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CHAPTER II THE DEVELOPMENT AND THEORIES OF JIHAD

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 their particular brand of Islam. As I will show in this chapter, these violent acts, which appear on the surface as a singular phenomenon, are actually the varying results of the revivalism of classical and medieval legal theories of jihad by modern Islamist movements. Understanding terrorism therefore cannot be separated from understanding the legal arguments on which that terrorism is founded. If, for instance, one would want to enlist the help of moderate Islamic clergy, then these legal dimensions must be understood so as to ascertain whether or not the moderate Islamic position is a strong one. As I will show in the course of this part of the book these legal foundations have different dimensions to them. 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, meaning to preach but which can also mean to prepare for jihad, and the concept of *hijra,* emigration or separation from the non-Islamic society. All of these belong in a sense to the same legal category of political action: jihad. The concept of Jihad, as I will show, is therefore vastly broader than mere acts of violence and includes a whole host of non-violent activities which are often overlooked by counter-terrorism policy makers and legislators.

In this and in the subsequent chapters I will be focusing on Jihad in the largest sense since this is the problem faced by non-Islamic and Islamic societies through the actions of Islamists. In Islamist thought,

jihad is the quintessential activity through which Islam is released from the realm of mere personal religious observation and becomes a revolutionary movement for the establishment of a global exclusivist Islamic order of being along the lines of what Hannah Arendt described as 'the Law of history or history and the Law of movement'. The Law of History or Nature in the Islamist view is Islam. As I will show, the Islamist view Islam as the final answer to all of life's questions and perceive it as a self-contained blueprint for a Utopia that waits to be fabricated. Any effort to restrict Islam to the private life of the believer and deny it the possibility of transforming mankind as whole, through for example the separation of church and state, is deemed to be an assault on Islam and thus justifies a defensive jihad. The terror that we so often associate WITH Islamist movements is the effectuation of the Islamists conception of the law of movement. In their view, Islam itself has proscribed in the Quran and Sunna all the steps that need to be taken in order to fulfil the fabrication of Utopia. All those elements that stand in its way must be fought whether they offer true opposition or not. This, in short, is the concept of offensive jihad. In this chapter I will explain these concepts, their theological and historical roots and context and the evolution that the concept of jihad underwent through Islam's history. This will form the background information through which we can better understand the works of the modern day Islamist ideologues.

I should however make a note in defence of Islam upfront. Some modern political commentators tend to reduce Islam to jihad. Whilst it is true that the laws of jihad form part and parcel of the totality of Islamic law and are fundamental in understanding Islam's attitude towards the non-Islamic world, the body of Islamic laws is much greater than that. The idea that jihad holds a central place in Islamic fiqh, whilst understandable seeing its high exposure in the media and its impact on societies, is thus 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.[597] 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.[598] The handbook of the *Shafi'I* school of law*,* which is predominant in north-east Africa, devotes 11 out of its 825 pages, or 1.3% to the treatment of jihad*.*[599] 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 these mundane topics which form a threat to the security and wellbeing of Islamic and non-Islamic societies, nor are they the elements of fiqh which are likely to mobilize violent political action.[600] In addition, the fact that so few pages are devoted to it might also indicate that there is actually very little debate about it and the matter is seen as self-explanatory. In so far as the Shafi'i handbook is concerned the latter observation seems to be the case.

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[597] 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 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. See for a general introduction in Salafist thought: Roel Meijer, *Global Salafism: Islam's New Religious Movement* (New York: Columbia University Press, 2009), Schacht, *An Introduction to Islamic Law*, p. 72.

[598] 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 Hallaq, *Sharia: Theory, Practice, Transformations*, pp. 553-555.

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

[600] I have excluded the criminal codes from this observation. Although these can constitute threats to security, they are not at the forefront of the Islamist phenomenon.

2.1 The foundation of offensive jihad

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 the following form: The verses in the Quran and elements of the hadith that promote peace, tolerance and coexistence with unbelievers take precedence over the verses and elements of hadith that proclaim otherwise.[601] 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 and not as acts of offensive warfare against non-believer, the smaller jihad; Islam only fights wars of defence.

 This argument is 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. In the following paragraphs I will answer these claims by giving a brief summary of the foundations of jihad in the Quran and the *Sunna* and the reception of those sources in the classical and medieval Islamic legal works on jihad. I will first start with the claim that Islam is by definition tolerant of other religions and thus does not engage in offensive warfare for the sake of religion.

2.1.1 The claim that there is no compulsion in religion

This 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

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[601] This is one of the points of Mohammad Taha in Taha, *The Second Message of Islam*.

> 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 exegesis of these sources, the *tafsir*, it is equally true that they have been abrogated (*naskh)* by verses that were revealed later in time. [602] In so doing, the problem of incoherence between verses that preach tolerance and those that preach war is resolved. Even 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

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[602] "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." Peters, *Jihad in Classical and Modern Islam : A Reader*, p. 2.

discussion are the so called "sword verses"[603] 9:5 and 9:29, which are some of the last verses to be revealed by Allah to Muhammad prior to Muhammad's death.[604] The state of affairs in the latter days of Medina was such that Muhammad was either at war with the unbelievers or had treaties with them. These treaties could be extended to the people of the book, Jews and Christians, or non-believers in general depending on the necessities of that time. The sword verses abrogate these treaties and end the time of peaceful co-existence. In principle; either one belonged to the ummah or one was at war with the ummah. The people of the book had the option of converting to Islam or paying the dhimmi poll tax. All others had the option of conversion or being killed. If treaties existed between the Muslims and the latter category then these treaties, if no specific time limited was stipulated, were annulled and the people given four months time to seek refuge and sanctuary from the Muslims elsewhere. After that period of four months there would be nothing to protect the unbelievers form Muhammad and his army.

> And when the sacred months have passed, then kill the polytheists wherever you find them and capture them and besiege them and sit in wait for them at every place of ambush. But if they should repent, establish prayer[605], 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

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[603] 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"
[604] Ibid. Volume 4 p. 369
[605] i.e. convert

they give the jizyah[606] 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.[607]

The most widely recognized and venerated commentary on the Quran, the *tafsir* by Ibn Kathir describes this process as follows.[608] The sacred months which are named in verse 9:5 are the four months grace period just mentioned.[609]When these months have passed the Muslims are commanded to actively seek out the unbelievers and attack them:

[..] do not wait until you find them. Rather seek and besiege them in their areas and forts, gather intelligence about them in the various roads and fairways so that what is made wide looks even smaller to them. This way, they will have no choice but to die or embrace Islam.

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[606] 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

[607] Bukhari, *Shahih Bukhari*. Volume 1, p. 66. Chapter 17

[608] Ibn Kathir 1301-1373 was a student of Ibn Taymiyyah and to a lesser degree also of his student, ibn Qayyim. He can be seen as one of the greatest minds of Islamic legal theory. Those who are looking for an explanation of a certain Quranic verse cannot do otherwise than to start with the tafsir of ibn Kathir. Its authority in that regard is undisputed.

[609] Ibn Kathir. Volume 4 p. 376

Fighting the unbelievers had the specific goal of converting them to Islam:

> These *ayat* allowed fighting people unless, and until, they embrace Islam and implement its rulings and obligations.

In his summary of the meaning of Quranic verse 9:5 Kathir quotes two of the companions of Muhammad who stated:

> [..] It abrogated every agreement of peace between the Prophet and any idolater, every treaty and every term" [..] No idolater had any more treaty or promise of safety ever since surah Bara'ah was revealed (chapter 9 of the Quran D.S.).[610]

It should be mentioned that since Muhammad is the example which all Muslims must follow and is the direct representative of Allah on earth, these injunctions to fight the disbelievers come directly from Allah:

> Allah mentions the wisdom in dissolving all obligations to the idolaters and giving them a four month period of safety, after which they will meet the sharp sword wherever they are found. [..] Allah encourages the believers to show enmity to the idolaters and to dissociate from them, affirming that they do not deserve to enjoy a covenant of peace, because of their *Shirk* in Allah and disbelief in Allah's messenger.[611]

An important thing to note here is the following: In Islamist theological-legal thought, animosity towards the unbelievers is not a result of the actions of the unbelievers but is constituted by their disbelief in Allah and his messenger. In other words this animosity is an existential requirement. The enemy is not defined

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[610] Ibid., p. 377. In a tafsir collection from the Shi'a school of law he same line of reasoning can be found. Ayatollah Kamal Faghih Iman, ed., *An Enlightening Comentary into the Light of the Holy Quran* (Esfahan: The scientific and religious research center, Amir ul-mu'mineem Ali Public library 1998).
[611] Ibn Kathir, pp. 380-381.

by his real world actions but by the ideology which defines him as an enemy.

> The definition of the enemy is constitutive of the identity of the people [..] The campaign against the enemies of the people is seen as a form of prophylaxis: the integrity of the body depends on the elimination of its enemies.[612]

This will be of pivotal importance in understanding the Islamist phenomenon and I will return to this in the coming chapters. A second point which is closely connected to the image of the enemy as being constitutive of the Islamic body, the ummah, is the following. The obligation to fight the unbelievers is dissociated from any real world experience. Allah mentions that jihad is a test imposed upon the believers to test their faith. This test transcends all bonds of kinship and blood and is the furnace in which the faithful are separated from the hypocrites and unbelievers.

First Allah mentions the virtue of those who engage in jihad. This ayat also mentions the different categories of jihad and I will explain them in the next paragraph.

> The ones who have believed, emigrated and striven in the cause of Allah with their wealth and their lives are greater in rank in the sight of Allah . And it is those who are the attainers [of success]. Quran, 9:20

Next, the nature of the test is made clear in verses 9:23-24

> O you who have believed, do not take your fathers or your brothers as allies if they have preferred disbelief over belief. And whoever does so among you - then it is those who are the wrongdoers. [..] Say, O Muhammad, If your fathers, your sons, your brothers, your wives, your relatives, wealth which you have obtained, commerce wherein you fear decline, and

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[612] Lefort and Thompson, eds., *The Political Forms of Modern Society: Bureaucracy, Democracy, Totalitarianism*, pp. 286-287.

dwellings with which you are pleased are more beloved to you
than Allah and His Messenger and jihad in His cause, then wait
until Allah executes His command. And Allah does not guide
the defiantly disobedient people.

The command to fight in the name of Islam thus transcends all the
human bonds of friendship, kinship and family. Ibn Kathir comments:
"Allah commands shunning the disbelievers, even if they are one's
parents or children, and prohibits taking them as supporters if they
choose disbelief instead of faith."[613] The test itself is fighting for the
cause of Allah and is ultimately founded upon verse 9:29 which states:

> 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 jizyah willingly while they are humbled.

The notion of tolerance and respect for other religions which was the
hallmark of the concept of 'you have your religion I have mine', Quran
109:1-6, from the Meccan period is now replaced with a declaration
of enmity against the Jews and Christians.

> The Jews say, "Ezra is the son of Allah "; and the Christians say,
> "The Messiah is the son of Allah." That is their statement from
> their mouths; they imitate the saying of those who disbelieved
> [before them]. May Allah destroy them; how are they
> deluded? [..] They have taken their scholars and monks as
> lords besides Allah, and [also] the Messiah, the son of Mary.
> And they were not commanded except to worship one God;
> there is no deity except Him. Exalted is He above whatever
> they associate with Him.[..] They want to extinguish the light
> of Allah with their mouths, but Allah refuses except to perfect
> His light, although the disbelievers dislike it. [..] It is He who
> has sent His Messenger with guidance and the religion of truth

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[613] Ibn Kathir, p. 394.

to manifest it over all religion, although they who associate others with Allah dislike it. Quran, 9:30-33

The people of the book can only save their lives either if they submit to Islam and pay the jizyah or if they convert. Their belief in the Torah or Gospels is considered to be a false belief which has nothing to do with Islam or god's religion and thus they too must be fought:

> They followed their religion because this conformed with their ideas, lusts and the ways of their forefathers, not because they are Allah's laws and religion. Had they been true believers in their religion, that faith would have directed them to believe in Muhammad's advent [..]and commanded them to obey and follow him [..] Therefore they do not follow the religion of earlier prophets because these religions came from Allah, but because these suit their desires and lusts. Therefore, their claimed faith in an earlier prophet will not benefit them because they disbelieved in the master, the mightiest, the last and most perfect of al Prophets.[614]

This commentary on the text of the Quran by Ibn Kathir is interesting for two reasons. Firstly; it proves that the unbelievers and people of the book are essentially the same. The only thing that separates them is that the latter category has the right to pay jizyah and thus save their lives while keeping their religion. Secondly; there can be no mistake as to the claim that Judaism and Christianity are false believes. The respect that is given is the option of paying jizyah instead of the choice of death or conversion, but nothing more than this. Whilst Islam claims that the prophets of the Jews and Christians are also the prophets of Islam, it does so whilst in the same breath saying that the Jews and Christians have misunderstood and misrepresented these prophets for their own personal gain. One should be aware of this logic since it permeates the radical, and not so radical, Islamic discourse. The basic position is that all of mankind is

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[614] Ibid., pp. 404-405.

born Muslim. Islam therefore, is mankind's inborn nature or *fitrah.* [615] Only due to false information and incorrect upbringing do people stray from the path of Islam. The Islamist agenda therefore is to correct these mistakes and return all of mankind to the path of Islam. This necessarily means that Judaism and Christianity and all other non-Islamic faiths are deemed to be in opposition to the concept of fitrah, thus creating an existential animosity which is not due to any real world opposition, but is derived from the logicality of ideological thinking on the side of the Islamists.[616]

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[615]"Narrated Abu Huraira: Allah's Apostle said, "No child is born but has the Islamic Faith, but its parents turn it into a Jew or a Christian. It is as you help the animals give birth. Do you find among their offspring a mutilated one before you mutilate them yourself?[..]" Bukhari, *Shahih Bukhari*. Volume 8, Book 77, Number 597. In addition: "Narrated Abu Huraira :Allah's Apostle said, "Every child is born with a true faith of Islam but his parents convert him to Judaism, Christianity or Magainism, as an animal delivers a perfect baby animal. Do you find it mutilated?" ———, *Shahih Bukhari*.Volume 2, Book 23, Number 441. The concept related here is that of *fitrah* an inborn adherence to Islam. It is often derived from Quran 30:30 which states: "Then set your face upright for religion in the right state-- the nature made by Allah in which He has made men; there is no altering of Allah's creation; that is the right religion, but most people do not know."

[616] To Islamists, as we shall see in the chapter on Sayyid Qutb, fitrah is the equivalent of Law of Nature or History in secular totalitarian ideologies. It is the destiny of mankind to return to fitrah but this process is slowed down by those forces which oppose Islam and thus deny mankind the freedom which only Islam can guarantee. All those forces which oppose fitrah, such as un-Islamic faiths, must therefore be subjugated to and pacified by the rule of Islam. The degree to which this process would require violence depends on the level of radicalism in the different Islamists ideologues works. Sayyid Qutb argues that Islam should rule but that the Shari'ah rules pertaining to the dhimmi's must be left intact, meaning, that the dhimmi's are left free to practice their religion within the bounds of Shari'ah. This would make proselytizing for any non-Islamic faith an unlawful act. Others, such as al-Zawahiri border on declaring an all out war against Jews and Christians worldwide since their faith itself is deemed an act of war against fitrah. The boundaries of Shari'ah protection to the dhimmi's are dismissed due to their 'acts of war'. This view however, is quite unorthodox even in Islamist circles since it depends on viewing the Jews and Christians as one single community

Knowing that this command for enmity towards non-Muslims, even if it pertains to one's parents or children, and the obligation to fight them, will not sit well with most common men, Allah then makes clear that this is indeed a test of faith:

> O you who have believed, what is [the matter] with you that, when you are told to go forth in the cause of Allah, you adhere heavily to the earth? Are you satisfied with the life of this world rather than the Hereafter? But what is the enjoyment of worldly life compared to the Hereafter except a [very] little [..] If you do not go forth, He will punish you with a painful punishment and will replace you with another people, and you will not harm Him at all. And Allah is over all things competent. [..] Had it been an easy gain and a moderate trip, the hypocrites would have followed you, but distant to them was the journey. And they will swear by Allah, "If we were able, we would have gone forth with you," destroying themselves [through false oaths], and Allah knows that indeed they are liars [..] Those who believe in Allah and the Last Day would not ask permission of you to be excused from striving with their wealth and their lives. And Allah is Knowing of those who fear Him [..] Only those would ask permission of you who do not believe in Allah and the Last Day and whose hearts have doubted, and they, in their doubt, are hesitating. Quran, 9:38-44

In the Islamist interpretation of these final revelations to Muhammad, a worldview is construed which is dominated by internal enemies and external enemies who are enemies not of their actions but because of their belief or disbelief in the religion: one of the hallmarks of a totalitarian ideology. One becomes an enemy by being defined as such. The perceived command to identify them as enemies is not

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with no differentiation between the individuals. In all cases though the acting principle behind these different ideologies is the concept of fitrah and the forces opposing mans return to fitrah. *Vide infra.*

based on an evaluation of their particular faith or their actions but is simply founded on the fact that they are not of the same religion as the Islamists. Needles to say that this puts a great deal of non-Islamist Muslims in the same category of 'the enemy'. The Islamist agenda for Muslims is therefore not one of re-Islamization of former Muslims, but of re-Islamizing Muslims according to the Islamist view of Islam. The reason for fighting both internal and external enemies is not defensive in any traditional territorial sense, but acquires an offensive character whose purpose it is to make the enemy choose between conversion, death, or paying the jizyah. This doctrine is also known in Islamist circles as *Al Wala' Wal Bara'* or 'loyalty and enmity'.[617] It extends to the closest circles of human bonds and forms a test which will determine ones faith in the afterlife thus permeating every realm of a person's existence. We shall see in the chapters dealing with Islamist ideologues that the Islamist worldview does not divert from this construction. Instead, those who claim that Islam does not engage in wars of religion, but rather that it is tolerant and peaceful, are opposed by the Islamists who, as it seems, have some very authoritative arguments to legitimize their position.

The development of the theory of jihad, from non-aggression, to defence 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 [..]"[618] Where Islamists differ from orthodox Sunni and Shi'a Islam is that the Islamists are willing to pronounce even Muslims who

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[617]See for an explanation of the use of this concept in Islamism: Ayman al-Zawahiri, "Loyalty and Enmity," in *The Al Qaeda Reader*, ed. Raymond Ibrahim (New York: Doubleday, 2007), pp. 63-116.

[618]The 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*, pp. 44-45.

do not adhere to their version of Islam as unbelievers who must be fought, a concept known as *takfir*. I will return to the subject of takfir and the origins of the doctrine of takfir in my chapter on Sayyid Qutb.

2.1.2. The claim that Jihad does not mean physical fighting but that it is a spiritual endeavour

In this model we thus see that the idea of jihad as being solely a war of defence is neither in accordance with the Quran, the Sunna nor with the exegesis of those sources. Some argue then, that that insofar as offensive war did exist, this war must be seen as mere preaching and does not entail fighting. This argument too has no validity when one reads the Quran, hadith or the consensus of the classical and medieval Islamic jurists.

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[619] 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 fulfilment 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.[620]

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

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

[620] Peters, *Jihad in Classical and Modern Islam : A Reader*, pp. 3-5.

converted or subjugated or killed. [..] the third alternative, in general, occurs only if the first two are refused."[621] 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.[622]

In this research 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. Furthermore, the concept of the greater jihad is generally considered to have developed much later than the concept of the smaller jihad and is in general referred to in Islamic legal literature sporadically at best.[623] Jihad in the legal literature almost always means physical fighting.

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.[624] Furthermore if one reads the

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[621] Schacht, *An Introduction to Islamic Law*, p. 130.

[622] 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. Ibn al-Naqīb al-Misri and Keller, *Reliance of the Traveller: The Classic Manual of Islamic Sacred Law Umdat Al-Salik*, p. 603.

[623] al-Tabari, *Al-Tabari's Book of Jihad, a Translation from the Original Arabic*, p. 2.

[624] "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). Also: "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.

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.[625] Similarly, the commentary (*tafsir)* of Ibn Kathir, equally equates jihad with armed warfare unless the smaller jihad is explicitly mentioned. In the standard book on the earliest of the Sunni legal commentaries on this topic, al-Tabari's *Book of* jihad*,* the editor summarizes the consensus between all four of the Sunni madhabs as follows:

> In conclusion, al-Tabari's *Book of jihad* demonstrates that, despite the significant disagreements among the Sunni Muslim jurists regarding the legal cases related to the topic of jihad, they nevertheless unanimously agreed on a model of jihad by which relations between the Islamic state and other states are based on warfare unless they either embrace Islam or pay the poll-tax, and that a peace agreement may be conducted in cases of necessity and only for a limited time.[626]

2.1.3 The model of Mecca and Medina

All Islamist ideologues model their ideology and behaviour on the model of the life of the prophet and especially the move from defensive war to offensive war and from tolerance to the doctrine of loyalty and enmity. 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 jihads have thus been made obligatory by the process of abrogation and are therefore part and parcel of the

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[625] Bukhari, *Shahih Bukhari*. Volume 4 book 56.
[626] al-Tabari, *Al-Tabari's Book of Jihad, a Translation from the Original Arabic*, p. 45.

message of Islam itself.[627] [628]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. We will return to that topic in shortly. We will see in the chapters three four and six that Islamist ideologues have come to an understanding of jihad which combines defensive and offensive jihad into one.

The discourse of 'the Islamists and their 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 *ummah* 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. I have just given an overview of the primary and secondary sources of the foundation of the doctrine of jihad. I will know turn my attention to the reception of those sources by two eminent medieval scholars namely Ibn Taymiyyah and his student Ibn Qayyim.

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[627]See for the references by classical *ulama* and schools of law to offensive jihad as part of Islam: Ibn al-Naqīb al-Misri and Keller, *Reliance of the Traveller: The Classic Manual of Islamic Sacred Law Umdat Al-Salik*, p. 602, John Kelsay, *Arguing the Just War in Islam* (Cambridge, Mass.: Harvard University Press, 2007), pp. 43-97, Peters, *Jihad in Classical and Modern Islam : A Reader*, pp. 19-55, al-Tabari, *Al-Tabari's Book of Jihad, a Translation from the Original Arabic*, pp. 59-73, Bostom, ed., *The Legacy of Jihad*, pp. 141-251.

[628] 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 religious or secular law. The phrase: "lex posterior derogat legi priori" is well known by any jurist. The idea then that earlier laws (Mecca) would overrule later laws (Medina) seems somewhat unorthodox to say the least.

2.2 The different types of Jihad according to the medieval scholars

Building upon the classical model of jihad as exemplified in the preceding paragraph we will now look at how the theory of jihad was interpreted in a later time period. We do this for three reasons: firstly, we want to see if the doctrine of jihad was still essentially about waging war for the sake of Allah or that it perhaps had changed into a more peaceful doctrine. Secondly, the medieval period of Islamic legal scholarship was more fully developed than the earlier constitutive period. It is therefore interesting to see how the accumulated knowledge translated into legal rulings. Especially given the fact that some of the most iconic names in Sunni Islamic legal theory come from this period in time. Three names stand out. The first is the Hanbali scholar Ibn Taymiyyah whose work as a scholar of Islam and as one of the initiators of the Salafi approach to Islamic law is widely lauded.[629] The second is his student Ibn Qayyim al-Jawziyah and the third is Ibn Qayyim's student Ibn Kathir. I've already spoken about the relevance of Ibn Kathir, so I will limit myself to the first two scholars. This lineage of three Islamic scholars thus presents a good representation of the apex of the Sunni fiqh of jihad.[630] The third reason is that, as we will see, Islamist ideologues, when asked to defend their positions, will refer in their fiqh to primarily the Quran and the Sunna, and secondly to the consensus of the scholars of the classical and medieval period. In order therefore to understand their positions, interpret their words and make a statement about the legitimacy of their defence we should be acquainted with those sources. As I will show, these ideologues in their addresses to the west will often use doublespeak, that is, they will knowingly use terms that have a very different meaning to a western or non-Islamic

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[629] Schacht comments on Ibn Taymiyyah that his work as an Hanbali scholar is "one of the highlights of a brilliant period in the history of the school" Schacht, *An Introduction to Islamic Law*, p. 66.
[630] The chapter on al-Zawahiri will go deeper into the different positions of the Sunni Madhabs since al-Zawahiri appeals heavily to their authority.

audience then they will have to an audience familiar with the theory and background of jihad.

2.2.1 Ibn Taymiyyah and his description of Jihad

A key figure in the attempt restore the supremacy of Islam over the desires and needs of the rulers was Ibn Taymiyyah (1263-1328.)His life and work would later come to be recognized by the Islamist ideologues as the first scholar who stood up against the prevailing unbelief and against apostate rulers. Ibn Taymiyyah in that sense is the prototype for many Islamist reformers and revivalist movements. If anything, Ibn Taymiyyah was a true believer in the sense that his teachings were greeted with repression and persecution by the powers that be in his time mainly due to his strict adherence to Islam and his reluctance to yield to worldly powers and interests. As with Robespierre, the term, 'the incorruptible' seems to apply here and it is for this reason that he is held in such high regard. It is virtually impossible to read any jihadist literature without seeing references to his work, his collection of fiqh or his Quranic exegesis.[631] 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.

The seminal work of Ibn Taymiyyah is *as-Siyasah ash-Shari'ah fi Islah ar-Rai war-Ra'iyah* or *the political Shari'ah on reforming the ruler and the ruled*.[632] This book in short, is a guidebook explaining the duties and responsibilities of the ruler and the ruled. In the following sections Ibn Taymiyyah explains that the doctrine of jihad essentially entails the division of mankind in Muslims, dhimmi's and internal and

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[631] See the summary and analyses of modern Islamist 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 *ulama* within these type of writings. Combatting Terrorism Center, "Militant Ideology Atlas," ed. William McCants (West Point: US military Academy West Point, 2006).

[632] Ibn Taymiyyah, *The Political Shariyah on Reforming the Ruler and the Ruled*.

external enemies not based on their actions but singularly on their belief. Ibn Taymiyyah defines jihad as follows. First he quotes the prophet Muhammad who said:

> I have been granted five things that never belonged to any prophet before me: I was given victory by terror [..] the whole earth was rendered to me holy; clean to perform prayer anywhere on it, so wherever the time of prayer overtakes any of my followers, let him pray there; booty was made lawful to me, and to none was it so before me; I was granted intercession (on the day of judgment) and a prophet has always been sent to his particular people, I am sent to all mankind [..] I am sent with the sword (in hand) a short time before the Last day, so that Allah alone, who has no partner- may be worshipped; my livelihood s in the shadow of my spear (I earn my living by means of my spear) humiliation and shame are the lot of those who oppose me. And he who imitates a people belongs to them.[633]

What is interesting about these quotes is the following. Both are named by the hadith collection of Ibn Hanbal and Bukhari thus establishing there authenticity. Muhammad indicates that he, and thus Islam, was given victory by terror, which is generally meant to be understood as instilling fear or violence, thus establishing that warfare for the spread of Islam is indeed what jihad means. He was also given the right to booty, which in practice is used to finance jihad. The whole world is essentially the terrain in which Islam must be manifested, thus constituting a universal aspiration. In addition, he was sent to *all* mankind. The Muslims maintain the Judaism is for Jews and Christianity for Christians, both of which are seen as tribal affiliations. Islam on the other hand is universal. What we see here is thus beginning to take the shape of the formula for self and world salvation, Islam, which can be spread with violence through the world and humanity entire. It should be remembered that Islam came to

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[633] Ibid., pp. 45-46.

defeat the disorder of jahiliyaah. Thus, a religious variant of the Gnostic speculation seems to be established in this type of thinking.

Ibn Taymiyyah continues to explain the movement underlying all of creation. Allah created man:

> [..] because He created His human creatures to serve and to worship Him. As for the disbelievers, He allowed His faithful servants who worship Him to murder those who did not worship him and to rob the infidels who did not serve his purpose. So He returned to His faithful servants that which they deserved to be returned to them [..] This case is similar to the case of the jizyah (poll tax) taken from the Jews and the Christians, and similar also to the sums of money stipulated in contracting peace with the enemy.[634]

The worship and servitude of man to Allah is called *ubudiyyah*, it is a core element of Islam and in Islamists political ideologies in particular as we shall see in the chapter on Qutb. In anticipation of that chapter will here merely summarize that ubudiyyah can be seen as the complete submission of man to the will of Allah and his law, the Shari'ah. Anything that diverts from these is considered a breach of ubudiyyah and at worst, a rebellion against Allah that can lead to apostasy. The establishment of Islam as we can see creates a separation into two classes of man. Islamic man and non-Islamic man, with the first having all rights over the second. We also see that the poll-tax which only applies to dhimmi's is derived not from the love for the dhimmi's but form this right of Islamic man over the life and property of the non-Islamic man. It is only because the Quran acknowledges that the people of the book have certain rights that the full extent of the authority over non-Muslims is not exercised. Taymiyyah in quoting Muhammad and in his commentary on Muhammad's mission has thus established the image of the external

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[634] Ibid., p. 56.

enemy and the rules pertaining to the interaction with this external enemy.

The internal enemy is also present in this work by ibn Taymiyyah and it too resounds through the works of Islamist ideologues. In the following statement Taymiyyah addressed both the ruler and the ruled as to their duties in enforcing the edicts of Islam:

> It is the duty (*wajib*) of any man in authority to order all people under his jurisdiction to preserve prayer and to punish those who neglect to pray. [..] by consensus of all Muslims. If those neglecting to perform prayer were a rebellious group, they should be fought. All Muslims are unanimous on that. They should also be fought if they discarded Zakat, fasting and similar (religious duties). [..] Also every Muslim group refusing to accept the laws of Islam which have been generally accepted and explicitly related (from the days of the Prophet), ought to be fought against until Islam becomes once more the only *Din* (religion D.S.) in the community, as agreed to by all jurists. If those neglecting prayer were individuals, the situation would be different some (jurists) say that the individual neglecting to pray should be punished by beating or by imprisonment. The majority of jurists maintain that such an individual is asked first to repent and to resume performing his prayers, if he insists on his attitude [..] he ought to be killed.[..] Punishing those who neglect the duties or commit prohibited actions is the aim of fighting in the cause of Allah; fighting them being the duty of the whole community, as unanimously agreed upon and is clear from the Book (Quran) and the Sunna.[635]

The obligation to command the good and forbid the wrong is not invented by Taymiyyah himself. Its origins can be found in the Quran

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[635] Ibid., pp. 109-110.

in the saying' command the right and forbid the wrong.'[636]It underlines the inherent public nature of Islam as many of the radical ideologues we will analyze will emphasize. Given the nature of many Islamic legal ruling, they will argue, such as private law, family law and criminal law, Islam is not merely a belief which one can hold privately. It needs implementation in society and this implementation too is part of jihad, albeit it the non-violent jihad. Jihad thus has an internal dimension as well which is aimed at the organization of the Islamic communal life in the ummah. When this is augmented by the injunction to 'command the right and forbid the wrong' it seems to follow that a state is required to implement it as was the case in Medina. Ibn Taymiyyah here addresses the nature of that state as that body which 'forces men to be free'. The force that can be used ultimately entails the duty to kill those who leave Islam, apostates. We will see in the next chapters that the concept of the *hisbah*, the execution of the command to 'command the right and forbid the wrong', is fundamental to understanding the origins and the aims of the Islamist movements. Their claim is that all disorder emanates from two essential features: primarily the lack of enforcement of the rules of Islam which has led men to follow their own free will and thus created deviations from Islamic law, the internal enemy. Secondly, these deviations have allowed the external enemy to weaken Islam and to interfere with the realm of Islam unpunished. Their formula for self and world salvation thus is jihad. As we will seen in the next paragraph, this jihad can be violent or non-violent

2.2.2 Ibn Qayyim

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[636] See form 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)

A student of Ibn Taymiyyah, Ibn Qayyim al-Jawziyah [637] (1292-1350) differentiates between 14 types of jihad, classified under two main categories. The first is the jihad against oneself (jihad *al akbar or* jihad *al-nafs* or the greater jihad) which is internal. The second is the external jihad against the unbelievers (jihad *al-asghar* or the smaller jihad).[638] Each of the two types can be further differentiated but we will focus on the smaller jihad and its subcategories of jihad by the heart, one's tongue, wealth and self. [639] 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.

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

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[637] 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) whom I introduced earlier and who arguably wrote the most used collection of Quranic commentaries the "tafsir ibn Kathir"; Ibn Kathir.

[638] Muhammad Ibn Qayyim al-Jawziyah, "Madarij Al-Salik," (al-Riyad: Dar Tibah lil-Nashr wa-al-Tawzi, 2011).

[639] Theoretically the jihad by the heart is according to Qayyim part of the greater jihad, however, if one reads Qayyims work and the work of his teacher Ibn Taymiyyah it becomes clear that I also part of the smaller jihad when seen as *hijra.*

of Islam.[640] Thirdly, it can be seen as a spiritual concept which means that one flees from unbelief without physically leaving the abode of unbelief.[641] 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.[642] 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 '*deterritorialization'* and *de-culturization'* of Islam. Through the experience of mass migration, the loss of traditional surroundings and the confrontation with modernity the Salafi's have found a way to rid Islam of a cultural heritage that they see as un-Islamic.[643] 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

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[640] 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.

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

[642] Oliver Roy refers to these groups as *deterritorialized 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).

[643] 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.

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 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.[644] 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 *jahiliyaah* 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 Canada[645], or it can lead to clandestine Shari'ah courts which operate under the radar, as is the case in UK[646] or Belgium.[647] This phenomenon can be expected to increase with the spread of the Salafi creed. Another symptom

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[644] Roy, *Globalized Islam: The Search for a New Ummah*, p. 246.

[645] 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.

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

[647] H. Fraihi, *Undercover in Klein-Marokko* (Strengholt United Media 2006).

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.[648] This however is nothing exclusive to the western world; the Saudi curriculum is notorious for its inflammatory and xenophobic content.[649]

The danger lies therein that this type of behaviour 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 he 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.

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

Da'wa in and of itself can be conceived as preaching Islam. In relation to the general concept of jihad as 'striving in the path of Allah', however, Da'wa takes on two distinct forms. On the one hand is the internal concept of Da'wa which is directed towards the Ummah. It can take the shape of preaching Islam, or an Islamists version of Islam through educational, social or other activities. It can include the dissemination of Islamist literature or the funding of Islamist religious centres. The external dimension is marked by the desire to spread

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[648] Fenny Brinkman, *Haram* (Amsterdam: Uitgeverij Balans, 2005).
[649] Centre for Religious Freedom of Freedom House and Institute for Gulf Affairs, "Saudi Arabia's Curriculum of Intolerance," (2006).

Islam through preaching but in the context of jihad extends to preparing for jihad, through training, and the financing of jihadist operations. 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 such externally orientated Da'wa organizations.[650] 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.[651]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, which can be non-Muslims as well as non-Islamist Muslims, is created alongside an insistence on personal purification and *ubudiyyah* with the future aim of establishing *hakimiyyat*. Jihad by wealth and tongue therefore is a specific form of jihad which should *not* be seen as being distinct from violent jihad. In the works of the Islamists, as we will come to see, the non-violent jihad is the preparatory stage of violent jihad. Terrorism therefore is the crest of the wave, beneath that crest, however, is the wave itself. The Islamist we will come to analyze make it abundantly clear that those who cannot or will not engage in acts of terror should

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[650] 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).
[651] http://www.un.org/sc/committees/1267/consolidatedlist.htm

still participate in the jihad 'for the sake of Allah' through different means. This can be done through spreading the correct, Islamist, creed of Islam amongst the ummah or through helping to create the social, economic, political, military and religious infrastructure through which jihad, both violent and non-violent, can take its course.

To struggle with one's self

The final form of jihad is to struggle with one's self. This is the classical view of physically fighting the unbelievers, the rebellious and the apostates as mentioned in the previous paragraph. What Qayyim offers is thus a more detailed understanding and appreciation of the concept of jihad. The injunction to perform jihad can take multiple shapes. This is especially important when we will look at the development of the Muslim Brotherhood and its affiliates in Western democratic rule of law societies. Especially Zawahiri in chapter five and six will implore his followers that if armed jihad is impossible, for whatever reason, than they still have an obligation to perform jihad by either the tongue or one's wealth. Should this not be possible then the obligation is to make hijra preferably physically and ultimately by separating oneself from the non-believing outside world as much as possible. The phenomena of Muslims in the west that choose to avoid or deny their non-Islamic surroundings and focus on creating separate realms in which Islam is the only social factor should be seen through this lens.

2.3 Summary

As we have seen the argument that jihad does not equate to war for Islam 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 find little support in the primary and secondary sources and in the reception of those sources by classical and medieval Islamic scholars. The same holds true for the oft repeated claim of tolerance and pacifism. 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 by Islamists to confuse a non-Islamic or non-Islamist audience about the nature of jihad in Islam in order to further the goal of Islam and jihad, a concept known as *taqiyyah.*[652] The practice of *taqiyyah,* which for all intents and purposes can for now be translated with *doublespeak,* 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.[653] 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.[654] Some highly acclaimed and influential NGO's, Islamic

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[652] This concept, in the perception of the Islamists, 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 suyfan 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). Number 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.

[653] "Zawahiri elevates the concept of *Taqiyyah* to a doctrine, something that is part and parcel of the Muslims attitude towards the non-Muslim." Raymond Ibrahim, ed., *The Al Qaeda Reader*, 1st ed. (New York: Doubleday, 2007), pp. 64-65.

[654] See for instance "why we are fighting you": Osama bin Laden's letter to Americans; "Osama bin Laden's peace Treaty offer to the Europeans" and "Bin Laden's truce offer to the Americans" in: Ibid., pp. 196-208, 220-226,

scholars, and even academics, go even further and claim that any allegation of a link between Islam and religiously inspired violence or intolerance is in fact Islamophobic and have urged governments to adopt legislation criminalizing such allegations and will actively defame those who make any link between Islam and violence, even if such is done in the course of formulating international security policies.[655] [656] These attempts to criminalize criticism or even the mention of the doctrines of jihad and loyalty and enmity should be seen as part and parcel of the jihadist enterprise itself. This should be very clear: jihad is not merely physical fighting; it is also fighting with one's wealth, words and political or academic influence. Misdirection or outright lying in the form of taqiyyah, are all allowed as long as it furthers the cause of jihad. Physical fighting therefore is but the crest of a wave. What lies beneath that crest is a vast network of front and parallel organizations which should be identified for what they are namely participants in a jihadist movement.

233-237 The message of peace which Osama bin Laden portrays in these letters is utterly disputed in the messages which he wrote at the same time, but which were directed at an Arab audience already familiar with the true message of Al-Qaeda. This exemplifies the difference between propaganda and indoctrination which was the hallmark of the secular totalitarian modus operandi of mass mobilization.

[655] 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 Related Forms of Intolerance, Follow-up to and Implementation of the Durban Declaration and Programme of Action." Organization of The Islamic Conference, "Third Oic Report on Islamophobia, May 2009 to April 2010."

[656] See also: Nathaniel Sugarman, "Oic: Petraeus Guilty of Islamophobia." "The Organization of the Islamic Conference (OIC) labeled Gen. David Petreaus'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."

In the next paragraphs I will explain some of the historical, intellectual, religious and social-political background of the rise of the Islamist ideologies and movements. Combined with the content of this chapter, the reader will thus be able to understand what these movements are aspiring to and where their aspirations stem from.

2.4 Some historical developments in the concept of Jihad

2.4.1. A historical setting

Concurrent with the different examples set by the prophet Muhammad in Mecca and Medina[657], Islam, In its circa 1400 years of existence, has given rise to a multitude of political expressions ranging from the quietist retreat from politics of some Sufi orders[658] to the overtly political agenda of thinkers such as Qutb, Khomeini or Zawahiri. Without getting lost into the technical details, the sources of Islam[659], depending on the topic, leave ample space for debate about

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[657] 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 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 Firestone, *Jihad: The Origin of Holy War in Islam*, 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. Taha, *The Second Message of Islam*.

[658] 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).

[659]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

their political implications and the history of Islam is therefore unsurprisingly replete with varying interpretations (itjihad).[660] 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.[661] 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 *ulama.* Originally the *ulama*

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the prophet and his companions (the *Salaf)*. The hadith and examples can, but this is somewhat disputed, be called the '*sunna'.*

[660] See for more in depth studies of the evolution of the different political positions in Islamic thought: Tibi, *Islam between Culture and Politics*, Esposito, *Islam and Politics*, Crone, *Medieval Islamic Political Thought*, Enayat, *Modern Islamic Political Thought*, W. Montgomery Watt, *Islamic Political Thought*, Bernard Lewis, *The Political Language of Islam* (Karachi: Oxford University Press, 2002), Bassam Tibi, *The Crisis of Modern Islam: A Preindustrial Culture in the Scientific-Technological Age* (Salt Lake City: University of Utah Press, 1988), Tibi, *The Challenge of Fundamentalism: Political Islam and the New World Disorder*, Bassam Tibi, "From Old Jihad to New Jihad: The Transformation of Classical Jihad to Terrorist Jihadism and Its Significance to Europe," in *Terrorism: Ideology, Law, Policy*, ed. Gelijn Molier, Afshin Ellian, and David Suurland (Dordrecht: Republic of Letters, 2011).

[661]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*. Book 57, number 2

on their part were in part funded by the rulers thus creating dependence on the part of the *ulama*. The rulers on the other hand relied on the sanction of their rule by the *ulama* 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 *ulama* 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.[662] Apart from the ruler's interest in proscribing certain interpretations, the rulers were also in a position to ignore or even restrict the applicability of Islamic injunctions.[663] Thus, for most of its history, Islamic societies have known a troublesome duality between the realm of the *ulama* 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 *ulama* was largely 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 ulama 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.[664]

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[662] For a contemporary example of this phenomenon in relation to the conflict between Egypt and Israel see Peters, *Jihad in Classical and Modern Islam : A Reader*, p. 156.
[663] Zubaida, *Law and Power in the Islamic World*, p. 78.
[664] Enayat, *Modern Islamic Political Thought*. p. 73

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. His position towards the duality of Islamic and state law and his attitude towards the subservience of the *ulama* lay the foundation for the later non-jihadist modernist and *Salafist* reformation movements which would spawn Islamist movements alike.

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 pre-eminence 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 *ulama* 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 *ulama* 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 *ulama* and against the introduction of innovations that were deemed un-Islamic, and thus attempted to reinvigorate the role of the righteous *ulama* 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

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 *ulama* of their time, Ibn Taymiyyah:

> denounces his fellow ulama 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. [665]

This duality between the realm of the state and the realm of the *ulama* 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 *palingenisis* or rebirth of a real or imagined glorious past of purity.[666] It is in this phase of Islamic history, that we see the arrival of *ulama* 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

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[665] Ibn Taymiyyah "then denounces his fellow *ulama* 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."Zubaida, *Law and Power in the Islamic World*, pp. 100-102.

[666] Palingenesis as concept fuelling political action is only found in western political philosophy in totalitarian and fascist movements.

especially with the example set by the prophet Muhammad and his companions.[667] 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 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.

2.4.2 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,*

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[667] 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. The National-Socialist and the Khmer Rouge attempt to fabricate this garden of Eden back into reality, which I discussed in Part One of this study, also appears in the palingenetic mission of the jihadist ideology.

jihad*ist 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 this 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.[668]

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 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

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[668] 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.

the benefits of the European enlightenment into the discourse of Islam.[669] 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 the Foundations of Governance* (*Al-Islam Wa Usul Al-Hukm*) [670] in which he argued for the separation of the religious and political sphere 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.[671] 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 (b. 1950) who, following his teacher Taha (1909-1985) [672] 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 it pinnacle in the individual's voluntary acceptance of the Shari'ah and that therefore

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[669] Ira M. Lapidus, *A History of Islamic Societies*, 2nd ed. (Cambridge: Cambridge University Press, 2002). Chapter 16

[670] Ali al-Raziq, *Der Islam Und Die Grundlagen Der Herrschaft: Übersetzung Und Kommentar Des Werkes Von Alî Abd Ar-Raziq*, trans. Georg Ebert and Assem Hefny (Frankfurt am Main ; New York: Peter Lang, 2009).

[671] 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.

[672] Taha, *The Second Message of Islam*.

any state enforced application of the Shari'ah is in contradiction to its most hallowed nature.[673] 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.[674] 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.[675] Thus if one wants to ensure that Islam remains a dynamic evolving system of ethical and normative values, it should be allowed to adopt 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.[676] 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.

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[673] An-Naim, *Islam and the Secular State*, p. 14.

[674] 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*.

[675] An-Naim, *Islam and the Secular State*, pp. 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 Shafi'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.

[676] Ibid.

The second sub-stream, which we can call '*Islamism*'[677] 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 *ulama*, the un-examined following of past legal traditions (*taqlid)* and the lack of independent reasoning (itjihad). Instead of blindly following what the previous generations of *ulama* had formulated in terms of Islamic law (*shari'ah)* and jurisprudence (*fiqh)*, the *salafi* movement gave pre-eminence 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.[678] Their claim is that for all matters in life, be they private or public, one should look at the Quran and the *Sunna*[679], 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

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[677] Andreas Armborst, "A Profile of Religious Fundamentalism and Terrorist Activism," *Defence against terrorism review* 2, no. 1 (2009).

[678] Enayat, *Modern Islamic Political Thought*. Chapter 3.

[679] Islamism and Salafism are not be equated iwth each other. Whilst Islamism can be seen in both Sunni and Shi'a Islam, Salafism is an exclusively Sunni phenomenon. According to Salafism, Shi'a Muslims are heretics which at best must be tolerated and at worst exterminated. See chapter six. That is not to say that all Shi'a concepts or phenomena are flat out rejected by Salafists; the successful Islamic revolution in Iran led by Ayatollah Khomeini has inspired many Sunni Muslims to take up the banner of Islamism as well.

that it is the task of the state to imbue society with the Shari'ah. To this stream of though 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 Rida[680] (1865-1935) and most importantly perhaps, the Egyptian Sayyid Qutb (1906-1966) to whom we will return shortly.[681] 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)[682] , the spearhead of the Iranian Islamic revolution

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[680] 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.

[681] "like abduh, rida diagnoses the corruption of the *ulama* 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 prove to be the mainstay of its abuses." Enayat, *Modern Islamic Political Thought*, p. 73.

[682] See for instance H. al-Banna, *Message of the Teachings* (N.Pub., 1990). 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 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

and first supreme leader of the Islamic republic of Iran Ayatollah Khomeini (1900-1989)[683] and the influential Indian Abu ala Maududi[684] (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.[685] From these conditions emerges a mentality that bears great

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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." Quoted from: Abdel Hamid el-Ghazali, *The Way to Revival of the Muslim Ummah: A Study of the Thinking of Imam Al-Banna* (Cairo: Al-Falah Foundation, 2010), pp. 178-179.

[683] See for more information his most important work: Khomeini, *Velayat-E Faqeeh, Governance of the Jurist*.

[684] Abul A'ala Mawdudi, *Jihad in Islam* (Salimiah, Kuwait: International Islamic Federation, 1994).

[685] Na'im argues that this is exactly the problem with Islamists, 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."An-Naim, *Islam and the Secular State*, p. 7.

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.[686] There is a narrative of history in which Western ascendance is characterized as the triumph of and vehicle for materialism and moral bankruptcy.[687] 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. There is a rejection of pacifist forms of jihad in favor of the armed fight against unbelievers, preparations for which include physical

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[686] This is especially relevant in terms of the resemblance between the anti-Semitic discourse of the National-Socialists and the Islamists and jihadists. I will show in the coming chapters o Qutb, Khomeini and al-Zawahiri how the theme of the ummah as being infected and sabotaged by the Jews is a recurring theme which has the same form and function as National-Socialist anti-Semitism. The only difference being that the latter based the Jew's supposed animosity on his racial characteristics, the Islamists do so on his religious characteristics, although a novel pattern is the adoption of the racial narrative by Islamists. See for more on the development of this phenomenon in Islamic societies: Tibi, *Der Neue Totalitarismus: "Heiliger Krieg" Und Westliche Sicherheit*, Bostom, *The Legacy of Islamic Antisemitism: From Sacred Texts to Solemn History*, Ye'or Bat, *The Dhimmi: Jews and Christians under Islam*, Rev. and enl. English ed. (London: Associated University Presses, 1985), Bostom, ed., *The Legacy of Jihad*, Schoenfeld, *The Return of Anti-Semitism*, Hans Janssen, *Van Jodenhaat Naar Zelfmoordterrorisme*. For the roots, form and function of National-Socialist anti-Semitism I refer to the literature named in chapter five of Part One.

[687] 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. I refer to chapters three, four, and five of Part One of this study.

training, moral self-discipline, and cultivating the "art of death". [688] [689]

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* pietism and Jihadism. The first are those who strive to re-Islamize Muslims, either locally or globally, through non-jihad related *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'.[690]

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 analysis. It includes intellectuals such as, Mohammad Al-Salam Faraj (1952-1982)[691] and Dr. Ayman al-Zawahiri (1951-) and groups such as Al-Qaeda, Hamas and increasingly a host of self-organized home-grown terrorist with no official affiliation.

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[688] Again the glorification of martyrdom, war and death so prevalent in Islamists rhetoric is a mirror image of the fascist's exaltation of sacrifice, violence and their concept of the *trenchocracy.*

[689] R. Mitchell, *The Society of the Muslim Brothers* (New York: Oxford university press, 1993), pp. 207-208.

[690] Roy, *Globalized Islam: The Search for a New Ummah*, p. 149, Meijer, *Global Salafism: Islam's New Religious Movement*, pp. 259, 204.

[691] Faraj, *The Neglected Duty: The Creed of Sadat's Assassins and Islamic Resurgence in the Middle East*.

Two confuse matters somewhat; the distinction between the apolitical non-violent groups and the jihadist is not clear cut. Both advocate a remodelling of society based on the Quran and *Sunna*, and 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.[692] The transition from truly quietist and peaceful da'wa organizations to Islamist da'wa organizations is somewhat of a grey zone. As mentioned in the general introduction to this study, the *Islamist* theory of da'wa is that of a jihad by other means, a substitute for violent jihad but by no means a peaceful alternative to jihad. Rather, Islamist da'wa functions as the legitimate front organization that offers financial, logistical, political, legal and other forms of support to the violent jihadist groups. In addition, it allows Muslims to participate in the jihad without necessitating them to actually move to the front lines. Although the latter is the supreme form of Islamist jihad, Islamist da'wa allows Islamist Muslims to forgo on that duty by participating in this particular form of da'wa as a form of

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[692] 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). The practical real-world implications of this particular phenomenon are currently lacking in academic attention. This study, in part, seeks to alert policymakers and counter-terrorism researchers to the necessity dedicated research on this issue. Most of the research until now has been done by people outside of academia and is largely of a journalistic and un-integrated nature.

dispensation. See chapter six for an extensive analysis of al-Zawahiri's theory of Islamist da'wa as a religious obligation which is inferior to the violent jihad.

I should mention however that the term Salafi, political Islam, radical Islam, Islamism, 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 within the Muslim communities and has spawned both quietist a-political movements as well as the movements which form the subject of this study. This is intimately linked with the difference between a *belief* and a *believer* as I discussed in my introduction and chapter one of this part.

The historical and intellectual developments which I described here find there most vocal expression in the works of Sayyid Qutb, and in particular in his work 'Milestones', which laid the foundation for most of the Islamist movements we see today. In the next chapter I will analyze Milestones in its entirety according to the adapted schematic of Voegelin's Gnostic speculation and correlate my findings with the findings on totalitarianism theories form Part One. The analysis of Qutb's work is then followed by a less extensive analysis of his Shi'a counterpoint Ayatollah Khomeini. Since both share much of the same ideas this analysis can be shorter. Lastly I will analyze two works by Ayman al-Zawahiri, the ideologue of al-Qaeda in order to chart the developments in the Islamist landscape since the pioneering days of Qutb, and to understand the fiqh that underlies the Islamists' actions. For my method of analysis and the correlation with the research of the first part of this book I refer to my introduction of this part of the book.