

PUBLISHED IN:

Gelijm Molier, Afshin Ellian, and David Suurland, editors. Terrorism: Ideology, Law, Policy.
Dordrecht: Republic of Letters, 2011 ISBN-10: 9089790764

A genealogy of radical Islamic theory and practice

Introduction

In the following paper, I will attempt to give a brief overview of the development and content of radical Islamic thought and describe the different forms in which this type of thought is expressed. In order for any long term counterterrorism strategy to be effective, it would be self-defeating to focus mainly on the terroristic and violent aspects which are but the symptoms of an underlying movement. Acts of terror constitute one outlet of radical Islamic thought, but what is often overlooked is the propagation (*da'wa*) and preparatory activities for jihad of such groups within Islamic and non-Islamic societies. Whilst not of an immediate threat, I aim to show how *da'wa* activities can function as the front organization of jihadist movements and that this activity poses challenges to the legal infrastructure and the very ethical fabric of democratic societies.

Within the ideological framework of those dubbed 'radical', and I will return to this typology shortly, the choice for terrorist acts is mainly a strategic choice, that has more to do with timing and opportunity than with ideological constraints on the use of violence. With the same ease as some parties choose to impose their agenda through violent means, others choose to give expression to their radical thoughts by undermining society from within the legal structure of that society. Both views however, emanate in principal from the same conceptual framework in which violence is by no means prohibited. Furthermore, the division between 'moderate' and 'radical' is not clear cut either in theory or in practice, and this can be reflected in covert moral, financial or other support given to radical jihadist organizations by organizations that are commonly seen as moderate. No legal or political long term counterterrorism strategy can therefore do without an understanding of the ideas that give rise to these phenomena.

It is, however, precisely because these ideas are founded in religious texts and beliefs that this subject is a very sensitive one which many would rather choose to avoid. Moreover, the challenge posed by radical Islamic thought and action is not merely a challenge in security terms but equally a challenge in terms of defining the domain of the religious in multicultural societies and a challenge to the doctrines of Islam itself. Needless to say then that these issues touch upon a volatile subject which has often been shrouded in emotionally charged rhetoric, both from those seeking to accuse or exonerate Islam as a whole.

In order to avoid this minefield, the following research merely aims to identify and describe radical Islamic intellectual, legal and religious patterns of thinking and the challenges it poses to the aforementioned subjects. This paper will not engage in any judgement on the correctness of the relationship between the radical Islamic ideas and the ideas flowing forth from the classical sources. Rather, it will try to shed some light on the interconnectedness of radical Islamic thought and action, with those classical sources. Far from being primarily politically or socio-economically motivated, the radical Islamic argument is at every level connected with and founded on religious beliefs and no counterterrorist policy can therefore evade acknowledging the importance of this interconnectedness when it comes to developing a successful framework for combating terrorism and managing the intricacies of multicultural societies.

1: Typology and content

As is often especially the case with subjects that are emotionally charged or obscured through controversy, the meaningfulness of this analysis and its usefulness in developing a counterterrorism strategy depends largely on the definitions employed. Terms such as 'political Islam' 'radical Islam', 'islamo-fascism', 'Islamic totalitarianism', 'Islamists' and 'jihadists' are abound but it seems to be of great importance that we differentiate between the different spheres that accompany such designations. Firstly because typologies such as fascism and totalitarianism have vastly different and often times opposing implications for the strengths and weaknesses of the movements involved.¹ Understanding these strengths and weaknesses is vital to the formulation of counterterrorism strategies. Secondly, the designation 'political Islam' or 'Jihadist Islam' seems to imply that politics or jihad are phenomena alien to Islam itself, or at least unlikely, extreme additions to the curriculum of Islam. Oftentimes these definitions seem to be mainly invented by western spectators and fuelled either by a desire to offend or not to offend, or are the result of a haphazard distinction between various groups whose intellectual, religious and cultural lineage is far from easy to understand and which often overlap.² Contrary to this, both the famous apostate of Islam Dr. Wafa sultan³ as well as Al-Qaeda's

¹ See my previous publication on this subject and its interconnectedness with the radical Islamic phenomenon in David Suurland, "Totalitarian and Radical Islamic Ideologies," in *Religion, Politics and Law*, ed. Reinhard Sonnenschmidt Bart Labuschagne (Leiden: Brill, 2009).

² This phenomenon is not without precedent. During the first two to three decades following the end of the Second World War, the wide held consensus was that the Soviet Union could not be Totalitarian since it was in essence anti-fascist and helped overthrow the Nazi's. This emotional consideration for a long time obscured the debate about the nature of Leninist-Stalinist systems thus allowing a host of fellow-traveler political groups to exist unobstructed in western democracies. Even more shameful is the fact that due to this illegitimate sensitivity, political groups could emerge which were partly funded by or engaged in fundraising for regimes such Mao's Red Guard or Pol Pot's Khmer Rouge, something which would be inconceivable had it been done by National Socialist regimes. (see for instance the history of the Dutch Socialist Party or the Green Left Party) Thus whilst fascism and National Socialism were uniformly and rightfully vilified, political systems with equally bloodstained track records were publically protected if not praised without condemnation. The obvious danger is that out of a sense of political correctness or political opportunism, the same phenomenon will apply to the study of radical Islamic thought and that thus early warning signals or an understanding of its potential for violence and sedition will be ignored. One such argument is the oft repeated but equally often unsubstantiated claim that violence, intolerance and discrimination are inimical to Islam. Likewise, the opposite has also been claimed and both phenomenon do

second in command Dr. Ayman al-Zawahiri⁴ have stated that there is only one Islam, the terms political or radical Islam are western inventions. this paper will not answer the question about the nature of Islam and the position of radicalism in it, but it will attempt to show that groups such as Al-Qaeda see themselves as thoroughly rooted in Islamic theology, jurisprudence and Islamic historical processes. It is precisely this rootedness in theology and jurisprudence that exerts, or has the potential to exert a large amount of appeal on the Muslim community (*ummah*).

Paragraph one will contain some basic definitions and conceptual demarcations. Paragraph two will chart some of the main intellectual, legal and political developments that gave rise to what we now call radicalism. Paragraph three deals with the major concepts of radical Islam. Paragraph four will show the expression of these radical ideas in practice through both Islamic advocacy groups and novel theories on jihad. A summary and conclusion for counterterrorism policy and lawmakers will be given in paragraph five.

1.1 Islam, Muslims and Shari'ah law .

There is, as with every religion, a great divide between the religious-political-legal implications of the canonical texts, and the religious, if not spiritual experience of the everyday person. When it comes to Islam I always call this the "Catholicization of Islam" by which I mean the following. As someone who has grown up in an almost exclusively Catholic part of the Netherlands and who has attended exclusively Catholic schools, I was always struck by the nature of the religious experience of the self professed Catholics. As I saw it, a Catholic is someone who is in church during Christmas, a birth, a death and perhaps during a baptism, but for the rest has no or very limited knowledge of Catholic liturgy, bible exegesis or even the rudimentary principles of faith, and depends for his understanding of right and wrong on principles common to all cultures. His association with Catholicism as a creed is mainly *symbolic* and quite often, rather obscure to himself as well. When I began debates about Islam and Shari'ah with my Muslims students I found the same pattern; a general and severe lack of knowledge, but unlike Catholics, a deep identification with Islam as the founding principle of their identity and the object of their loyalty.⁵ Perhaps this is due to their experience as a migrant, but research indicates this is a universal element in Muslims attitude towards religion.⁶ I have no doubt that the majority of people who identify themselves as Muslim do not wish to change every society into an Islamic society ruled by Shari'ah law. To many it seems 'being a Muslim' has more to do with their family, their traditions and customs of their country of origin than with Islam as a belief system. The question however, is whether or not these people are truly aware of the requirements posed on them and their societies by Shari'ah law. As the writer Sam Harris stated:

little to clarify the issue at hand namely: what is the nature of the idea's that lie at the roots of radical Islamic thought? Are they easily brushed aside by the mainstream of Muslims, or do they in fact exert considerable appeal on them?

³ Wafa Sultan, *A God Who Hates* (New York: St. Martin's press, 2009)

⁴ Dr. Ayman al-Zawahiri, "Exoneration," (2009), <http://www.fas.org/irp/dni/osc/exoneration.pdf>.

⁵ When compared to for instance their country

⁶ John L. Esposito and Dalia Mogahed, *Who Speaks for Islam? : What a Billion Muslims Really Think* (New York, N.Y.: Gallup Press, 2007) P. 1-6

“Religious moderation is the product of secular knowledge and scriptural ignorance.”

Whilst this paper will not be able to answer this question, it will show that there is a large section of Islamic thinkers who would agree with this statement and which hold that the majority of the Islamic world is essentially in a state of unbelief, thereby pointing to the divide between the *experience* of religion and the *actual principals and requirements* of that religion.

What constitutes a Muslim? Is the Catholic who performs the minimal level of religious duties but goes about his daily business without bothering with religious dogma truly a Catholic? I would say no. More importantly, the Islamic writers, jurists and ideologues we will be discussing disagree as well.

This has to do with the nature of Islam itself. Oftentimes it is wrongly assumed that Islamic law (*Shari’ah*) is a part of Islam but not the same *as* Islam; that one could even have an Islam without the Shari’ah. In the words of the eminent scholar Joseph Schacht however Shari’ah is:

“[...] the epitome of Islamic thought, the most typical manifestation of the Islamic way of life, the core and kernel of Islam itself. [...] Theology has never been able to achieve a comparable importance in Islam [...] it is impossible to understand Islam without understanding Islamic law.”⁷

Of course, one can argue that Islam is what a Muslim says it is, and that therefore any definition of Islam should be left to Muslims themselves. But this is too simple and it negates the attraction that the clearly defined dogma of Islam and indeed radical Islam has on believers. Generally speaking, of the three major monotheistic religions, Islam is perhaps the most legalistic and at the same time the most static. It “represents an extreme case of ‘jurists law’.”⁸ While Judaism certainly is equally rich in terms of the volumes of legal discussion dedicated to the contents of its scriptures, Judaism, through the Talmudic tradition has institutionalized the concept of debate and doubt, whereas Islam, especially in its Sunni variety, has for the largest part of its history been marked by the denial of the ability of independent reasoning (*ijtihad*) and replaced it with an emphasis on imitation (*taqlid*).⁹ This reluctance for

⁷ Joseph Schacht, *An Introduction to Islamic Law* (Oxford [Oxfordshire] ; New York: Clarendon Press, 1982) P. 1

⁸ Ibid., p. 5, 17.

⁹ This phenomenon is known as ‘the closure of the gates of Ijtihad’. *Ijtihad* is the ability for independent reasoning in which one who is versed in the Quran and *Sunna* can come to an understanding of the legal implications of those texts. *Ijtihad* was common practice in the first few centuries of Islam which are known as the formative period of Islamic law. From the third century of the Islamic calendar (900 A.D.) onward, the formative period of Islamic law was coming to an end and the idea grew, notably through the work of the eminent jurist Shafi, and later by consensus of the scholars of all schools of law that “all essential questions had been thoroughly discussed and finally settled, and a consensus gradually established itself to the effect that from that time onwards no one might be deemed to have the necessary qualifications for independent reasoning in law, and that all future activity would have to be confined to the explanation, application and, at most, interpretation of the doctrine as it had been laid down once and for all. This ‘closing of the door of *ijtihad*’ as it was called, amounted to the demand for *taqlid* [...] the unquestioning acceptance of the doctrines of established schools and authorities.” Ibid., P. 69-72 The concept of *taqlid* however was not uncontested and over due time renewed calls for the possibility of *ijtihad* were voiced by eminent jurists such as Ibn Taymiyyah and by movements such as the emerging *Wahhabi* and *Salafi* movement. Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, third ed. (Cambridge: The Islamic texts

transformation and adaptation notwithstanding, “ the Shari’ah is a product of articulations of legal discourses and institutions to varying patterns of society and politics [...] Contrary to the insistence on unity and perpetuity, the Shari’ah has in fact displayed considerable variation over time and place.”¹⁰

Of course the question of application of those laws is a different question. Since Shari’ah is the ‘core and kernel of Islam itself’, however, I find it difficult to believe that Islam is what a Muslim says it is. And it is for this reasons that terms such as ‘jihadists’, ‘Islamists’, ‘political Islamists’ or ‘radical Muslims’ are deceiving. For jihad, politics and the implementation of Islamic edicts and requirements in society are part and parcel of Shari’ah law and thus of Islam itself. When one studies the works of jurisprudence (*fiqh*) on which the Shari’ah is built, one can see that the Shari’ah incorporates all major fields of law: public, private, criminal, commercial, family law, the law of war and peace treaties, laws pertaining to rituals and religion and laws designed to constitute a political framework for the application of Shari’ah itself. It is “an all-embracing body of religious duties, the totality of Allah’s commands that regulate the life of every Muslim in all its aspects”¹¹

Rather than being an optional part of the religion of Islam, the Shari’ah is the core of Islam and its principles, norms, values and regulations have been laid down for all interested persons to read.¹² The idea then that Islam is what a Muslim says it is, is therefore in my view, and more importantly, in the view of those ‘radicals’ we are about to analyze, simply not true. The degree to which a modern day Muslim can deviate from established legal tradition, adapt his own jurisprudence to the requirements of modern times is the subject of ongoing debate. To make an analogy; if one looks at the constitution of say the United States, one would find that its laws have been steeped in tradition, are accompanied by centuries of more or less uniform jurisprudence and legal practice. To make a radically new interpretation of its laws is always possible, jurisprudence is after all a human endeavour. The legitimacy and authority of such a new interpretation, however, are challenged by the established tradition and practice and thus have to overcome formidable obstacles if they want to become the new standard of interpretation. The ongoing debate about the right to bear arms being a point in case. If this is true for

society, 2008) P. 493. These are incidentally the same movements which are also held to be the main theological and legal engines behind the surfacing of what we now call ‘radical Islamic thought’. (q.v.)

¹⁰ Sami Zubaida, *Law and Power in the Islamic World*, Library of Modern Middle East Studies (London ; New York: I.B. Tauris, 2003) P. 3-4

¹¹ Schacht, *An Introduction to Islamic Law* p.1

¹² It should be noted that there exist numerous differences between the varying schools of law, however, as long as a Muslim adheres to opinions that can be traced back to any of these schools of law, he is considered to not have transgressed the boundaries of Islam. An interesting book in that respect is 'Abd al-Rahman al-Jaziri, *Islamic Jurisprudence According to the Four Sunni Schools*, trans. Nancy Roberts, vol. I acts of Worship (Louisville: Fons Vitae, 2009) It details all the differing opinions of the four Sunni schools of law with regards to acts of worship and thus gives an interesting view on how the process of *usul al-fiqh* can lead to different opinions. In general when confronted with different legal opinions there are two possible choices; firstly the path of dispensation (*rukhsa*) in which case a Muslim may follow a school of law other than his own for reasons of necessity or when he believes the other school of law holds a stronger position, but not out of his own caprice, and secondly the path of greater precaution (*al-ahwat fi al-din*) in which case the Muslim can choose the strictest ruling out of godfearingness (*taqwa*). mad Ibn al-Naqib al-Misri and Noah Ha Mim Keller, *Reliance of the Traveller : The Classic Manual of Islamic Sacred Law Umdat Al-Salik*, Rev. ed. (Evanston, IL: Sunna Books, 1994) C6.4-5, W14

manmade laws, it is all the more true for divine law, and this is exactly the point brought forth by the radical Islamic jurists.

1.3 what is radicalism?

Since Shari'ah is the "core and kernel" of Islam itself, and Shari'ah law is 'the totality of Allah's commands that regulate the life of every Muslim in all its aspects', it follows that Islam regulates both the private and public sphere entirely. In addition, the Shari'ah contains numerous rulings on how to deal with non-Muslims both inside and outside the sphere of influence of the Islamic community thereby extending the reach of Islam to all mankind. So the question is: what is *radical* Islam?

In the words of the Dutch Intelligence agency (AIVD):

" In this report radical Islam is understood to mean: The politico-religious pursuit of establishing - if necessary by extreme means - a society which reflects the perceived values from the original sources of Islam as purely as possible."¹³

There are a number of things misleading in this definition. I do not wish to engage in conceptual nitpicking, but I aim to show how misleading definitions such as these have real world effects which adversely affect counter-terrorism strategies.

1: the term politico-religious implies that there is such a thing as non-political-religious. As I have shown, the Shari'ah incorporates legislation and edicts that have a clear political nature, extending beyond the mere personal life of the believer to include the community of believers (*ummah*) and even mankind as whole. Thus Islam is by its very nature political. The Shari'ah sets out rules pertaining to private law or family law, how are these rules supposed to be put into practice if not by some sort of political process? And if Allah himself or through Muhammad proscribed these laws, then how can one be a Muslim without pursuing their implementation?

2: The word radical implies a quantitative and qualitative aspect. With regards to the qualitative aspect: If we would imagine a bell curve in which the democratic model signifies the mean, radical forms of politics would occupy the extreme ends of that curve. If we maintain the standard division of politics into left and right, anti-democratic inclusivist movements, such as communist movements could be considered as the radical left and anti-democratic exclusivist movements, such as Nazism, as the radical right. This conception of the word 'radical' therefore revolves around the presupposed idea that the non-radical moderate mainstream is devoid of political intolerance and is essentially democratic. This is how the word 'radical' is usually perceived in western politics. But in using the terms 'radicals' and 'moderates' to describe political currents in Islam we thereby transpose a western view of politics onto Islamic politics without asking the question whether this is valid or not. Are democracy, tolerance and the absence of violence equally representative of the moderate mean in the bell curve of Islamic political thought? The authors we will be discussing will, unsurprisingly, argue that this is not the case. In general, their argument is that the views of those that *do* maintain that democracy and tolerance are

¹³ Dutch General Intelligence and Security Service, "From Dawa to Jihad," (2004). P. 8

core values of Islam are the true innovators, the true radicals and above all non-believers that stand in the way of a just world order.

With regards to the quantitative aspect: The word 'radical Islam' presupposes that there is such a thing as moderate Islam of which radical Islam is the deviation, automatically leading to the idea that those on the radical side are the minority whilst the mainstream is the majority. Again the question begs: is this true?

Thus in résumé, the danger in the use of the word '*radical Islam*' lies in the fact that this term, perhaps subconsciously, implies in our common political vocabulary,

'The *un-orthodox* politico-religious pursuit of a minority group aimed at establishing - if necessary by extreme means - a society which reflects the perceived values from the original sources of Islam as purely as possible'.

We therefore expect that the opposite of radicalism must be devoid of such characteristics. In other words, moderate Islam must be a non-violent majority which is quite happy to live in a democratic society in which its own values are not the standard and may not be even possible to put into practice.¹⁴ As such we run the risk of accepting *a priori* that moderate Islam is non-violent and democratic. If one goes one step further it becomes quite easy to accept that the mainstream signifies the *true* orthodox form of Islam, whilst the radical sides are a minority who fall outside of the scope of Islam proper. And that to reform the radicals we need to make use of the moderates. That this is not merely a theoretical point in case is shown by the speech president Obama gave in Egypt in 2009:

"Islam is not part of the problem in combating violent extremism -- it is an important part of promoting peace."¹⁵

Thus we see that the foundation of Obama's counterterrorism policy and legislation, if we take his statement seriously, is based on the idea of a majority of non-violent peaceful Islamic orthodox Muslims who are willing to stand up against the radicalism of groups like Al-Qaeda based solely on their adherence to Islam itself.

Fortunately, recent developments have given us the opportunity to witness just such a 'stand-off' between the 'moderates' and the 'radicals'. Whilst numerous studies have already been done into the background of groups like Al-Qaeda and their representatives these studies have almost always been of Western design and based on Western observations on Islam. But recently a text has become available which sheds new light on the theological and legal philosophy of Al-Qaeda. In this document, called

¹⁴ John Esposito for instance defines a moderate as someone who, in a poll performed by Gallup, answered the question "were the 9/11 attacks justified?" negatively. Esposito and Mogahed, *Who Speaks for Islam? : What a Billion Muslims Really Think* P. 69 But this leaves open a plethora of legal opinions that we would still feel uncomfortable as defining as moderate such as the opinion that 9/11 was not justified simply because Muslims were killed, or because of the prohibition on suicide.

¹⁵ B. Obama, "Remarks by the President on a New Beginning," ed. Office of the Press Secretary (The White House 2009). Also known as "The Cairo speech".

'Exoneration'¹⁶, Dr. Ayman al-Zawahiri responds to a critical document written by his former ally, mentor and repudiated 'grandfather of jihadism' Sayyed Imam Al-Sharif, also known as 'Dr. Fadl', or Sayyed Imam (1950-). In this document, "*Rationalizing Jihad in Egypt and the World*", Sayyed Imam attacks Al-Qaeda for what he sees as the illegitimate and un-Islamic use of violence against prohibited or innocent targets and calls for an end to the operations of the organization he used to inspire. It is important to understand that Sayyed Imam is currently serving a life imprisonment sentence in Egypt and, as Zawahiri also states, it is likely that the document has not been written by Sayyed Imam but rather by the Egyptian security services with the help of likeminded *ullema*. This fact notwithstanding, both documents offer an incredibly rich description of the procedures employed to legitimize their respective positions. Through an appeal to the classical sources, the Quran and the *sunna*, and the most well respected of the classical *ullema*, both parties try to persuade the other of the error of their ways. As such it gives us the opportunity to come to terms with the political, legal and religious vocabulary employed by both parties, which is nothing if not rooted in the best of Islamic jurisprudence traditions. Styled as a question and answer document, the 'exoneration' goes into each of the point made against. Since space will not allow me to give an worthy summary of this discourse, I have summarized the most important arguments in paragraph 4.2.3

The *exoneration* clearly shows how different streams of thought, have coalesced to form the intellectual, theological and legal backbone of Al-Qaeda's ideology. I will therefore discuss these historical developments and the intellectual reactions to them that created that type of thought which we now call radical Islam and of which the *exoneration* is one of its purest examples.

2. The intellectual lineage

2.1 Historical setting

Concurrent with the different examples set by the prophet Muhammad in Mecca and Medina¹⁷, Islam, in its circa 1400 years of existence, has given rise to a multitude of political expressions ranging from the

¹⁶ al-Zawahiri, "Exoneration."

¹⁷ In general it can be said that whilst Islam was in its infancy, which is called the Meccan phase, the emphasis is on tolerance and pacifism. In Mecca, the young Islamic community was outnumbered, often persecuted and incapable of imposing its views on the Meccan society. When Muhammad emigrated to Medina, in a process which is called the *hijra* and which marks the start of the Islamic calendar, he founded there the first Muslim polity. This phase is defined by the unity of the legislative, political, judicial and military authority in the person of Muhammad and is related to the more intolerant, militant and expansionist verses in the Quran and hadith. It is generally agreed that the verses from Medina, which contradict verses from the Meccan era, have abrogated (*nashk*) the latter. Kamali, *Principles of Islamic Jurisprudence* P. 218 See also Reuven Firestone, *Jihad : The Origin of Holy War in Islam* (New York: Oxford University Press, 1999) P. 151; John Burton, *The Sources of Islamic Law: Islamic Theories of Abrogation* (Edinburgh Edinburgh University Press 1990) P. 184 This theory of abrogation, however, has in modern times been opposed by intellectuals such as Muhammad Taha. Muhammad Taha, *The Second Message of Islam*, 1st ed., Contemporary Issues in the Middle East (Syracuse, N.Y.: Syracuse University Press, 1987)

quietist retreat from politics of some Sufi orders¹⁸ to the overtly political agenda of thinkers such as Qutb, Khomeini or Zawahiri. Without getting lost into the technical details, the sources of Islam¹⁹, depending on the topic, leave ample space for debate about their political implications and the history of Islam is therefore unsurprisingly replete with varying interpretations (*ijtihad*).²⁰ It is the standard view that the time of the prophet and his companions (*Salaf*) and first three generations after him, the four rightly guided caliphs (*al-khulafā'ur-rāshidūn*), represent the pinnacle of Islam, or Islam in its best and purest form.²¹ After the era of the *Rashidun*, the age of purity fell into decline with the assumption of power by the Umayyad dynasty in the 7th-8th century A.D. Under the Umayyad's, the realm of Islam saw its greatest growth through conquest, however, the general view is that the Umayyad's heralded in the decline of the religious caliphate and instead introduced notions of kingship (*mulk*) which had no basis in Islam. Following the growth of the empire, with all its practical needs and the ever present threat of sedition and rebellion (*fitna*) an accord had to be reached between those in power, the *caliph* or *emir*, and the Islamic jurists, the *ullema*. Originally the *ullema* on their part were in part funded by the rulers thus creating a dependence on the part of the *ullema*. The rulers on the other hand relied on the sanction of their rule by the *ullema* thus creating a symbiosis which maintained both their power basis but was not always a reflection of Islamic teachings. The interpretations of the Islamic canonical sources by the *ullema* are thus not always founded on sincere theological and legalistic endeavours, but have, perhaps more often than not, been fuelled by the worldly requirements and dictates of the ruling elites.²² Apart from the rulers interest in proscribing certain interpretations, the rulers were also in a position to ignore or even restrict the applicability of Islamic injunctions.²³ Thus, for most of its history, Islamic societies have known a troublesome duality between the realm of the *ullema* and that of the rulers, between the interests of Islam and the interests of the caliphate which was *in theory* designed to implement Shari'ah into society. In practice this meant that the realm of the *ullema* was largely

¹⁸ A. Nizar Hamzeh and R. Hrair Dekmejian, "A Sufi Response to Political Islamism: Al-Abash of Lebanon," *International Journal of Middle East Studies* no. 28 (1996).

¹⁹ The classical sources of Islam are the Quran, the narrations and approvals of the Prophet (*hadith*), and to a lesser degree the sayings and examples of the prophet and his companions (the *salaf*). The *hadith* and examples can, but this is somewhat disputed, be called the '*sunna*'.

²⁰ See for example the following studies on the evolution of the different political positions in Islamic thought: John L. Esposito, *Islam and Politics*, 4th ed., Contemporary Issues in the Middle East. (Syracuse, N.Y.: Syracuse University Press, 1998), Patricia Crone, *Medieval Islamic Political Thought*, [New ed., The New Edinburgh Islamic Surveys. (Edinburgh: Edinburgh University Press, 2005) Hamid Enayat, *Modern Islamic Political Thought* (London: I.B. Tauris, 2008)

²¹ As remarked by the Prophet Muhammad himself: "Narrated Imran bin Husain: "Allah's Apostle said, 'The best of my followers are those living in my generation (i.e. my contemporaries). and then those who will follow the latter'" 'Imran added, "I do not remember whether he mentioned two or three generations after his generation, then the Prophet added, 'There will come after you, people who will bear witness without being asked to do so, and will be treacherous and untrustworthy, and they will vow and never fulfill their vows, and fatness will appear among them.'" Bukhari, "Shahih Bukhari " (Riyahd: Darussalam, 1997). Book 57, number 2

²² For a contemporary example of this phenomenon in relation to the conflict between Egypt and Israel see Rudolph Peters, *Jihad in Classical and Modern Islam : A Reader*, 2nd ed., Princeton Series on the Middle East (Princeton: Markus Wiener, 2008) P. 156

²³ Zubaida, *Law and Power in the Islamic World* P. 78

restricted to matters pertaining to the private religious life of Muslims. Islamic scholars from the 19th and 20th century would later diagnose:

“ the corruption of the *ullema* and subservience to rulers, as one of the main causes of the distortion of the Caliphate from its ideal form under the Rashidun into an apparatus serving the basest interests of the despots and dynasts, thus making tyranny the normal form of government in Islamic history. Hence the very people who are charged with the task of preserving the justness of the system proved to be the mainstay of its abuses.”²⁴

A key figure in the attempt restore supremacy Islam over the system of governance, and someone who would fuel the later reformist and jihadists with the necessary theological and legal arguments is Ibn Taymiyyah (1263-1328). It is virtually impossible to read any jihadist literature without seeing references to his work, his collection of *fiqh* or his Quranic exegesis.²⁵ The same goes for his student Ibn Qayyim al-Jawziyah and his student, author of the universally acclaimed exegesis (*tafsir*) on the Quran, Ibn Kathir. We will return to Ibn Taymiyyah and his relevance to present day Jihadism later, but for now it is necessary to say something about his position towards the duality of Islamic and state law and his attitude towards the subservience of the *ullema* since it also lay the foundation for the later non-jihadist modernist and *Salafist* reformation movements.

Ibn Taymiyyah

The main virtue and present day relevance of Taymiyyah is that he was perhaps the first, but in any case the most prolific scholar of Islam to oppose the preeminence of the worldly ruler over matters of religion and the *de facto* duality of state law and Islamic law. Ever since the end of the era of the rightly guided caliphs, the *Rashidun*, the state of affairs in Islam had been such that model of the prophet Muhammad and his companions had been relegated to the status of an unobtainable Utopia. Most scholars and *ullema* agreed that a return to this state of being was impossible. This resulted in the acquiescent state of affairs in which Islamic law itself became somewhat of a utopian affair, existing alongside state law, but in essence being subservient to it. As such, over the course of centuries, elements of manmade law have been introduced into Islamic law which were not derived from the classical sources, but rather were innovations (*bi'da*) based on the practical needs of the rulers and *ullema* alike. Ibn Taymiyyah, whilst acknowledging that the model of the prophet and his companions could not be materialized again, argued against this duality of state and Islamic law, against the subservience of the *ullema* and against the introduction of innovations that were deemed un-Islamic, and thus attempted to reinvigorate the role of the righteous *ullema* in the government of the *ummah*. Unsurprisingly this was not always to the benefit of the rulers and thus ibn Taymiyyah was persecuted and spent much of his life in jail, a feat which gave him a lot of credit and ensured his respectability

²⁴ Enayat, *Modern Islamic Political Thought* P. 73

²⁵ See the summary and analyses of modern radical Islamic and jihadists text in the ‘militant ideology atlas’. In this report several texts are analyzed on their content and on the prevalence of writers to which the text refers for legitimacy and religious authority. Ibn Taymiyyah remains one of the most consistently and oft cited *ullema* within these type of writings. Combatting Terrorism Center, "Militant Ideology Atlas," ed. William McCants (West Point: US military Academy West Point, 2006).

amongst the reformers and jihadists of the 19th and 20th century who saw themselves in the same position. Much in the same way as the reformers and jihadists would denounce the rulers and *ullema* of their time, Ibn Taymiyyah:

“denounces his fellow *ullema* who, faced with all these abuses, turn away from political involvement, arguing that the only way to stop them would entail rebellion and violence. He berates them for cowardice and corruption, and excessive concerns for their own material interests. It is incumbent upon the men of religion to set an example of public rectitude, concern for the community and affairs, and the dignity of Islam, and by their good example to make a stand for what is right.”²⁶

This duality between the realm of the state and the realm of the *ullema* created tensions that mounted when the Islamic societies went from a period of expansion to a prolonged period of invasion, such as under Mongols and later colonial rule. This turn of events, from a conquering religion to one marked by internal rivalry, fragmentation and foreign occupation, gave birth to the idea of *palingenesis* or rebirth of a real or imagined glorious past of purity.²⁷ It is in this phase of Islamic history, that we see the arrival of *ullema* and scholars such as Ibn Taymiyyah and Muhammad ibn al-Wahhab (1703-1792) that preached a remedy to society's ills which consisted of purifying the Islamic society of non-Islamic influences, and the insistence on a form of governance that was wholly in accordance with Islam and especially with the example set by the prophet Muhammad and his companions.²⁸ In the modern era this process accelerated when large parts of the Islamic world came under the umbrella of colonial rule and were exposed to western notions of the state, of modern public law, private law, the separation of church and state and other legal concepts which were alien to Islam. Furthermore, the experience of colonialism and the confrontation with the west's material and scientific strength made it painfully clear that the Islamic world was in a state of 'impotence'. Whereas in the centuries before, Islam itself was the colonial superpower, it now became glaringly clear that the torch of history had been given to another civilization. Reflective of the Quranic verse 47:38: “Here you are - those invited to spend in the cause of

²⁶ Zubaida, *Law and Power in the Islamic World* P. 100-102 Ibn Taymiyyah “then denounces his fellow *ullema* who, faced with all these abuses, turn away from political involvement, arguing that the only way to stop them would entail rebellion and violence. He berates them for cowardice and corruption, and excessive concerns for their own material interests. It is incumbent upon the men of religion to set an example of public rectitude, concern for the community and affairs, and the dignity of Islam, and by their good example to make a stand for what is right.”

²⁷ Palingenesis is only found in western political philosophy in totalitarian and fascist movements.

²⁸ It is important to note the similarities between the Islamic notion of purity and *palingenesis* and the totalitarian notions of *palingenesis*. National-Socialism and the ideology of Khmer-rouge in particular rest on similar notions of a secularized concept of the 'garden of Eden', be it an imagined age of racial purity or rural autarkic life. As we shall see, the National-Socialist and the Khmer Rouge attempt to fabricate this garden of Eden back into reality resonates within the ideology of the jihadist groups who see violent action in name of the ideology as *jihad* in the service of Allah. Thus the similarities between Jihadism and totalitarianism are particularly striking. See: Claus-Ekkehard Bärsch, *Die Politische Religion Des Nationalsozialismus : Die Religiöse Dimension Der Ns-Ideologie in Den Schriften Von Dieter Eckart, Joseph Goebbels, Alfred Rosenberg Und Adolf Hitler* (München: W. Fink., 1998), Michael Hesemann and Hans Christian Meiser, *Hitlers Religion : Die Fatale Heilslehre Des Nationalsozialismus* (München: Pattloch, 2004), Suurland, "Totalitarian and Radical Islamic Ideologies.", Eric Voegelin and Manfred Henningsen, *Modernity without Restraint* (Columbia ; London: University of Missouri Press, 2000), Henri Locard, *Le "Petit Livre Rouge" De Pol Pot, Ou, Les Paroles De L'angkar, Entendues Dans Le Cambodge Des Khmers Rouges Du 17 Avril 1975 Au 7 Janvier 1979*, Recherches Asiatiques (Paris: L'Harmattan, 1996)

Allah - but among you are those who withhold [out of greed]. And whoever withholds only withholds [benefit] from himself; and Allah is the Free of need, while you are the needy. And if you turn away, He will replace you with another people; then they will not be the likes of you” this turn of events sparked the idea that the impotence and decay of the Islamic nation was due to its contamination with un-Islamic influences and thus a call for purification and revivalism took root.

2.2 The confrontation with modernity

In a coarse generalization, it can be said that out of this confrontation with the western world two schools of thought emerged which both, broadly speaking had their basis in Egypt. Although many authors will offer different subdivisions of these streams of thought, coining terms such as *political Islam*, *Islamism*, *Islamic nationalism*, *radical Islam*, *jihadi Islam* and so on, a lot of differences exist between these authors as to what definition constitutes a certain type of movement. It has been my experience that in practice there is ample overlap between or confusion about these categories and therefore I will refrain from a specific categorization and make a coarse subdivision based on whether or not a movement is principally focussed on the state or on the *ummah*. In the end, the question is not one off accuracy of these subdivision, but the way in which they are relevant to present day counter-terrorist policies and legislation. It should be reiterated that the concept of the nation state is a western concept alien to Islam. Islamic societies have always seen the *ummah*, the whole body of Muslims as the principal actor in the political field with at its head the *Caliphate*, a political body whose sole aim is to implement *Shari’ah* law.²⁹

2.2.1 A state centred response

This school of thought can be divided into two sub-streams. The first sub stream emphasized an Islamic equivalent of the European enlightenment process, an Islamic renaissance (*Al-Nahda*), that would mirror European enlightenment phenomena such as nationalism, institutional reform and modernization, and in some cases emancipation of women and the introduction of parliamentary democracy and secularism. It is marked by an openness towards foreign ideas, institutional modernization, intellectual reform and an emphasis on the western notion of the state rather than on religion even though the political discourse may be shrouded in Islamic terminology. It may be referred to as *Islamic nationalism* and it includes figures such as the great Egyptian reformer Muhammad Ali (1769-1849) who aspired institutional and military reform and the Egyptian Rifa’a Rafi’ al-Tahtawi (1801-1873) who sought to integrate the benefits of the European enlightenment into the discourse of Islam.³⁰ Other more secular orientated proponents of this current, in broad terms, are the Turkish Mustafa Kemal Attaturk (1881-1938) whose policies eventually led to the dissolution of the Ottoman Caliphate in 1924 and a tradition of strict secularism in Turkey, and the Egyptian Ali Abdel Raziq (1888-1966) a highly controversial Egyptian Islamic scholar and Shari’ah judge who in 1925 published his treatise “Islam and

²⁹ Although as we have seen the Caliphate lost much of this function shortly after the age of the *Rashidun*. The reference to the caliphate and *ummah* is therefore largely symbolic, yet the difference between that and the western notion of the state remains intact.

³⁰ Ira M. Lapidus, *A History of Islamic Societies*, 2nd ed. (Cambridge: Cambridge University Press, 2002) chapter 16

the Foundations of Governance" (*Al-Islam Wa Usul Al-Hukm*)³¹ in which he argued for the separation of church and state on the grounds that the Quran and *sunna* do not imply a specific form of government and that the main objective of the Quran and *sunna* is the wellbeing of society.³² Another historic example of this type of thinking can be found in those movements that adopted outright European notions of political revolution, socialism and nationalism such as the Baath movement, Nasserism and the PLO. In short, this type of thought presented an opening to non-Islamic influences and the possibility of adapting to some degree Islam and Islamic societies to the needs of modern times. A present day proponent of this type of thought can be found in the Sudanese scholar Abdullahi Ahmed An-Na'im (1950-) who, following his teacher Taha (1909-1985)³³ proposes that a secular state founded on the notions of democracy and institutionalized guarantees of human rights and political freedoms is actually in the best interest of Islam. He reasons that Shari'ah as a religious concept finds its pinnacle in the individual's voluntary acceptance of the Shari'ah and that therefore any state enforced application of the Shari'ah is in contradiction to its most hallowed nature.³⁴ Furthermore, enforcing Shari'ah or making all state legislation a mirror image of Shari'ah legislation presupposes that one *knows* what Shari'ah law is and that one chooses a certain interpretation over another. Anyone familiar with Islamic jurisprudence will know how difficult it actually is to identify a consensus on for instance ritual, private or criminal law.³⁵ Such a forced interpretation would result in the community of Muslim within a specific country having to abide by an interpretation or school of law that might not be theirs, a concept which goes against Islamic teachings itself.³⁶ Thus if one wants to ensure that Islam remains a dynamic evolving system of ethical and normative values, it should be allowed to adapt to needs of the real situations Muslims find themselves in, and more importantly, it should be left to Muslim and not the state to decide which interpretation they wish to adopt as their own. As such secularism, democracy, freedom of thought and religion and equality before the law, Na'im argues, are not only Islamic principles, but are principles that Islam needs to flourish.³⁷ This view, as we shall see later on, is however highly contested and is exemplified by the execution of Na'im's teacher Mohammad Taha on the 18th of January 1985 on the grounds of apostasy and fostering sedition.

³¹ Al i Abd al-Raziq, *Al-Islam Wa-Usul Al-Hukm*, 2. ed. (1925)

³² Society, he argued, had mainly suffered from the imposition of Caliphal rule and thus a separation between church and state would serve the interest of the *ummah* the best. This entailed no argument for the secularization of society, but nevertheless the treatise was banned by the highest Sunni religious authority, the Al-Azhar university in Cairo in 1931.

³³ Taha, *The Second Message of Islam*

³⁴ Abdullahi Ahmed An-Naim, *Islam and the Secular State* (Cambridge: Harvard university press, 2008) P. 14

³⁵ See for instance the 1000 pages devoted to charting the difference of opinion amongst the 4 Sunni schools of law on ritual law. al-Jaziri, *Islamic Jurisprudence According to the Four Sunni Schools*

³⁶ An-Naim, *Islam and the Secular State* P. 16-19 See the example of the Ottoman's codification of Hanafi codes of civil law, *majallah*, that were introduced in territories that historically ascribed to the Shaf'i or Hanbali schools of law. It is an agreed upon position within Islamic law that a Muslim can justify his actions by reference to any or a mix off any of the four established schools of law (*madhab*). He cannot be forced to do so against his will.

³⁷ Ibid.,

The second sub-stream, which we can call '*Islamism*'³⁸ is focussed on rebuilding the state on the foundation of Islam in its perceived pure form. The duality between Islamic law and state law in this view needs to be solved by making the state subservient to Shari'ah law. It is focussed on the real or imagined purity of the time of the prophet Muhammad and his companions and the *salafi* movement that came forth from this type of thought attributed much of the weakness and backwardness of Islamic societies on the stagnation of the *ullema*, the unexamined following of past legal traditions (*taqlid*) and the lack of independent reasoning (*ijtihad*). Instead of blindly following what the previous generations of *ullema* had formulated in terms of Islamic law (*shari'ah*) and jurisprudence (*fiqh*), the *salafi* movement gave preeminence to ratio, independent reasoning and judgment in order to revitalize Islam and thus paved the way towards a restoration of the former glory of Islam.³⁹ Their claim is that for all matters in life, be they private or public, one should look at the Quran and the *Sunna*⁴⁰. Like Islamic nationalism, this stream it is willing to incorporate certain merits of western society, such as scientific achievements and institutional reform but unlike Islamic nationalism this school of thought advocates an emphasis on the re-Islamization of society and rejects western notions of constitutionalism, secularism or western interpretations of human rights. It emphasizes religious reform not in the form of a renaissance or modernization, but in the form of a return to the era of the *Salaf*, the subjugation of governance to Islamic law and to the re-Islamization and purification of society. The state in this view resumes the classical character of the Caliphate in that it is the task of the state to imbue society with the Shari'ah. To this stream of thought belong, in varying degrees, scholars and intellectuals such as the Iranian Jamal-al-Din Afghani (1838-1879), the Egyptian Muhammad Abduh (1849 -1905), the Syrian Rashid Rida⁴¹ (1865-1935) and most importantly perhaps, the Egyptian Sayyid Qutb (1906-1966) to whom we will return shortly.⁴² In addition, a number of highly politically active individuals come to the front of the political scene such as the founder of the Muslim Brotherhood Hassan Al-Banna (1906-1949)⁴³, the

³⁸ Andreas Armbrorst, "A Profile of Religious Fundamentalism and Terrorist Activism," *Defence against terrorism review* 2, no. 1 (2009). Armbrorst, "A Profile of Religious Fundamentalism and Terrorist Activism." P. 3

³⁹ Enayat, *Modern Islamic Political Thought* Chapter 3.

⁴⁰ Islamism can be seen in both Sunni and Shi'a Islam. Since we are focusing on Sunni radicalism in this paper I will forgo an analyses of Shia'h Islamism. Nevertheless some additional connotations should be made. Salafism is an exclusively Sunni phenomenon. According to Salafism, Shi'a Muslims are heretics although the results of the Iranian revolution led by Ayatollah Khomeini have inspired many islamists to similar actions.

⁴¹ It should be noted that the question of the possibility of transposing the religious law into positive law is one that has been denied by for instance Rashid Rida Islamism is not per se an argument for codifying Islamic norms into positive legislation. It does however maintain that those elements of society and government that are un-Islamic or impede the propagation of Islam should be removed.

⁴² Enayat, *Modern Islamic Political Thought* "likeabduh, rida diagnoses the corruption of the *ullema* and subservience to rulers, as one of the main causes of the distortion of the Caliphate from its ideal form under the *Rashidun* into an apparatus serving the basest interests of the despots and dynasts, thus making tyranny the normal form of government in Islamic history. Hence the very people who are charged with the task of preserving the justness of the system rove to be the mainstay of its abuses.

⁴³ See for instance Hassan Al-Banna, "The Message of the Teachings ", http://web.youngmuslims.ca/online_library/books/tmott/. In this document Al-Banna sets forth a program for the revitalization and re-Islamization of Muslim societies. The muslims should work towards: "Liberation of the homeland from all un-Islamic or foreign control, whether political, economic, or ideological. [...] Reforming the government so that it may become a truly Islamic government, performing as a servant to the nation in the

spearhead of the Iranian Islamic revolution and first supreme leader of the Islamic republic of Iran Ayatollah Khomeini (1900-1989)⁴⁴ and the influential Indian Abu ala Maududi⁴⁵ (1903-1979) who founded the Jamaat-e-Islami movement and aimed at turning Pakistan into an Islamic country along the lines of the Caliphate idea.

What is most interesting about this state-centered Islamist movement is that whether one looks at the Egyptian variety in Al-Banna, the Iranian variety of Khomeini or the Pakistani variety of Mauwdudi, all seem to have been born in conditions reflecting those of the Weimar republic, or post-colonial regimes struggling with independence.⁴⁶ From these conditions emerges a mentality that bears great similarities to the fascist mentality and an ideology that is akin to the early stages of totalitarian ideologies. I mentioned this conceptual likeness earlier but will elaborate on it here a bit further, what Islamist movements share is:

“an analysis of the conditions of the Muslim *ummah* in terms of infection, disease, diagnosis, and cure.”⁴⁷ There is a narrative of history in which Western ascendance is characterized as the triumph of and

interest of the people. By Islamic government I mean a government whose officers are Muslims who perform the obligatory duties of Islam, who do not make public their disobedience, and who enforce the rules and teachings of Islam. There is no problem if the Islamic government utilizes the services of non Muslims when necessary, so long as they do not offer them positions of leadership. Islam is flexible as to shape and [sic] detailed structure of the government, but it must be in agreement with the general principles of the Islamic ruling system. [...] The Islamic government is obliged to maintain peace and order, enforce the Islamic law, spread education, prepare militarily, protect public health and services, develop the resources of the land, guard the public treasury, strengthen the morals of the people, and spread the call of Islam. If the government performs all of the above mentioned duties, it is incumbent upon the people to be obedient and loyal to it, to assist the government with their lives and their property. On the other hand, if the government neglects its duties and falls short of its responsibilities, then it will be the duty of the people to first advise and guide, then to dismiss and remove the government, for ‘No obedience is due to a creature in disobedience to the Creator.’ “[quoted from the Quran, D.S.].

6. Rebuilding the international prominence of the Islamic Umma by liberating its lands, reviving its glorious past, bringing closer the cultures of its regions and rallying under one word. Until once again the long awaited unity and the lost Khilafah is returned.

7. Guiding the world by spreading the call of Islam to all corners of the globe

⁴⁴ See for more information his most important work: R Khomeini, *Velayat-E Faqeeh, Governance of the Jurist*, trans. Hamid Algar (Tehran: The institute for Compilation and Publication of Imam Khomeini's works, 1970)

⁴⁵ Abul A'ala Maududi, *Fundamentals of Islam* (Lahore: Islamic publications), ———, *Jihad in Islam* (Salimiah, Kuwait: International Islamic Federation, 1994)

⁴⁶ Na'im argues that this is exactly the problem with Islamism, they aim to do what no previous Islamic movement has done, namely enforcing Shari'ah based upon imported European notions about the state. Na'im too underlines the potential totalitarian threat of this phenomenon: “The notion of an Islamic state is in fact a postcolonial innovation based on a European model of the state and totalitarian view of law and public policy as instruments of social engineering by the ruling elites. [...] It is particularly dangerous to attempt such totalitarian initiatives in the name of Islam, because they are far more difficult for Muslims to resist than initiatives sought by an openly secular state.” P. 7

⁴⁷ This is especially relevant in terms of the resemblance between the anti-Semitic discourse of the National-Socialists and the Islamists and jihadists. See for more on the development of this phenomenon in Islamic societies: Gabriel Schoenfeld, *The Return of Anti-Semitism* (London: Politico's, 2005), Hans Janssen, *Van Jodenhaat Naar Zelfmoordterrorisme* (Heerenveen: Groen, 2006) Andrew G. Bostom, *The Legacy of Islamic Antisemitism* :

vehicle for materialism and moral bankruptcy.⁴⁸ There is an insistence on Islam as a comprehensive way of life, a set of religio-political imperatives distorted by foreign domination and Western cultural corruption on the one hand, and Muslim impotence, sectarianism and indifference on the other.⁴⁹ There is a rejection of pacifist forms of jihad in favor of the armed fight against unbelievers, preparations for which include physical training, moral self-discipline, and cultivating the “art of death”.^{50 51}

2.2.2 An *ummah* centred response

The second stream of thought can be subdivided into two sub-streams. In line with the Islamists, both sub-streams advocated the idea that Islamic societies were in a state of decay due to the weak position of Islam in their respective societies and thus they emphasized Islamic reform (*islah*). Within this type of thinking one can make a coarse subdivision between *salafi* pietisms⁵² and Jihadism. The first are those who strive to re-Islamize Muslims, either locally or globally, through *da’wa* or preaching projects. They prefer to live secluded lives in isolation of their non-believer surroundings and are primarily focused on a non-violent stance whereby the society, when it becomes Islamic enough, will automatically choose the correct path. The emphasis is on becoming a ‘pure’ Muslim’.

The jihadists are covertly, or openly and violently engaged in transforming society and the entire world entire into a mirror image of the era of the *Salaf*. This last group is the subject matter of this analyses and will be referred to as ‘jihadist Islam’. It includes intellectuals such as, Mohammad Al-Salam Faraj (1952-1982) and Dr. Ayman al-Zawahiri (1951-) and groups such as Al-Qaeda, Hamas and increasingly a host of self-organized homegrown terrorist with no official affiliation.

Two confuse matters somewhat, the distinction between the apolitical non-violent groups and the jihadist is not clear cut. Both advocate a remodeling of society based on the Quran and *Sunna*, and

From Sacred Texts to Solemn History (Amherst, N.Y.: Prometheus Books, 2008) Ye’or Bat, *The Dhimmi : Jews and Christians under Islam*, Rev. and enl. English ed. (London:

Associated University Presses, 1985) Andrew G. Bostom, ed., *The Legacy of Jihad : Islamic Holy War and the Fate of Non-Muslims* (Amherst, N.Y.: Prometheus Books, 2005)

In addition, see for equivalent development of this phenomenon in pre-Nazi times the first part of Hannah Arendt, *The Origins of Totalitarianism*, [1st ed. (New York.: Harcourt, 1951) Nicholas Goodrick-Clarke, *The Occult Roots of Nazism : The Ariosophists of Austria and Germany 1890-1935* (Wellingborough, Northamptonshire: Aquarian Press, 1985) Hesemann and Meiser, *Hitlers Religion : Die Fatale Heilslehre Des Nationalsozialismus*

⁴⁸ This is comparable to the romantic critique of western enlightenment, a movement which played an integral part in the development of the fascist’s discourse and which paved the way for the “purging” efforts of totalitarian movements. See amongst others: Ian Buruma and Avishai Margalit, *Occidentalism : The West in the Eyes of Its Enemies* (New York: Penguin Press, 2004) Roger Griffin, *Modernism and Fascism : The Sense of a Beginning under Mussolini and Hitler* (Basingstoke: Palgrave Macmillan, 2007)

⁴⁹ Eric Voegelin in his aforementioned concept of the Gnostic speculation identified the same symptoms as emblematic of what he described as the formation of totalitarian thought. Voegelin and Henningsen, *Modernity without Restraint*

⁵⁰ Again the glorification of martyrdom, war and death so prevalent in islamists rhetoric is a mirror image of the fascist’s preoccupation with these concepts. See: Robert O. Paxton, *The Anatomy of Fascism* (London: Allen Lane, 2004)

⁵¹ R. Mitchell, *The Society of the Muslim Brothers* (New York: Oxford university press, 1993) P. 207-208

⁵² Gilles Kepel, *The War for Muslim Minds : Islam and the West* (Cambridge, Mass.: Belknap Press of Harvard University Press, 2004)

because the Quran and *Sunna* sanction or proscribe in certain cases the use of violence to defend or spread Islam, even those groups that do not endorse violence see their pacifistic stance as optional rather than an undeniable and inescapable consequence of doctrine. Therefore, often times the pacifist organizations that focus on preaching and social action, the *da'wa* organizations, appear benign at the surface but in practice will also offer their services or act as front organizations for the more violently inclined jihadist groups.⁵³ I will give some examples of this conflation between the two groups in paragraph 4.2.2

I should mention however that the term Salafi, political Islam, radical Islam, jihadist Islam and all of its varieties are in my opinion highly misleading. To Muslims everywhere the era of the salaf *does* represent the pinnacle of Islam and it has set an example which is to be followed when possible. Whether or not it is possible to do so in this time, and whether one *should* create conditions through which it could become possible is object of much debate and can explain why different groups behave differently. This is intimately linked with the difference between a *belief* and a *believer* as I discussed in paragraph 1.

Since the subject matter of this paper is the evolution of radical Islamic thought, we will have a deeper look at the importance of the works of Sayyid Qutb. It should be noted, however, that Qutb forms somewhat of a transitory area in the distinction between the state and *ummah* centred responses to modernity.

3 Three guiding principles

The ideology of Al-Qaeda did not appear with the birth of Al-Qaeda itself but rather has a lineage going back to at least the beginning of the 20th century, though it may be claimed that it goes back even further to the 18th century to Muhammad al-Wahhab (1703 – 1792)⁵⁴, or *in abstracto* to the 13th

⁵³ See for an expose on the link between 'peaceful' *da'wa* organizations and terrorist organizations: Paul Sperry P. David Gaubatz, *Muslim Mafia: Inside the Secret Underworld That's Conspiring to Islamize America* (Los Angeles: WND books, 2009) Dore Gold, *Hatred's Kingdom : How Saudi Arabia Supports the New Global Terrorism* (Washington, DC, Lanham, MD: Regnery Pub. Distributed to the trade by National Book Network, 2003), Loretta Napoleoni, *Modern Jihad : Tracing the Dollars Behind the Terror Networks* (London: Pluto, 2003)

⁵⁴ Saudi Sunni scholar whose teachings would form the Wahhabi movement, a puritanical creed of Salafi theology. Following the teachings of Ibn Taymiyyah, the Wahhabi movement took it upon itself to cleanse the Saudi peninsula of all innovations it deemed un-Islamic and fought a violent jihad against non-Muslims and Muslims who did not agree with its theological premises. Wahhabi Islam is the official religion of Saudi Arabia. Amongst scholars there is disagreement about the nature of Wahhabism with some arguing it is the extremely intolerant of infidels and those Muslims those who do not follow its creed (Hamid Algar, *Wahhabism : A Critical Essay* (Oneonta, N.Y.: Islamic Publications International, 2002), Gold, *Hatred's Kingdom : How Saudi Arabia Supports the New Global Terrorism* ; Madawi al-Rasheed, *Kingdom without Borders: Saudi Arabia's Political, Religious and Media Frontiers* (New York: Columbia university press, 2009), Alexei Vassiliev, *The History of Saudi Arabia* (New York: New York University press, 2000)) and those that argue that Wahhabism has been severely misrepresented (Natana J. DeLong-Bas, *Wahhabi Islam : From Revival and Reform to Global Jihad* (Oxford ; New York: Oxford University Press, 2004) The Islamic Supreme Council of America for instance stated: "Anyone who did not profess to this new ideology was considered outside of the realm of Islam - an apostate, disbeliever or idolater, thus making the shedding of their blood and confiscation of their wealth permitted. In this way, he was able to secure a significant following whose legacy continues in one form or another until today." The Islamic Supreme Council of America,

century with Ibn Taymiyyah (1263–1328). Al-Qaeda itself claims that its sole source of inspiration is the Quran, the prophet Muhammad and his companion although it does acknowledge certain figures from the 19th and 20th century as having belonged to the ‘vanguard’ of the mujahedeen⁵⁵ movement. What is for certain is the immense formative role played by the Egyptian intellectual and activist Sayyid Qutb (1906-1966). Qutb’s ideology was in a way a true revolution, in the sense that Hannah Arendt accords to the original term. Unlike our modern perception of this term which she described as:

*“Crucial then, to any understanding of revolutions in the modern age is that the idea of freedom and the experience of a new beginning should coincide.”*⁵⁶

The revolution to which Qutb and others before him ascribe however, coincides with the original meaning of the word revolution:

*“In the seventeenth century, where we find the word for the first time as a political term[...] it was used for a movement of revolving back to some pre-established point and, by implication, of swinging back into a preordained order”*⁵⁷

Trivial though this distinction may seem, it is in fact paramount to our understanding of radical Islamic movements. What Qutb and scholars and intellectuals like him pursue is not the fabrication of a new type of man, a new model of being, but rather to remake or at least approximate the pre-existing model of man and being which existed at the time of Muhammad and his companions. This in short is a purifying expedition set out to resolve the centuries old dichotomy between Islamic law and the law of the Emir, between the Islamic model of being and reality in favour of Islam. Thus when apologists or the naive claim radical Islam has nothing to do with classical Islamic teachings, they could not be more wrong. It is the central aim of these radical movements to re-establish an order of being that was lost due to compromises being made in favour of the real and immanent worldly demands of consecutive epochs at the cost of the perceived static transcendent model proscribed by Islamic teachings.

Qutb formulates his model for revolution on three principles which guide the Muslim both in his internal religious experience as in his external stance towards a world filled with unbelief or *kufr*: the conceptual trinity of *jahiliyaah*, *ubudiyyah* and *hakimiyyah*, meaning respectively; ignorance, servitude and

"Islamic Radicalism: Its Wahhabi Roots and Current Representation,"

<http://www.islamicsupremecouncil.org/understanding-islam/anti-extremism/7-islamic-radicalism-its-wahhabi-roots-and-current-representation.html>. After the death of Wahhab in 1791, Wahhabi forces under the command of Ibn Saud advanced to the southern Iraqi city of Karbala where they engaged in the slaughter of thousands of Shi'a Muslims under the pretext of their non-adherence to Wahhabi doctrines. (see: Ali Bey El Abbassi, *Travels of Ali Bey in Morocco, Tripoli, Cyprus, Egypt, Arabia, Syria and Turkey between the Years 1803 and 1807* (Reading: Garnet Publishing 1999)) A dissenting opinion on the nature of Wahhabism comes from DeLong-Bas who states: "The militant Islam of Osama bin Laden does not have its origins in the teachings of Ibn Abd al-Wahhab and is not representative of Wahhabi Islam as it is practiced in contemporary Saudi Arabia" DeLong-Bas, *Wahhabi Islam : From Revival and Reform to Global Jihad* P. 279

⁵⁵ A *mujahed* is someone who engages in Jihad, someone who struggles in the cause of Allah. It is commonly only used in connection with combat.

⁵⁶ Hannah Arendt, *On Revolution* (New York,: Viking Press, 1963)P. 29

⁵⁷ Ibid., P. 42-43

sovereignty. In order therefore to understand the current and future agenda of radical Islamic movements, it is imperative that we understand how this conceptual 'trinity' dictates their actions.

3.1 Jahiliyaah

In line with the generally accepted narrative of Islam, the prophet Muhammad established a system of norms and values which demarcated the era since the birth of Islam from the era preceding it. Loosely speaking *jahiliyyah* equates to a time of ignorance, a

*"condition of any place or society where Allah is not held to be the ultimate sovereign."*⁵⁸

According to Qutb, "Islam and jahiliyyah are the real opposites and that the clash in the future will be between them and not between civilizations as such".⁵⁹ In principle everything that is not Islamic is jahiliyaah and inimical to Islam, the two cannot co-exist and Islam is perpetually obliged to eradicate jahiliyyah.⁶⁰ This is mirrored in numerous Quranic verses and hadith, such as Quran 8:39 "And fight them until there is no more Fitnah (disbelief and polytheism: i.e. worshipping others besides Allah) and the religion (worship) will all be for Allah Alone [in the whole of the world]".

3.2 Hakimiyyat

One of the central points of Islam is the call to 'command the right and forbid the wrong'⁶¹, of course, knowing what is right and wrong requires guidance and this guidance is delivered through the Quran and the *sunna* and manifested in the Shari'ah. Hence, Islam is a total system of private laws of ritual but also of public laws concerning everything from trade, to inheritance and just war theories. Thus Qutb and others argue, Islam is a political religion.⁶² Everything that is thus not Islamic is either *shirk*, an unlawful innovation, or *kufr*, unbelief, and by that virtue automatically inimical to Islam, *jahiliyaah*. *Hakimiyyat* then revolves around the idea of *tawhid* the unity of Allah. Outside of Allah there is nothing, and everything that is, owes its existence to Allah, thus Allah is the supreme sovereign that guides everything in the universe. Allegiance, obedience and indeed one's whole life is therefore for Allah and no other.⁶³

⁵⁸ Sayed Khatab, *The Power of Sovereignty : The Political and Ideological Philosophy of Sayyid Qutb* (New York, NY: Routledge, 2006) P. 7

⁵⁹ Ibid.,

⁶⁰ ———, *The Political Thought of Sayyid Qutb : The Theory of Jahiliyyah*, Routledge Studies in Political Islam (London: Routledge, 2006) P. 101

⁶¹ See from the Quran: Allah Almighty says, "Let there be a community among you who call to the good, and enjoin the right, and forbid the wrong. They are the ones who have success." (3:104) The Almighty says, "You are the best nation ever to be produced before mankind. You enjoin what is right, forbid the wrong." (3:110). The Almighty says, "Make allowances for people, command what is right, and turn away from the ignorant," (7:199) and the Almighty says, "The believers, men and women, are friends of one another. They command what is right and forbid what is wrong." (9:71)

⁶² Khatab, *The Power of Sovereignty : The Political and Ideological Philosophy of Sayyid Qutb* P. 7

⁶³ A number of verses and hadith related to this idea of the supremacy of Allah and his messenger, which together form the core of Islam, are repeated time and again in both the works of Qutb as those who preceded him and came after him, to illustrate the necessity of obeying Allah alone. Quran 58:22: "Thou wilt not find any people who believe in Allah and the Last Day, loving those who resist Allah and His Messenger, even though they were their

“Islam is the religion of unity among all the forces of the universe, so it is inescapably the religion of tawhid, it recognizes the unity of Allah[...] Islam began by liberating the human conscience from service to anyone other than Allah... no one other than Allah has authority over it [...] Allah alone has power, all others are servants who have no power over themselves or others”⁶⁴

True just government, Qutb argues, is therefore that government that is the government of Allah. The only government Allah will accept is *his* government. In practice this means that man-made laws for instance are *shirk*, innovations leading to disbelief and constituting an offence to Islam and Muslims alike.⁶⁵ Democracy in that respect is incompatible with Islam since it would make men slaves to one another instead of slaves to Allah. Another consequence of this line of reasoning is that the Quran, the revealed word of Allah, in practice functions as the constitution that limits the operational boundaries of the state. Of course the Quran and the *sunna* have to be interpreted by those qualified to do so (*mujtahid*) and differences over interpretation can be resolved by a process of consultation (*shura*) and consensus (*ijma*), but it should be clear that the boundaries of the Quran and *sunna* cannot be crossed even by such a consensus.

Qutb continues to make an interesting point. According to Qutb the Islamic state is not a theocratic state for the reason that the ruler's entire legitimacy is exclusively dependent on his implementation and execution of the Shari'ah. He cannot initiate legislation, he can only uphold it. As long as he upholds the Shari'ah, the Muslims owe him their loyalty.⁶⁶ Legitimacy and authority thus do not follow from the fact that the *ummah* chooses its own leaders, which would imply sovereignty of the people, but solely from the fact that the leader implements the Shari'ah, in which case sovereignty belongs to Allah. This

fathers or their sons, or their brothers, or their kindred". This particular verse is said to be revealed in relation to Abū 'Ubaidah ibn al-Jarrāh, one of the ten companions of the prophet who was promised paradise by Muhammad. During the Battle of Badr in 624 A.D. al-Jarrah faced his unbelieving father in battle. Though he tried to evade him, his father blocked his path and al-Jarrah slew him as he was an unbeliever. See also: Ibn Kathir, 10 vols., Tafsir Ibn Kathir (Riyadh: Darussalam, 2003) P. 538. A second Quranic verse oft quoted is 9:24: "Say: If your fathers and your sons and your brethren and your mates and your kinsfolk and property which you have acquired, and the slackness of trade which you fear and dwellings which you like, are dearer to you than Allah and His Messenger and striving in His way, then wait till Allah brings about His command: and Allah does not guide the transgressing people." See also the relevant hadith in Bukhari, "Shahih Bukhari ". P. 64 " [...] Whoever possess the following three qualities will taste the sweetness of faith: 1. The one to whom Allah and His messenger Muhammad become dearer than anything else, 2. Who loves a person and he loves him only for Allah's sake, 3. Who hates to revert to disbelief after Allah has brought him out from it, as he hates to be thrown in fire".

⁶⁴ Qutb Quoted in Khatib, *The Power of Sovereignty : The Political and Ideological Philosophy of Sayyid Qutb* p. 24

⁶⁵ Here one can see the legacy of Wahhab whose book Muhammad ibn Abd al-Wahhab, ed., *An Explanation of Muhammad Ibn Abd Al-Wahhab's Four Principles of Shirk* (Birmingham, UK: Al-Hidaayah, 2002) Played a major role in formulating the need to cleanse Islam of everything un-Islamic.

⁶⁶ Qutb quoted in *ibid.* p.32 "Every government that is based on the principle of *hakimiyyah* belongs to none but Allah and then implements the Shari'ah, is an Islamic government. Every government that is not based on this principle and does not implement the Shari'ah, cannot be called Islamic, even if the government is run by official religious organizations. The obedience of the people is not given only if, and as long as, the government recognizes that *hakimiyyah* belongs to Allah alone and then implements the Shari'ah without any qualification other than justice and obedience."

led Qutb to state that there were no real Islamic states in his time. And by this measure there still are no Islamic states that adhere to this principle.

In principle, a ruler can be removed by the *ummah* only if he is a *taghut*, a transgressor, someone who does not implement the Shari'ah or hampers its implementation.⁶⁷ As we saw earlier, part of the reason that there is a dichotomy between Islamic law and the law of the Emir is that the Emir, has as much to fear from the *ullema* as he is reliant upon them. For this reason, certain laws were enacted that prohibit revolt against an unjust ruler, or even forbid the labelling of someone as an apostate (*takfir*) in order to pacify just such potential conflicts. The Jihadist Salafi's however argue that such laws were only legitimized by subservient *ullema* to assure them of the financial or material support of the Emir. We will return to this important topic in paragraph 4.2.3.

As I have indicated in the previous paragraph, the historical reality of many Islamic societies was that the ruler would not implement the Shari'ah in its entirety, that he could even make laws of his own. It is against this line of reasoning that Qutb's theory of *jahiliyaah* and *hakimiyyat* revolts. The order of being should be restored and in that order of being there can only be a legitimate government if it fully implements the Shari'ah.

So according to Qutb the true Islamic state is neither a democracy nor a theocracy. But can it become a dictatorship or tyranny? Here one will find that the Shari'ah itself contains numerous injunctions against tyrannical arbitrary rule.⁶⁸ But these too are a matter of interpretation and furthermore, what constitutes tyranny to a western audience accustomed to humanism, secularism and human rights treaties is rather different from what constitutes tyranny from an Islamic perspective. *Jahiliyyah* is tyranny, hence Islamic rule can be construed to be the freedom from tyranny. To Qutb, Islamic government falls outside of the boundaries set by terms such as : democracy, tyranny, authoritarianism or dictatorship. Islamic government is in a league of its own due to the fact that it has but one mission, to implement the Shari'ah, and how it does this is quite irrelevant as long as it does not transgress the boundaries of Shari'ah. Unlike democracy, tyranny or authoritarianism which are all systems of political government based on immanence, on worldly relations, Islamic government is based solely on the reference to the transcendent. As such it bears some similarities to totalitarian rule which is based on the 'immanentization of the transcendent'.⁶⁹

⁶⁷ Ibn al-Naqib al-Misri and Keller, *Reliance of the Traveller : The Classic Manual of Islamic Sacred Law Umdat Al-Salik* P/ 701-702. The main criterion being that as long as the caliph, or emir, maintains the prayer, it is unlawful to revolt against him. It is interesting to note that Saddam Hussein, whose allegiance to Islam was extremely doubtful at best, 'embraced' certain aspects of Islamic worship, as I suspect, in order to assure himself of this injunction against abdicating the unjust ruler.

⁶⁸ A beautiful hadith from the collection of Abu Dawood states: "The best Jihad is saying a word of truth in the court of an unjust ruler". It is said that during the trial of Qutb, the judge asked Qutb if he withdrew his ideas and statements. Upon hearing this, Qutb allegedly raised his finger and cited this hadith thereby signing his own execution.

⁶⁹ See Voegelin and Henningsen, *Modernity without Restraint* See for an historic comparison between Christian attempts at "immanentizing the transcendent" and its likeness to totalitarianism: Arthur Versluis, *The New*

3.3 Ubudiyyah

The concept *jahiliyaah* and *hakimiyyat* are closely linked to that of *ubudiyyah* and *fitrah*. The latter can be loosely translated as the inborn character of man. In Islam it is presumed that every child is born a Muslim, it is only through his nurturing or free will that he can depart from the path of Islam.⁷⁰

Furthermore, all mankind follows under this concept of *fitrah*, it is not something particular to a particular tribe or ethnic group. This can be seen by the fact that Quran claims that all the prophets of the Torah and Gospel were in fact Muslims. Islam maintains that mankind longs to be reunited, though the concept of *fitrah*, with his Islamic nature. Whilst Allah has sent to every nation its own prophet in order to accomplish this reuniting of man with Islam, Islam holds that these prophets were misunderstood, or their words corrupted by subsequent religious groups. Islam itself was revealed to Muhammad as a correction to the forgeries done by the Jews to the Torah and the misguidance of the Christians.⁷¹ Thus the revelation of the Quran took place so that mankind as a whole could return from the path of *jahiliyaah* to the true path set out for him by his creator, Allah. The concept of *fitrah* thus points to this true path, the inborn nature of which man deviates at his own peril. This concept is closely linked to the concept of the *gnostic speculation* and the *law of nature* in respectively Eric Voelgein's and Hannah Arendt's analyses of secular totalitarian systems.⁷² Without diverting too much, totalitarian ideologies operate from the secular position that man is living in despair, loneliness and chaos. They have fallen out of the 'garden of Eden' and are in desperate need for a way back. The totalitarian party is the Sheppard, the ideology is the path the herd must follow. Thus the main function of ideology in a totalitarian system is to prescribe and, if need be, forcefully fabricate society into a new state of being which is in harmony with the universe, man and history itself. This state, if followed correctly will lead men back into the 'garden of Eden' from which it has fallen due to his own ignorance (*jahiliyaah*). Qutb shares many elements of this type of thinking in his depiction of man as being in a state of despair

"Mankind today is on the brink of a precipice, not because of the danger of complete annihilation which is hanging over its head - this being just a symptom and not the real disease - but because humanity is devoid of those vital values which are necessary not only for its healthy development but also for its real progress. Even the Western world realizes that Western civilization is unable to present any healthy values for the guidance of mankind."⁷³

This despair is the result of man not living according to his inborn nature, which is servitude to Allah. But because Allah has created the universe and everything in it with a purpose man itself is still capable of salvation. It requires man's "total capacity. Man's nature must become Qutb asserts, malleable,

Inquisitions : Heretic-Hunting and the Intellectual Origins of Modern Totalitarianism (Oxford ; New York: Oxford University Press, 2006)

⁷⁰ Note the resemblance to Rousseau's concept of man in the state of nature. The parallel with Rousseau's concept of freedom and Robespierre's program for political revolution has ample similarities to the concept discussed here.

⁷¹ See the Quran 5:12-15

⁷² See Suurland, "Totalitarian and Radical Islamic Ideologies."

⁷³ Sayyid Qutb, *Milestones* (1964). Translated in Andrew G. Bostom, ed., *The Legacy of Jihad: Islamic Holy War and the Fate of Non-Muslims* (Amherst, N.Y.: Prometheus Books, 2005).

transformable and capable of exposing its substance and its structures so as to lend itself to the pattern and purpose of creation".⁷⁴

Herein lies the totalitarian impulse which demands of man not his autonomous consent, but his servitude to the edicts of nature, as in secular totalitarianism, or the edicts of Allah, as in Qutb's view on Islam.

"Human life will not be rightly ordered until the balance and harmony of the fitrah is fully instituted, in accordance with the law that organizes and governs the natural constitution of the universe, life and Man. Balance and harmony must be accomplished, for the welfare of humanity. Therefore, it is permissible to use force to bring those who deviate from fitrah back on the path of fitrah."⁷⁵

Like his European counterparts of the mass movements of the 20th century, Qutb actually argues along the lines of Rousseau in that he substitutes the *volonté général* with the Shari'ah and proceeds to claim that all of society should be made subordinate to the *hakimiyyat* of the Shari'ah, should be 'forced to be free'. Likewise, he advocates the implementation of ideology through policy, of the immanentization of ideology through political action as was attempted by the National-socialist vis a vis their racist ideology or Leninist movements vis a vis the material dialectics. To Qutb and his likes, the doctrine of *jahiliyaah*, *hakimiyyat* and *ubudiyyah* are exclusivist, monolithical explanations of every facet of life that need to be imposed on reality in order to fabricate utopia, *not* for the sake of mankind, but for the sake of Allah. I should reiterate that in this comparison with National Socialist or Leninist movements, it is not about the content of the idea's but about their structure. Man has no autonomous realm of decision making, of judging, or even of doubt outside of the boundaries of the conceptual system⁷⁶ Man is in that sense not an author of his own destiny. An important aspect that flows from this and which becomes particularly clear when we study Al-Qaeda, is that life is not about horizontal relations, about man to man, it is about a vertical relationship between man and Allah. Everything man does is for Allah. Therefore, and this is the part that is often overlooked, these movements are not susceptible to dialogue, to concessions, to negotiations, for any deviation from this path would lead to apostasy and unbelief. In the end all that matters is that on the micro level the individual, and on the macro level humanity itself, submit and conform to Allah. And since Allah's program for human life cannot possibly coexist with *jahiliyaah* systems, any possibility for appeasement or pacification is by definition impossible. This leads to the observation that those who adhere to the views of Qutb are by definition politically active and engaged in transforming society, if they were not, they would be as Qutb stated people who call themselves Muslims but in fact are not.⁷⁷

⁷⁴ Khatab, *The Power of Sovereignty : The Political and Ideological Philosophy of Sayyid Qutb* P. 80

⁷⁵ Qutb quoted in Ibid., P. 82

⁷⁶ Qutb quoted in Ibid., P. 78 "None of Allah's creation has the right to ask Him –may he be exalted- why He has chosen all this and willed it to be [...] None of Allah's creation has the right to ask why He has chosen to create man with the fitrah he has, why He has chosen to make the operation of this fitrah permanent and uninterrupted; and why He has chosen to make the divinely ordained program for human life be realized through human existence, rather than enforcing it miraculously, through obscure, hidden means."

⁷⁷ Mauwdudi, Khomeini and Zawahiri all make the same point about true Muslims and the hypocrites (*munafiqun*).

If Man can only be truly free if he lives in a society in which everything is organized along the lines of the Shari'ah, everything else that does not comply with the necessity of *ubudiyyah* and recognition of Allah's *hakimiyyat* is *jahiliyyah* and needs to be eradicated for the good of humankind and more importantly, for the sovereignty of Allah. Therefore in order for man to be really free, he has to be 'liberated' from these elements which stand in his way, namely the evil influences of the wrong kind of upbringing, the wrong type of society, the wrong type of thinking and judging and the influence of anything that is not Islamic. One has to force Man to be free.

*"The way to establish God's rule on earth means that His laws be enforced and the final decision in all affairs be according to these laws."*⁷⁸

The question however is to what degree Qutb is liable to make the transition from Rousseau to Robespierre? From Marx to Stalin or from Eckhardt to Hitler? How far is he willing to go in order to let loose the forces of nature, history or in his case, Islam? In order to answer that question we need to know something about the society in which Qutb lived since it is this period in time which saw the formation of those groups we now call 'radical Islam'.

There is no Islam and no Islamic community

One of the most important aspects of Qutb's views is the pessimistic assertion that Islamic governments do not exist, Islamic communities do not exist and even that Islam itself no longer exists. He thereby echoes the lamentation over the loss of the Islamic spirit after the end of the reign of the four righteous caliphs.

*"The Islamic society today is not Islamic in any true sense [...] The spread of the Islamic spirit came to a halt a short space after the time of the prophet. [...] This religion cannot be rightly practiced in isolation from society. Its people cannot be Muslims if they do not put it into effect in their social, legal and economic system"*⁷⁹

Consequently, Qutb argues that an Islamic society is a necessary condition for living an Islamic life and that seeing the state of affairs as they are, Muslims fall into two categories: those that strive to implement the Islamic edicts into every level of society, and those that do not.⁸⁰ The latter may think that they are Muslims, but in fact they are not. I call into memory the observation I made earlier about the "catholicization of Islam", the mere symbolic reference to religion as a source of identity. This amounts to the same observation as Qutb makes here and Sam Harris made about religious moderation being based on scriptural ignorance. Qutb argues that Islam is a total program for the organization of life itself, one cannot pick and choose the elements one likes and still legitimately call oneself a Muslim. If one does so he not only has to reconcile himself with his Lord for his lack of belief, but also because he

⁷⁸ Loc. cit.

⁷⁹ Qutb quoted in Khatib, *The Power of Sovereignty : The Political and Ideological Philosophy of Sayyid Qutb* p. 40-41

⁸⁰ This opinion is also seen in Maududi's differentiation between partial Muslims and full Muslims. The first type being a rather miserly type. Maududi, *Fundamentals of Islam* P. 68-69

portrayed Islam as something which it is not and thereby in effect posed obstacles in the way of society's ultimate well being, something which is ultimately punishable by death.

Due to the lack of an Islamic government, the lack of a Muslim *ummah* and the lack of Muslims willing to implement the Shari'ah in every sphere of society, the hopes for a reestablishment of an Islamic state were slim. Especially seeing that the societies of Muslims which adhered to Qutb's views, such as the still active Muslim Brotherhood, were on the defensive against an inimical *taghut* regime, two options presented themselves. Either to re-Islamize society from the bottom up, through da'wa activities, hoping that in the time society itself will reach a critical threshold and opt to replace the *taghut* government system with a government that implements the *Shari'ah*, or top down, through jihadist activities, meaning that one overthrows the *taghut* government through violence and replaces it with an Islamic government which then proceeds to re-Islamize society from the top down. There is however, as I will show in the next chapter, a significant ideological and operational relationship between Da'wa oriented groups and jihadist groups. Furthermore, the area in which Da'wa oriented and jihad oriented groups traditionally have been active, have evolved to extend to territories other than the Islamic societies from which they stem. Both Da'wa and jihad organizations are nowadays instances of *transnational* Islamic activism, that have transformed themselves from locally grown grassroots movements aimed at re-Islamizing Muslim societies and freeing them of colonial and un-Islamic rule, into a plethora of highly developed professional and articulate Da'wa and institutional lobbying groups focused on spreading the Islamist agenda globally and jihadist groups whose theater of operations is the world at large. Therefore, in order to formulate counterterrorist policy and legislation, one needs to understand the reciprocity between Da'wa and jihadist organizations and their roots in both Islamic societies and especially Islamic theology and jurisprudence.

As I have shown, the three guiding principles of Islamic activism as formulated by Qutb, *jahiliyaah*, *ubudiyyah* and *hakimiyyat* form the foundations on which the Islamist political agenda and the subsequent jihadist ideology are formulated. In those cases in which Da'wa organizations implicitly or explicitly adhere to these three guiding principles, the chances of them supporting both types of organizations increase substantially. This is of paramount importance since the aid they give to these jihadist organizations is oftentimes not prohibited by law and protected by Civil and political liberties. In the following chapter I will summarize the most important aspects of the Islamic legal theory on *jihad*, and describe how the interplay between what I shall name *Qutbist* Da'wa organizations and jihadist organizations takes place in practice.

4. Jihad ,Da'wa and Hijra.

Most of us, when we hear the word Jihad, will think of terrorism as practiced by groups such as Al-Qaeda, HAMAS or any number of other groups which commit acts of violence and bloodshed in the name of Islam. As I will show in this paragraph, these violent acts, which appear on the surface as a singular phenomenon, are actually the varying results of very different legal theories of jihad. Each of these approaches is ultimately based upon Islamic jurisprudence but they constitute different forms of

jihad due to the different paths of legal argumentation. The pessimistic intent-driven violence of Al-Qaeda for instance, is constituted by very different factors than the goal-orientated terror of HAMAS. In addition, these acts of violence which capture the eye of media and of law and policymakers are but the crest of a much larger wave. Oftentimes it seems that counterterrorism policies are merely occupied with combating violent jihad, the crest, whilst ignoring the other types of Jihad, such as *da'wa* and the concept of *hijra* (emigration).

The categorical and typological difference between those Muslims that choose to lead a secular, quietist, Islamist or jihadist life, depends in large on their interpretation of the different forms and conditions of jihad and the related concepts of *da'wa* and *hijra* on the one hand, and the perceived necessity of making the concepts of *hakimiyyat*, *ubudiyyah* and *jahiliyaah* the principles of social and political action on the other.

In the following paragraphs I will first give a brief summary of the foundations of jihad in the Quran and the *Sunna*. This will be followed by an explanation of the different forms of jihad and the evolution it has undergone over time. I will conclude with some counterarguments posed by moderates and how Al-Qaeda responds to these arguments.

4.1 A summary of the legal theory of Jihad.

The idea that *jihad* holds a central place in Islamic *fiqh*, whilst understandable seeing it's high exposure in the media and its impact on societies, is not correct. In Wael B. Hallaq's standard work on Shari'ah law "Shari'ah, theory, practice and transformations", Hallaq gives an overview of the relative occurrence of specific topics within one of the standard books on *Hanbali fiqh*. This is especially interesting since the mainstay of Salafist-Jihadist organizations adhere, either explicitly or inter alia, to this school of law.⁸¹ According to Hallaq, out of all the topics included in this *Hanbali fiqh* handbook, the topic of *jihad* accounts of 2% of the total text.⁸² The handbook of the *Shafi'i* school of law, which is predominant in north-east Africa and is traditionally the school of law of Egypt and its Muslim Brotherhoods, devotes 11 out of its 825 pages, or 1.3% to the treatment of *jihad*.⁸³ Indeed, if one looks through the content of such *fiqh* handbooks, one would see that most time is spent debating rather mundane topics such as private and commercial law, rituals, articles of faith and so forth. This observation notwithstanding, it is not

⁸¹ The Hanbali school of law is known for its textual and legistic approach to the interpretation of the canonical sources of Islam. As such, this school of law conforms to the desire of the Salafi's to return to the most pristine form of Islam, one which is not sullied by tradition or all too liberal modes of interpretation. Technically speaking however, Salafi's do not adhere to one school of law since they reject the idea of schools of law altogether and do not adhere to the principle of *taqlid*, or imitation of the teachings of one or another school of law. Hence the affiliation with the Hanbali *madhab* is based on a common form of interpretation but not necessarily on consensus with all of the Hanbali teachings.

⁸² This is based on the Hanbali fiqhbook *Sharh Muntaha al-Iradat* by Mansur al-Buhuti. The breakdown of the relative occurrence of topics within this book can be found in Wael B. Hallaq, *Sharia : Theory, Practice, Transformations* (Cambridge, UK ; New York: Cambridge University Press, 2009) P. 553-555

⁸³ Ibn al-Naqib al-Misri and Keller, *Reliance of the Traveller : The Classic Manual of Islamic Sacred Law Umdat Al-Salik*

these mundane topics which form a threat to the security and wellbeing of Islamic and non-Islamic societies,⁸⁴ nor are they the elements of *fiqh* which are likely to mobilize violent political action.

4.1.1 The evolution of the theory of Jihad.

As is often repeated, *jihad* knows two forms, the greater and the lesser *jihad*. The greater *Jihad* is concerned with spiritual warfare against the lower self (*jihad al-nafs*) whilst the smaller *jihad* means:

“to war against non-Muslims”⁸⁵ or, “the crux of the doctrine is the existence of one single Islamic state, ruling the entire umma. It is the duty of the umma to expand the territory of this state in order to bring as many people under the sway of Islam and to extirpate unbelief [...] The most important function of the doctrine of jihad is that it mobilizes and motivates Muslims to take part in wars against unbelievers, as it is considered the fulfillment of a religious duty. This motivation is strongly fed by the idea that those who are killed on the battlefield, called martyrs [...] will go directly to paradise”⁸⁶

The eminent Joseph Schacht comments on the legal position of non-Muslims under Islamic law as: “ The basis of the Islamic attitude towards unbelievers is the law of war; (jihad DS) they must be either converted or subjugated or killed. [...] the third alternative, in general, occurs only if the first two are refused. ”⁸⁷ Rudolph Peters, who in the same vein as Joseph Schacht cannot in good conscience be accused of any ‘Islamophobic’ bias, concludes that the smaller Jihad can thus be summarized as a war against the unbelievers resulting either in conversion, submission or death.⁸⁸

In this analysis we will be looking at the concept of the smaller jihad unless otherwise indicated since the greater jihad is a spiritual undertaking which is not the subject of this study. Whilst there exists a plethora of books on the legal theory and origin of jihad, I will here discuss the nature of jihad in the form of a reply to two arguments that are most often used to challenge the statement that there is in Islam a state of war against the unbelievers as described above.

In the debate about Jihad and counterterrorism, a number of arguments are regularly put forward, *bona fides* or *mala fides*, that aim to disprove the idea that the war for the sake of Allah is legitimate or proscribed. These arguments in general take two forms: the first argues that the references to jihad in the Quran and hadith are to be understood in terms of the greater jihad, the spiritual struggle against one’s own evil inclinations. The second argument maintains that the verses in the Quran and elements of the hadith that promote peace, tolerance and coexistence with unbelievers take precedence over the

⁸⁴ I have excluded the criminal codes from this observation. Although these can constitute threats to security, they are not at the forefront of the radical Islamic phenomenon.

⁸⁵ Ibn al-Naqīb al-Misri and Keller, *Reliance of the Traveller : The Classic Manual of Islamic Sacred Law Umdat Al-Salik* P. 599

⁸⁶ Peters, *Jihad in Classical and Modern Islam : A Reader* P. 3-5

⁸⁷ Schacht, *An Introduction to Islamic Law* P. 130

⁸⁸ Peters, *Jihad in Classical and Modern Islam : A Reader* P. 2 It should be noted that submission was only open to a limited category of people, the *ahl al-kitab*, or people of the book, i.e. Jews, Christians and Zoroastrians, although according to the Hanafi school of law other categories may apply as well though not apostates and Arab polytheists. For all other categories conversion was the only option, in lack of which death was to follow.

verses and elements of hadith that proclaim otherwise.⁸⁹ These two arguments are not only of interest to policy and lawmakers to take heed of, but are also of interest to Muslims themselves in order to come to terms, either way, with the scriptural sources and edicts of Islam.

The first argument is that jihad does not automatically equate to fighting but that the references in the Quran and hadith to *jihad* should be interpreted as the spiritual warfare against the self (*jihad al nafs*) or as unarmed resistance to unbelief.⁹⁰ Whilst for some the wielding of those arguments may lie in sincere conviction of the accuracy of those arguments, they are just as easily and frequently used to confuse a non-Islamic audience about the nature of jihad in Islam in order to further the goal of Islam and *jihad*, a concept known as *taqiyyah*.⁹¹ The practice of *taqiyyah* can be seen in a wide variety of groups ranging from the da'wa orientated Muslim Brotherhood and a host of 'interfaith-dialogue' groups, to the extremely violent *Takfir wal hijra*, to which Muhammad Atta, one of the perpetrators of 9/11 belonged.⁹² It is most often seen when a Western audience is addressed by da'wa or jihadist groups which claim that the jihad is purely a defensive instrument.⁹³ Some highly acclaimed and influential NGO's go even further and claim that any allegation of a link between Islam and terrorism is in fact Islamophobic and urge governments to adopt legislation criminalizing such allegations⁹⁴ and will

⁸⁹ This is one of the points of Mohammad Taha in Taha, *The Second Message of Islam*

⁹⁰ The student of Ibn Taymiyyah, Ibn Qayyim al-Jawziyah differentiates between 14 types of jihad, classified under two main categories of jihad against oneself and jihad against unbelievers. Each of the two types can be further differentiated in jihad by the heart, tongue, wealth and self. However, when reading the hadith it is the jihad of fighting (exerting oneself) that is most often referred to, thus making Qayyim's subdivision a mostly theoretical point in case. Muhammad ibn Abi Bakr Ibn Qayyim al-Jawziyah and Abd al-Aziz ibn N. al-Jalil, "Madarij Al-Salik" (al-Riyad: Dar Tibah lil-Nashr wa-al-Tawzi, 1423).

⁹¹ This concept is based on Quran 3:28 "Let not the believers Take for friends or helpers Unbelievers rather than believers: if any do that, in nothing will there be help from Allah: except by way of precaution, that ye may Guard yourselves from them. But Allah cautions you (To remember) Himself; for the final goal is to Allah." Ibn Kathir in his Tafsir on this ayat mentions that believers should not become supporters of the disbelievers, or take to them as comrades with whom they develop friendships, rather than the believers [...] whoever commits this act that Allah has prohibited, then Allah will discard him. [...] except those believers who in some areas or times fear for their safety from the disbelievers. In this case, such believers are allowed to show friendship to the disbelievers outwardly, but never inwardly. For instance, al-bukhari recorded that Abu Ad-Darda said, "we smile in the face of some people although our hearts curse them". Ibn Kathir, Volume 2. 141-142 In the Hadith collection of Dawud it is also mentioned that the killing of Khalid ibn suifan al-hudhali, a critic of Muhammad, took place under the guise of feigning unbelief in order to gain his trust..Abu Dawud, *Sunan Abu Dawud: English Translation with Explanatory Notes by Prof. Ahmad Hasan. Sh. Muhammad* (Lahore: Ashraf Publishers, 1984)1249. This last example is explicitly used by Al-Qaeda to justify outward signs of unbelief in order to further the goals of Islam and jihad operations.

⁹² "Zawahiri elevates the concept of *Taqiyya* to a doctrine, something that is part and parcel of the Muslims attitude towards the non-Muslim." Raymond Ibrahim, Ayman Zawahiri, and Osama Bin Laden, *The Al Qaeda Reader*, 1st ed. (New York: Doubleday, 2007)p. 64-65.

⁹³ See for instance "why we are fighting you": Osama bin Laden's letter to Americans; "Osama bin Ladens peace Treaty offer to the Europeans" and "Bin Laden's truce offer to the Americans" in: Ibid., P. 196-208, 233-237, 220-226 The message of peace which Osama bin Laden portrays in these letters is utterly disputed in the messages he wrote in Arabic and which were aimed at his followers at the same point in time.

⁹⁴ See in this regard the report of the Organization of Islamic Countries (OIC) on Islamophobia and the resulting adoption by the UN human rights council of the 'defamation of religions' resolution in which is stated that the UNHRC: "expresses deep concern in this respect that Islam is frequently and wrongly associated with human rights violations and terrorism". United Nations Human Rights Council, "Racism, Racial Discrimination, Xenophobia and

actively defame those who make any link between Islam and violence, even if such is done in the course of formulating international security policies.⁹⁵

To answer this first argument: within the Quran and the hadith, the fight (*qital*) or struggle (*jihad*) against unbelievers is mentioned frequently. Whilst some hold that these references dealing with fighting refer to spiritual or unarmed fighting, the consensus amongst Islamic scholars themselves is that they explicitly refer to armed combat.⁹⁶ Furthermore if one reads the most authoritative collections of hadith, *Shahih al Bukhari* or those of *Muslim*, it becomes clear in the sections dedicated to Jihad that the nature of jihad in these hadith is armed warfare.⁹⁷ Similarly, the commentary (*tafsir*) of Ibn Kathir, one of the seminal works of Quranic commentary, equally equates jihad with armed warfare unless the smaller jihad is explicitly mentioned.

The second argument used to dispel the idea of a state of war against unbelievers is the reference made to verses from the Quran that emphasize tolerance and peaceful co-existence such as:

"Let there be no compulsion in religion: Truth stands out clear from error: whoever rejects evil and believes in Allah hath grasped the most trustworthy handhold, that never breaks. And Allah heareth and knoweth all things." Quran 2:256

"Say, 'The truth is from your Lord': Let him who will believe, and let him who will, reject (it)" Quran, 18:29

"Say : O ye that reject Faith! I worship not that which ye worship, Nor will ye worship that which I worship. And I will not worship that which ye have been wont to worship, Nor will ye worship that which I worship. To you be your Way, and to me mine." Quran 109:1-6

Whilst it is true that these verses appear in the Quran and hadith, and are treated in the *tafsir*, it is equally true that they have been abrogated⁹⁸ by verses that were revealed later in time. In so doing, the dichotomy between verses that preach tolerance and those that preach war is resolved. Even

Related Forms of Intolerance, Follow-up to and Implementation of the Durban Declaration and Programme of Action," (UNHRC, 2009). Organization of Islamic Countries, "Third Oic Report on Islamophobia," (2010).

⁹⁵ See also: Nathaniel Sugarman, "Oic: Petraeus Guilty of Islamophobia," (2010), <http://www.legal-project.org/blog/2010/08/oic-petraeus-guilty-of-islamophobia>. "The Organization of the Islamic Conference (OIC) labeled Gen. David Petraeus's counter-insurgency manual a "manifestation of Islamophobia" since it ""details an alleged link between Muslim groups and terrorists" and utilizes terms such as "Islamic insurgents" and "Islamic extremists."

⁹⁶ . "the 199 references to jihad in the most standard collection of *hadith*, *Sahih al-Bukhari*, all assume that jihad means warfare." Douglas E. Streusand, "What Does Jihad Mean?," *Middle East Quaterly* (1997). And: "the overwhelming majority of classical theologians, jurists, and traditionalists [i.e., specialists in the *hadith*] [...]. understood the obligation of jihad in a military sense." Bernard Lewis, *Political Words and Ideas in Islam* (Princeton, NJ: Markus Wiener Publishers, 2008) P. 72, Quoted from Streusand, "What Does Jihad Mean?."

⁹⁷ Bukhari, "Shahih Bukhari ". Volume 4 book 56.

⁹⁸ See footnote 18 and in addition Peters, *Jihad in Classical and Modern Islam : A Reader* "Classical Muslim Koran interpretation [...] regarded the Sword verses, with the unconditional command to fight the unbelievers, as having abrogated all previous verses concerning the intercourse with non-Muslims." P. 2

though some claim that the concept of abrogation is manmade, the basis for abrogation comes from the Quran itself thus lending it great legitimacy:

“Whatever communications We abrogate or cause to be forgotten, We bring one better than it or like it. Do you not know that Allah has power over all things?” (Quran 2:106)

“And when We change (one) communication for (another) communication, and Allah knows best what He reveals, they say: You are only a forger. Nay, most of them do not know.” Quran 16:101

Generally speaking, the verses that were revealed in the time of the nascent Islam in Mecca, are abrogated by the verses revealed when Muhammad established the first Islamic polis in Medina. The verses quoted above, which emphasize co-existence and tolerance come either from Mecca (18:29, 109:1-6), or from the earliest days in Medina (2:256). Amongst those verses which are important to our discussion are the so called “sword verses”⁹⁹ 9:5 and 9:29, which are some of the last verses to be revealed by Allah to Muhammad prior to Muhammad’s death.¹⁰⁰

“And when the sacred months have passed, then kill the polytheists wherever you find them and capture them and besiege them and sit in wait for them at every place of ambush. But if they should repent, establish prayer¹⁰¹, and give zakah, let them [go] on their way. Indeed, Allah is Forgiving and Merciful” Quran 9:5

"Fight those who do not believe in Allah or in the Last Day and who do not consider unlawful what Allah and His Messenger have made unlawful and who do not adopt the religion of truth from those who were given the Scripture - [fight] until they give the jizyah¹⁰² willingly while they are humbled” Quran 9:29

The sword verses abrogate the earlier verses which entail tolerance and co-existence. This culminates in the prophetic saying:

“I have been ordered (by Allah) to fight against the people until they testify that [...] none has the right to be worshipped but Allah and that Muhammad is the messenger of Allah, and give Zakat so if they perform all that, then they save their lives and properties from me except for Islamic laws, and their reckoning [...] will be with[...] Allah”¹⁰³

⁹⁹ A term indigenous to Islamic scholars themselves, see for instance: Ibn Kathir, Volume 4 p. 377 “this honorable ayah [verse D.S.] was called the *ayah* of the sword”

¹⁰⁰ Ibid., Volume 4 P. 369

¹⁰¹ i.e. convert

¹⁰² Jizyah is the poll tax imposed on the ‘people of the book’ or Dhimmi’s: Christians, Jews and Zoroastrians under Islamic rule. Although the Hanafi school of law assumes other groups can beget a Dhimmi status as well. See Ibn al-Naqīb al-Misri and Keller, *Reliance of the Traveller : The Classic Manual of Islamic Sacred Law Umdat Al-Salik* P. 603

¹⁰³ Bukhari, "Shahih Bukhari ". Volume 1, p. 66. Chapter 17

The development of the theory of jihad, from non-aggression, to defense to offense, can thus be summarized:

“As it is now obvious, at first "the fighting" was forbidden, then it was permitted and after that it was made obligatory [...] against them who start "the fighting" against you [...] and against all those who worship others along with Allah [...]”¹⁰⁴

Whilst Muhammad was severely outnumbered in Mecca his stance was indeed one of tolerance, patience and pacifism, this stance however, mirroring his increasing base of power, was transformed upon his emigration (*hijra*) to Medina into the theory of defensive jihad and reached its pinnacle in the theory of offensive jihad. Defensive and offensive jihad have thus been made obligatory by the process of abrogation and is therefore part and parcel of the message of Islam itself.^{105 106} This classical division between the defensive and offensive jihad was in a later stage of Islamic history augmented by the very idea controversial of a defensive jihad against an unjust ruler.

The discourse of ‘radical’ Islam and its discord with ‘moderate’ Islam revolves amongst others around these concepts of defensive and offensive jihad. While both sides do not disagree about the existence of these concepts, they do disagree about the conditions under which they became necessary and legitimate and the degree to which they are still relevant and incumbent upon the *umma* today. In order therefore to understand the motives, the aims and the tactics employed by groups such as Al-Qaeda, and how they differ from ‘moderate’ groups, it is imperative to understand how they deal with the scriptural sources and how they interpret the concepts of defensive and offensive jihad.

4.2 the different types of Jihad

A student of Ibn Taymiyyah, Ibn Qayyim al-Jawziyah¹⁰⁷ (1292-1350) differentiates between 14 types of jihad, classified under two main categories. The first is the jihad against oneself (*jihad al akbar* *jihad al-nafs* or the greater jihad) and the second is the jihad against the unbelievers (*jihad al-asghar* or the smaller jihad).¹⁰⁸ Each of the two types can be further differentiated but we will focus on the smaller

¹⁰⁴The former Chief Justice of Saudi-Arabia Abdullah bin Muhammad bin Humaid, *Jihad in the Qur'an and Sunnah* (Riyadh: Maktaba Dar-us-Salam, 1986) Ibn Taymiyyah follows the same schematic in his main work “*al-Siyasa al-shariyya fi Islah al-rai wa-al-raiyya*: Governance according to God’s law in reforming both the ruler and his flock” Quoted from Peters, *Jihad in Classical and Modern Islam : A Reader* P. 44-45

¹⁰⁵See for the references by classical *Ulema* and schools of law to offensive jihad as part of Islam: Ibn al-Naqib al-Misri and Keller, *Reliance of the Traveller : The Classic Manual of Islamic Sacred Law Umdat Al-Salik* P. 602, Peters, *Jihad in Classical and Modern Islam : A Reader* , Bostom, ed., *The Legacy of Jihad*

¹⁰⁶ Incidentally, the idea that laws that are of a later date abrogate laws of an earlier date is common practice in nearly every field of law. The idea then that earlier laws (Mecca) would overrule later laws (Medina) seems somewhat unorthodox to say the least..

¹⁰⁷ Ibn Qayyim is perhaps one of the most well known students of Taymiyyah and is renowned for his extensive work on Quranic exegesis and explanation and research in the field of hadith. Amongst his students is Ibn Kathir (1301–1373) who wrote arguably the most used collection of Quranic commentaries the “*tafsir ibn Kathir*” Ibn Kathir,

¹⁰⁸ Ibn Qayyim al-Jawziyah and Jalil, “*Madarij Al-Salik* ”.

jihad and its subcategories of jihad by the heart¹⁰⁹, one's tongue, wealth and self. Again, In this analysis, unless explicitly stated otherwise, the term jihad is meant to refer to the smaller jihad. The struggle against unbelief can thus take different forms, the least externally orientated of which is to struggle by the heart and the most externally orientated the armed struggle with one's self against the unbeliever, culminating in the jihadist creed and its suicide operations.

4.2.1 To struggle by one's heart: *Hijra*

In short, what is meant by *hijra* is that the believer relates to the non-believing external world by means of keeping his heart pure and retreating, emigrating, from the world of unbelief. The term *hijra* has three meanings and is interrelated, as we shall see with *da'wa* and jihad. These three meanings are as follows: first and foremost it refers to the emigration of Muhammad from Mecca to Medina and it is an historical reference. Secondly it can refer to the obligation or recommendation, depending on which school of law one follows, for a Muslim living in a non-Islamic land to *physically* emigrate to the abode of Islam.¹¹⁰ Thirdly, it can be seen as a spiritual concept which means that one flees from unbelief without physically leaving the abode of unbelief.¹¹¹ This latter spiritual meaning of *hijra* is something which we can witness in the present day with the advent of Salafi oriented groups in non-Islamic societies, that wish to seclude themselves as much as possible from western society and non-Islamic influences. In line with Qutb's argument that there is no longer any abode of Islam to emigrate to, these groups choose to 'emigrate' into their own secluded, isolated realm within a non-Islamic society.¹¹² Their aims can reach from the political to the quietist and defy an easy generalization except that they are the product of what Olivier Roy calls the '*detrterritorialization*' and *de-culturization*' of Islam. Through the experience of mass migration, the loss of traditional surroundings and the confrontation with modernity as expressed in paragraph 2.2, the Salafi's have found a way to rid Islam of a cultural heritage that they see as un-Islamic.¹¹³ The pessimistic assertion of man trapped in the loneliness and un-worldliness that so characterized the description of the 20th century mass man in the writings of Ortega y Gasset, Arendt and Heidegger, is to the Salafi's a welcome catharsis; a platform for the purification of Islam. The pessimism of the realization that there is no longer an abode of Islam, is tempered by the salvational

¹⁰⁹ Theoretically the jihad by the heart is according to Qayyim part of the greater jihad, however, if one reads qayyim's work and the work of his teacher Taymiyyah it becomes clear that it is also part of the smaller jihad when seen as *hijra*.

¹¹⁰ In general, if a Muslim finds himself in a country in which he can freely practice Islam then he is not obligated to emigrate (*hijra*) to an Islamic country. According to Ibn Taymiyyah it is still preferable, but not obligated. See Michot's extensive analysis of this subject. Yahya Michot, *Muslims under Non-Muslim Rule* (Oxford: Interface publications, 2006) However, when that country engages in hostilities against Muslims anywhere in the world, the Muslim within that country has to either physically emigrate, or engage in jihad or its preparations. Failure to do so will result in his unbelief, which is punishable by death.

¹¹¹ Ibid., p. 12 "The *muhajir* is one who flees that which God has forbidden"

¹¹² Oliver Roy refers to these groups as *detrterritorialized neo-fundamentalists*. See chapter six of: Olivier Roy, *Globalized Islam : The Search for a New Ummah*, The Ceri Series in Comparative Politics and International Studies (New York: Columbia University Press, 2004)

¹¹³ Hence the link with Wahhabism that also tried to purge Islam of non-Islamic influences. The main difference being that Wahhabism had to purge Islam within the context of an Islamic society, Salafi's living in the west already find themselves in a society that is wholly un-Islamic and thus are granted the gift of a sort of *tabula rasa* on which to pen down a new and 'pure' Islamic society.

belief that if one purifies his own religious self, heaven will be the reward. As such, the Salafi's, unlike Islamists, are not interested in establishing an Islamic state, a concept which the Salafi's see as a western innovation that has no place in Islam. Equally, their main interest lies not in Jihadism either, although their model of society and the social programs they develop can act as a conduit that furthers the Islamist and jihadist cause. *vide infra*

For the quietist Salafists, the purification of the self is the principal of action.¹¹⁴ From this stance two different paths are possible: the first is the quietist retreat from the non-Islamic society into the small core of the family or geographical closeness of likeminded folk where they aim is to live a 'pure' life with minimal external interference, including that of the state. This can lead to problems as the laws of the land are not recognized by these groups, or are avoided when possible or covertly thus leading to a situation in which, given the chance, the community of believers would rather follow the principles of *hakimiyyat*, *ubudiyyah* and *jahiliyyah* and thus judge according to the laws of Allah, than submit themselves to the laws of the land. This can take shape in either the pursuit of recognition of Shari'ah law alongside secular laws, as has been the case in Canada¹¹⁵, or it can lead to clandestine Shari'ah courts which operate under the radar, as is the case in UK¹¹⁶ or Belgium.¹¹⁷ This phenomenon can be expected to increase with the spread of the Salafi creed. Another symptom related to the spread of Salafi creed in immigrant societies can be seen in the field of education such as Islamic schools that offer programs which have been known to promote religious intolerance, anti-Semitism, and a denial of the legitimacy of the secular state and its laws, based on Islamic faith.¹¹⁸ This however is nothing exclusive to the western world, the Saudi curriculum is notorious for its inflammatory and xenophobic content.¹¹⁹

The danger lies therein that this type of behavior creates a society within a society. It aims to establish an autonomous place within the public realm that is secluded and as far away from the grasp of the non-believing outside world as possible. Such an isolated realm not only hinders integration, which is the best case scenario, it also offers a platform for the next stage of jihad, jihad by the tongue and wealth and ultimately may prepare people for active participation in the armed jihad. One cannot expect a curriculum of intolerance and militancy to breed tolerance and pacifism.

The second option is that one indeed retreats as much as possible into his own community, but instead of leading a quietist life, uses this secluded community as platform for the Islamization of the country and re-Islamization of other Muslims through a process called da'wa.

¹¹⁴ Roy, *Globalized Islam : The Search for a New Ummah* P. 246

¹¹⁵ The Canadian Arbitration Act (1991) allowed arbitration by consenting parties based on certain parts of Shari'ah law in Ontario. This experiment also gave the same rights to Christian and Jewish groups. It was more or less terminated in 2005 under pressure of a diverse coalition of women's rights groups.

¹¹⁶ Steve Doughty, "Britain Has 85 Sharia Courts: The Astonishing Spread of the Islamic Justice Behind Closed Doors" *Dailymail*, 29th June 2009.

¹¹⁷ H. Fraihi, *Undercover in Klein-Marokko* (Strengtholt United Media 2006)

¹¹⁸ Fenny Brinkman, *Haram* (Amsterdam: Uitgeverij Balans, 2005)

¹¹⁹ Centre for Religious Freedom of Freedom House and Institute for Gulf Affairs, "Saudi Arabia's Curriculum of Intolerance," (2006).

4.2.2 To struggle by one's wealth and tongue: Da'wa

Da'wa in and of itself can be conceived as preaching Islam by good example. Think for instance of charity works, volunteer work or just plain good behavior. The sad reality however is that many Da'wa orientated organizations are better known for their links to financing and otherwise aiding violent prone jihadist organizations, than they are for the peaceful intentions stated above. Pursuant to the adoption of the UN security Council resolution 1267 in 1999 concerning Al-Qaeda, the Taliban and associated individuals and entities, the UN Security Council created a list of organizations that aided the Taliban and Al-Qaeda through Da'wa organizations.¹²⁰ The list compiled thus far hosts a multitude of 'charities' and 'zakat' organizations which cynically employ names designed to give of the allure of rival non-Islamic charitable organizations such as: The international Islamic relief organization, The benevolence international fund or The global relief foundation.¹²¹ The direct funding of violent jihadist organizations is however but one branch of jihad by wealth or tongue.

The seclusion and isolation attained by pre-dominantly Salafi groups in parts of the western world, but also of Salafi groups in Islamic societies, allows them, within the shielded confines of their communities, to engage in activities that foster animosity and hatred towards the non believing outside world through education and social projects. Through propaganda if not outright indoctrination, an animosity to the *jahiliyaah* world of the unbelievers in whose societies they reside is created alongside an insistence on personal purification and *ubudiyyah* with the future aim of establishing *hakimiyyat*.¹²² ¹²³ This is however not only a vital platform to create a nucleus of future violent jihadist. *Because* of its purposefully deceptive outward appearance as an organization dedicated to tolerance and inter-faith dialogue (*taqiyyah*) and *because* of the culpable ignorance or plain cowardice in the face of allegations of 'Islamophobia' on the part of policy and lawmakers, these organizations function as the spring board from which the Salafi groups attempt to influence local governments to comply with their ever increasing demands for more autonomy, thus creating a vicious circle of radicalization. This is currently happening, almost in full view of policy makers, law enforcement and child protective agencies in the UK¹²⁴ but is in effect a global phenomenon.¹²⁵ *Vide Infra*

¹²⁰ UN Security Council, "The Consolidated List Established and Maintained by the 1267 Committee with Respect to Al-Qaida, Usama Bin Laden, and the Taliban and Other Individuals, Groups, Undertakings and Entities Associated with Them," (New York: 1999).

¹²¹ <http://www.un.org/sc/committees/1267/consolidatedlist.htm>

¹²² See the documentary series produced by the English Channel 4, in which journalists posing as Muslims investigated mosques who were famed for their 'tolerance' and 'inter-faith dialogue' in the UK in the period 2007-2010. The resulting images clearly show the effect of tolerating Salafist groups to operate within the English society. Whilst these mosques on the outside appear and were acknowledged by oblivious state authorities as the vestiges of the tolerance, within closed doors there was a consistent program of indoctrination and agitation against the *kufr* English society, which the believers were expected to hate and, in time, turn into an Islamic state Channel 4, "Undercover Mosque," in *Dispatches: Series 19, Episode 1* (2007).

¹²³ ———, "Undercover Mosque: The Return," in *Dispatches: Series 24, Episode 1* (2008).

¹²⁴ . ———, "Britain's Islamic Republic," in *Dispatches: Series 54, Episode 1* (2010).

¹²⁵ See for instance: Roel Meijer, *Global Salafism : Islam's New Religious Movement* (New York: Columbia University Press, 2009), Peter G. Mandaville, *Global Political Islam* (New York, NY: Routledge, 2007), Gold, *Hatred's Kingdom : How Saudi Arabia Supports the New Global Terrorism* ,

In order to understand how these da'wa organizations operate in non-Islamic societies we should look at their Egyptian origins in the Muslim Brotherhood. In the next paragraph I will explain this importance, show how its agenda is implemented in reality and its connection to violent jihadist organizations.

4.2.2.1 Da'wa and the model of the Muslim Brotherhood inside Egypt

Qutb argued that the correct way or perhaps the only viable way in lieu of the brutal repression of his time, was to proceed through a program of *da'wa*. This should be done via mosques, charitable organizations, universities, student organizations, social programs, health programs and in any number of ways that introduces people to the Islamic program and hopefully would lead to the formation of truly Islamic societies. The course set out by Qutb was most notably adopted by the Muslim Brotherhood (henceforth MB) which was founded in 1928 by Hassan al-Banna (1906-1949). The MB adopted the Da'wa program and opted to cooperate with the regime in Egypt by entering into the elections, which drew criticism from more hardlined groups who saw elections as manmade instruments not authorized by the Quran or *sunna* and thus as *shirk*. Thus they chose to re-Islamize society from the bottom up instead of seeking a direct confrontation with a regime they could not challenge in any realistic way.¹²⁶ Qutb argues to this point:

*"The Islamic movement should not waste its time by engaging in the current political affairs, or try to overthrow the government, or to establish the Islamic system by force. The people themselves will ask to establish the Islamic system when they know the accurate meaning of the Islamic creed."*¹²⁷

This is also the strategy advocated by the reformed 'grandfather of radical Islam' Sayyed Imam who wrote the document *"Rationalizing Jihad in Egypt and the World"*, mentioned earlier.¹²⁸ The fact that the MB chose to avoid a direct confrontation with the Egyptian regime does not entail that they are a pacifist or quietist movement which can be overlooked by policy and lawmakers outside of Egypt. Originally created to combat social injustice, colonialism and western influences in Muslim societies it aimed at the resurgence of a great Islamic past, *Palingenesis*, and the exclusive role of the Quran and *Sunna* as a totalist model for society. The MB over the years has become the largest voice of opposition within Egypt and large parts of the Arab world and has served as a model for other political Islamic movements around the world. The doctrine of the MB in the words of its founder is as follows:

"Allah is our objective. The Prophet is our leader, Qur'an is our law, Jihad is our way, Dying in the way of Allah is our highest hope."^{129 130}

¹²⁶ Enayat, *Modern Islamic Political Thought* P. 88

¹²⁷ Khatib, *The Political Thought of Sayyid Qutb : The Theory of Jahiliyyah* P. 160

¹²⁸ Sayyid Imam, breaking with his previous calls for Islamic jihad, summarizes his pessimistic appraisal of the situation by prescribing six options for Muslims worldwide: 1) emigration (*hijra*) ; 2) isolation (*hijra*) ; 3) forgiving; 4) turning aside; 5) patience; and 6) hiding one's faith (*taqiyyah*) and he concludes : " , dear reader, it is not just jihad about which you need not speak to me, but about any Islamic or popular activity -- and that's the end of the matter." al-Zawahiri, "Exoneration." P. 181 Hence Zawahiri's taunting reference to Sayyid Imam and others like him as the "Imams of defeat".

¹²⁹ MB homepage: <http://www.ummah.net/ikhwan/>

One of its main goals is plainly titled “Mastering the world with Islam.”¹³¹ Although the MB in the last few decades has rejected outright violence and claims to have embraced inter-faith dialogue, this seems somewhat unreliable¹³² if not an application of *taqiyyah*, judging by its former members and associates:

Sayyid Qutb; Amin Al-Husseini, chief Mufti of Jerusalem and associate of Adolf Eichmann; Sheikh Ahmad Yaseen, founder of Hamas; Abdullah Yusuf Azzam, patron of Osama bin Laden, ideologue of the jihad in Afghanistan and Ayman al-Zawahiri, second in command and ideologue of Al-Qaeda, to name but a few.

However well organized and potentially influential the MB might be in the Arab world, their mission of regime change and implementation of *hakimiyyat* has largely failed as has the jihadist attempts at forcing change from above. The failure of political Islam¹³³, to quote Olivier Roy’s book, to bring substantial change within the Arab world had two distinct consequences:

Firstly it spawned the creation of more radical groups such as the Al-Qaeda whose principal of action departed from the Islamists’ futile attempt at regime change and who now pursue jihad and martyrdom for the sake of purification of the self. In this scenario, which is infinitely more disastrous, jihad is carried out for the sake of jihad, not for some obtainable immanent goal. The second consequence is the export of the modus operandi of the MB to the western world and in part, the Asian continent. Unhampered by too much knowledge about the nature of Islam or the MB, thanks to the West’s far greater political and civil liberties and lastly an anti-capitalist, anti-imperialist anti-Zionist audience

¹³⁰ It should be explained that the concept of jihad has two forms: The first being the large jihad, which is a life-long obligatory struggle against one’s inner-evil, and the small jihad, which is actual armed warfare against unbelievers and those who actively oppose Islam. In this credo, Hassan al-Banna is directly referring to the small jihad: In his the words of al-Banna himself (Jamal Banna, *Al-Jihad* (al-Qahirah: Dar al-Fikr al-Islami, 2002). p.4 “Refer to the verses (4:71-81) in the Noble book to understand how Allah urges the Muslims to remain alert and to acquire experience in warfare, in armies and troops, as individuals, as circumstances may dictate. [...] Notice how Allah associates warfare with prayer and fasting, establishing it as one of the pillars of Islam.” The book *Al-jihad* by Hassan al-Banna was written to prove to his fellow Muslims that the small jihad was an integral part of Islam. In this book, one can find verses from the Quran, the hadith and the legal opinion of authoritative theologians on this subject and as such provides tremendous insight into the theological foundation of modern day terrorism. Once more, the MB is not even a terrorist organization. It therefore stands as a warning to those who would equate the passion for jihad only with the likes of Al-Qaeda.

¹³¹ <http://www.ummah.net/ikhwan/> main objective number 6.

¹³² Interestingly enough, since 9/11 the MB has changed its homepage at least two times. The first change was the omission of Zawahiri and bin-Laden as its disciples. (www.ummah.net/ikhwan/) The second change to its current homepage <http://www.ikhwanweb.com/> no longer lists any famous adherents, but contains in its library the writings of contemporary influential scholar Yusuf al-Qaradawi, who became notorious for issuing a fatwa legalizing suicide bombings against innocent Israeli civilians. The message of peace, pacifism and inter-faith dialogue appears to be mainly directed at the west, not necessarily at its own constituents. Indicative of this is that Qaradawi has been accused of using and distributing the now infamous anti-Semitic “protocols of the elders of Zion” in his teachings. http://www.zmo.de/pressekit/material/Wall_Street_BG.pdf

¹³³ Olivier Roy, *The Failure of Political Islam* (Cambridge, Mass.: Harvard University Press, 1994)

welcoming new crusaders for the cause¹³⁴, the MB found a welcoming home and unparalleled opportunities in Western societies.

4.2.2.2. *The MB oversees: doublespeak and taqiyyah*

I will here give an example of the activities of the MB and its associated organizations in a Western societies by example of the United States of America and Europe. The MB, In a document entitled "General Strategic Goal for the Group in North America" explained the MB's agenda in America as follows :

"The process of settlement is a "Civilization-Jihadist Process" with all the word means. [sic] The Ikhwan [Muslim Brotherhood DS] must understand that their work in America is a kind of grand Jihad in eliminating and destroying the Western civilization from within and "sabotaging" its miserable house by their hands and the hands of the believers so that it is eliminated and God's religion is made victorious over all other religions. "¹³⁵ ¹³⁶

This document outlining the strategy of the MB in America, was discovered during the 2004-2007 *Holy Land Foundation* trial which charted the divers networks which acted as front organizations for HAMAS. These networks, which often posed as charitable foundations, intellectual foundations, or Muslim interest groups were in fact accused of and indicted for raising funds for HAMAS:

"To those who exploit good hearts to secretly fund violence and murder, this prosecution sends a clear message: There is no distinction between those who carry out terrorist attacks and those who knowingly finance terrorist attacks," said Attorney General John Ashcroft. "The United States will ensure that both terrorists and their financiers meet the same, certain justice"¹³⁷

Amongst the unindicted co-conspirators in the Holy land foundation case, were the Council for American Islamic relations (CAIR) and the Islamic Society of North America (ISNA), two leading American NGO's whose respective stated mission goals are:

"[...] advocate justice and human rights in America and around the world. [...] condemns all acts of violence against civilians by any individual, group or state [...] advocates dialogue between faith communities both in America and worldwide"¹³⁸ and "ISNA remains consistent in its rejection of

¹³⁴ Emerson Vermaat, *Nazi's, Communisten En Islamisten. Opmerkelijke Allianties Tussen Extremisten* (Soesterberg: Aspekt, 2008) Buruma and Margalit, *Occidentalism : The West in the Eyes of Its Enemy* Buruma and Margalit, *Occidentalism : The West in the Eyes of Its Enemies*

¹³⁵ Stephen Coughlin, "Federal Court: U.S. V Holy Land Foundation Trial : Analysis of Muslim Brotherhood's General Strategic Goals for North America Memorandum," ed. Federal Court. (2007).

¹³⁶ Note in addition the reference or foundation of Quran 8:39

¹³⁷ "Holy Land Foundation, Leaders, Accused of Providing Material

Support to Hamas Terrorist Organization," ed. Department of Justice (US Department of Justice, 2004). P. 1

¹³⁸ Council on American Islamic Relations, <http://sun.cair.com/AboutUs/VisionMissionCorePrinciples.aspx>.

terrorism and violence. ISNA rejects all acts of terrorism, including those perpetrated by Hamas, Hizbullah and any other group that claims Islam as their inspiration."¹³⁹

CAIR is currently accused of being a member of the US Muslim Brotherhood's Palestine Committee and/or its organizations, whilst ISNA is equally accused of being a member of the US Muslim Brotherhood.¹⁴⁰ The same MB that states in its manifesto "General Strategic Goal for the Group in North America" that the goal of the MB is the "*eliminating and destroying the Western civilization from within and "sabotaging" its miserable house by their hands and the hands of the believers*". This then is a clear case of misuse of political and civil liberties to which law and policymakers still need to adapt.

The reach of the MB however, goes far beyond the Arab world and America. In Europe one of the foremost members of the MB, Yusuf al-Qaradawi, presides over the European Council for fatwa and research, a private organization seated in Dublin and erected on the initiative of the Federation of Islamic Organizations in Europe. He rejected the offer to become director of the Egyptian MB in 1976 and 2004. His stature is such that he became a member of "the board of trustees of the Oxford Centre for Islamic studies in 1985, and head of the committee of the institute Europeen de Sciences Humaines (IEHS) , the first imam-training institute set up in Saint-Leger-de-Fougeret, France in 1990-where he delivered diploma's by his hand to the first bunch of 12 graduates in 1992."¹⁴¹ In 2008 he was elected the third most leading intellectual in the Foreign Policy Magazine poll.¹⁴² Qaradawi thus sports considerable influence although his reputation in Europe is fleeting due to his open endorsement of suicide terrorism in Israel. Qaradawi was also named as one of the fundraisers of the HAMAS front, the Holy land foundation.¹⁴³

Thus whilst domestically, in Egypt, the MB has chosen the path of engagement with the regime and had stayed clear of the path of armed revolt, it has engaged in fundraising for terrorist groups abroad. It stands to reason that within the conceptual and legal boundaries of *fiqh*, such activities are legitimate due to the Shari'ah allowance for defensive *jihad*. I'll get back to that in paragraph 4.2.3, but for now suffice it to say that there is a universal consensus about defensive jihad, which is obligatory upon the community of believers, the transnational *ummah*, in case of an army invading Muslim territory. As such the fundraising for HAMAS falls within the scope of the Shari'ah. As such CAIR's statement that it advocates "*justice and human rights in America and around the world. [...]condemns all acts of violence against civilians by any individual, group or state*" does make sense when seen through the eyes of

¹³⁹ Islamic Society of North America, "Isna Statement of Position: Who We Are and What We Believe " <http://www.isna.net/articles/Press-Releases/ISNA-STATEMENT-OF-POSITION-Who-we-are-and-what-we-believe.aspx>.

¹⁴⁰ "Holy Land Foundation, Leaders, Accused of Providing Material Support to Hamas Terrorist Organization." Attachment 2.

http://www.nefafoundation.org/miscellaneous/HLF/US_v_HLF_Unindicted_Coconspirators.pdf

¹⁴¹ Bettina Gräff and Jakob Skovgaard-Petersen, *Global Mufti : The Phenomenon of Yusuf Al-Qaradawi* (New York: Columbia University Press, 2009) P. 113

¹⁴² Foreign Policy, "The World's Top 20 Public Intellectuals," (2008), http://www.foreignpolicy.com/articles/2008/06/16/the_world_s_top_20_public_intellectuals.

¹⁴³ "Holy Land Foundation, Leaders, Accused of Providing Material Support to Hamas Terrorist Organization." Attachment 2.

certain interpretations of the Shari'ah. Defending Muslim lands *is* justice. Defending the rights of Muslims against such an invader *is* justice. With regards to the statement in which CAIR condemns all acts of violence against civilians it should be noted that under certain conditions, what a non-Islamic audience would see as a civilian can become a combatant through the eyes of the Shari'ah. Furthermore, the prophet Muhammad himself, in the siege of the village of Ta'if, explicitly engaged in the killing of women and children of the unbelievers with the sole connotation that he did not have the express *intent* to kill them; he just accepted that their deaths would be the result of the bombardment of the town and thus the *intent* to kill them, a prerequisite for it to be a criminal act, was missing. If one knows that this casus is part and parcel of the *fiqh* debate on innocent deaths¹⁴⁴, it sheds a whole other light on CAIR's statement that it does not condone acts of violence against innocent civilians. Al-Qaradawi for instance has declared in a *fatwa* that suicide bombing against Israeli citizens *including* the killing of Israeli pregnant women and their unborn babies is lawful on the ground that the babies could grow up to join the Israeli Army.¹⁴⁵

In addition to the mere preaching of a certain message the MB's affiliates in the US have also been engaged in practices that directly link their da'wa to jihad. To give one example, the MB is the founder of the Muslim student Association (MSA) in the United States, it has chapters in all major American Universities and affiliate organizations throughout the Western World. Whilst on paper the MSA is one of many special interest groups student associations, it's former members indicate the special nature of this organization and its role in the da'wa-jihad connection. Some of the former MSA members include the high ranking Al-Qaeda member Anwar al-Awlaki, who was the President of the MSA at Colorado State University, Rutgers MSA co-founder Ramzi Yousef who was convicted for helping perpetrate the 1993 World Trade Center bombing, and Ali Asad Chandia, who was president of the MSA at Montgomery College and convicted of assisting the an American Jihad Network.

The relevance of what I have described here for the development of counter-terrorism policies is the following: The Western world offers fertile ground for these movements to conduct their mission of da'wa and jihad for a number of reasons: the deterritorialization and deculturealization of Islam has created an arena in which the Salafist ambition of a purification of Islam can be conducted under the protection of civil and political liberties that do not exist in most parts of the Islamic world. These

¹⁴⁴ See Zawahiri's quotation of Ibn Taymiyyah on this subject: "Those who claim that killing innocent persons is absolutely forbidden are in a position of accusing the prophet, may God's peace and prayers be upon him, his companions, and the generation following them that they were killers of innocent persons, as they see it. The prophet used catapults in his war on Al-Ta'if and you know that catapults cannot distinguish between the innocent and guilty. The prophet killed all the males of the Jewish Banu-Qurayzah tribe and made no distinction between one person and another. Ibn-Hazm commented thus: On the Banu-Qurayzah day I was with the prophet when he killed every male among them. He left none of them, no merchants, tillers, or old men. Ibn-al-Qayyim, may he rest in peace, narrated: The prophet, may God's prayers and peace be upon him, if he made a truce or a peace agreement with a tribe or a community and some of them endorsed it while others violated it, he invaded everyone and considered them all violators just as he did with Banu-Qurayzah, Banu-al-Nadir, and Banu-Qunayqa and just as he did with the people of Mecca. That was his policy with those who abrogated or violated the peace." al-Zawahiri, "Exoneration." P. 40-41

¹⁴⁵ Gräf and Skovgaard-Petersen, *Global Mufti : The Phenomenon of Yusuf Al-Qaradawi* P. 7-8 Arab News, "Stop Terror Sheikhs, Muslim Academics Demand," *Arab News*, 24 October 2004 2004.

unrivalled political and legal liberties unfortunately are ill-equipped to deal with organizations that have the aim to exploit and abolish these very same freedoms. In order to judge *if* such organizations genuinely aspire peace and life alongside non-Muslims under a secular regime with all of its non-Islamic values, in which their loyalty is to the state and *its* laws, rather than to the transnational *ummah* and to the Shari'ah, depends on their views on the concepts of *jahiliyaah*, *ubudiyyah* and *hakimiyyat*. Should they see these as purely individual spiritual qualities that explicitly must not find political expression in a multicultural or even non-Islamic society, then the chances of them engaging in jihad or jihad related da'wa are slim. Herein lies the challenge of fundamentalism. The message purported by the MB and its affiliates is undeniably a strong one. This is not to say that genuinely peaceful initiatives from Islamic actors do not exist. On the contrary.¹⁴⁶ Whilst on the one hand Islamic scholars like an-Naim¹⁴⁷ and Taha¹⁴⁸ expound precisely such a peaceful and spiritual ideal, and a re-reading of the Quran and *sunna* that is more accommodating of modern day society, The MB on the other hand, is the modern day proponent of a process that started with Ibn Taymiyyah or perhaps even earlier with the prophet Muhammad himself. Their operative concepts of *jahiliyaah*, *ubudiyyah* and *hakimiyyat* resonate throughout the Islamic world's legal and religious history and thus offer an historical base which unorthodox modernists such as an-Naim and Taha seem to be lacking. In addition, the MB is infinitely better funded and organized than those that oppose them. In our present day, da'wa programs have seen a rapid increase in funding and territorial influence, mainly due to financing by the Gulf states. To give an idea of the enormity of this operation: over the last 27 years Saudi-Arabia has spent over 70 billion dollars, that is 2.5 billion dollars a year, in da'wa activities. In comparison, the USSR at the height of its power spent only 1 billion dollars a year on propaganda.¹⁴⁹

From our perspective, the perspective of counterterrorism policies, it does not matter which of these groups is right in light of Islamic jurisprudence or theology, it does not even matter what Muslims at this point in time believe. What matters to us is the direction and magnitude the wave is taking. What matters is the nature of the message and activities of these groups and their potential appeal they have on the marketplace of ideas. Seeing how well funded the MB is, the level of their organizational and institutional infrastructure and the pedigree and long standing tradition of their ideas it seems they currently have the upper hand in the race for the Muslim's hearts and minds. Laws and policies that

¹⁴⁶ Over 2,500 Muslim intellectuals from 23 countries have signed a petition to the United Nations calling for an international treaty to ban the use of religion for incitement to violence. It also calls on the Security Council to set up a tribunal to try "the theologians of terror." The petition is addressed to Secretary-General Kofi Annan, and to all members of the Security Council and its current chairman. [...]The signatories describe those who use religion for inciting violence as "the sheikhs of death". Among those mentioned by name is Yusuf Al-Qaradawi, an Egyptian preacher working in Qatar. The signatories accuse him of "providing a religious cover for terrorism." Last year Qaradawi raised a storm when he issued a fatwa allowing the killing of Israeli pregnant women and their unborn babies on the ground that the babies could grow up to join the Israeli Army. Last September, Qaradawi in a fatwa in response to a question from the Egyptian Union of Journalists said killing "all Americans, civilian or military" in Iraq was allowed." Arab News, "Stop Terror Sheikhs, Muslim Academics Demand."

¹⁴⁷ An-Naim, *Islam and the Secular State*

¹⁴⁸ Taha, *The Second Message of Islam*

¹⁴⁹ David E. Kaplan; Monica Ekman; Aamir Latif, "The Saudi Connection: How Billions in Oil Money Spawned a Global Terror Network," *U.S. News & World Report*, no. December 15 (2003).

regulate the freedom of religion, freedom of speech, freedom of education and the criminal codes that accompany them should be geared towards pacifying these movements.

As we have seen, the MB and its affiliates arose from the Qutbist assertion that the re-Islamization of society would come from a programme of “*education, teaching and wide scale Islamic cultivation of individuals and groups*”.¹⁵⁰ Others groups however, were of the opinion that matters could not be postponed and chose to confront the regime of *jahiliyaah* directly. Although they differ in their methods, the object stays the same: fighting against *jahiliyaah* with the aim of restoring *hakimiyyat* and *ubudiyyah*. As such they are the militant expression of the ideals that lie at the heart of Qutbist da’wa groups. Yet, it should be reiterated that Qutb’s postponement of armed jihad was only due to the historical setting of his time in which the MB was severely on the defensive. In western societies this situation does not exist and nothing will guarantee that the oppression of the MB in the Arab world will continue indefinitely. It is therefore wise to keep in mind Qutb’s ultimate mission statement:

*Jihad is not fought “because of any threat of aggression against Islamic lands or against the Muslims residing in them. The reason for jihad exists in the nature of its message and in the actual conditions, it finds in human societies, and not merely in the necessity for defence.”*¹⁵¹

*“Thus, this struggle (Jihad) is not a temporary phase but an eternal state... as truth and falsehood cannot co-exist on this earth. The eternal struggle for the freedom of man will continue until the religion is purified for God.”*¹⁵²

4.2.3 To struggle by one’s self: Armed Jihad

The armed struggle traditionally fell into two distinct categories: a defensive jihad against foreign invaders and an offensive jihad whose aim was to “purify religion for Allah” Quran 8:39, 9:29. This distinction between these two doctrines however, seems to have disappeared with the Qutbist assertion that there no longer is an Islamic abode and that all Islamic societies have been attacked and besieged by the unbelievers. Hence, they argue, all jihad is defensive jihad. As I will show, this new definition of defensive jihad incorporates the idea of offensive jihad thereby merging the two. This theory overcomes serious traditional legal arguments brought forth by many *ullema* that state that offensive jihad is in fact currently impossible until a Caliph or imam arises to lead the Muslim nation.

In modern times the theory of defensive jihad has been reinterpreted by intellectuals such as most notably Sayyid Qutb and al-Faraj¹⁵³ to include a reference to apostate leaders. For if Muslim lands are ruled by an unbeliever, or by a ‘Muslim’ who opposes the introduction of Shari’ah law, then does that not equate to the *occupation* of Islamic lands by unbelievers? Does this not mean the imposition upon the *ummah* of a system of *jahiliyaah*? This question is a *very* sensitive issue within the circles of both

¹⁵⁰ Excerpt from the trial against Qutb in 1965, Khatab, *The Power of Sovereignty : The Political and Ideological Philosophy of Sayyid Qutb* P. 197

¹⁵¹ Qutb, *Milestones*..

¹⁵² Qutb, *Milestones*.

¹⁵³ Johannes J. G. Jansen and Muhammad Abd al-Salam Faraj, *The Neglected Duty : The Creed of Sadat's Assassins and Islamic Resurgence in the Middle East* (New York: Macmillan, 1986)

classical and contemporary *ullema*, because Islamic scholars and rulers in general have always been extremely wary of infighting, *fitna*. This argument however, is countered by the radicals who state that these *ullema* are of this position since they are on the payroll of such a state(the classical argument of the duality of the realms of Islam and the state brought forth by amongst others Ibn Taymiyyah). Without getting into too much detail, groups such as Al-Qaeda and its predecessor, an offshoot of the Egyptian MB, the Egyptian Islamic Jihad (EIJ) claim that the imposition of manmade rules on the *ummah*, as is the case in nearly all Islamic societies, constitutes acts of innovation (*bi'da*) that lead to unbelief and apostasy. Therefore, if the Islamic lands are under the reign of unbelievers, a defensive jihad is obligated upon all Muslim who are able to perform it. In addition, an apostate, whether he is a ruler or not, should on account of his clear signs of apostasy be killed. The last position is confirmed by the classical *ullema*.

In the following paragraph I will explain the basics of the theory of defensive jihad and how this theory was merged with the idea of offensive jihad to create a new theorem that implies that Muslims everywhere are obligated to either prepare for jihad, *da'wa*, or partake in jihad themselves, thus mobilizing the entire *Ummah*. I will show the basic counterarguments to put forth by moderates against Al-Qaeda, and lastly I will show how the very existence of a non-Islamic reality is construed by al-Qaeda's al-Zawahiri as an act of war against Islam, thus legally constituting a defensive jihad. And guaranteeing a permanent state of war.

4.2.3.1 Defensive and offensive jihad

The type of jihad on which all schools of law agree is the defensive jihad. It was meant to be ward off invading armies and regain lost Islamic lands and as such is not an odd figure in international law and just war theories. What is specifically Islamic about this theory is that the obligation to participate in a defensive war is an *individual* obligation, or *fard ayn*. This means that it should be fought even if a *Caliph* or *imam*, is not there to lead the community, and all who can participate *must* participate. It should be reiterated that the principal political actor in the Islamic worldview is not the state but the *ummah*, the collective body of Muslims, therefore the defensive jihad is an obligation that binds all Muslims irrespective of locality. Fighting against an invader, especially an un-Islamic invader equates to fighting *jahiliyaah* and implementing *ubudiyyah* and the *hakimiyyat* of Allah and is for that reason paramount to the integrity of the community and Islam itself. It is for those reasons that the display of Islamic support, either financial, material, ideological or otherwise, for, for instance, the Palestinian cause stretches from Morocco to Indonesia and includes organizations supportive of this cause in non-Islamic communities such as the Netherlands or the United States. Whilst these organizations need not be involved in *direct* warfare against a perceived invading army, they may very well be involved in doing so with financial, political, material or ideological support as I have shown in paragraph 4.2.2 in the case of the US. Vs. The Holy land foundation.

In Islamic law, offensive jihad is the perceived obligation to enter the land of unbelief, invite the inhabitants to Islam which results in either their submission, their conversion, or their death. In orthodox Sunni Islam, the offensive jihad requires the existence of a Caliph who can lead the

community.¹⁵⁴ In addition, unlike defensive jihad, offensive jihad is a communal obligation, *fard kifayah*, which means that if some partake in it, the whole *ummah* is deemed to have fulfilled this obligation. In the early history of Islam such a Caliph may have been deemed to have existed, but as I stated earlier, the general consensus seems to be that the time of rightfully guided Caliphs, the Rashidun, ended with 'monarchy' of the Umayyad's. Since that time, and especially since the early Islamic empire suffered from what we now call 'imperial overstretch' the doctrine of offensive jihad has been relegated to the cabinet of antiquities. Whilst a regulation was laid down that subsequent, more or less legitimate Caliphs, had to raid enemy territory at least once a year, the spirit of offensive jihad can be said to have crawled to a halt.¹⁵⁵ The theory of defensive jihad however, has remained at the core of the view the *ummah* has of itself as an indivisible nation that transcends the boundaries of modern day national or ethnic allegiances.

4.2.3.2 The Invasion of Islamic lands and the moderate counter argument

The basic tenets of the radical *manifesto* start with the classical idea that the Islamic community is one nation, the *ummah*. The *ummah* is in servitude to Allah alone and if one part of the *ummah* is attacked it is incumbent upon all who can to join in the defense of the *ummah* either through preparing for jihad, via fundraising and incitement to fighting, or through actual fighting. Practically speaking, what this entails in terms of counter terrorism policies is the following: If Muslims in for instance the UK feel themselves obligated to come to the aid of an *ummah* which they see as besieged by non-Islamic invaders, as is the case in Afghanistan or Iraq, then it might well be that these Muslim citizens of the UK see themselves as individually obligated to support, financially or otherwise, insurgent groups which are deemed terrorist by the host country, or even support and carry out terrorist attacks within the host country itself. If one's allegiance lies with the *Ummah* instead of the country of which one is a resident, the question will always remain how one will act if that state engages in hostilities against an Islamic country such as Iraq or Afghanistan. If the UK, Dutch or Spanish government is actively involved in operations in Afghanistan then the Islamic legal obligation to 'fight the invader of the *ummah*' can be construed as an individually legally binding obligation to engage in acts against the host country. The 2004 bombings in Madrid and the 2005 bombing in London were carried out by local cells of residents or citizens of their host country as a direct response to that country's involvement in the Iraq war. A number of polls conducted in regard to this phenomenon indicate that in the UK and the Netherlands 4-6 % of Muslims either agree respectively with the London bombings or are willing to defend Islam in their country with violence.¹⁵⁶ Put into perspective this would mean that whilst using the lower

¹⁵⁴ In Shi'a Islam the offensive jihad is postponed until the re-emergence of the 'hidden' Imam.

¹⁵⁵ Peters, *Jihad in Classical and Modern Islam : A Reader* P. 3

¹⁵⁶ A recent study in the Netherlands found that 40 per cent of Dutch youth of Moroccan descent denounces western values and democracy, 7 per cent admit to being willing to 'defend Islam' by violent means (Michiel Kruijt and Janny Groen, "Bijna Helft Jonge Marokkanen Antiwesters", *De Volkskrant*, 14 June 2006). This alienation from or even resentment towards the society in which they live can take on even more frightening proportions, as was revealed in a recent study done in Britain with regards to the bombings in London: about one in 20 British Muslims voiced overt sympathy for the bombings a year before. Separate polls find that between 2 per cent and 6 per cent endorse the attacks, 4 per cent refuse to condemn them, 5 per cent believe the Koran justifies them, and 6 per cent say the suicide bombers were acting in accord with the principles of Islam (Dr Daniel Pipes, "What British Muslims think", *New York Sun*, 11 July 2006).

percentage of 4% out of the 1.6 million Muslims in the UK 64.000 form a severe threat to the security of the state. Undoubtedly, the support for radical Islamic policies amongst western Muslims is a minority position, yet this is not a static phenomenon and as we have seen, many da'wa organizations are actively engaged in mobilizing support for jihad

counterarguments.

In response to the rallying call of Al-Qaeda and the like, a number of arguments have been put forth by the moderates to counter this phenomenon. It should be noted that these counterarguments focus mainly on Muslims *outside* of Iraq and Afghanistan, if only for the simple reason that the doctrine of defensive jihad itself is for all intents and purposes 'untouchable'. Insofar as they do direct themselves to the fighters (*mujahedeen*) they do so on account of the prohibitions on killing innocent civilians.

The first moderate position states that the Muslim citizens of a certain country should not engage in the defensive jihad of Muslims of another country. It is outright rejected by the radicals on two accounts: firstly because the idea of a state is a modern invention which is subservient to the idea of the single *ummah*, and secondly because it is not the interest of the host country or even the *ummah* that form the principle of action, but the overarching commandment to please and obey Allah.¹⁵⁷

A second position brought forth by the "*imams of defeat*", those *ullema* who according to Zawahiri claim that Muslims should not engage in jihad at all¹⁵⁸, states that those Muslims who live safely in for instance the UK, cannot engage in jihad or preparations for jihad against that country because their citizenship or residency symbolizes a peace treaty. This is a very legalistic argument which is again

¹⁵⁷ "True interest lies in seeking God's pleasure no matter what the cost is, for it is all God's will and wisdom "Be sure that we shall test you with something of fear and hunger, some loss in goods or lives or the fruits of your toil, but give glad tidings to those who patiently persevere" [Koranic verse; Al-Baqarah 2:155] [...] *What would be the judgment on those who refrain from preparation and jihad to begin with, who devote much of their effort to justify alleged national interests that are not connected, even by their own reckoning, with what the Koran and Sunnah dictate? Additionally such a course of action blatantly violates the rules of religion and the texts of the Koran and Sunnah, which the prophet's companions established as their law.* [...] The solution to religious weakness is an advocacy that ensures undiminished faith in God's Oneness, which includes renunciation of evil and idols, and buttresses it with the detailed knowledge that the ulema can provide. (Da'wa, DS) The solution to material weakness is jihad in the cause of God for it will bring the nation many obvious and hidden benefits that only God knows, even if pessimistic persons who lack resolve do not like this option. "Fighting is prescribed for you, and ye dislike it. But it is possible that ye dislike a thing which is good for you, and that ye love a thing which is bad for you. But God knoweth, and ye know not" [Koranic verse; Al-Baqarah 2:216]. al-Zawahiri, "Exoneration." P. 43-45 (italics by author DS)

¹⁵⁸ Zawahiri here echoes ibn Taymiyyah's disapproval of the *ullema* who served the Emir's interest instead of the interest of Islam: "They are in the same class as the fatwa issued by the Saudi regime's ulema that said it was permitted to invite the Americans to the Arabian Peninsula. They stand in the same class as the fatwa that allowed Muslims to fight under the US flag and kill his Muslim brothers because they are terrorists. They stand in the same class as the Saudi regime's mufti's edict that it is not permitted to call to jihad against America except with the approval of the ruler, who is actually America's puppet. What this fatwa, or dubious call, is actually telling the Muslims: You are impotent, weak, paralyzed, and crippled, so do not resist your rulers and do not promote virtue or prohibit vice." Ibid., .P. 78

rejected by Zawahiri.¹⁵⁹ The foundation for this rejection lies therein that it is these same host-states that engage in warfare against Muslims across the world. Since all of their citizens, including Muslims, pay taxes, vote, and abstain from revolt against their government, they as a people, a singular entity,¹⁶⁰ become guilty of war against the Muslim *ummah*, which is one nation, thereby violating any peace treaty between the Muslims and the country itself. Jihad again takes precedence of the loyalties to the host country.¹⁶¹ Hence the division made by radical movements between Muslims and the enemies of Islam is a radical one. One is either defending Islam, by the tongue, wealth or one's self, or one is collaborating with the enemies of Islam and thus an unbeliever. Interestingly the fight against Islam can also be divided in by the tongue (Theo van Gogh or critics of Islam), by wealth (taxes) or one's self (military).

This approach forces Muslims to take sides whether they want to or not. Of course they have the freedom to ignore Al-Qaeda's viewpoint altogether, and lead peaceful happy lives, but because Al-Qaeda bases itself upon such universally respected sources, it seems to me that it would be difficult for any sincere Muslim to ignore this debate, regardless of the position one chooses to take. The Qutbist-Da'wa institutions in Islamic and non-Islamic societies certainly do everything they can to draw Muslims into this debate and convince them of the accuracy of Al-Qaeda's viewpoints, whilst demonizing those Muslims who do not follow their creed. Thus a moderate reply cannot be absent. Al-Qaeda in the very least will force the moderate Muslims to come up with an informed and well founded response either directly, or by polarizing relationships with non-Muslims.

A third position used by the moderates to debunk Al-Qaeda states that a Muslim may never kill an innocent person. Al-Qaeda kills innocent persons all the time, hence Al-Qaeda is un-Islamic. This is an important debate that signifies the extent to which the radical Islamic movements are intertwined and imbedded in classical Islamic law and prophetic example, an element that cannot and should not be overlooked for it forms the *lingua franca* of Muslims worldwide. These radical groups have been accused of unbelief since their attacks were unlawful based on the Shari'ah's impermissibility of killing non-combatants such as women and children. Zawahiri rightfully points out that although the *intentional* killing of non-combatants is prohibited by Islamic law, the unintentional killing of non-believers, as in collateral damage, is not deemed a crime on the basis of the prophet Muhammad's siege of the city of Tai'f.¹⁶² It should be remembered that the basis of Islamic law lies in the Quran, the *Sunna*, analogy and

¹⁵⁹ I would advise those with an interest in fiqh to read Zawahiri's reason for rejecting this argument for it shows exactly how Zawahiri approaches this argument by relying on classical *ullema* and classical works of fiqh thus giving an idea of the thoroughly legal nature of Al-Qaeda.

¹⁶⁰ Zawahiri claims that the reducing of a people to one single entity is based on the Prophet Muhammad's example when he was asked if his attack against a certain village did not constitute indiscriminate killing. The prophet replied "they are of them". al-Zawahiri, "Exoneration." P. 167

¹⁶¹ Ibid., . Chapter 7

¹⁶² "Muslim leaders used catapults in fighting the non-believers. It is known that catapults if used, do not differentiate between one fighter and the other. They can strike those who are called innocent; nevertheless, the Muslim tradition was that it was used in wars. Ibn Qudamah, may God have mercy upon him, said: Using catapults is permissible because the prophet, prayers and peace of God be upon him, used them against the people of Al-Ta'if and Amr Ibn al-As used them against the people of Alexandria [...]. Ibn Qassim, may God have mercy upon him,

consensus. All these four elements are extensively employed by Zawahiri to demonstrate the legality and indeed, the necessity of Al-Qaeda's actions. Since Muhammad himself, through his own actions showed that the unintentional killing of non-Muslims *and* Muslims was permissible in the course of jihad, Al-Qaeda should not be seen as engaging in criminal acts unless one is willing to accuse Muhammad of doing the same.¹⁶³

4.2.3.3. the merging of defensive and offensive jihad

As we have seen Qutb defines the offensive jihad, which according to classical *ullema* is part and parcel of Islam, as:

"Islam is a universal message, which the whole of mankind should accept or make peace with. No political system or material power should put hindrances in the way of preaching Islam....If someone does this, then it is the duty of Islam to fight him until he is either killed or until he declares his submission."¹⁶⁴

The transformation of offensive jihad, which cannot be fought in modern times due to the lack of a Caliph or imam, is formulated into a theory of *defence*, which requires neither Caliph nor imam as follows:

"If we insist on calling Islamic Jihad a defensive movement, then we must change the meaning of the word 'defence' and mean by it 'the defence of man' against all those elements which limit his freedom"¹⁶⁵

Thus the idea of defensive jihad transgresses the boundaries of what we would normal assume to be a theory of defence, namely the protection of territorial boundaries. The radical Islamic theory of defence, according to this school of thought, becomes a defensive war that is not triggered by the crossing of a territorial boundary, but by crossing a *metaphysical* boundary. Islam is that system which suits mans needs best since Allah has ordained it for him (*fitrah*) Anything that opposes that system, or put hindrances in its way, thereby declares war against mankind itself. In the defence of man, man must be *forced to be free*. An argument typical of Jean Jacques Rousseau, Maximilian Robespierre and every totalitarian revolutionary since then. Hence through this reinterpretation of the theory of defensive

said in Al-Hashiyyah: 'It is permissible to use catapults against the non-believers even if children, women, old men and monks are killed inadvertently, because crushing the enemy is allowed according to the consensus of the scholars. [...] Ibn Rushud [Muslim scholar, philosopher and physician of 12th century Al- Andalus], said: "Crushing the enemy is permissible according to the consensus of scholars and against any type of polytheist" Ibid. P. 209

¹⁶³ "Those who claim that killing innocent persons is absolutely forbidden are in a position of accusing the prophet, may God's peace and prayers be upon him, his companions, and the generation following them that they were killers of innocent persons, as they see it. The prophet used catapults in his war on Al-Ta'if and you know that catapults cannot distinguish between the innocent and guilty. The prophet killed all the males of the Jewish Banu-Qurayzah tribe and made no distinction between one person and another. Ibn-Hazm commented thus: On the Banu-Qurayzah day I was with the prophet when he killed every male among them. He left none of them, no merchants, tillers, or old men." al-Zawahiri, "Exoneration." P. 142

¹⁶⁴ Qutb, *Milestones*. It should be noted that one of the meanings of the word *Islam* is submission.

¹⁶⁵ Op. cit.

jihad along these lines, the defensive jihad has begotten all the characteristics of offensive jihad *without* the need for a Caliph or Imam. It should be noted however that the underlying thought behind this extension of defensive jihad is itself based on the original idea of offensive jihad namely:

“And fight them until persecution is no more, and religion is all for Allah. But if they cease, then lo! Allah is Seer of what they do.” Quran 8:39

The term ‘if they cease’ is explained by ibn Kathir in his Tafsir as:

“ So that there is no more shirk (worshipping of others besides Allah DS) [...] The messenger of Allah said: I was commanded to fight against the people until they proclaim “There is no deity worthy of worship except Allah, If and when they say it , they will preserve their blood and wealth from me, except for its right (Islamic penal code) and their reckoning is with Allah, the exalted and most honored.” ¹⁶⁶

This verse then does not state that fighting should stop when the siege of the Islamic *ummah* has stopped (but if they cease) but that it should stop when the religion of Allah has been established amongst the nations. Furthermore, even *if* this conflation of defensive and offensive jihad is thoroughly rejected by moderate *ullema*, the question remains: does defensive jihad rely singularly on a territorial criterion or does it have an overarching metaphysical criterion?

When Is Islam under attack?

As stated above, Zawahiri follows Qutb in stating that those who put hindrances in the way of da’wa, who would oppose the spread of Islam itself are actually engaging in war against Islam and must hence be fought. Zawahiri points out that the mere fact that one cannot live according to the Shari’ah, that a Muslim is not free to live according to the principles of *jahiliyaah*, *ubudiyyah* and *hakimiyyat* is in itself a declaration of war against Islam. I will here sum up some of the examples put forward by Zawahiri himself which give a good impression of the dichotomy between what a western audience would understand under ‘aggression’ and what a radical means when he claims to be under attack. This is of vital importance! All too often the conflict with radical Islam is reduced to the idea that the ‘West’ owes it to itself because of its support for Israel or its meddling in the internal affairs of Islamic countries. If anything, Zawahiri here shows that aggression against Islam doesn’t take such far reaching acts of international policy. Zawahiri gives some examples of those social, legal and political concepts that lie at the foundations of Western and open democratic societies that he sees as constituting an attack against Islam. An attack that automatically negates all peace treaties and thus opens the doors of defensive jihad, which I point out again is an individual binding obligation.

In relation to social concepts:

“The family of someone who has obtained a visa to Western countries may be subjected to attack. Some examples of this: His child may be forced to study a Western curriculum; A Muslim cannot compel his son or daughter to pray, fast, go on pilgrimage, or even observe the laws of ritual purity. If he tries to compel them to do so or to implement, for example, the tradition of the prophet (may God bless him

¹⁶⁶ Ibn Kathir, Volume 4 p. 314-315

and grant him peace) that says, "Command your sons to pray at seven years, and beat them for it at ten years," [...]The child might be taken from him and turned over to another family that might be non-Muslim; If a Muslim marries a second wife, he will be punished, perhaps imprisoned, and they will invalidate his marriage; A Muslim may not carry out the Koranic provision against his wife if she is rebellious toward him, abstains from his bed, or deprives him of his right to be chaste himself. If he tries to take his right [sexual intercourse DS] without her consent, she has the right to prosecute him for having "raped" her. If he tries to implement the Koranic provision of beating, prison awaits him; A Muslim may not prevent his wife, if she is not virtuous or a non-Muslim, from befriending anyone she wishes, Muslim or non-Muslim, or from corresponding with him, inviting him to the house, and mixing socially with him."¹⁶⁷

On the freedom of speech and the prohibition of racial and religious hatred.

"A Muslim in the West cannot publicly proclaim the Koran's descriptions of the Jews without being imprisoned for anti-Semitism; Reviling the prophet (may God bless him and grant him peace) is blatant hostility to a Muslim's religion and creed. The Western countries such as America and Britain not only allow such reviling, but they honor the reviler of the prophet (may God bless him and grant him peace) and consider him a hero. Salman Rushdie was given many prizes in Britain and other countries. [...] The Western peoples and governments believe that any writer or artist has the right to ridicule the prophet (may God bless him and grant him peace), as happened with the cartoons insulting the prophet's honor that were published in a number of Western countries. Those governments refuse to forbid, let alone punish, their creator. If one group of the people break a covenant and the remainder agree with them, their promise of safety lapses and all of them are fought, as will be shown later, God willing."

On the legal concepts

"He is subjected to taxes some of which are spent on killing and fighting Muslims; The current laws on terrorism punish the mere instigation to terrorism. In other words, calling Muslims to jihad against their attacker makes a Muslim liable to the punishment of those laws."¹⁶⁸

All of these facts, which we hold for self-evident and as the core values of our western society, constitute in the eyes of Zawahiri acts of war against Islam. In response to the moderate's argument that nationality of a certain country equates to a peace treaty which may not be violated, Zawahiri states:

"Even if we granted that a visa is a contract of "safety in return for safety," this contract would be invalid because the safety it accords cannot be separated from the anti-Shari'ah laws that they impose on anyone who travels to them or resides among them. Neither can the safe-conduct be separated from paying taxes to them, and in paying taxes to them one

¹⁶⁷ al-Zawahiri, "Exoneration." 125-126

¹⁶⁸ Ibid., .p. 126-127

is helping them attack Muslims.”¹⁶⁹

He then points out the logical consequence of these acts of war to Muslims living in such western countries, namely, that by voluntarily choosing to remain there instead of performing the *Hijra*, they are committing acts of unbelief.^{170 171} The only way in which a Muslim living in such a country can remain *within* the fold of Islam is to engage in jihad or preparations for jihad. And since there is no longer a true abode of Islam to emigrate to, outside of the theaters of jihad such as the Taliban regime, *all* Muslims must engage in jihad or its preparation i.e. a total mobilization of the transnational *ummah*.

That this is no mere theoretical debate is exemplified by the murder of Theo van Gogh. This murder was carried out because Theo van Gogh, according to his killer Muhammad Bouyeri, engaged in warfare against the Islamic nation and he (Bouyeri) simply had no other choice than to carry out a prophetic example. Bouyeri implicitly referred to the killing of the poets ibn al-Ashraf and Abu Rafi who insulted the prophet and thereby attacked Islam. Bouyeri's reasoning is exactly the same as that of Al-Qaeda and of the classical *ulama* such as Taymiyyah and ibn Qayyim.¹⁷²

Hence, the concept of defensive jihad which originally was codified as meaning the defense of the boundaries has been augmented to include the jihad and the preparations for that jihad against all that is un-Islamic. The very existence of un-Islamic things themselves are an affront to the radical perception of Islam. This should be a warning to all those who believe one can negotiate with radical movements. The cause of their hatred lies not only in the foreign policies of some western countries, which are but an affirmation of their unbelief, but in the very core elements of those societies themselves. All un-

¹⁶⁹ Ibid., . P. 133

¹⁷⁰ "The early jurists (*fuqaha' al-salaf*) warned of this. They said that any Muslim who enters the Abode of War (infidel territory) for some purpose should not decide to reside there, since thereby he would be voluntarily consenting to the application of the non-believers' laws to him and thus apostatizing from Islam." Therefore, this description applies to any Muslim who voluntarily, without compulsion, and not being a refugee holds infidel Nationality" Ibid. P. 188

¹⁷¹ Zawahiri quotes a Fatwa given by Rashid Rida, see paragraph 2, about acquiring French citizenship during the French war with Algeria, a situation analogous to acquiring British citizenship during the war in Iraq or Afghanistan. "By acquiring such citizenship, he agrees to give his money and his life to fighting Muslims if his country calls on him to do so; and it certainly will do so when there is need. The question involves many legal precepts about which there is agreement and known to be a necessary part of the Islamic religion. One who acquires such citizenship considers it permissible to violate these precepts, and doing so is universally agreed to be non-belief." Ibid. P. 194

¹⁷² Distinguishing between those that merely broke a treaty and those who offended god or the prophet In *Al-Sarim* 2/503, the Shaykh al-Islam [Ibn Taymiyyah] distinguishes among types of non-believers with regard to covenants and promises of safety: "He [the prophet] distinguished between those who have merely broken a covenant and those who in addition have offended the Muslims. Whenever word reached the prophet that someone who had entered into a covenant had offended the Muslims, he deputized someone to kill him, whereas he exiled many or showed kindness to many who had only broken a covenant. Also, the companions of the messenger of God entered into a covenant with the people of Damascus, who were non-believers. When the latter broke the treaty, they fought them, but then they made a treaty with them again or a third time; and similarly with the people of Egypt. Nevertheless, whenever they defeated the holder of a treaty who had offended the Muslims by libeling the faith, committing fornication with a Muslim woman, or the like, they killed him. The killing of such people without giving a choice is specifically commanded, and it is well-known that they [the companions of the prophet] distinguished between the two sorts." al-Zawahiri, "Exoneration." P. 139

Islamic societies *are* the *jahiliyaah* that needs to be replaced by Islam and servitude to the rule of Allah. It is their very existence which necessitates this novel conception of defensive jihad. However, let the term novel not falsely reassure the reader looking for a spark of hope. If a legitimate Caliph would be present, or if the Shi'a 12th Imam would reappear, the doctrine of offensive jihad as an obligation which needs no 'defensive argument' would become an obligation once again. Hence the danger of movements which seek to reestablish a caliphate such as *Al-Khalifa* or *Hizb-ut tahrir*. The only difference being that defensive jihad is an *individual obligation*, all those who can must participate. Offensive jihad is a *communal obligation* which can be delegated to a vanguard movement who performs it on the benefit of the entire *Ummah*. It seems therefore that the inclusion or rephrasing of offensive jihad into the concept of defensive jihad is a much more powerful, both in terms of propaganda and mobilization, instrument than offensive jihad. It is not hampered by the need for a Caliph or Imam, it's prerequisites are easily obtained and it is a binding duty upon all Muslims.

5. consequences for policy and lawmakers.

Having made an inventory of the scholarly and intellectual reflections upon the Islamic canonical sources we have arrived at the conclusion that *hijra* and *Da'wa* are inextricably linked to the greater overarching concept of the smaller jihad. Even if one simply spends his days preaching Islam in the hopes of converting non-believers, it's ultimate aim is to 'purify religion for Allah'. As long as this is done based on voluntary and informed consent there should be no need for policy or lawmakers to intervene. Whilst jihad and preparing for jihad are criminal acts in most western countries, *hijra* and other *Da'wa* activities are not and for good reasons. One should not want to criminalize thought or pacifistic religious expressions. These are guarded by the applicable UN and European human rights charters and guarantee Muslims the same freedoms as Christians and Jews whose history has far deeper roots in western society. And herein lies a problem. Christianity and Judaism, for an abundance of reasons, have been 'pacified'. They are part and parcel of Western culture and as such form an integral and constituting part of its legal traditions that have spawned these human rights treaties and civil and political liberties. Yet, some choose to view Islam on an equal footing. All good intentions aside one should be very careful in asserting or accepting *a priori* that Islam is Christianity or Judaism by another name. It is not. Islam has its own legal tradition and the argument brought forth by the very same radicals that fund mosques, schools and *Da'wa* institutes in these western societies under the protection of said liberties is precisely this inequality. To these organizations, radical Islam has been watered down, corrupted and weakened by successive generations of emir's and ullema, who sought to accommodate Islam to the demands of reality, to the demands of empire or to the demands of modern multicultural tolerance and inter-faith dialogue. As the National-Socialist and Stalinist before them, the radicals claim a monopoly on truth and engage in a program bent on purging their truth of all corrupting influences and subjugating the world to that truth. In that sense I truly feel that radical Islam is not a novel phenomenon but a repetition of the totalitarian mass movements of the 20th century and should thus be accorded the same treatment. In the same vein as western societies have developed laws and

jurisprudence against Neo-Nazi or Stalinist organizations and propaganda, so too should this be done with the Qutbist *Da'wa* organizations and the message they expound. Unfortunately two obstacles that emanate from the Western world hamper this forced pacification. First of all, religious speech is protected under the freedom of religion legislation. As we have seen people such as Zawahiri need not invent their creed from scratch. A vast body of religious canonical and jurisprudential literature exists that can formulate his ideology for him if adopted literally. Yet this body of literature is protected by laws safeguarding freedom of religion. The case against Geert Wilders, who accused the Quran of being a 'fascist' book is a case in point. However one might think about this case, it is still pending at the time of this publication, his argument has its merits whether it concerns the Quran or the Torah or the Gospel. All religions have within their holy texts intolerant passages, homophobic passages and passages that are not on equal footing with today's liberal secular democratic values. But whereas Christianity has been pacified through the enlightenment, or at latest, through the inability to stop, or culpability in the horrors of the Holocaust and the Gulag, and Judaism lacks a political dimension outside of Israel, Islam has had no comparable experience. It's message, and the radicals certainly make a strong argument here, has at best been hidden, subdued or repressed. One should remember that all those who were or are in favor of a tolerant, pluralistic and pacified Islam have either been killed (taha) ostracized (Raziq) or otherwise vilified and are now living in the west out of fear for their security. This does little to inspire confidence about the shape of things to come. Events on the ground in Western societies, but also in other societies such as Malaysia, Nigeria, Somalia or Sudan inspire little faith in the development of an Islam that is compatible with Liberal democratic values.

Secondly, the very same institution that is supposed to safeguard the freedoms accorded through the UN declaration of human rights, the UNHRC, has in 2009 adopted a resolution aimed at criminalizing 'defamation' of religion and stated that it: "expresses deep concern in this respect that Islam is frequently and wrongly associated with human rights violations and terrorism."¹⁷³ This was instigated by the Organization of Islamic Countries (OIC) which for all intents and purposes enjoys an automatic majority in the UNHRC and the General Assembly thus assuring them of the full weight of the UNHRC at their beckoning. To illustrate this agenda, which falls squarely under the umbrella of *Da'wa* activities, the OIC criticized General Petraeus counter-insurgency manual as a "manifestation of Islamophobia" since it "details an alleged link between Muslim groups and terrorists" and utilizes terms such as "Islamic insurgents" and "Islamic extremists."¹⁷⁴ Worryingly President Obama has filed suit and has since made it clear he intends to "remove religious terms such as "Islamic extremism" from the central document outlining the US national security strategy and will use the rewritten document to emphasize that the United States does not view Muslim nations through the lens of terror"¹⁷⁵. This is in line with his earlier Cairo statement that "Islam is not part of the problem in combating violent extremism -- it is an important part of promoting peace."¹⁷⁶

¹⁷³ Organization of Islamic Countries, "Third Oic Report on Islamophobia."

¹⁷⁴ Nathaniel Sugarman, "Oic: Petraeus Guilty of Islamophobia."

¹⁷⁵ "Obama Bans Terms Jihad, Islam," *Associated Press*, 04/07/2010 2010.

¹⁷⁶ Obama, "Remarks by the President on a New Beginning."

In conclusion. A successful counterterrorism policy needs to recognize that armed jihad is but the pinnacle of a much larger construct. Terrorism is the crest of a wave that consists of Qutbist *Da'wa* organizations ranging from well respected NGO's such as the OIC, MSA, CAIR, and ISNA to a vast network of mosques, charitable organizations, religious groups, schools and inter-faith dialogue groups.. Their breeding grounds lie within these social actors and in the increasing self-imposed isolation of immigrant communities in the larger cities across Europe and the US. Its roots dig deep into Islamic legal and intellectual history The way in which these groups and NGO's interact with their un-Islamic surroundings is based upon doublespeak, taqiyyah and wilful misinformation. As long as these groups firmly believe that the principles of *jahiliyaah*, *ubudiyyah* and *hakimiyyat* should dictate their actions, they will constitute a threat to the security of the host state. Combating this threat will require law and policy makers to formulate laws and policies that at best feel uncomfortable in light of our liberal democratic values. However, I feel the that the larger evil lies in the *a priori* acceptance that all religions are equal , in the wilful closing of the eyes out of a fear of being labelled a racist, a term often enough employed by such Qutbist groups. As a European I can only speak for Europe when I say that the European Charter of Human Rights had been written *after* the holocaust, after that terrible lesson in what mass-movements bent on healing the world of impurities can lead to. As such the ECHR is a document which reflects the values which Europeans learned and know by heart after much bloodshed. The immigration of peoples from a completely different legal and ethical culture into the European mainland does not imply that these norms and values, this historical awareness , miraculously transposes unto them. Especially not if this human fabrication and experience has to compete with a divine revelation.

The solution to this phenomenon as I see it would lie predominantly in the hands of Islamic intellectuals and ullema. They have to define Islam insofar as it cannot define itself. As such, they will have to compete with well funded and well organized Salafi organizations, no easy feat by any account. The role secular governments can play in this, is in my opinion limited to extending counterterrorism measures to Qutbist *Da'wa* organizations , halting all forms of dialogue or official cooperation with these organizations and stopping the flow of money from the Arab Gulf states into their societies. This will have the dual effect of countering the 'swelling of the wave' and opening up possibilities for genuinely moderate ullema and intellectuals. In addition, unlike President Obama's approach which does nothing but reassure the Qutbist organizations of their influence, secular governments must safeguard the safety and ability of intellectuals to openly criticize any religion they might deem worthy of criticism. The foundation of our present day societies and civil political liberties was constituted by people who fought against the tyranny of 'truth'. People such as Nietzsche, Spinoza and Luther. By the very same token as Geert Wilders now stands trial, Friedrich Nietzsche would have had to face legal persecution for his criticism of Christianity and Judaism. What message are we sending if we honour those who criticized these age old European religions whilst condemning those who criticize Islam? What message are we sending when we publicly proclaim that Islam is peace and must not be offended, whilst the Quran itself offends and discriminates those who do not follow its edicts? No enlightenment of the new inhabitants of the west can be expected if we do not support and protect the people who risk their lives to counter this new totalitarianism. And no security should be expected if we carelessly accord the protective veil

of constitutional freedoms to organizations whose self-confessed or implied aims are inherently political and aimed at the destruction of the foundations of the liberal democratic rule of law societies in which they operate. The reliance of radical Islam's political aims on the canonical sources forces us to acknowledge that it is no longer possible or desirable to accord constitutional freedoms to religious organizations purely *because* they are religious. In that sense it is not solely the source of beliefs that should define whether or not something is worthy of these protections, but also the content of those beliefs, their political expressions and the way in which they relate to the secular safeguards of society.

This observation and recommendation is sure to meet resistance. Yet, as I have stated, not only radical Islam itself is reminiscent of the totalitarianisms of the past. So too are the reactions from those who do not wish to acknowledge the very existence of the totalitarian danger. Hannah Arendt, when criticized for her thesis on the totalitarian equality of Nazism and Communism, replied that those who do not wish to acknowledge the present danger are: "inclined to think some accident has happened after which one's duty is to restore the old order, appeal to the old knowledge of right and wrong, mobilize the old instincts for order and safety. They label anyone who thinks and speaks otherwise a "prophet of doom" whose gloominess threatens to darken the sun rising over good and evil for all eternity"¹⁷⁷

This paper in no way implores the reader to judge all Muslims as potential totalitarian activists. Far from it, I have made the divide between the believer and belief clear from the beginning. What is warranted however is that one equally does not deem a religious organization innocuous purely because it is a religious organization. What is asked is that one investigates without restraint, on a case by case basis, the beliefs that fuel those actors that vie for the protection of the mentioned constitutional freedoms and that one takes those religious beliefs very seriously. In a time in which academics, politicians and human rights activist openly debate the merits of 'cooperating' with the Muslim Brotherhood, with HAMAS or Hizbullah in order to achieve the reverie of peaceful co-existence, the words written by Dr. Joseph Goebbels in 1928 reflect the policy of the Muslim Brotherhood and should cast a dire warning:

"Our participation in the parliament does not indicate a support, but rather an undermining of the parliamentary system. It does not indicate that we renounce our anti-parliamentarian attitude, but that we are fighting the enemy with his own weapons and that we are fighting for our National Socialist goal from the parliamentary platform [...] We enter parliament in order to supply ourselves, in the arsenal of democracy, with its own weapons. We become members of the Reichstag in order to paralyze the Weimar sentiment with its own assistance. If democracy is so stupid as to give us free tickets [...] that is its own affair. [...] We do not come as friend nor even as neutrals. we come as enemies: As the wolf bursts into the flock, so we come."¹⁷⁸

¹⁷⁷ Hannah Arendt and Jerome Kohn, *Essays in Understanding 1930-1954 : Formation, Exile, and Totalitarianism* (New York: Schocken Books, 2005)P. 330 In: "On the Nature of Totalitarianism: An Essay in Understanding"

¹⁷⁸ United States. Office of Chief of Counsel for the Prosecution of Axis Criminality. et al., *Nazi Conspiracy and Aggression*, 8 vols. (Washington, D.C: U.S. G.P.O, 1946)Volume I chapter 7. Diary entry of April 30, 1928

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