of some tribe or some intelligence service, or in a hidden cave or political asylum in some ‘infidel’ country. They are, indeed the fake heroes of the web!

What does that have to do with the Book or the Sunna?

Did you know that on many occasions, the prophet (pbuh) led the Muslim army himself, and was often in the thick of battle, so much that the companions, may God be pleased with them, said: “Whenever things were at their fever pitch during battle and we felt we were being outdone, we would duck behind the Messenger, peace and blessings be upon him.”? Conversely, our slogan peddlers, whenever things are at their fever pitch, prepare to flee, leaving their wives, families, and followers to the mercy of the avenging attacks of the enemy and their lethal weapons. How ironic? But despite that, mind you, they still have the gall to appear behind the microphone as usual, to advertise yet another refrain over the internet

My dear Muslim say to those ignorant who address you from behind the screens whenever they entice you to fight: “If you are truly my imam then lead from the front, if I am to follow!” Or do they want to only lead the prayers? Know that this was not the way of the Prophet (pbuh) with his followers and companions!
Be careful of those fools who brought destruction to an Islamic Emirate (Afghanistan) that was well in place before it was invaded, and who now wish to trade in the Palestinian cause, which has become-and for a time now- a fig leaf for many a loser, and a lottery ticket in the hands of opportunists who have used it as a prop for fame and heroic titles. Who does this but fools? Why now all of a sudden do you turn to the Palestinian cause, after you had lost Afghanistan, which was an Emirate safe and secure? Concerning this irrational behaviour, Ibn Taymiyya said in gist: “First and foremost, it is the Protection of capital which should be sought not profit and gain because the former is prior according to the wise”, and this view is firmly in keeping with the legal maxim: “That which is a given ought not to be forsaken for that which is an unknown”. As for these morons they have lost the known capital or the given, which was the Islamic Emirate (Afghanistan), and are now seeking to make a quick profit from the Palestine cause, but because this is an unknown, logically speaking at least, they do not know what to do, and so they resort to furore and fanfare. Dear Muslim, I beseech you again to beware of these cowardly ignorant people, who light fires in all places then flee, leaving behind thousands of people to burn.

7. The Fulfilment of the Pledges and the Covenant is Obligatory

God, may He be exalted, has said: “And fulfil [every] commitment. Indeed, the commitment is ever [that about which one will be] questioned” (17: 34), and also: “O you who have believed, fulfil [all] contracts” (5: 1). Know that these commands are obligations and commitments that we need to fulfil with all people and that includes the disbelievers and the polytheists. Do you recall that incident in which the disbelievers of Quraysh stopped Hudhayfa Bin al-Yamane and his father as they were on their way to the Battle of Badr? On that
occasion the people of Quraysh decided they would not release them, Hudhayfa and his father accepted to make a pledge that the two would not fight them. Upon returning to their camp, they informed the Prophet (pbuh) of their ordeal who swiftly took the decision to make it permissible for them not to partake in the battle, and urged them instead to fulfil their pledge. (Related by Muslim)

In light of this, al-Haskafi (al-Dur al-Mukhtaar) concluded that seeking peace is more important than jihad, and that it is always better to opt for the former if presented with a choice. Commenting on al-Haskafi’s position Ibn Abideen argued that it was by opting for peace that Muslims are set to achieve their benefits (maslaha) and the fulfilment of their needs. Do we need to reiterate that breaching the pledges, covenants, contracts and any of these arrangements in which we make a commitment and a promise, constitute a major sin and is one of the attributes of the hypocrite, following the hadith: “Whenever they make a pledge they betray it [out of treachery]”. You should know that the pledges and covenants that we are discussing here are those which are regarded as lawful in the Sharia; we exclude those which are unlawful or corrupt on the basis of the hadiths: “Muslim are bound only by the conditions which the Sharia stipulates” (Related by al-Tirmidhi) and “Every condition that is not in keeping with the book of God is considered obsolete and even if there are hundreds of them” (Agreed upon hadith). Having made this point clear, it is our view that whoever has made a pledge to end armed confrontation with the government of his country and its forces, is in the Sharia under obligation to fulfil it. He ought not to delude himself into thinking that it is permitted to break that pledge using as a pretext the hadith: “War is but deception” (Agreed upon hadith), which we have elsewhere shown to be completely misunderstood; rather he should ponder the hadith: “There is no room for treachery in our religion” (Agreed upon hadith).
As stated earlier, it is permitted for people to conclude covenants, agreements, contracts, pacts and the like are so long as these arrangements do not clash with the Sharia, following the words of the Almighty: “And fulfil the covenant of God when you have taken it, [O believers], and do not break oaths after their confirmation while you have made God, over you, a witness. Indeed, God knows what you do.” (16: 91), and “Never will I send him with you until you give me a promise by God that you will bring him [back] to me, unless you should be surrounded by enemies." And when they had given their promise, he said, "God, over what we say, is Witness.” (66), to His saying-“So when they had despaired of him, they secluded themselves in private consultation. The eldest of them said, "Do you not know that your father has taken upon you an oath by God and [that] before you failed in [your duty to] Joseph? So I will never leave [this] land until my father permits me or God decides for me, and He is the best of judges. ” (12: 66, 80)
XIII. The Document for the Guidance of Jihadi Action in Egypt and the World

“Returning to the truth is an obligation and is better than persisting in error”

On this occasion, Dr Fadl continues his advice to the Islamists urging them to do their utmost to seek employment or a source of income from which they can make a living instead of occupying themselves with supererogatory religious knowledge and ritual.

Dr Fadl makes a deliberate effort in this sequel to make the Islamists not feel they have failed in their mission if they were to look favourably at his critical review and accept to renounce violence and the ideology which feeds it. He assures that if they were to do that, the reward for jihad in their case will be secured even if the objective for which they sacrificed many years of their lives has not been achieved.

The author heavily criticises some of the Islamic groups that demand the application of the Sharia in their societies but fail to implement themselves, insisting that these monumental discrepancies are one of the major reasons behind their demise.

The following is the full text of the thirteenth sequel:

8. Seek a Source of Income

Know that it is better to seek a source of income than to occupy oneself with supererogatory religious education and ritual, which as you know are not obligatory. Ibn Al Jazwi has stated very directly in his ‘Sayd al-Khaatir’, and we can understand why: a Muslim commits a sin when he does not look after those who are under his care, but he is not considered a sinner when he fails to
do any of the supererogatory religious activities. Indeed, “The upper hand is better than the lower hand, [and once you earn] start with those under your care” (Agreed upon hadith). And know that those who are constantly asking others for financial support will be known as they will appear on the Day of Judgment with scratches over their face. The Prophet (pbuh) has said: “The person who has constantly stretched his hand to beg instead of stretching it for labour, his face will be so marred, by the time he meets His Lord, he will hardly have any flesh left on it” (Agreed upon hadith). Did you know that out of decency some of the Arabs before Islam, if they sought an income but did not succeed, used to inhabit caves in the mountain and would stay their till they died)? (al-Adaab al-Shar’iyya). Certainly, a human being has an absolute need of two things: A religion that make good his life in this abode. The Prophet (pbuh) has certainly expressed this most succinctly when he has said:” I seek refuge in You from disbelief and poverty” (Related by Ahmad and Abu Dawud). Disbelief no doubt ruins one’s afterlife and poverty can ruin one’s life in this world. Consuming food and drink through means which are unlawful is also a source of bankruptcy and ruin in this life and the next: the Prophet (pbuh) has said: “God is good and accepts only goodness” (Related by Muslim), and he also has said: “The best food that you will eat is the food your laboured for with own hands, as did the Prophet Dawud” (Related by Bukhari)

9. Do not underestimate your Sins

Adam, peace be upon him, left paradise because of one sin even though he later repented and God accepted it, and man was led to the fire of hell because of a cloak he had stolen from the booty of jihad, even though he had fought side by side with the Prophet (Related by Muslim). So make sure that whenever you have been informed of a sound legal ruling, which may not be in
your favour do not try to oppose it or undermine even if slightly, for this attitude will cause your heart to deviate from the straight path; for God, may He be exalted, says:” And [mention, O Muhammad], when Moses said to his people, "O my people, why do you harm me while you certainly know that I am the messenger of God to you?" And when they deviated, God caused their hearts to deviate. And God does not guide the defiantly disobedient people.” (61: 5). To that effect Imam Malik has also said “You may be able to resort to circumvention in some of you other dealings but do not try to use tricks in matters of religion”. As was mentioned previously, it is not permissible to boast about one’s treacherous acts and flaunt one’s sins, rather what is required and urgently in those situations is to repent and ask for forgiveness, and one should not try to absolve himself from his evil by baling it on others. Indeed, God Almighty has only pardoned Adam (pbuh) because he was totally inclined to take responsibility for his error and without delay repented and asked for forgiveness: "Our Lord, we have wronged ourselves, and if You do not forgive us and have mercy upon us, we will surely be among the losers” (7: 23). Of course that was the case with Iblis whom God did not forgive because he blamed his deviation on God and said: "My Lord, because you have put me in error, I will surely make [disobedience] attractive to them on earth, and I will mislead them all” (15: 39)

Know that there are three origins to evil: Arrogance by which Iblis was led to disbelief, covetousness by which Adam (pbuh) was led outside heaven, and jealousy by which Adam’s first son was led to kill his own brother. Know that God consciousness is best tested when we are all alone, not in the company of others, so do not God’ saint in public and his enemy in private. Indeed, there is a famous saying among the Sufis, which says: “The last passion that will vacate the heart of the seeker of truth is the love for leadership”, and this attested by the Qur’anic verse: “Gone from me is my authority”(69: 29), as
this verse for those who are familiar with the context in which it appears in the Qur’an will recognise that attachment to authority will indeed be the last passion human beings would give over as they near their death.

10. Patience is the Key to Paradise

God, may He be exalted, says: “And will reward them for what they patiently endured [with] a garden [in Paradise] and silk [garments]” 76:12), also about the people of paradise God says: “And the angels will enter upon them from every gate, [saying], Peace be upon you for what you patiently endured. And excellent is the final home"(13: 23, 24). Patience is “to restrain the low passions of the evil-commanding soul”, which is a most difficult thing to do, because to bring such an unruly force like the soul (nafs) to a tractable state simply requires a huge and sustained effort. Indeed, it is by virtue of this relentless struggle that patience is considered the key to paradise, and why the Prophet (pbuh) has said: “The path to paradise is full of adversity” (Related by Bukhari). Patience entails a number of things: forbearance and self-abnegation in carrying the commands of religion, abstinence from sin, and acceptance of the afflictions that God has destined for us. The Prophet (pbuh) said:” God’s commodity is most precious, and paradise is God’s commodity” (Related by al-Tirmidhi), and the price of that most valuable commodity, if you have not already guessed the answer, is indeed patience. Only, patience in the face of adversities, which will dissipate the moment we die and leave this world, is by far much easier than having to endure the great and perpetual adversities of hell, for patience then even though in the face of incomparably harsher adversity will be to no avail; may God save all of us from such an end and such chastisement. The Prophet (pbuh) said:” After you, there will come a time when following the commands of this religion will be so daunting that the abstinent believer then will be akin to the one clutching on to a hot coal.
During those days the reward for the one who adheres to the Commands of God will equate the reward of fifty men”. The companions the asked: “is that fifty men of us or of them then? The Prophet replied: nay! From you” (Related by al-Tirmidhi). commenting on this point, Ibn Taymiyya argued that the reason for the increase of the reward of the believers in later times may be gleaned from another hadith and he cited: “You have found helpers to assist you on the path of truth whereas they will hardly find any”

11. Return to the Truth is a Duty

God, may He be exalted, has said: “Indeed, those who fear God - when an impulse touches them from Satan, they remember [Him] and at once they have insight.” (7: 201), and “And David became certain that we had tried him, and he asked forgiveness of his Lord and fell down bowing [in prostration] and turned in repentance [to God]” (38: 24), also some of the righteous said “Better for me to be at the tail end of those returning to the truth, than be to spearheading those who flock to fallacy”. I have seen in our current time that those who call for the implementation of the Sharia, and brandish the flag of jihad, do not themselves apply the rules of the Sharia when it clash with their desires, which has often made me wonder how these people who are so unyielding to the will of God when they are reckoned among the feeble would behave when the powers of the country are surrendered to them? I had actually already alluded to their case in my book ‘al-Jaami’ fi Talab al-‘Ilm’, which I published in 1993 and did then liken their ways to those of the Jews whom God, may He be exalted, described in the Qur’an as those who:”… distort the meaning of the [revealed] words, Taking them out of their context, saying to themselves: "If you are given this, take it; but if you are not given it, then beware." But if God wills anyone to be tempted to evil - never will you possess [power to do] for him a thing against God” (5: 41). This is also the ways of the hypocrites whom God, may He be exalted, described as those who:
“…when they are called to [the words of] God and His Messenger to judge between them, at once a party of them turns aside [in refusal]. But if the right is theirs, they come to him in prompt obedience. Is there disease in their hearts? Or have they doubted? Or do they fear that God will be unjust to them, or His Messenger? Rather, it is they who are the wrongdoers” (24: 48-50). There is certainly not much good to expect from those who transgress the bounds of the Sharia, and their ilk, for: “Had God known any good in them, He would have made them hear. And if He had made them hear, they would [still] have turned away, while they were refusing” (8: 23). If you want to know why after years of fighting have these people not been granted by God one single victory to mention, then make sure you take note of what the caliph ‘Umar wrote in his message to his general Sa’d Ibn Abi al-Waqqas: “[Beware O Sa’d], for if we should end up indulging in sin as much as our enemy, then victory will be theirs because that would be converted into an increase in their army and armoury”. Indeed, how on earth are they going to prevail over their enemy, the faithless state, which according to them fails to implement the Sharia, when they themselves are steeped in sin? But only those who have trodden the path I have trodden in the way of knowledge and jihad will come to see what I am now able to see.

12. Do Not Despair of God’s Mercy

Let every person who has endeavoured to do a good action but has failed to achieve it, or has not benefit from it, or has, for a reason or another, been wronged because of it, rest assured that his effort has not been in vain and that his is with God, may He be exalted. That is because everything that a Muslim is bestowed in this life, even if it is halal, will be ultimately deducted from his reward on the Day of Judgment comes, and will lower his rank in paradise and reduce his boons though he may enter heaven without hassle and without having to endure torment, and it is because of this reality, according to the
righteous, that our religion urges us to renounce this world and its pleasures. Indeed, the Prophet (pbuh) was the most renunciant of people and so was Jesus, the son of Mary. You also probably have heard of the People of the Suffa? Fudala Bin Ubayd, may God be pleased with him, narrated that when the Prophet (pbuh) led the prayers there used to be in the congregation people who could hardly stand on their feet and often fell to the ground from acute hunger. Such was their state, some of the Arabs thought them to be to be possessed. Then when the Prophet finished from the prayers, he would turn to them saying: “If you knew how lofty your place in God’s eyes is, you would wish you were even more destitute and needy” (Related by al-Tirmidhi)

Similarly, when it comes to jihad, those who have engaged in it, committing neither major sins nor flagrant aggressions, will have secured their rewards with their Lord, even if they failed to achieve their goals, contrary to those who have prevailed and collected their booty. Indeed, to that effect, the Prophet (pbuh) has said: “Every squad and detachment that manages to come back from their raids safe and with spoils must have two thirds of their rewards taken away from their rewards for gains given to them in advance, and every squad and detachment that raids but fails in its mission is bound to have their reward in full” (Related by Muslim), and this hadith most certainly debunks the saying that “Any action which falls short of achieving its prescribed goal is invalid”. There is also conclusive evidence that the companions themselves understood from the texts of the Sharia that any gains which are bestowed on the believer in this life will ultimately be subtracted from his reward of the hereafter, even when those gains and boons are licit. As an example we may recall what Khabab Bin al-Arat said about Mus’ab Ibn Umayr who was killed during the Battle of Uhud and so did not reap the benefits and booties of that and many subsequent conquests. Khabab said: “We migrated with the Messenger of God, peace and blessings be upon him,
seeking God’s pleasure and were all rewarded for that, though with some varying degrees, for some of us, who died early, like Mus’ab during the Battle of Uhud, were granted their heavenly reward in full: upon his death Mus’ab had only left a modest piece of cloth behind, and it was so small, we had trouble using it as a coffin, such that if we covered his head with it, his feet were left out and if we covered his feet, his face was left out. We were at loss as to what to do, until the Messenger, peace and blessings be upon him, advised us to cover his face with the cloth and use some lemon grass for his feet. That was the case of Mus’ab, but as to the others among us, they have survived many more battles and came to reap the fruits of many conquests in this world, and thus may very well have consumed our heavenly rewards prematurely.”

Also, Bukhari relates an interesting comment made by Abd al-Rahman Bin ‘Owf who said at the end of a long hadith regarding Mus’ab: “Since those days, we have become so well-off and life became so easy, we feared we were consuming our heavenly rewards prematurely.”

13. “And Show Good Manners towards People”

In the celebrated hadith, which has been recited now for centuries, at the end of every Friday sermon, the Prophet (pbuh) has commanded all Muslims to show good manners towards all people without exception (Related by al-Tirmidhi). Other hadiths make it clear that good manners are a fundamental obligation in Islam:

“Most people entre paradise because of their consciousness of God and for showing good manners towards others” (Related by al-Tirmidhi)

“When the acts of the believers are reckoned on Judgement Day, nothing they have done will weigh more in the balance of the good than their acts of good
manners towards others, for God loathes the nasty and the indecent” (Related by al-Tirmidhi).

“Most people will enter hell because of [what they say with] their tongue”

Be in no doubt that good manners must be shown also to parents even if they are from the disbelievers. God may He be exalted, says:

There are certainly verses to that effect as well: “… and to parents do good and to relatives, orphans, and the needy. And speak to people good [words]” (2: 83).

Know that the people of wisdom were able to verify after long experience, that when God wants to ennable His servant and grant him success, He bestows him with impeccable manners. Indeed, Did Kahadija, may God be pleased with her, say to the Prophet when was in such a state of bewilderment following his first encounter with the angel Jibra’il (Gabriel): “I swear by God that He will never disgrace you… You are kind to all the people, you forgive their trespasses, and support the needy among them, and you show unparalleled hospitality to the guest, and always stand for the truth”? Learn something today from this great lady and understand that noble manners and good ethics are the guarantee for success and acclamation and that many a failure are due to bad manners and lack of morality.
XIV. The Document for the Guidance of Jihadi Action in Egypt and the World

Abandon the Idea of Arab Nationalism

“Allowing the Sharia to adjudicate in our legal system, curbing corruption, and encouraging the men of religion to preach the good word, are keys to solving the crises and put an end to the conflict with the jihadi groups permanently”

Dr Fadl begins this fourteenth sequel where he left off in the preceding ones, and with that he has finished the advice and list of recommendations he made to the members of the Islamic groups. In a clear allusion to the prisoners in Guantanamo Bay, he urged them to take the necessary measures to free their fellow jihadiists from detention since working for their release constitutes a legal duty for those who are able to accomplish such a task.

But for the remainder, Dr Fadl addresses the rulers of the Muslim world, particularly those of the Arabic countries, putting before them seven recommendations that one may rightly consider a reflection the political program of the new jihadist movement whose basis would be this very document. The author does not limit his advice to the usual mantras against corruption prevalent in the media nor to the need to allow the men of religion to preach Islam or the need to give more attention to the study of religion in the educational curricula. Rather, the focus is on socioeconomics, namely the need to rid society of joblessness which is rampant among the youth in particular. In making his last recommendation, Dr Fadl appears to completely digress from the main subject of the document, in order to make a disconcerting critique of the idea of Arab nationalism, particularly as it is echoed in the discourses of some important traditional Islamists who recently began to lean towards a cohabitation between Arab nationalism and ‘political
Islam’, by using the former as a framework and the concepts of the latter as a content.

14. “God wills that you shall have ease, and does not will you to suffer hardship” (2:185)

It is permissible to choose the easiest alternative and make use of the lawful allowances of the Sharia when faced with hardship, as attested by the verse above. God, may He be exalted, has also said: “God wants to lighten your burdens: for man has been created weak” (4:28), and “... it is He who has elected you [to carry His message], and has laid no hardship on you in anything that pertains to religion” (22:78). Such is the position of the Qur’an and the Sunna on this point, that al-Shatibi, may God have mercy on him, declared without hesitation that: “The sum of the evidence in support for the removal of hardship on the community in matters of religion is conclusive” (al-Muwaafaqaat. Vol 1). The following are only a sample of that evidence:

a. Aisha – May God be pleased with her- said: “Whenever the Messenger of God (pbuh) was given a choice between two things, he always chose whatever was easier -unless it was sinful” (Related by Bukhari).

b. The Prophet (pbuh) has said: “Doomed are the fastidious in matters of religion”, and repeated three times (Related by Muslim).

c. Prophet (pbuh) has ordered the companions to choose the easiest at the time of hardship, and when news reached him that some of them refused to take advantage of that allowance, he (pbuh) described them saying: “Those are the disobedient, those are indeed the disobedient” (Related by Muslim).

d. One more example was narrated by Anas, may God be pleased with him, when he said: “When we used to travel with the Prophet (pbuh) [during Ramadan], there would always be among us those who were fasting and those
who preferred not to, but he (pbuh) reprimanded neither the former group nor the latter” (Agreed upon hadith)

e. Another hadith informs that when he realised on one occasion that those who broke the fast were actually doing the tasks which those who observed the fast found hard to do, he declared that “Today, those who did not fast reaped all of the rewards” (Agreed upon hadith)

You should understand in light of these examples that it is not permissible to incriminate the person who uses the allowances that the Sharia has clearly prescribed for Muslims during hardship. Nay! Out of its largess the Sharia goes as far as to allow a Muslim to feign infidelity to Islam, should his life be in danger because of his faith, as happened to Ammar ibn Yasser, may God be pleased with him, who did just that to save his life when he was threatened by the Meccans. The Prophet upon hearing about his ruse said to him “Should they threaten you again, do the same” (Related by al-Bayhaqi and Abu Naim). In the same vein, the Prophet (pbuh), allowed Muhammad Ibn Muslima to disparage him, for the benefit of the Muslims in those events involving Ka’b Ibn al-Ashraf, and allowed al-Hajaj Ibn ‘Alat to do likewise even for his personal safety in Mecca after the Battle of Khaybar. We should stress however that these allowances of the Sharia must not be taken to give licence for treachery and the breaching of pledges as we have already explained on the basis of the hadith of Hudhayfa Bin al-Yaman, may God be pleased with him.

*Forgetfulness is not a Sin*

The Prophet (pbuh) has said “God has pardoned my community for their unintentional mistakes, their forgetfulness and for what they have done under duress” (Related by Ibn Majah, al-Bayhaqi). Indeed, the words of the Prophet
(pbuh) "God has pardoned my community …" indicate strongly that the allowance to feign disbelief and infidelity when under duress is peculiar to the Islamic community, and that previous religious communities were not permitted or allowed to do so, as al-Qurtubi has concluded in his tafsir ‘Ahkaam al-Qur’an’. Also, the hadith narrated by Suhayb in relation to the People of the Trenches (Ashaab al-Ukhdud), when he related the details of their ordeal before they were cast to fire, shows conclusively that previous nations did not enjoy such a concession.

**Avoid Baseless Incriminations**

It is not permitted to incriminate those who have had recourse to the allowances of the Sharia, particularly when they have done so in the face of adversity, nor is it permitted for the leaders of the Islamic factions to obligate their followers to opt for the most difficult alternative, that is the option of ‘firmness’ (‘azeema) when these followers prefer to have recourse to the option of ‘allowance’ (rukhsa), which is the easiest, for certainly, the Prophet (pbuh) has said: ”O God! I beseech you to be gentle towards anyone who rules over my people with gentleness and to be harsh towards anyone who rules over them with harshness” (Related by Muslim), and also he has said: “The worse rulers are those who exhaust their people with impossible demands”, and “God shows compassion only to those who show compassion towards His creation“(Agreed upon hadith). Undeniably, when it came to compassion and generosity of spirit, the Prophet was the exemplar par excellence: When Musaylimah met two Muslim men and threatened to kill them if they recognised him as prophet, one of them complied while the second refused. Upon hearing that Musaylimah, had let the first to pass and killed the second, the Prophet (pbuh) has excused the first and praised the second. Equally, when al-Aswad al-Ansi broke rank and proclaimed himself a prophet in Yemen and dominated Sana'a, the companions there were split into three groups: those
who decided to return back to Medina, like Ibn Abi Umayya, those who
decided to stay in Yemen, but remained in hiding like Muaz Bin Jabal, and
finally those who decided to stay but feigned their allegiance to al-Aswad, like
Feiruz al-Daylami, who was able with such ruse to get to that imposter and
killed him. Naturally, the Prophet (pbuh) admonished neither those who fled
nor those who hid, but he clearly congratulated Feiruz for his act as related by
Bukhari, and al-Tabari who provides a lengthier version of those events in his
‘Taareekh al-Rusul wa l’Muluk’ (The History of the Prophets and the Kings)

Not All Errors are Oversights

Know that some of our actions and decisions fall neither under the rubric of
‘firmness’ (‘azeema) nor under the rubric of ‘allowance’ (rukhsa), but rather
are seen as either right or wrong, or either as valid or erroneous. These include
those obligatory lawful alternatives that Muslims must adopt vis-à-vis their
opponents and the non-Muslim in general, which we have expounded on in
second and fifth clause of this document. Indeed, whoever decides to go to war
when it is compulsory to seek peace, or seeks peace when it is compulsory to
fight has clearly committed an error, and such an error does not lend itself to
what is known in the Sharia as the option of ‘firmness’ or ‘allowance’. This is
a monumental error of judgement which has nothing to do with having to make
choice between two alternatives in which the easier option or more difficult
option may be the one closer to the disposition of the Sharia. So the Prophet
(pbuh) described what Khalid did in the Battle of Mu’tah a victory not because
it was an apt choice for the option of ‘allowance’ (rukhsa), but because his
judgment proved to be the right one, and when Umar Ibn al-Khattab, may God
be pleased with him, lamented the actions of his general Abu Ubayd Abu
Masud al-Thaqafi, because he made a tactical error in battle following which
he perished himself and those who were with him. Indeed, when Umar said:
“May God have mercy on the soul of Abu Ubayd, had he listen to me and rallied my forces, I would have given him full support”, he was not disputing his general’s choice for the option of ‘firmness’, but for an error of judgement, and hence his prayer for clemency.
15. Self-accountability and Frankness

The Islamic groups and their members have to be self-accountable and frank enough to show one another their misdeeds, for God, may He be exalted, has said: “Those of the children of Israel who went astray were cursed by the tongue of David, and of Jesus, son of Mary, because they rebelled and used to transgress, and they restrained not one another from the wickedness they did” (5:78-9). Indeed, one of the reasons God cursed the Jews is that they were not courageous enough to counsel one another about evil, but let it become widespread, and were not in the habit of being self-accountable, though it has to be said, they seem to have changed recently: without relent, Moshe Dayan and Golda Meir were called to give account of their actions in the Arab-Israeli conflict till they resigned soon after the war of 1973, and today, they are tightening the noose on the president of Israel Moshe Katsav and the previous prime minister David Olmert. And this is where yet another irony lies: it is today, the Islamic and jihadi groups and their members who barely hold themselves accountable for their errors, and so they repeat their follies as if they were recidivists.

Accountability is the Rampart Against all Perils

I have seen in our time a people who readily don the garb of the Mufti and the allure of the commander in chief, only to lead their brothers and followers to all sorts of perils, more often to the graves and to dungeons in the four corners of the world, but without having any legal and military competency. Even after years of detention, they still have the audacity to claim leadership as if they had committed no blunder whatsoever. These people can take Muslims on perilous journeys precisely because neither they hold themselves accountable
nor are their followers prepared to call them to account for their miserable botch. Tell me what good can we hope to come out from such insolent people? Certainly, irresponsibility has a price, and we have already seen in the section on ‘Blood Money, how the Prophet (pbuh) had to pay war reparations for the blunders of Khalid and Usama, may God be pleased with them. But let us not compare the incomparable! Again, I cannot go pass the words of the poet:

Every sickness, I have seen, has a medicine which is its cure

Only the sickness of folly persists, and we have to endure

I could of course tell who these so-called generals are, but there is no need to give names, is there?

Know that self-accountability is a pillar of Islamic ethics: God, may He be exalted, says: “O you who believe! Be staunch in justice, bearing witnesses for God, even though it be against yourselves or your parents and kindred ...” (4: 135). Had the members of the Islamic groups and their leaders taken at least some responsibility for their actions, this would have earned them a lot of good in this world and the Hereafter, for as ‘Umar, may God be pleased with him said: “Hold yourselves accountable before you are held accountable, and weigh your own actions before you actions are weighed for you”. Asked to reflect on God’s Almighty words: “O you who have attained to faith! Remain conscious of God; and let every human being look to what he sends ahead for the morrow!” (59:18), the ulema of this nation agreed that self-accountability has a basis (asl) in this very Qur’anic verse.

16. Seeking the Release of Muslim Prisoners is Obligatory

Seeking the release of Muslim captives is a collective duty (fard kifaaya) on the Muslim nation, meaning that some of the believers at least should work towards their release; otherwise the whole Muslim community will have
committed a sin in this regard. Commenting on the hadith of the Prophet (pbuh): “Free the captive” (Related by Bukhari), Ibn Hajar said in his ‘Fath al-Baari’: “The scholars are in agreement that the release of Muslim detainees is a collective duty incumbent on the Muslim community as a whole”. The release of the Muslim detainees is a serious matter and those from among the community who are concerned with such a matter should spare no effort and use all of the possibilities in their disposal to achieve such goal. Abidin has stated in his famous commentary (Vol. 4) that ” Rescuing the captives becomes a duty incumbent on all the Muslims of the eastern parts and western parts of the Muslim world once they know of their captivity”, and he was joined by Abu Ubayd al-Qasim Ibn Salam who affirmed that “Their release must be sought in every possible way and at all costs, even if their ransom means mustering up all of the available funds in the state treasury of the whole Muslim community (bayt al-maal) “ (Al-Amwaal). All of these positions and many others like them that we have not cited here, are traced back to the hadith of Prophet (pbuh):”Free the captives” and what was mentioned in the Saheefa of Ali, may God be pleased with him, in the section “The release of the Captives” (Both related by Bukhari).

Now, although releasing the captives is a collective duty, it may become an individual duty once it becomes established that only particular individuals are in a position to secure the release of the captives. For instance, when, during the caliphate of ‘Umar Ibn al-Khattab, may God be pleased with him, Abdullah Ibn Hudhafa al-Suhami, was asked by the king of the Romans to kiss his head in order to release him and other Muslim captives, he was the only one in a position to effect such release, and so it happened that once Hudhafa accepted the Emperor’s terms they were all released. And when he returned to Medina and told the story to the caliph, ‘Umar, may God be pleased with him,
said: “It is now the duty of every Muslim to kiss the head of Ibn Hudhafa”, and he, ‘Umar, was actually the first to do so.

I am sure that if any of the idiots that are running the show today saw Ibn Hudhafa, may God be pleased with him, kissing the head of the Roman Emperor, they would have had apprehensions about the faith of this noble companion, nay! They would have simply declared him a Christian, and yet this is precisely what everyone who is serious about the welfare of the Muslims and the release of the prisoners should do: kissing the head of the emperor if required.

Today, I know of many who caused the imprisonment of hundreds or even thousands of Muslims due to their follies, but who feel no urge to take any action to even relieve some of their the stress and hardship. Not only are they indolent and not interested to at least atone for their disasters, they even stand on the way of anyone who tries to find a solution to the plight of these detainees. Don’t they know that prison is a scourge, or have their hearts hardened even against their own followers? In the Qur’an, the Prophet Yusuf (pbuh) says:” He has shown me kindness, since He took me out of the prison ...

17. Advice to the Rulers of the Muslim World

A. Adjudicating According to the Sharia

One of the main obligations the religion has made incumbent on us all is to adjudicate in accordance to the Sharia. Relinquishing the Sharia, the Revealed Law of the Law-Giver, denying it or opting for some other source of legislation in its stead, is a distortion which will result in the faith being imperfect. The Almighty God has said:” But no, by the Lord, they will not believe truly until they make you judge of what is in dispute between them and
find within themselves no dislike of that which you decided and submit with full submission” (4:65). Also, He has said: “The saying of all true believers when they appeal unto God and His Messenger to judge between them is only that they say: we hear and we obey. And such are the successful” (24: 51).

Know that what has caused Muslims to be humiliated and fall backward is none other than their abandonment of the Law revealed to them by their Lord. Aware of the place and role of religion in the advancement of the Muslim community, ‘Umar Ibn al-Khattab said: “We are people that God has valued with Islam. If we seek advancement and furtherance away from this faith, God would humiliate us”. This statement of ‘Umar is in keeping with the verse in which, the Almighty God says: “God is indeed aware of those of you who would withdraw surreptitiously: so let those who would go against His bidding beware, lest a [bitter] trial befall them [in this world] or grievous suffering befall them [in the life to come]” (24:63), and also: “So, judge between them by that what God revealed, and follow not what they desire, but beware of them lest they seduce you from some part that which Allah has revealed unto you. And if they turn away, then know that Allah’s will is to smite them for some sins of theirs. Many of mankind are evil livers. Is it the judgment of the time of ignorance that they are seeking? Who is better than God for judgment to a people who have certainty in their belief?” (5: 49, 50).

B. Curbing Overt Corruption shall Bring Felicity

Know that the sins which are committed in private, away from the eyes of the onlookers, harm only their perpetrators, but sins harm everybody else when they are declared and done openly. Owing to this truth, the Prophet (pbuh) has said: “All of my people will be forgiven except the flaunters” (Agreed upon hadith).
You only need to look around these days, to witness with your naked eye how whole nations are being destroyed, one after the other, only because of widespread injustice, and indulgence in sin and corruption. The Almighty God has said: “... And never did We destroy the townships unless the folk there were evil doers”, (28: 59), and also: “But when [this has been done, and] it is Our will to destroy a community, We convey Our last warning to those of its people who have lost themselves entirely in the pursuit of pleasures; and [if] they [continue to] act sinfully, the sentence [of doom] passed on the community takes effect, and We break it to smithereens” (17:16)

However, God may He be exalted, does not annihilate townships or nations before sending a Messenger to them, as evidenced by the verse: “… We never punish until We have sent a Messenger”, (17: 15).

I implore the wise among you to beware of God respites, these should not lead to think you are out of His sight, because the sooner evil abounds, God destroys the whole country even if good doers reside in it. When asked: “Do we perish and among us live the good doers?” The Messenger of God (pbuh) replied: “You shall if wickedness abounds” (Agreed upon hadith). Bear in mind that sinning in daylight and in front of everyone is one of the most important factors provoking the religious youth to clash with the authorities in the Muslim countries, and these in turn often leads the government to take violent retaliatory actions to the detriment of social peace and harmony.

If measures were to be taken today to at least dampen the advertising of sin and corruption in the media and the public places, it would procure much good for the country and for all the people. Indeed, the Almighty God is forgiving, compassionate and patient, but we must not fool ourselves and be complaisant, for He has given a stark warning to those who take things for granted when He has said: “But when they continued to challenge Us, We inflicted Our retribution on them, and drowned them all: and so We made them a thing of
the past, and an example to those who would come after them” (43:55-6). And so know this, if you are truly keen to have a great army! No one stands in the face of the enemy except the steadfast soldier who has a firm faith in God, as the one who was brought up on obscenity; he flees the moment the first confrontation with the enemy takes place.

C. Do Not Ostracize the Men of Religion

Encouraging the men of religion and the advocates of Islam to preach the good word and give good counsel in society and facilitating their work would be a laudable step that would soon also bring much good to the country and its people. For God has certainly decreed not to destroy the country in which there are men and women doing advocating good, even if sinners may be found in the midst of that population of that land. Indeed, God, may He be exalted, has said: “Your Lord destroyed not the township tyrannously while their folk doing right” (11:117). Notice how the Almighty God pushes the scourge far of the country in exchange of their call in the cause of the Truth and notice how He saves others through the travail of these men of religion, so do not banish them. The work of the men of religion who call people to God and to Islam is one of the most significant rampart against crime and deviations of all sorts in the country, which not only reduces the security burden, but is also a great source of blessing and divine providence. Did not God Almighty reveal in His Book: “Yet if the people of those communities had but attained to faith and been conscious of Us, We would indeed have opened up for them blessings out of heaven and earth” (7:96)? And elsewhere: “If they (the Idolaters) tread the right path, We shall give them to drink of water of abundance” (72:16).

D. Strengthening of the curricula for the Study of Islam
There is a need to strengthen and also upgrade the curricula for the study of Islam as a religion, especially in Islamic colleges and institutions, such as al-Azhar, in order to raise the aptitude of the graduates and the preachers in Sharia knowledge. Also, we should regard the policy of Lord Cromer as defunct and reward these graduates and preachers with a substantial rise salary and improved privileges because they are the leaders of tomorrow; they are the guides to youth and our safest rampart against religious extremism and moral deviations.

E. The Fight against Unemployment must be won

Unemployment pushes people towards despair and frustration, and so measures need be taken swiftly to give a boost to the economy. Only a healthy economic sector can ensure a steady and sustained way of creating jobs and increasing employment opportunities, particularly for the youth. We need to win the fight against joblessness and idleness because this constitutes our only solution in the face of poverty, crime, spinsterhood and moral deviations.

F. The Right People for the Right Positions

Only when the trustworthy and just among the people occupy the positions of influence do we seriously begin to lay the basis for reform and goodness in our society. The quality of justice is such that it was a foremost requisite for those who ruled over Muslims, and God, may He be exalted, has brought all of these qualities that a ruler should have in couple of Qur’anic verses. He says: “…for the best man that you can hire is the strong, the trustworthy” (28: 26), and “… My covenant includes not the wrongdoer” (2: 124). Also the Prophet (pbuh) has said: “Once trust has been forfeited, then expect the coming of the Hour”. Asked what will cause such forfeiture, he replied: “When authority is granted to those unworthy of it” (Agreed upon hadith).
Indeed, we have in the story of the Prophet Yusuf (pbuh), particularly the role he played in administering the affairs of Egypt and his ability to save the country from years of drought and famine, a most excellent illustration for the importance of good management and competency. This not to say that all responsibility in running the public affairs of the country rests on the shoulders of the rulers or those in authority, for as the Prophet (pbuh) has said: “All of you are guardians and every guardian is responsible for those under his care” (Agreed upon hadith).

G. Arab Unity is a Fantasy

The idea of Arab unity and pursuing such an ideal is like chasing a Friar’s lantern or a mirage: never in the history of these so-called Arab countries has unity ever taken hold under that banner, and following the norms it never will. The only time when these countries were united, it was under the emblem of the Islamic caliphate, which not included Arabs under its banner, but also Turks, Persians, Kurds, Berbers, among others. Indeed, in his *Muqaddima*, Abdul-Rahman Ibn Khaldun has stated in no equivocal terms that: “The Arabs are a nation that only religion can unite”, and well before this conclusion of Ibn Khaldun, God, may He be exalted, has said: “... And remember Allah’s favour unto you: how you were enemies and He made friendship between your hearts so that you became as brothers by His grace ...” (3: 103), and He says in another verse, to remind the Prophet (pbuh) of the graces He bestowed on him: “... He it is who supports you with His help and with the believers and as for the believers has attuned their hearts. If you have spent all that is in the earth, you could not attune their hearts but God could attuned them. He is Mighty. He is Wise” (8:62, 63).

Ever since the late nineteenth century, none has raised the slogans of “Arab nationalism” but the colonialists and their ilk, first in order to drive a wedge between Arabs and Turks and break up the Ottoman caliphate, a mission they
accomplished with success World War I (1914 - 1918 AD), and then in 1941, when Britain, represented by the then Minister of Foreign Affairs Anthony Eden, had raised the slogan of ‘Arab Unity’ in order this time to drive a wedge between the Arabs and the Muslims of India, who were most enthusiastic to revive the caliphate after its demise, and undermine any such attempt. It is against this backdrop that the slogan of Arab unity gradually became a substitute for the institution of the caliphate and formed the nucleus for the establishment of the “League of Arab States” in 1945. These are the inescapable facts surrounding the rise of Arab nationalism and the recurring call for Arab unity, a unity, which, we insist, will never be achieved unless the peoples of the Arab world go back to the Sharia revealed to them by their Lord, for then will God attune between their hearts, as He did with their ancestors. Indeed, without a swift return to the Sharia, we face a grim future marred by more disunity, more infighting, more humiliations, and more backwardness. The Almighty God said: “…God changes not the condition of a folk until first they change that which is in their hearts…” (13:11).
The Document for the Guidance of Jihadist Action in Egypt and the World (Part 15)

Conclusion

“My advice to the foreigners is: do not elect right-wing anti-Islamic politicians as your leaders”

“I have not intended with this document to dishearten the mujahideen; on the contrary my aim throughout has been to guide their action”

In the last sequel of this highly significant work, Dr Fadl endeavours to restore the faith of the jihadi youth who would have discovered in the process of reading the previous sequels of this document the extent of their misguidance and may be feeling regretful about those years they have waisted in delusive contentment. To those, the author brings the news that the Islamic caliphate will return without fail because the return of the caliphate counts among the good tidings foretold by the Prophet (pbuh) and it is as certain as the victory of Islam in End Times.

Dr Fadl makes also makes mention of the reservations some of his prison mates expressed about the document, as they feared that such revisals may dispirit the jihadists. These reservations in his eyes were ill-founded, insisting that the document ought rather be seen as a guidance, which ensures that their jihad is in keeping with legal criteria of the Sharia, and a pledge of support for their future undertakings.
Finally in this sequel, Dr Fadl addresses the foreigners advising them not to elect right-wing anti-Islamic politicians as their leaders lest it would serve as a pretext for retaliation and aggression, which certain groups in the countries of the Muslim world would only be happy to exploit, away from the demands and the constraints of the Sharia. Having clarified that point, however, he reminds the readers that the defence of the Islamic community and the confrontation of those who aggresses it remain in all events an obligatory duty.

The following is the full text of the fifteenth and last sequel of the document:
Clause Fifteen

The Good Tidings Concerning the Manifest Victory and Domination of Islam until End Times

God the Almighty has said: “They want to extinguish God's [guiding] light with their utterances: but God will not allow [this to pass], for He has willed to spread His light in all its fullness, however hateful this may be to all who deny the truth. (9:33) He it is who has sent forth His Apostle with the [task of spreading] guidance and the religion of truth, to the end that He may cause it to prevail over all [false] religion- however hateful this may be to those who ascribe divinity to aught beside God” (9:32-33)

This Divine promise has certainly been fulfilled: the tenets and teachings of this religion that Muslims have been abiding by for the last fourteen centuries had been in fact accomplished during the lifetime of the Prophet (pbuh), just before his death: “Today have I perfected your religious law for you, and have bestowed upon you the full measure of My blessings, and willed that Islam shall be your religion” (5:3)

From the moment Islam was revealed, God had constantly supported His Prophet (pbuh), granting him victory over his numerous opponents and making Islam, the religion he was sent to spread, dominant and prevailing. After years of being oppressed and living in fear and poverty, God blessed the followers of Muhammad (pbuh) with a state of their own, where they lived safely and comfortably. Now, anyone who is familiar with the history of Islam would know that this blessing that was conferred to the nascent Muslim community did not last forever; for no sooner had the Muslim community began to be swayed by sin and the lures of the sinful life, it was visited by all sorts of
calamitous afflictions and setbacks. God’s support for Islam is unfailing and his promise to Muslims unwavering, it is our sins which are the source of our recurring reversals: God may He be exalted has said:

“Today have I perfected your religious law for you, and have bestowed upon you the full measure of My blessings, and willed that Islam shall be your religion” (5:3), "If you persevere in doing good, you will but be doing good to yourselves; and if you do evil, it will be [done] to yourselves." (17:7), “Now whatever calamity may befall you [on Judgment Day] will be an outcome of what your own hands have wrought” (42:30), And the following the Muslim’s defeat in the battle of Uhud, He revealed: “Ask yourselves, "How has this come about?" Say: "It has come from your own selves” (3:165)

But just like the outcome of the Battle of Uhud did not seal the fate of the Muslim community, as it surely continued to be victorious and prospered from then onwards, also the fate of the Muslim community today is not sealed, despite all the visible signs of weakness, disarray and disunity: the good of this community is everlasting and sooner or later will come to the fore, and it will be victorious, God willing, just as the Prophet (pbuh) foretold.

**The Political History of Islam**

1. The Prophet (pbuh) has basically summarised the political history of the Muslim community in a hadith in which the main episodes of that history are evoked in order, beginning from the reign of the Rightly Guided Caliph, to the subsequent reigns of various kings and styles of rule, ranging from the ill-natured, the dictatorial, and ending with those caliphates modelled on the pattern of the Sunna of the Prophet (pbuh) (Related by Ahmad in his *Musnad*). Looking at our contemporary political condition from the historical perspective of this hadith, it would not be difficult to see that it is marred by dictatorship.
In fact, if we were to take a cyclical look at our history, we could safely say that we are currently traversing what corresponds to the dictatorial cycles mentioned in the hadith. However, good news may also be gleaned from this prophetic vision of the history of Islam: not only dictatorships do not last; they are also a harbinger of good to come. In other words, just like the reigns of ill-natured and dictatorial kings in the past, vanished making room for the good governance of the caliphate patterned on the Sunna, so will our dictatorial cycle in which we are now vanish to make room again for the caliphate. The difference is that in our times, which correspond to End Times, this much-anticipated caliphate would be announced with the appearance of the Mahdi, may God be pleased with him, or indeed even before; for the Prophet (pbuh) has said: “The Mahdi will appear after the death of a caliph”. With the re-establishment of the caliphate by the Mahdi, the earth will be filled with justice and abundance after years of oppression, misery and scarcity. The Prophet (pbuh), announcing such good tidings has said: “During that time, you will see one of your caliphs scoop up money without even bothering to count it” (Related by Muslim).

2. Another indication which may be gleaned from the Sunna is the notion that the Islamic state or caliphate may be intermittently disrupted during the course of history. To that effect one may point to the conversation that took place between the Prophet (pbuh) and the companion Hudhyfa, may God be pleased with him who asked: “What if those Muslims had no community to be part of (jamaa’a) and did not have a [Muslim] ruler?” (Agreed upon hadith). But though the Islamic state or caliphate may succumb to the tribulations and trials of this world, and vanish momentarily from the scene, faith and the believers in Islam will never vanish from the face of the earth until just before the hour of the apocalypse, when a breeze wafting the sweetest smell would cease the
souls of all the believers in the world. The hadith clearly states: “The resurrection will not take place so long as there will be a believer on earth”, and following this prophecy, we say: “so long as there are believers, there will always be a caliphate and an Islamic state in waiting”.

*The People of Knowledge*

3. Just like the presence of the believers is everlasting, so is that of the people of knowledge, as attested by the hadith of the Prophet (pbuh): “There will always be from among my community a people who will ensure that the will of God and His commands prevail”. Commenting on this hadith, Bukhari affirmed that the people referred to here are the people of knowledge or the *ulema* if you will. Also, it is worth mentioning that the hadith in question is one of those which relates the trials and characteristics of the ‘victorious community’ *(al-Taa’ifa al-mansura)*

4. Equally, the Qur’an, which is the proof of God on earth, will see its authority endure, by God’s will, to End Times, in order that the principle of moral or legal accountability is maintained until then. Did not God say: “*Behold, it is We Ourselves who have bestowed from on high, step by step, this reminder? and, behold, it is We who shall truly guard it [from all corruption]*”(15:9)? Indeed, it is this permanence, the permanence of the glorious Book, and its scholars which had led Ali Ibn Abi Talib, May God be please with him, to say: “*The earth will never be without those who will uphold the proof of God and stand for it*”. Also about the people of knowledge who embody this divine proof, the Prophet (pbuh) has said: “*This knowledge will be embodied by the upright in every generation. They will all see to it that it*
remains free of the distortions of the exaggerators, the arrogation of the traducers, and the fallacies of the ignorant” (Related by al-Khatib al-Baghdadi, May God have mercy on him, in his ‘Sharaf Ashaab al-hadith)

So the Qur’an, knowledge and the people of knowledge are with us until End Times.

5. Also is permanent the jihad for the sake of God Almighty: the Prophet (pbuh) has said: “Blessings will continue to be entwined in the forelock of the [battlefield] horses until End Times” (Related by Bukhari in his Sahih, in the chapter on Jihad), and he also has said: “A section from among my community will fight for the Truth relentlessly until the Dajjal (Antichrist) has killed the last of them” (Related by Abu Dawud)

It is Jesus (pbuh) who will with his blessed hands kill the Dajjal, and with that will bring the mission of jihad to a close. The demise of Gog and Magog as we have already explained will not be then at the hands of Muslim fighters but following catastrophes inflicted on them by God. In all of that, we need to recall that by the time the Messiah (pbuh) returns, the Islamic Emirate will have already been established. This attested by the hadith in which Jesus (pbuh) declines the offer to lead Muslims in prayers, saying: “No, some amongst you are imams who are commanders over others (amongst you), and this is a special honour God has bestowed on this Nation” (Related by Bukhari). Indeed, Jesus (pbuh) then will pray behind the commander and imam of the believers so that no one is left with any doubt that he has returned but to follow the Sharia of Muhammad (pbuh), and not as an innovator of a new law.

The Truths of the Qur’an are Perennial
6. Just all of these blessings, knowledge, people of knowledge, and jihad, are permanent on earth, so is the Qur’an continuously protected against any distortions and alterations. Based on that we can affirm that the Islamic state and caliphate is returning without fail, and the Islamic community and the people of faith will endure until End Times. Today, despite the state of weakness which has befallen the nation of Islam, we remain resolute in our trust in God just as Abd al-Muttalib had been when he said to Abraha the Abyssinian “[Do what you will] this House is protected by God”. We in turn affirm “The religion of Islam is from God, and He will certainly make it prevail”. Nay, the ultimate victory draws nigh and so is the caliphate, God willing; for, verily God is able to grant victory to this religion by whoever He pleases, whenever and whichever way He pleases. Indeed, the Prophet (pbuh) has said: “God will not cease from planting in the soil of this religion, cuttings and seedlings that will grow in His devotion and love until the Resurrection” (Sound hadith Related by Ahmed and Ibn Maaja)

Now all of these signs and good tidings should be rehearsed by all of us to prevent us from succumbing to impulsive haste, revenge, the pursuit of illegal means to achieve our ends, aggression, and taking upon ourselves duties which are neither obligatory nor within our capabilities.

One should also clarify that the events of End Times which are Related in this clause only require that we profess them by faith by virtue of their being supported by sound revealed texts (iman khbari), as God does not demand more than that concerning them. What is obligatory, however, and that which God calls us account for, is our knowledge of our time and the extent to which we have exerted ourselves to attain it. Because only that knowledge is favoured to guide us to what God has truly made incumbent on us, and to act in accordance to the circumstances we find ourselves in and the capabilities at hand: God may He be exalted says: “Remain, then, conscious of God as best
you can, and listen [to Him], and pay heed” (64:16) and also “He who has created death as well as life, so that He might put you to a test [and thus show] which of you is best in conduct…” (67:2)

**Fearing God in our Dealings with the Enemy**

In addition to our advice against the form of aggression which the Sharia prohibits, we would like to also remind Muslims to fear God even in their dealings with the enemy, and at the same strongly advise the non-Muslim governments to cease aggressing and terrorising Muslims in their own countries: the killing of innocent men, women and children, and the destruction of Muslim countries and the plundering of their wealth needs also to stop. Indeed, these sorts of aggressions only compound our difficulties in dealing with the kind of religious deviations that we are trying to address, as they nourish the feelings of vengeance and lead certain Muslims to think that retaliation would be permissible in such circumstances. They for instance would use as proof certain verses of the Qur’an like: “Thus, if anyone commits aggression against you, attack him just as he has attacked you“ even when the command in question is not a ‘general’ or ‘unconditional’ command with no limitations or qualifications, for this aggression that the Qur’an is referring to has been conditioned by the remainder of the verse, which commands: “but remain conscious of and fear God, and know that God is with those who are conscious of Him and fear Him” (2:194)

Clearly, aggression without fear of God (taqwa) is not in keeping with the demands of the Sharia. However that may be, and while we unreservedly deplore such misunderstanding and such violence in the name of Islam, we equally would like to exhort the citizens of the non-Muslim world not to elect extremist anti-Islamic politicians as your leaders, because if these rulers, once appointed, decide to invade any of the countries of the Muslim world, it is you,
the normal civilians, who will pay the price: some Muslims in situations like these would not only hold grudges against you, but more often than not would hold you as directly responsible for the actions of your leaders. Indeed, in the eyes of these Muslims at least, those aggressions would not have taken place if these leaders had not been chosen by you and if you had not continued to show loyalty to them by willingly financing their military invasions through payment of your taxes. If you were to say: “There are mad people among us”, we say: “Among us there is even more”, and if you were to say: “But we have more sophisticated weapons”, then we would say: “Muslims, powerless as they may appear in your eyes, hold still a devastating weapon: love of death and martyrdom operations…so let wisdom prevail in all of this!

We reiterate to you and to all Muslims our position and our call: we strongly warn against any action that circumvents or goes beyond the boundaries of the Sharia’s, even when the enemies may choose to do so.

The eminent authority, sheikh al-Islam, Ibn Taymiyya had stated loud and clear that “Reciprocal action is not morally sound in all cases, and the penalty for a given crime ought not always resemble or have the same attributes as those of the crime itself.” That is to say, if someone had stolen you, for instance, you are surely not going to look to steal that person in return if you are truly seeking an adequate punishment for his crime. So we are obligated to observe the limits set by divine laws and not to ever trespass their boundaries in all circumstances: God may He be exalted says: “And whoever rebels against God and His Apostle and transgresses His bounds, him will He commit unto fire, therein to abide; and shameful suffering awaits him.” (4:14)

We also reiterate our understanding that every nation has the right to defend itself when it being attacked or conspired against. Where Muslims are concerned, this is not simply a right, it is an obligation by law; for God Almighty has said: *Hence, make ready against them whatever force and war*
mounts you are able to muster, so that you might deter thereby the enemies of God” (8:60). There is no doubt that instilling fear in the heart of the enemy, which is known as deterrence in modern military jargon, is an obligation commanded by the Sharia as distinctly attested to by the Qur’anic words: “…deter thereby the enemies of God”. Anyone who rejects that or is even uncomfortable with it has in fact given the lie to the Qur’an and consequently left Islam, becoming a disbeliever, in compliance with the verse “‘And none could knowingly reject Our messages unless it be such as would deny [an obvious] truth” (29:47).

No, we are not about to relinquish our religion only to satisfy the whims of enemies whose sole desire is to see Muslims vanquished and humiliated. It goes without saying that the instilling of fear that we are here haling is an aspect of warfare that is regulated by several principles controlling its legitimacy (dhawaabit), it has nothing to do with treachery and aggression without the justification of self-defence as explained earlier.

**Jihad in Palestine**

Had it not been for the relentless jihad in Palestine and Iraq the Jews would have already by now swallowed the countries surrounding Israel and the Americans would have already occupied Syria and enslaved the peoples of the region. Let no one be in any doubt about this. Did not God Almighty say: “And if God had not enabled people to defend themselves against one another, corruption would surely overwhelm the earth: but God is limitless in His bounty unto all the worlds” (2:251)

These facts are a strong indictment against anyone who vilifies the duty of jihad, and the practice of terrorising the enemy. Those who defame jihad barely know that it through this lofty religious duty that Muslim livelihood and religious life have been safeguarded by God throughout our Islamic history. Listen with me to what Abu Bakr, may God be pleased with him, said during
his sermon upon his election to the office of the caliphate- and with these words, we hope to conclude the last clause of this document:

“Any nation that abandons jihad is surely fated to be abased and humiliated”.
Addendum

At the conclusion of the Document for the Guidance of Jihadist Action in Egypt and the World, the author, Dr Fadl thought it was suitable to write an addendum which contained a note of caution, the third one, and a conclusion to the document as a whole. The following is the full text of this addendum:

A Response to the Diffident Among Fellow Prisoners

While I was writing this document through which I aimed to provide some guidance to jihadi activity, I had the opportunity to consult with many fellow prisoners who are affiliated with jihadi groups, particularly those who expressed reticence or simply feared that such a document would only serve to dispirit the jihadi units in Egypt and entice to be acquiescent in their dealings with the Egyptian government. What stroke me in those discussions was that the only legal ground presented to me by these fellow prisoners as a dissuasive against this initiative of mine was the principle of ‘the preclusion of harm’ (sadd al-dharee’a). In other words, a view was formed that although the document had no intrinsic defect, it was found wanting when its potential consequences were taken in consideration: the document, it was feared, may make a dent in the resolve of the jihadist and may therefore prejudice jihad activity altogether, and that to avert or ‘preclude’ such an outcome, the law, according to this reasoning, required that the document be annulled.

I wish to respond to this reservation from three different angles:

1. Even if we suppose for a moment that the fear and reservations expressed against the document are genuine, we are still faced with the text of the legal
maxim which says: “The same matter which may deemed prohibited in order to preclude harm, may become permissible in view of a prospective and outweighing benefit”. This rule is definitely cited by none other than Ibn al-Qiyam in his ‘I’laam al-Muwagqee’en’ (vol. 2). What this maxim implies is that while for instance it is forbidden to gaze at a woman who is not one’s wife, no for its own sake but in order to preclude the harm of fornication, it is permitted to the suitor, the witness or the doctor by virtue of the outweighing and prospective benefit in all of that. Hence, we have no doubt that the guidance this document contains far outweighs, God willing, its imagined prejudice to jihad.

2. The texts of the Sharia have established that preventing a person from falling into error and reprimanding him does not amount to dispiriting the people of jihad as it is feared, but ought to be seen as a pledge of support for them. The Prophet (pbuh) has said: “Give support to your brother both when he is the transgressor and the one transgressed against” (Related by Bukhari). Today, there are among us those who would kill people by the hundreds, including women, children, Muslims and non-Muslims in the name of jihad, while one of the companions of the Prophet (pbuh), even when his life was seriously in danger as we saw earlier, did not even dare to take one child of the polytheists as hostage; let alone kill him.

How is it that our counsel is a source of dispiritedness and disheartenment when such deviation is taking place?

3. During fighting, Usama had once killed an enemy fighter who had uttered the words ‘there is no God but God’, thinking that the man was only saying them to save his neck from his sword. Upon hearing of the incident, the
Prophet (pbuh) reprimanded Usama and kept saying to him: “What will you do about his words ‘there is no God but God’ on the Day of Judgment?”

Also when Kalid Ibn al-Waleed killed some polytheists without justification, the Prophet (pbuh) has said:

“O God! Absolve me from the actions of Khalid! O God! Absolve me from the actions of Khalid!”

I implore those who are in doubt from among my fellow prisoners and those beyond the prison walls to tell me what is their reply to these sound hadiths?

The difference between disavowing a Muslim and a Disbeliever

It is not right for a Muslim to disown or repudiate another Muslim person, but he can absolve himself from any responsibility for his actions and disavow them. Indeed, when the Prophet (pbuh) had in the earlier example beseeched God to absolve him from the actions of Khalid Ibn al-Waleed, he was not by that repudiating or disowning the person of Khalid, but was rather dissociating himself from those very actions of Kahlid which were liable to incur sins. Otherwise and as a general rule, Muslims must show magnanimity towards their fellow Muslims, as God May He be exalted has said: “And spread the wings of thy tenderness over all of the believers who may follow thee, but if they disobey thee, say, "I am free of responsibility for aught that you may do!"” (26:215-6). As for the disbelievers the matter is different: Muslims in their case are required to repudiate both their actions and their persons, and this in conformity with the verses: “Indeed, you have had a good example in Abraham and those who followed him, when they said unto their [idolatrous] people: "Verily, we are quit of you and of all that you worship instead of God: we deny the truth of whatever you believe; and between us and you there has arisen enmity and hatred, to last until such a time as you come to believe in the
One God!” (60:4) as well as: “and save me [O Lord] from Pharaoh and his doings ‘which were the words with which the wife of Pharaoh supplicated God in the Qur’an (66: 11). While in this subject, it may be worth relating that I was asked, by those who had doubts about this document, to consider conveying my revisals on jihad in private, through oral consultation with the jihadists, instead of making them public, through their writing and publication. There are two ways of dissipating this sort of doubt:

1. Know that only those who have sinned in secret are usually entitled to be given a counsel away from the public eye; those who sin in daylight and also boast about their sins deserve to be admonished and reprimanded publicly lest others follow their example. Why do you think the Prophet (pbuh) had publicly repudiated the actions of Usama and Khalid, if it were not for the purpose of achieving a particular objective and a social benefit (al-maslaha al-‘amma), namely ensuring that such transgressions and sinful actions are not committed again? I am afraid some in the reticent camp who object to our initiative are more concerned about their kudos than seeing Muslims being guided to the right path.

2. Knowledge of the Sharia is not a private knowledge and does not lend itself to silence and concealment, by its very nature it needs to be disclosed to the masses and the general public. Moreover, making this knowledge public has for centuries proven to be the ideal way to protect this knowledge against disfigurement and oblivion. Did not Umar Ibn Abdulaziz say: “Do impart knowledge to one another; knowledge is not such a deadly thing that it should kept, secret” (Related by al-Bukhari). I cannot for the life of me understand how these objectionists hope to teach the current and future generations of Muslims to make the difference between right and wrong if advice and admonition must be secret or given in private? Does not such a step if we were
to follow it only ensure that we perpetuate these mistakes making hereditary from one generation of Muslims to the next?

Know that the legal rulings of the Sharia do not stem from ardent fervour and illusions but from a summa of legal proofs, which are not obviously to the liking our egos and their desires. This reality is at the crux of moral accountability (takleef) and worship to a God Who is One and Peerless.

I am, since I had my consultations with my fellow prisoners, still waiting to have a convincing reply from them or any other opponents to the document, though I have constantly thrown to them the gauntlet, quoting them the words of the Qur’an: “Produce an evidence for what you are claiming, if what you say is true!” (2:111) and “Have you any [certain] knowledge which you could proffer to us? (6:148).

I say this because it has been established in the Sharia that whoever rejects the proofs of the Revealed Law obstinately and without ground would be counted among the followers of their own desires, and those transgressors who strayed from the right path. Indeed, God May He be exalted has said: “And since they cannot respond to this thy challenge, know that they are following only their own likes and dislikes: and who could be more astray than he who follows [but] his own likes and dislikes without any guidance from God? (28:50), and also “But nay - they who are bent on evildoing follow but their own desires, without having any knowledge [of the truth].~ And who could guide those whom God has [thus] let go astray, and who [thereupon] have none to succour them?” (30:29)
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Concluding Remarks

God has addressed us in the Qur’an saying: “O you who have attained to faith! Shall I point out to you a bargain that will save you from grievous suffering [in this world and in the life to come]? You are to believe in God and His Apostle, and to strive hard in God's cause with your possessions and your lives: this is for your own good - if you but knew it! [If you do so,] He will forgive you your sins, and [in the life to come] will admit you into gardens through which running waters flow, and into goodly mansions in [those] gardens of perpetual bliss: that [will be] the triumph supreme! (61:13) And [withal, He will grant you] yet another thing that you dearly love: succour from God [in this world], and a victory soon to come: and [thereof, O Prophet,] give thou a glad tidings to all who believe” (61:10-13)

Given that the duty of jihad has been a constant obligation throughout Islamic history and will continue to be until End Times, and given that this lofty duty has been marred recently by colossal legal blunders, it behooved us to write this document in order to draw attention to the misunderstandings surrounding this lofty duty and to warn against them. Thus, as we embarked on this project, we had never intended to achieve anything else, apart from guidance to Muslims and our youth in particular; we pray to God that it will succeed in that and that it will be beneficial to Islam and to all Muslims.

Also, I would like to say a few words about the language, structure and overall style of the document. To begin with, I have written this document in extraordinary conditions: incarceration and the unavailability of legal references and sources at the time of writing meant that I only had recourse to my memory.
As such, many hadiths, for instance, appeared without the full chain of transmission, and many statements of the scholars were quoted in gist rather than word for word. I also have preferred to be circumspect so as not to encumber my readers. As a result many of my ideas came across more like allusions than explicit statements with direct reference. Indeed, only very rarely for instance have I mentioned the position of some of the scholars of the salaf in full, though I made sure that throughout the document, arguments were always based on the Qur’an and the Sunna, which in the end is in keeping with their methodology, for the discourse of the people of knowledge, after all, is no more than a gloss to these outstanding sources. Indeed, I have at times only cited part of the hadith, because I was only interested in those segments that had a direct relevance to these issues discussed, and with this approach I was only following the method of al-Bukhari who had not only instituted it but permit it as well. Also, it should be added, although the majority of the hadiths found in this document are without full transmission, they are definitely from among the generally accepted hadiths, and we pray that with that most of our arguments are not in breach of the requirements of legal discourse and ruling. Only God knows best and God’s knowledge is most perfect and most complete, and in His hands are the keys to every success.

“O our Sustainer! Accept Thou this from us: for, verily, Thou alone art all-hearing, all-knowing! O our Sustainer! Make us surrender ourselves unto and show us our ways of worship, and accept our repentance: for, verily, Thou alone art the Acceptor of Repentance, the Dispenser of Grace!” 2:127-8

Praise be to God, the Cherisher and Sustainer of the world, and May the Peace and Blessings of God be on our Prophet Muhammad, and on his family and companions.
Attestation

This document was written by Dr Fadl whose original name is al-Sayyid Imam bin Abdulaziz al-Sharif and known also as Abd al-Qadir bin Abdulaziz. He completed this document on the month of Safar/ 18/ 1428 AH corresponding to 8/March/2007.

We hereby endorse all of the clauses listed in this document and testify to abide by them. We urge all of those who are engaged in jihadi activity and the Muslim population at large, in Egypt and the World to equally abide by them in compliance with the principles controlling the legitimacy of jihad outlined in this document.

This document was signed by hundreds of members who belonged to various jihadi units in Egypt. The name of the signatories may be sighted by approaching and putting a request before the relevant authorities in Egypt.