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CHAPTER VI AL-ZAWAHIRI: THE EXONERATION

6.1. The nature of Islam

Zawahiri equates Islam with jihad. Jihad therefore *is* the formula for self and world salvation. Technically he does not differ in this from Qutb or Khomeini, but the last two never explicitly equated Islam with jihad in the unequivocal fashion as Zawahiri does, nor do they go into much detail on the rules and procedures or even the nature of jihad.¹⁰⁰⁶ In the following paragraph I will explain how all the issues I have discussed so far culminate in the conception of jihad as the pinnacle of Islam and the path to salvation. I will also enter into the most common misconceptions on the nature of Islamist's jihad, as they are voiced by Islamic and non-Islamic audiences alike. In so doing, I will explain how Islamist movements skilfully use the instruments of propaganda and indoctrination to further their cause, and how non-Islamic and ill informed Islamic audiences aide the cause of these Islamists through their acceptance of this propaganda.

6.1.1. The nature of Islamist jihad

As described in the second chapter of this part, Jihad has two main forms: defensive and offensive. Classical theories on jihad limited defensive jihad to the actual defence against foreign invaders. This jihad was an individual obligation binding upon all Muslims. Offensive jihad should be waged either by the Caliph in Sunni Islam, or by one of the twelve Imams in Shi'a Islam. Its obligation was binding on the community but if a number of them waged it, the vanguard, then the

¹⁰⁰⁶ This could be for two reasons: first, they have done so but not in the works I've analyzed or secondly, because seeing how they were intending to mobilize the masses did not want to raise the bar for participation so high as to scare away would be Islamists with the one on one equation of Islam with (violent) jihad.

whole ummah was said to have fulfilled its obligation. In the chapters on Qutb and Khomeini I have shown how they both reformulated the *ius ad bellum* of jihad in such a way as to make all jihad defensive on account of the existential animosity of the non-Islamic towards Islam. The non-Islamic aggression towards Islam, which must exist in order to legitimize a defensive war, thus became constituted the moment Islam itself was born. In the eyes of the Islamists, it was the very moment that Islam divided the world into two opposing forces, Islam and Jahiliyaah, that this animosity was constituted. It is an unavoidable fact and movement inherent in creation itself. Moreover, it is an existential animosity in the sense that it can only end in the annihilation of the one or the other, for as Qutb stated: "Thus, this struggle is not a temporary phase but an eternal state - an eternal state, as truth and falsehood cannot co-exist on this earth."¹⁰⁰⁷ Seeing thus that Islam is always on the defensive, the *individually binding* obligation to *defend* Islam is whilst in nature it became offensive, that is a jihad to 'make all religion for Allah'.¹⁰⁰⁸ Zawahiri too follows this line of thinking but unlike Qutb or Khomeini, Zawahiri goes into much more detail on this new theory on jihad. The critique of Sayyed imam is in part founded on a critique of this theory.

Why is this point so important? Oftentimes one will hear spokespersons for the Qutbist da'wa organizations, or even more benignly, ordinary Muslims and non-Muslims who are unfamiliar with the canonical doctrines claim that Al-Qaeda is merely defending Muslims against non-Islamic aggression. Their means may be too extreme, but their cause is justified. If this idea of a war of defence is

¹⁰⁰⁷ Qutb, *Milestones*, p. 65.

¹⁰⁰⁸ Qutb does this more strongly than Khomeini does, particularly due to the question of the occultation of the twelfth imam in whose absence an offensive jihad cannot be waged. Qutb argues that the legal requirement of the caliph as the vice regent of Allah who can order such an offensive jihad is mostly an invention of the imams of defeat designed to combat fitna and to allow worldly considerations to trump the commandments of religion. The community as such is the vice regent.

accepted it must mean that the root origin of the jihad of Al-Qaeda lies in the policies of the victims towards the Islamic world. Since Islam, in the words of the propagandists and apologists means 'peace', it could never engage in wars of aggression, therefore all wars *must* be defensive and *must* be attributed to some wrongdoing on the side of non-Muslims.¹⁰⁰⁹ This violence would thus end *if* these injustices would end. This explanation of the violence of Al-Qaeda is somehow comforting; it makes sense out of the senseless violence one can witness. To bring into memory Hannah Arendt's observation of the confrontation with radical evil:

They are inclined to think some accident has happened after which one's duty is to restore the old order, appeal to the old knowledge of right and wrong, mobilize the old instincts for order and safety. They label anyone who thinks and speaks otherwise a "prophet of doom" whose gloominess threatens to darken the sun rising over good and evil for all eternity.¹⁰¹⁰

Dr. Martin Luther King, someone who was all too familiar with radical evil, said in this regard 'Nothing in all the world is more dangerous than sincere naivety and willful ignorance.' The propaganda used by Al-Qaeda, it must be said, is very skilfully designed to make use of this 'sincere naivety and willful ignorance'. Fully aware of the fact that a western audience is not familiar with the doctrines of offensive jihad, is reluctant to criticize religious or ethnic groups in the light of the Holocaust, and is self-aware of its history of a colonial past, perceived,

¹⁰⁰⁹ "Shaykh Hussayn Umar Ibn Mahfouz said about the events of 11 September prior to the Al-Qaida of Jihad's claim of responsibility for it: "[..]so we see, hear and read these days in the mass media that is heard, watched and read those who step up to advise and say that Islam is innocent of such actions or say: Islam does not acknowledge the killing of innocents and that Islam is a religion of peace and not of terrorism and such definitions that please the Jews and Christians and their supporters". al-Zawahiri, "Exoneration," p. 120.

¹⁰¹⁰ Arendt, "On the Nature of Totalitarianism: An Essay in Understanding," p. 330.

Al-Qaeda uses the mindset of this audience as weapon of deception. In the article *Why we are fighting you* bin Laden explains to a western audience the reasons for the attacks by Al-Qaeda. He addresses all the issues which he knows will be well received by the critics of western policies and culture, especially those in the western world itself. It is no surprise that those on the far left of European and American politics have fallen for this trap since it coincides with their own political ideas and motives. The reasons given by bin Laden however are, as I will show, most disingenuous. According to bin Laden, Al-Qaeda fights the west over their support for Israel, their support for the taghut regimes and the injustices committed in Iraq, Somalia and the economic policies which disenfranchise the masses in the Islamic lands. His arguments are formulated along the format of the revolutionary struggle of the disenfranchised and the post-colonial movement, and thus are sure to appeal to those in the West who sympathize with these arguments. Al-Qaeda, so he argues, is most certainly not engaged in an existential battle against non-Muslims since it is a religion of peace, a religion of:

[..] Showing kindness to others, establishing justice between them, granting them their rights, and defending the oppressed
[..] and total equality between all people, without regard to their color, sex, or language.¹⁰¹¹

If this is true, then the victims, or at least the nations that befell the terror of Al-Qaeda must have been guilty of some atrocious crime against Islamic societies that rightfully deserved retaliation. If only those crimes would cease, then the defensive war would cease as well and peace would once again emerge at the horizon. The true enemies of peace and justice therefore are not the Islamists, but those who forced the Islamists to defend the poor and oppressed, and seeing that they are oppressed by the West, there is only party that is truly to blame. This argument has been repeated over and over again by those

¹⁰¹¹ Bin Laden, "Why We Are Fighting You," p. 202.

who either have no idea of the true message of the Islamists, or by those whose agenda coincides with this narrative.

But this narrative is mere propaganda designed to confuse, misdirect and rally direct on indirect support for the Islamist movement. It is, however, thoroughly and unequivocally rejected in the writings that are aimed at those who already belong to the movement. In those writings bin Laden and Zawahiri use altogether different arguments. This pattern applies to all Islamist movements.

Jihad according to Qutb, Khomeini, Zawahiri and bin Laden, is of an altogether different nature. They understand that the arguments of self-defence work as a propaganda tool to delude a non-Islamic audience and functions as a recruiting tool for Muslims into the vanguard movement; a technique which is common to all mass movements. The *true* nature of the mass movement and its guiding ideology, however, can only be revealed to those who are already initiated; it is the domain of indoctrination. Indoctrination is *never* aimed at those who do not already belong to the movement since 'we must not throw the masses – scant in knowledge- into the sea before we teach them to swim'.¹⁰¹² The Nazi's too recognized that the true aims of the movement, the extermination of the Jews, had to be disguised first and foremost as a defensive need. Not because those claims of Jewish aggression were true, but because the Germans would revolt if they knew the true nature of the National-Socialist ideology. The lie of a defensive war was needed to draw men into the inner circle of the movement and to extinguish resistance against the movement. The secrecy surrounding the extermination camps could only be revealed to those whose ideological training ensured that they would see the necessity of these actions.

¹⁰¹² Letter from al-Zawahiri to al-Zarqawi, October 11, 2005, translated in Mansfield, ed., *His Own Words, a Translation of the Writings of Dr. Ayman Al Zawahiri*, p. 259.

The true nature of jihad in the view of Qutb, Khomeini, Zawahiri and bin Laden focuses on two main concepts, the doctrines of 'loyalty and enmity', and offensive jihad. Zawahiri in two articles aimed at those of his follower who were familiar with the true nature of jihad, explains these concepts unambiguously.¹⁰¹³ These concepts, according to Zawahiri, are nothing new or invented but are dictated by Islam itself. The statements made by Zawahiri concerning these doctrines all refer to the basic founding stones of Islamic theology, and in terms of structure, can be compared to that of a legal document. The texts are rife with references to the Quran, to the life of the prophet and his companions and to the corresponding views of Islamic scholars. All in all the texts give the impression that Zawahiri and Bin Laden are not inventing a new doctrine but merely reviving a lost tradition.

Such, then, is the basis and foundation of the relationship between the infidel and the Muslim. Battle, animosity, and hatred- directed from the Muslim to the infidel- is the foundation of our religion. And we consider this a justice and kindness to them. The west perceives fighting, enmity and hatred all for the sake of religion as unjust, hostile and evil. But who's understanding is right- our notions of justice and righteousness, or theirs?¹⁰¹⁴

The basis for this hatred is twofold. First of all, Allah stipulates in the Quran that the infidel hates the Muslim.

O ye who believe! Take not into your intimacy those outside your ranks: They will not fail to corrupt you. They only desire your ruin: Rank hatred has already appeared from their mouths: What their hearts conceal is far worse. We have made plain to you the Signs, if ye have wisdom. Quran, 3:118 They desire that you should disbelieve as they have

¹⁰¹³ 'Loyalty and enmity' 2002, and 'moderate Islam is a Prostration to the West' translated in Ibrahim, ed., *The Al Qaeda Reader*, pp. 17-62, 63-115.

¹⁰¹⁴ Bin Laden, "Moderate Islam Is a Prostration to the West," p. 43.

disbelieved, so that you might be (all) alike; therefore take not from among them friends until they fly (their homes) in Allah's way; but if they turn back, then seize them and kill them wherever you find them, and take not from among them a friend or a helper. Quran, 4:89

This is followed by repeating the numerous verses from the Quran that obligate the Muslim to effectuate this hatred and fight the non-Muslim. I shall name but a few that Al-Qaeda repeats *ad nauseum*:

Infidels are those who say: 'Allah is one of three' [trinity] (Q. 5:73)
 Infidels are those who say: 'Allah is the messiah, son of Mary' (Q 5:17)
 Let believers not take for friends and allies infidels rather than believers: whoever does this shall have no relationship left with Allah (Q 3:28) O prophet! Wage war against the infidels and hypocrites and be ruthless. Their abode is hell-an evil fate! (Q. 9:73) When your Lord revealed to the angels: I am with you; therefore make firm those who believe. I will cast terror into the hearts of those who disbelieve. Therefore, strike off their heads and strike off every fingertip of them. (Q 8:12).

For Zawahiri and those like him, these verses transmit an eternal truth.¹⁰¹⁵ This hatred must be put into actions, for if Islam means

¹⁰¹⁵ It should be mentioned that the way in which these verses are interpreted is subject of discussion within the Islamic world itself. The issue is that some, like Mohammad Taha, claim that these verses refer to specific circumstances at specific points in Islamic history and should only be seen in that respect. Others, such as Al-Qaeda, would insist that the validity of these verses is on the contrary universal and timeless. When one reads these verses, and the context in which they are situated within the text from which they are derived, and compared with the standards of exegeses and fiqh, then one does not get the impression that the definition and fate of infidels and hypocrites is susceptible to change. If the Quran is the timeless word of Allah it would not seem correct to assume that these commandments could lose their validity over time. However that may be, and this is not the place for such a discussion, for Al-Qaeda it is clear that Allah has spoken to the community of believers and has informed them of the existential hatred of

peace, harmony and justice, then non-Islam, *jahiliyaah*, means the opposite and must be annihilated in order for mankind to reach its ultimate end state of being, and in order for Allah to be pleased. The goal of jihad is therefore twofold: annihilate the enemy, and secondly, establish the *hakimiyyat* of Allah in the form of an Islamic state.

The second goal, the establishment of an Islamic state, is modelled on the basis of the prophetic example in medina. The model of medina both as an icon of the perfect Islamic society and as a basis from which expeditions of jihad in the cause of Allah could be organized is a widely recognized one and one would be hard-pressed to find a Muslim who would deny this as an icon of the perfect Islamic society. Whether one actually believes that this modelled should be followed or is even feasible is the subject of much debate and for all intents and purposes signifies the demarcation line between moderates and Islamists. Whilst the word 'Islamic state' is a modern phenomenon, the core of the issue is that there is a realm in which Islam rules supreme and the Shari'ah is implemented.

We in Al-Qa'ida of Jihad do not seek internal conflict. We seek to expel the invaders from the Muslim lands and establish a Muslim state.¹⁰¹⁶

Accordingly, in their view Islam is radical, moderate Islam is considered a 'prostration to the west' and something that deviates from the commandments of the Quran and the example of the prophet.¹⁰¹⁷ Concepts such as tolerance, interfaith dialogue and mutual respect appear to Zawahiri as laughable:

the unbeliever towards the Muslim, and the Muslims eternal duty to hate and fight the unbeliever.

¹⁰¹⁶ al-Zawahiri, "Exoneration," p. 3.

¹⁰¹⁷ This is exemplified in their reaction to a statement by the Saudis entitled *How we can coexist*. The latter was written by the Saudi's in reaction to an American statement: *What we are fighting for* and attempts to formulate a platform of interfaith dialogue. Upset with this deviation from what they see as true Islamic teachings, Al-Qaeda responded as follows: Ibrahim, ed., *The Al*

as if one of the foundations of our religions is how to coexist with infidels!¹⁰¹⁸

Islam to Zawahiri thus follows the same principle that guided Muhammad. Thus the *true* nature of jihadist actions is revealed. It is not a war of defence against Western injustices; it is an offensive war against everything that is not Islamic:

Any Muslim zealous over the triumph of Islam cannot accept any call to halt or postpone jihad or turn the Ummah away from it.¹⁰¹⁹

This view on the nature of jihad is not limited to Zawahiri, Qutb or Khomeini. Its pedigree goes back to Ibn Taymiyyah and even earlier since it is part and parcel of the *Opinio juris sive necessitatis* of even the earliest of jurists.

according to medieval juristic thought, as presented by al-Tabari, the idea of peace stems from having a cohesive religious community of believers for whom the main reason for engaging in warfare against non-Muslims states is hostility toward their disbelief in Islam [...] What the enemy does towards Muslims does not factor into the jurists' decision-making process. They seem to be more concerned with how to reach decisions that are aligned with the Islamic teachings as represented in Quranic verses, prophetic traditions and traditions from later authorities.¹⁰²⁰

Qaeda Reader, Bin Laden, "Moderate Islam Is a Prostration to the West," p. 17. "The Islam preached by the advocates of interreligious dialogue does not contain loyalty and enmity; nor does it contain offensive jihad; nor boundaries established by Sharia -since it is these very doctrines that worry the west most...indeed the very essence of our problem with the west revolves around these principles"

¹⁰¹⁸ Bin Laden, "Moderate Islam Is a Prostration to the West," p. 13.

¹⁰¹⁹ Ayman al-Zawahiri, "Loyalty and Enmity," *Ibid.*, p. 113.

¹⁰²⁰ al-Tabari, *Al-Tabari's Book of Jihad, a Translation from the Original Arabic*, pp. 20, 29.

One of the most often cited jurists both by Zawahiri as by other contemporary jihadist and Islamists alike is Ibn Taymiyyah.¹⁰²¹ This is for two reasons. Firstly, Ibn Taymiyyah is an authority for all Sunni Muslims, having been accorded the title “Shayk al-Islam” throughout history to denote his prestige as an authority on Islam and fiqh. Secondly, because due to his personal sacrifices for Islam he has been seen by many Jihadist as the example of the scholar-fighter, the prototype mujahedeen. Quran 49:15 “Only those are believers who have believed in God and His messenger, and have never since doubted, but have fought with their belongings and their persons in the Cause of God: Such are the sincere ones’

Ibn Taymiyyah states on jihad:

Combat is an obligation until all religion is God's alone and there is no more conflict in the land. Whenever religion is not that of God, fighting is obligatory."¹⁰²² [...] “Religion's foundations are a book that guides and a sword that brings victory and God is a sufficient guide and bringer of victory.”¹⁰²³ [...] “Oh Muslims: Jihad is your life and pride. Your existence is fatefully linked to jihad. Preachers, you have no worth under the sun unless you carry your weapons and exterminate the tyrants, infidels, and unjust rulers. Those who imagine that God's religion can triumph without jihad, combat, blood, and torn limbs are deluding themselves and do not understand the nature of this religion.”¹⁰²⁴

Since the aim of jihad is to fight until all religion is for Allah and Islam rules supreme, the battlefield is universal and timeless. Furthermore, since jihad, both in the sense of defence of Islam as in the

¹⁰²¹ See for a detailed report on the occurrence of Taymiyyah in a large number of modern jihadist texts: Combatting Terrorism Center, “Deadly Vanguard: A Study of Al-Qa’ida’s Violence against Muslims.”

¹⁰²² al-Zawahiri, “Exoneration,” p. 43.

¹⁰²³ Ibid., p. 45.

¹⁰²⁴ Ibid., p. 33.

propagation of Islam is binding upon all Muslims, all Muslims are involved in this task and there can be no excuse for those who abstain. Following the pessimistic appraisal of the condition of Jihad in Islamic lands in 'Knights under the prophet's banner', Zawahiri and those like him conclude that da'wa is no longer possible without actively resisting the taghut regimes and the jahiliyaah systems that support them. Comparable to the situation of Muhammad in Medina, where Muhammad was beleaguered by those who opposed him, the ummah is left no choice but to follow in his footsteps and engage in jihad. Citing Abdullah Azzam, the great organizer of the jihad in Afghanistan, Zawahiri writes:

[..] he said: "This religion was sent as a general message to all humanity. It declared that its scope of action is the human being, each human being, on earth. Hence, jihad is a necessary adjunct that adheres to it whenever we wish to carry this message to the people or spread it in the world because major obstacles based on Jahiliyaah will stand in Islam's way."¹⁰²⁵

This clearly echoes Sayyed Qutb's conception of fighting and destroying all those elements that oppose da'wa. Jihad thereby is universal and binding upon all Muslims in some shape or another. As we saw with Qutb, this can also mean that one supports violent jihad by word or by wealth, which means in practice via a transnational network of Qutbist da'wa and vanguard organizations that covertly support violent jihadists.

Responding to the pessimistic defeatism of Sayyed Imam, one of the members of Al-Qaeda's fatwa committee, the Palestinian born Shaykh Abu-Qatadah al-Filastini (1960-) wrote a reply which clearly indicates the Gnostic terminology so exemplary of totalitarianism. I have incorporated it here in full since it demonstrates the main argument of my thesis, namely, that Islamists is a novel form of totalitarianism.

¹⁰²⁵ Ibid.

What then is the solution? According to Shari'ah and destiny, the solution is jihad. Jihad, without any prevarication, means fighting, which is how all the books of Islamic jurisprudence define it.¹⁰²⁶ We might try to evade this divine solution by making various excuses like saying jihad costs a lot and citing our persistent inability to develop tools of war. Our nation needs a jurist to apprise [*sic*] it of God's judgment in times of calamities and great events but it needs something more. It needs someone to lead it in implementing God's judgment. Jihad means power because the world is governed by power. Jihad requires inventiveness because the rest of the world is many stages ahead of us. The world helped our sicknesses to persist while remedying its own errors in a timely fashion. Jihad means bloodshed, killing, displacement, and imprisonment and all forms of disaster because it is the most intense form of human conflict. We should not use the interim results of this jihad as evidence of it being wrong and search for alternatives.¹⁰²⁷

This ultimately leads to my observation that the laws of jihad are a clear example of totalitarianism. The premises upon which the jihadist world views are based, the Quran and the prophetic traditions, are held to be beyond doubt and infallible.¹⁰²⁸ Since they are the formula for self and world salvation, all the jihadist ideologue needs to do is to

¹⁰²⁶ al-Filastini is right in this regard: "the 199 references to jihad in the most standard collection of *hadith*, *Sahih al-Bukhari*, all assume that jihad means warfare." Streusand, "What Does Jihad Mean?." And: "the overwhelming majority of classical theologians, jurists, and traditionalists [i.e., specialists in the *hadith*] [...] understood the obligation of jihad in a military sense." Lewis, *Political Words and Ideas in Islam*. p. 72, Quoted from Streusand, "What Does Jihad Mean?."

¹⁰²⁷ al-Zawahiri, "Exoneration," p. 62.

¹⁰²⁸ "The system is justified by the fact of its construction; the possibility of calling into question the construction of systems, as such, is not acknowledged. That the form of science is the system must be assumed as beyond all question." Voegelin and Henningsen, *Modernity without Restraint*, p. 274.

apply a ruthless logic to these premises in order to deduce the law of movement that is inherent in this law of nature and thus arrive at the formula with which the fabrication of Utopia can be accelerated.¹⁰²⁹ Jihadist violence therefore is not defence against injustices committed against Islam; it is an expression of the law of movement inherent in the *Islamists'* conception of Islam and as such divorced from any real world experience. The actions of non-Muslims are utterly irrelevant in justifying the jihadist movement. The mere fact that a non-Islamic order of being exists at all necessitates jihad. At best, the injustices that befall the Islamic world, serve as a tool in recruiting the ummah into the movement and deluding the opponent into thinking he can actually do something to appease the process of jihad, which of course cannot be done. The actions of appeasement can only legitimize the jihadist movement in the eyes of the ummah thus giving them credibility which accelerates the whole process even further. The end goals of jihad, in line with the prophet's own mission statement are thus formulated by Zawahiri as follows¹⁰³⁰:

There are only three choices in Islam: either willing submission; or payment of the jizyah, thereby physical not spiritual submission to the authority of Islam; or the sword-for it is not right to let him [an infidel] live. The matter is

¹⁰²⁹ "Ideological thinking orders facts into an absolutely logical procedure which starts from an axiomatically accepted premise, deducing everything else from it; that is, it proceeds with a consistency that exists nowhere in the realm of reality. [...] In this capacity ideological thinking becomes independent of all experience from which it cannot learn anything new even if it is a question of something what has just come to pass. Hence ideological thinking becomes emancipated from the reality." Arendt, *The Origins of Totalitarianism*, pp. 470-471.

¹⁰³⁰ "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" Bukhari, *Shahih Bukhari*. Volume 1, p. 66. Chapter 17:

summed up for every person alive: either submit, or live under the suzerainty of Islam or die.¹⁰³¹

From all of the above it should be clear that Al-Qaeda's jihad is not founded upon attaining worldly gain such as political power, personal power or wealth, nor is it a war of defence against injustices committed by the non-Islamic world against the ummah. These are but uninformed opinions without any basis in the writings of Islamists ideologues, or plain propaganda. Rather these jihadist vanguard movements are on a mission from and mission for God based on doctrines which go back to the founding of Islam itself. The out of hand argument made by many observers with little knowledge about the ideological and theological background of al-Qaeda, that al-Qaeda is un-Islamic should therefore once and for all be dismissed as uninformed and unfoundedly apologetic. It disregards the tremendous sacrifices made by its adherent and disregards the sincere servitude towards the canonical foundations by Islamist ideologues.¹⁰³² One can argue about the question whether or not al-

¹⁰³¹ Ibrahim, ed., *The Al Qaeda Reader*, p. 19. Italics by me. It should be noted that jizyah is only possible for people of the book, not for Hindu's, atheist or other categories not expressly mentioned in the Quran as having the rights of the Dhimmi, as mentioned earlier exclusion exist in Hanafi law, but al-Qaeda does not accept that position and argues that essentially all non-Islamists are exempt from the recourse to dhimmi protection. Furthermore, if the people of the book are found to be in opposition to the Muslims, as Wahhab mentioned, then the possibility for physical submission to Islam is no longer valid.

¹⁰³² al-Zawahiri, "Exoneration," p. 61. An example of the commitment of the jihadists to the fighting in the cause of Allah, instead of fighting in the cause of personal gain is the following comment on the torture and imprisonment of the author of the *neglected duty*, Salam Faraj with whom Zawahiri was in jail. "the imam of Egypt's mujahidin Muhammad Abd-al-Salam Faraj, who refused during his trial to speak about the horrific torture to which he was subjected at the hands of the Criminal Investigation Department's dogs who supervised the printing, distribution, and marketing of the so-called rationalization document. He said: What I have offered I leave to God. I used to listen to his screams at Al-Qal'ah prison while his torturers were again breaking his leg which had just healed from a previous break. He used to be

Qaeda's choice of legal arguments is *valid*, on whether or not it complies with established fiqh. Al-Qaeda itself claims that it is not infallible in that regard and that the individual believer should consider all their arguments carefully based upon the Quran and the Sunna!¹⁰³³ Taking note of all the foregoing and the following analyses one simply cannot say that al-Qaeda or organizations like al-Qaeda are abusing Islam for its own gain or is fighting a war of defence. At best one can say that their interpretation of the Quran and Sunna is wrong, but this would demand a thorough knowledge of those sources and therefore is something which should be said with extreme caution and preparation.

6.2 Exile: the observation of disorder

The observation of disorder is primarily constituted by the lack of jihad both in its application and in its mere possibility for application. The choices put forward by Sayyed Imam are to Zawahiri of the same magnitude as the imams of defeat described by Qutb and Khomeini and epitomize the fall from Eden.¹⁰³⁴

The Gnostic observation of disorder is first and foremost not an observation of foreign oppression or injustices but:

carried to the toilet by prison guards while shouting :I am doing this to please you God."

¹⁰³³ "I repeat again that this is an effort of individual judgment (itjihad) in which I and my brother mujahidin have confidence on a matter lately arisen. We have argued from the prophet's Sunnah, reality, custom and habit, and the statements of free scholars who speak the truth openly. Anyone who finds this effort of individual judgment congenial, let him follow it, while taking account of what is expedient. Anyone who does not find it congenial, let him look for other means whereby to struggle against the crusaders occupying the lands of Islam." It should be mentioned however that this liberty is very limited. Those who would go beyond 'the boundaries of heterodoxy' will find themselves easily accused of being *imams of defeat* or *agents of jahiliyaah*. Ibid., p. 154.

¹⁰³⁴ "What this fatwa, or dubious call, is actually telling the Muslims: You are impotent, weak, paralyzed, and crippled, so do not resist your rulers and do not promote virtue or prohibit vice."Ibid., p. 78.

Our nation is deprived of jihad. Our nation is weighed down by injustice and treacheries have tied its hands and feet.¹⁰³⁵

The Exoneration is written as an attempt to revitalize jihad, to return it to that position in which it again becomes the guide to all actions of the ummah as it was in the palingenetic vision of the golden age of Islam, the era of the prophet and the salafiyaah. Foreign invasion and injustices are indeed a symptom of the disease that is eating away at the ummah, the real disorder, however, the origin of the disease is the cessation of jihad in favour of worldly gain. This clearly is a repetition of the main critique of ibn Taymiyyah against the ulama of his time.

Either we decide to repel the attacks of the Americans, Jews, French, Russians, and Hindus on us and cleanse our lands of their corrupt clients who violate the Shari'ah and attack its sanctities so that we may live as strong and free Muslims, worshipping the Lord as He commanded and spreading the message of Islam, justice, and mutual consultation (shura). This is the immaculate Sunna of the prophet that charts our way and gives us the highest ideal of sacrifice, bravery, and courage. [...]Or else we decide to submit, yield, and run away, looking for a way out of the prison at any cost. We busy ourselves with obtaining our daily bread and caring for our children and wives, and we let the crusaders, the Jews, the secret police, and the intelligence agencies sow corruption and impose on us indefinitely occupation, murder, fear, humiliation, repression, and rule bequeathed by one corrupt ruler to another. The document "Making Jihad Bow" degrades us to all of this.¹⁰³⁶

6.3 The causes of Exile

¹⁰³⁵ Ibid., p. 99.

¹⁰³⁶ Ibid., p. 154.

In general terms, the internal and external enemies are comprised of the taghut rulers and their imams of defeat on the one hand, and the Jews, Shi'a and Christian on the other.¹⁰³⁷ The matter is however a bit more complicated since the distinction between external and internal enemies has disappeared to a large degree as we saw in Knights. Since Muslims are all from one nation, the ummah, but live all over the world and more than ever live in non-Islamic societies, the difference between internal and external enemies is hard to make. Zawahiri however maintains that a Muslim belongs to the Ummah. His support for anything jahiliyaah is therefore categorized under the internal enemy.

6.3.1. Internal enemies

Jahiliyaah

Whilst many observers consider Al-Qaeda to be predominantly an enemy of western non-Islamic societies it seems to me that this contention is patently false. Al-Qaeda is above all a movement aimed at purifying the ummah and thus first and foremost an enemy to Muslims who do not agree with their interpretation of Islam. The Combating Terrorism Center at West Point published a report in 2009 detailing the number of victims of al-Qaeda's war against Muslims.

The results show that non-Westerners are much more likely to be killed in an al-Qa'ida attack. From 2004 to 2008, only 15% percent of the 3,010 victims were Western. During the most recent period studied the numbers skew even further. From 2006 to 2008, only 2% (12 of 661 victims) are from the West,

¹⁰³⁷ "the jihadist groups are resisting two enemies; the first is the crusader-Zionist alliance and the second the corrupt, puppet rulers of the Muslim countries. These rulers' apostasy is evident when judged by proofs from the Koran, the prophet's Sunna, the consensus of the ulama, and the fatwas issued by old and contemporary scholars. They govern contrary to Shari'ah and build their systems, laws, and constitutions on the same principles. Second, they are loyal to the nation's enemies, the crusaders and Jews, against the Muslim people."Ibid., p. 110.

and the remaining 98% are inhabitants of countries with Muslim majorities. During this period, a person of non-Western origin was 54 times more likely to die in an al-Qa'ida attack than an individual from the West. The overwhelming majority of al-Qa'ida victims are Muslims living in countries, and many are citizens of Iraq, which suffered more al-Qa'ida attacks than any other country courtesy of the al-Qa'ida in Iraq (AQI) affiliate.¹⁰³⁸

Al-Qaeda in that sense shares the basic characteristic of any secular totalitarian movement. The 'fight for freedom, justice and brotherhood against outside enemies' depends first and foremost on the fabrication of a new *totalitarian* community which is to constitute that brotherhood. In order to accomplish this, an act of purification must be performed before the new *Ecclesia* can engage in the totalitarian mission of creating a new order of being. In other words, the internal enemy poses a far greater threat to the Islamist aspiration than any external enemy could pose. If the social body is purified from internal weakness, it could withstand any outside onslaught. What runs through the narrative of Islamists ideologues is that the social body itself is diseased and that *therefore* the external enemies were able to humiliate and subjugate the ummah. Islamic palingenesis therefore depends on this act of purification. Islamism in that sense is above all an existential threat to all Muslims who do not adhere to their ideology.

The ideological foundation upon which this purification is based and necessitated takes shape in the following manner: First of all, all those elements of society that indicate jahiliyaah are considered to be existential enemies. This means that for instance accepting the judgment of secular laws and courts is the same as accepting that

¹⁰³⁸ Combatting Terrorism Center, "Deadly Vanguard: A Study of Al-Qa'ida's Violence against Muslims," 2-3.

Allah is not honoured.¹⁰³⁹ Participating in anything that is considered jahiliyaah means that you support the enemies of Islam. In true totalitarian fashion, every action becomes a political action that can be scrutinized and penalized by the movement. This means that those Muslims who adhere to secular laws or who listen to music or any of the many categories of 'un-Islamic' behaviour run the risk of being deemed apostates through takfir. Zawahiri however cannot be reckoned to the most extreme wing of Islamism such as the movement *takfir wal hijra* since he does not subscribe to the doctrine of takfir, although it should be noted that his refusal of this doctrine is very weak.¹⁰⁴⁰ He therefore will not kill a person based upon an action that is un-Islamic, unless that action can be seen as supporting jahiliyaah since that is an act of war against Islam. It should come as no surprise therefore that most Muslims today would run the risk of being a target in the eyes of Al-Qaeda and this is true.

The only way in which one can avoid becoming a legitimate target in the eyes of Al-Qaeda is not to "imitate anyone or accept his sayings except on the strength of a Shari'ah proof"¹⁰⁴¹ Thus the implementation of the law of nature in the person has to be a complete and exclusive implementation. In other words, one has to become the unfailing pure representation of the law of nature itself. We already saw the same explicit demand on the individual in Khomeini's statement: "Islam provides laws and instructions for all of

¹⁰³⁹ al-Zawahiri, "Exoneration," pp. 30-31. Al-Zawahiri quotes a number of fatwas one of which was given by the teacher of the late grand Mufti of Saudi-Arabia, Abd al-Aziz ibn Abd Allah ibn Baaz, namely Shaykh Muhammad Ibn-Ibrahim Al al-Shaykh.

¹⁰⁴⁰ "Finally imprisonment might confuse the prisoner. This means that it might push him away from the straight path, depending on his original character. If he is inclined to hardness, disenchantment, oppression, and torture might turn him into an extremist. Among these emerged the takfiri ideology that arose in prisons, which declares all humans and societies to be infidels. Their branding of others as infidels is based on their frenzied reaction to their detention and spares no one except those who follow their methods and accept their beliefs to the letter." Ibid., p. 58.

¹⁰⁴¹ Ibid.

these matters, aiming, as it does, to produce integrated and virtuous human beings who are walking embodiments of the law, or to put it differently, the law's voluntary and instinctive executors"¹⁰⁴² This of course, is the essence of the totalitarian view of the individual. It is a short statement, but in its words lies a universe of consequences and intents that can only be unveiled if one reads the first part of this book on what it means to live in a totalitarian state. If every action is based on compliance with Shari'ah law and every deviation can be construed as 'aiding jahiliyaah and opposing Islam' then it should not come as a surprise that such a life is a life of terror, fear and paralyses. A life which truly transforms "people into something that is even less than animal, namely, a bundle of reactions that, given the same set of conditions, will always react in the same way. Pavlov's dog, trained to eat not when it was hungry but when it heard a bell ring, was a perverted animal. Totalitarian government's failure or success therefore ultimately depends on its ability to transform human beings into perverted animals."¹⁰⁴³ The question now is not whether or not this demand is totalitarian, it is, but whether it is un-Islamic. Let me answer that question carefully .Any system of laws which claims to be perfect in and of itself, and I'll leave it to the ulama to decide whether the Shari'ah is such a system, would have to insist on total compliance *if* it takes itself and its followers seriously. Any breach of its laws, just as in secular law, would demand punishment. Secular laws in general however are laws in which everything that is not outlawed is permitted. Shari'ah law, claiming to be a total law providing for every possible instance in life, has awarded a category to every possible human action thus demanding total compliance. The categories of: *fard* (obligatory), *mustahabb* (recommended), *mubah* (neutral), *makruh* (discouraged), and *haram* (forbidden) thus putting every conceivable action into a certain category. These actions are further subdivided according to the gravity of their sins: minor sins, *saghira*,

¹⁰⁴² Ruhollah Khomeini, ed., *Islam and Revolution: Writings and Declarations of Imam Khomeini*, p. 43.

¹⁰⁴³ Arendt, "Mankind and Terror," p. 304.

enormities, *kabira*, and unbelief, *kufr*.¹⁰⁴⁴ Acting outside of that category could place someone outside of the fold of Islam. Such a system of law would by default divide the world into the forces of good, Islam, and the forces of evil, *jahiliyaah*, solely based on submission to that system. For Qutb, Khomeini and Zawahiri this issue is as clear as daylight and they will answer that this demand is not un-Islamic, but it is the essence of Islam. Submission to Allah, which is the meaning of the word Islam, *is* to accept and submit to the Shari'ah. Any denial of its divine nature is a deviation of Islam and *kufr*.

It is often stated that there is no Shari'ah or that the Shari'ah is a legal system but not a specific body of laws.¹⁰⁴⁵ Oddly enough, when it comes to the laws governing jihad, those who most often state such views are non-Muslims. Of all the literature I have read I have yet to come across a Muslim of acknowledged authority who will make such a claim or a claim equal to this one. Most discussion in Shari'ah law, this part of the critique is true, is very much about details and legal nitpicking. On those details modernist might differ in their *ijtihad* from the orthodoxy and it can sometimes be difficult to find a consensus. Zawahiri too offers different views in this book on some of those topics and lets the reader decide for himself. For instance, one could read books worth of discussions on the legality of attacking the unbelievers at night with catapults when Muslim captives are in the camp of the unbelievers who hold protected children in front of them as human shields. You will however not find any scholar denying that

¹⁰⁴⁴ The category of *Kufr* entails acts such as *thinking* about committing unbelief, unbelief, to deny any verse of the Quran, to be sarcastic about any ruling of the Shari'ah et cetera. According to the Shafi'i school anyone may kill him without punishment. Ibn al-Naqib al-Misri and Keller, *Reliance of the Traveller: The Classic Manual of Islamic Sacred Law Umdat Al-Salik*, p. 596.

¹⁰⁴⁵ See for instance Wetenschappelijke raad voor het regeringsbeleid, *Sharia En Nationaal Recht*. Paragraph 1.5

attacking the unbelievers in itself is a legitimate and necessary action.¹⁰⁴⁶

To give an example of the rigidity of the system and the constraints it puts on the person living under such a system, I will use the example of criticizing or doubting the Shari'ah, a sin which amounts to apostasy, *ridda*. Most scholars agree that at the very least, leaving Islam entirely and aiding the enemies of Islam, a wide category that includes *criticizing* Islam, would be punishable by death on the express condemnation of a caliph and by the hands of a caliph. This is a very centralized view on the punishment for *kufr*. This means that everyone who leaves Islam because he does not think the Shari'ah is divine is an apostate. Should this person then voice his criticism again after having left Islam, he should be put to death because he aided the jahiliyaah order of being. This is a *very moderate* view. The orthodox Sunni view according to for instance the Shafi'i school of law and the Al-Azhar University is a little more decentralized, it states that: "when a person who has reached puberty and is sane voluntarily apostatizes from Islam, he deserves to be killed".¹⁰⁴⁷ This orthodox position is already without the added 'and aids the enemies of Islam'. It still requires a caliph to call for this punishment, but should anyone else do it out of his or her own volition then the killer merely needs to be reprimanded for acting in the place of the caliph, but he cannot be persecuted for murder since the murder of an apostate is *fard*, obligatory.¹⁰⁴⁸ The killer can however lawfully act out the death sentence if the caliph has deemed a person an apostate. The fatwa against Salman Rushdie or Muhammad Taha for instance are of this nature. In both cases a caliph, respectively ayatollah Khomeini and the Saudi ulama gave the order. The most radical view is both fully decentralized in its deeming someone an apostate and in the

¹⁰⁴⁶ See the discussion in : al-Tabari, *Al-Tabari's Book of Jihad, a Translation from the Original Arabic*.

¹⁰⁴⁷ Ibn al-Naqib al-Misri and Keller, *Reliance of the Traveller: The Classic Manual of Islamic Sacred Law Umdat Al-Salik*, p. 595.

¹⁰⁴⁸ Ibid.

legitimacy of his or hers execution. It states that any Muslim can judge another Muslim an apostate and execute that person. This is the heart of the takfiri ideology and to most Muslims a bridge too far since it would lead, as it did with the *khawarij*, to *fitnah*, civil war. The murder of Muslims deemed apostates around the globe is of this form. Those Muslims who died in 9/11 for instance were all deemed either collateral damage, which is accepted in Islam, or apostates as we shall see shortly. There is no position in mainstream orthodox Sunni Islam which I am aware of that would let anyone leave Islam unpunished. According to the definition of Linz, this boundary of heterodoxy, beyond which punishment lies, is one of the necessary indicators of a totalitarian ideology. The definition given by Arendt, Lefort and Voegelin would also agree that the totality and the closed nature of the Shari'ah and the inability to escape its edicts would amount to a totalitarian law of nature. The only way in which such a categorization could be avoided is by opening up both the system through which the laws are formulated, the *usul al-fiqh*, to such a degree as to make it flexible, adaptable and thus a project of *human labour* on the one hand, and by leaving punishment for any possible breaches of those boundaries in the hands of Allah instead of in the hands of a worldly authority on the other.

Taghut

The second form of internal enemies consists of those rulers who appear to be Muslim but in fact are agents of jahiliyaah, the taghut rulers. As we have seen traditional Islam for reasons of worldly necessity or the prevention of fitna, has opted to outlaw the rebellion against a wayward ruler unless he displays open signs of Kufr. Zawahiri is of the opinion that once a ruler displays clear signs of unbelief one should rebel against him. Citing Shaykh Abd-al-Razzaq Afifi, a former member of the Saudi Committee of Senior ulama, Hosni Mubarak, Egypt's former president, was a prime example of such a

ruler.¹⁰⁴⁹ This denunciation of the ruler in case of apostasy is based upon the centrality of *hakimiyyat*. If the ruler does not rule by the law of Allah then he is not a just ruler. For the reason which I mentioned above and in the historical overview of Taymiyyah, the ulama of *defeat* have chosen to alter these rules so that they now mean that *only* in cases of clear unbelief can a rebellion be legitimate. Like Taymiyyah the ideological leader of the radical MB offshoot Al-Gama'a al-Islamiyya, Shaykh Umar Rahman, declared during his trial for issuing a fatwa calling for the assassination of Sadat that Sadat was a taghut ruler and thus deserved to die.¹⁰⁵⁰ This leads to the first collision between Sayyed Imam and Zawahiri and is a collision between those who, in the eyes of Zawahiri, have caused the disorder in the world through the abandonment of jihad and those who try to bring the ummah back into the proverbial garden of Eden.

The imams of defeat: Accusation 1: Jihad needs a realm

Sayyed imam states that in order for jihad to be possible, a realm which can function as a base of operation is needed.

¹⁰⁴⁹ "The shaykh ruled that Mubarak was more of an infidel than the pharaoh. He told him the following: It is not merely an obligation to rebel against him but indeed anyone who does not call for rebelling against him is a sinner." al-Zawahiri, "Exoneration," p. 33.

¹⁰⁵⁰ "In conclusion, my crime is that I criticized the state and demonstrated the corruption and enmity to God's religion that are found in society. I stood up everywhere speaking the words of truth, which come from the depth of my religious faith [...] I am not afraid of imprisonment or death. I am not overjoyed at pardon or acquittal. I do not feel sorrow if I am sentenced to be killed, for it is a testimony to God. If this happens, I will say: By the God of the Kaaba, I have won. I will also say: If I am killed while I am still a Muslim, I will not care how I die[...] The argument has been made, right has become evident, and the light of day has come. So you have to rule according to God's Shari'ah, but if you do not enforce God's laws, then you will be an unjust infidel and God's words will apply to you: 'If any fail to judge by the light of what God hath revealed, they are unbelievers.' 'If any fail to judge by the light of what God hath revealed, they are wrongdoers.' 'If any fail to judge by the light of what God hath revealed, they are those who rebel' [Koranic verses, Al-Ma'idah" 5:44,45,47]" Ibid., p. 61.

What is an obligation to an empowered person is not an obligation to the oppressed. The idea of empowerment is found in God's words: 'He will establish in authority their religion' and 'they are those who if We establish them in the land' [Koranic verses, Al-Nur 24:55 and Al-Hajj 22:41].

Empowerment means that the Muslims would have a realm where they have the upper hand and that they are able to defend and keep as they were in Medina in the wake of the migration from Mecca. Someone who is not in a strong position that protects him is oppressed who is not obligated to use physical force to change a sinful situation, except to repulse an attacker on his land. Even this, in the case of an oppressed population, is permitted but not compulsory according to Imam Ahmad Bin-Hanbal.¹⁰⁵¹

Zawahiri replies along two lines of argumentation. First, by reference to general Quranic principles and the institute of the *hisbah*. The *hisbah* is a concept which means 'Enjoin what is good and forbid what is wrong' and is an obligation for all Muslims as part of the larger concept of jihad.¹⁰⁵² Its basis in the Quran is numerous but one example is this:

Ye are the best of peoples, evolved for mankind, enjoining what is right, forbidding what is wrong, and believing in Allah. If only the People of the Book had faith, it were best for them: among them are some who have faith, but most of them are perverted transgressors. Quran, 3.110

The second line of argument points to the consequences of Sayyed Imams argument.

¹⁰⁵¹ Ibid., p. 79.

¹⁰⁵² The *hisbah* is effectuated in conservative Islamic countries such as Iran and Saudi Arabia through an often times special police force that operates outside of the jurisdiction of the ministry of justice and falls under the ministry of religious affairs. It is called the *mutaween* or, in a Robespierrian fashion, "The Committee for the Promotion of Virtue and the Prevention of Vice".

the document's author does not consider the promotion of virtue and prohibition of vice as an obligatory duty unless the Muslims are empowered, namely, when they have a realm where they have the upper hand, which they are able to defend and keep. Which ulama laid down this condition? The prophet said: "He among you who sees a vice, let him change it with his hand, if he cannot then with his words, and if he cannot even do that, let him change it in his heart." The author cited this Hadith, which makes resistance to vice incumbent on the ability to do so but not on living in a realm where the Muslims have the upper hand. Where did the author get this extra condition? Ability does not include living in an empowered realm, which the writer included as a condition. He did this although he admitted that he is neither a scholar nor a mufti. Therefore he is not qualified to invent conditions and restrictions that are not required by the Koran, the Sunnah of his prophet, or the ulama.¹⁰⁵³

The consequence of Imam's argument is that without such a base no jihad can take place and the Muslims would have to revert to one of the six options he prescribed for such an event. According to Zawahiri this would automatically lead to a cessation of all jihadist operations since such a base did not exist in the Islamic lands due to the abundance of taghut rulers. The removal of Mubarak as the head of state in Egypt will not change this since the new administration might just as easily refuse to 'rule by what Allah has commanded' in the form of secular laws which forbid jihadist recruitment and financing. The demand for a realm therefore automatically halts jihad. Zawahiri refutes Imam in the following manner. He first quotes a number of authoritative ulama and hadith to make the case that unlike Imam

¹⁰⁵³ al-Zawahiri, "Exoneration," p. 80.

assumes, the removal of a taghut ruler is indeed necessary.¹⁰⁵⁴ Once this has been established he raises the pivotal question:

How can this judgment be implemented if we accept the author's conditions that the Muslims should have a realm where they have the upper hand and can defend it and keep it, as in Medina after the migration from Mecca, before they can rebel against the apostate ruler?[..]. The author is saying that if the Muslims have the ability to replace the apostate ruler, they should not do it because they do not have empowerment in a realm where they have the upper hand. Hence the author has suspended the ulama's unanimous opinion. The apostate rulers should be very happy with his views.¹⁰⁵⁵

It should be clear that Zawahiri has a strong point here. The demand for a stable realm would make jihad impossible and since jihad is an order from Allah based upon Quranic verse 9:5-29 the demand for a realm would make the execution of a Quranic injunction impossible. As we shall see further on, the relevance to multicultural societies is that if the if the jihadist cannot fight in, say Syria, then he should move towards an area where he can fight from, where the authorities won't bother him. This can mean that the jihadist either would seek a base in for instance Europe, or that Muslims, Europeans or otherwise, would move to a base in Pakistan or Afghanistan to receive training there and to use that training against taghut leaders in the Islamic world or Jahiliyaah leaders in the non-Islamic world. The creation of

¹⁰⁵⁴ These include the shayk al-Islam Hajar al-Asqalani, better known by the name of Imam Ibn Hajar, born in Cairo in 1372 and considered to be one of the leading Shafi'i scholars. Al-Nawawi (1234–1278) the most authoritative of all shafi'i scholars and Ibn Hajar (1372- 1448), a Shafi'i scholar of equally great renown. The argument centres around the commonly held opinion that: "The ulama's unanimous opinion was that if the ruler became an apostate, he should be removed and that this is the obligation of every Muslim who has the ability to do so" Ibid., pp. 69, 70, 84.

¹⁰⁵⁵ Ibid., p. 84.

the Taliban regime in Afghanistan and the chaos in Iraq in essence provided for exactly such a realm as Sayyed Imam deemed necessary.¹⁰⁵⁶ The actual operation of jihad and the preparation for jihad should be seen as one and the same activity. Jihadist movements will use every opening that society gives them to embark on this mission. Zawahiri is very clear on this issue as we will come to see.

6.3.2 External enemies

Accusation 2: Guilt is individual not collective and thus terrorism kills innocent people and is un-Islamic

In a long and immensely juristic discussion the issue of the animosity of non-Islamic societies is debated between Imam and Zawahiri. The discussion, in style typical of fiqh, focuses not on the general issues but on legal details from which a larger picture is drawn. The issue at hand is whether or not a visa given by for instance the USA to Muhammad Atta, one of the perpetrators of the 9/11 attacks, should have meant that the USA gave a promise of security to Atta, a promise which even a jihadist would argue, cannot be violated by aggression against the visa giver since this would amount to treachery. Zawahiri knows this and the only option he sees is to construe a legal framework in which the visa is nullified due to the conduct of the non-Islamic state towards Muslims. Underlying this issue of the status of a visa is the question of whether or not the ummah is at war with all non-Muslims. Whilst even in times of war a visa must be respected, there are conditions under which the visa is automatically void. Al-Zawahiri tries to show how these conditions apply and that thus a visa offers no protection against jihad. This argument revolves *inter alia* on the issue of collective guilt.

¹⁰⁵⁶ "If a secure base is a condition necessary for jihad, it is available, thank God, in many jihadist areas and over vast territories." *Ibid.*, p. 111.

I should underscore that to Islam, the ummah is one single body. Quran 21:92 "Verily, this community of yours is a single community'. This quality of the ummah is transposed upon the non-Islamic world which thereby also becomes one single nation, i.e. Islam versus Jahiliyaah.¹⁰⁵⁷ This is not just a random qualification of Al-Qaeda, but is based, by al-Zawahiri, on examples of the prophet who also used to treat opposing forces as being one nation, thus the actions of one of them could result in collective punishments. It has often been said by various Islamic groups that the actions of Israel in for instance Gaza amount to collective punishment and that this is unjust. Regardless of the validity of such a statement, according to the al-Zawahiri's interpretation of the example of the prophet collective punishments are not unjust but part and parcel of Shari'ah law:

As Ibn al-Qayyim [...] Said: "His way was that if he made peace with a people and some of them broke his covenant and treaty, and the remainder approved of them and consented to it, he attacked all of them. He treated them all as having reneged, as he did with Quraysh, al-Nadir, and the Banu Qaynuqa, and as he did with the people of Mecca. This was his procedure with people who had a treaty."¹⁰⁵⁸

The actions therefore, of the USA against Muslims in for instance Iraq, constitute an act of aggression by the entire population of the USA against Islam itself and thus nullify the prohibition of violence which is

¹⁰⁵⁷ "The American people are a single juridical entity. They and many of the peoples of the West sanction the democratic system: in other words, they have chosen as a whole that governance, decisions, and the passing of laws shall belong to the majority and that the minority shall obey them voluntarily in this. Therefore, whatever the President of the United States, for example, does, is done with the approval of the majority and the consent of the minority, on the ground that his actions are constitutional and sound because the majority supports them. The minority who disagree see it as their duty and his right over them, even if they oppose him in something, to obey him and submit to him. This is something about their circumstances that needs to be known."Ibid., pp. 143-144.

¹⁰⁵⁸ Ibid., pp. 145-146.

aligned with the visa. Muhammad Atta was therefore not only allowed but also obligated to carry out the attacks of 9/11.

Before going into the details on how al-Zawahiri constitutes such acts of aggression by a non-Muslim state towards Islam, I must briefly enter into the criticism given to this legal construct by Sayyed Imam. Imam replies to the Exoneration by stating that this construct is a prime example of what he calls 'The jurisprudence of justification'. With this he implies that al-Zawahiri will bend fiqh in ways which transgress the boundaries of *usul al-fiqh* in order to justify the mass killings by al-Qaeda. This in turn implies, although it is never stated, that al-Qaeda is acting for other motives than purely theological ones. Imam's main point of critique is that deeming all citizens of a belligerent country as one nation would imply condemning millions of Muslims to death.

This doctrine is obviously corrupt and extreme, for implementing it would mean killing millions of Muslims in India and Russia because their government fights Muslims. The Caliph Umar did not allow the killing of farmers in Persia or Byzantium who did take up arms against the invading Muslims, even though they paid taxes. This is proof enough of the invalidity of this doctrine.¹⁰⁵⁹

Imam continues to cite a Quranic text which is of particular interest. After Allah has pronounced the ummah the 'best community ever raised among the people' Quran 3: 110, the Quran reiterates the animosity between Muslims on the one hand and Jews and Christians on the other. [3:112] "They have been put under humiliation [by Allah] wherever they are overtaken, except for a covenant from Allah and a rope from the Muslims. And they have drawn upon themselves anger from Allah and have been put under destitution. That is because they disbelieved in the verses of Allah and killed the prophets without right. That is because they disobeyed and

¹⁰⁵⁹ Imam and McCants, "The Denunciation of the Exoneration." part 6

[habitually] transgressed. “ Quran 3:112 Right after these verses comes an exclusionary remark which is neglected by al-Zawahiri and reiterated by Imam. “They are not [all] the same; among the People of the Scripture is a community standing [in obedience], reciting the verses of Allah during periods of the night and prostrating [in prayer]. They believe in Allah and the Last Day, and they enjoin what is right and forbid what is wrong and hasten to good deeds. And those are among the righteous. And whatever good they do - never will it be removed from them. And Allah is Knowing of the righteous.” Quran, 3:113-115.

Imam thus tries to invoke the principle of discerning amongst the Jews and Christians *even though* their nation ‘disobeyed and [habitually] transgressed.’ Through a number of examples of the behaviour of the prophet and his companions, Imam argues that discerning between opponents is pivotal and that *thus* lumping people together as one nation is unlawful. Instead, imam argues that guilt should be individual and can only be proclaimed after careful investigation. Why is this important to the issue of a visa or *aman*? If the concept of collective guilt *does* apply, then the visa cannot offer protection since the nation as whole broke the treaty which validates the *aman*. As such, the attacks of 9/11 would be justifiable. Imam however attacks this notion of collective guilt and insists that the *aman* never lost its validity. Al-Zawahiri therefore has to prove that collective guilt is unavoidable on basis of the Shari’ah. He does this in two different ways.

First, in general terms and secondly, in specific terms. These latter ones are extremely important to non-Islamic multicultural societies for if these criteria are adopted by Muslims living in those societies it would mean that a jihad against that society is not only warranted but *obligatory*. An attack against Islam after all sparks a defensive jihad which is binding upon all members of the ummah. First Zawahiri states the general conditions which constitute an attack against Islam:

first, fighting against Islam, replacing it with infidel democracy, and imposing it on the region; second, occupying Muslim countries and attempting to redraw the regional map; third, assaulting the Muslims in their persons, property, and resources, including oil; fourth, backing the Jews, the nation's enemies, against the Muslims in Palestine; and fifth, insulting Islam, the Koran, and God's best messenger, may prayers and peace be upon him. Even one of these points is enough to invalidate a treaty, let alone all of them.¹⁰⁶⁰

One should note that the prohibition on offending the prophet not only binds Muslims, but also non-Muslims. There are prophetic examples and examples of the companions and later caliphs which all indicate that offending the prophet Muhammad constitutes an act of war against Islam and thus triggers a defensive jihad. In that sense, the drawing of the Muhammad cartoons, and the laws that allowed those drawings to be published was a declaration of war against Islam. The logic of Zawahiri continues to state, and there is some validity to this argument, that since Denmark is a democracy, people voted for those laws and did not oppose them, *thus* they became equally guilty of this crime. The logicity of ideological thinking as I have said before, divided men into whole categories based not on their individual thought or actions, but on the basis of the political judgment that is passed on them by as system they never agreed to in the first place. This in fact means that the only way in which anyone anywhere can be safe, is to voluntarily adopt the rules of the Shari'ah in their lives. The simple fact that you are not a Muslim and live a non-Islamic life can become the signature under the warrant for your execution. This becomes apparent in the following specific schematic of what constitutes an external enemy.

When is Islam under attack?

¹⁰⁶⁰ al-Zawahiri, "Exoneration," p. 48.

It is a long quote but it goes to show the danger posed by Al-Qaeda to liberal democratic societies. Practically every item mentioned by Zawahiri as an attack against Islam, and thus necessitating a defensive jihad by the *entire* Islamic ummah, is a hallmark of the liberal democratic society thus underscoring that this battle, whether we like it or not, is a total battle for the essence of our concept of freedom. The heart of the Islamists' cause and the reasons for their animosity towards all non-Islamists can be found in this quote.

In addition, and this is where Sayyed Imam warned against declaring millions of Muslims potential targets, these acts which are considered to be an attack against Islam, occur in nations in which Muslim too partake in the democratic process. In short: any of the following acts is deemed to be an act of war against Islam *and* all those who allow these to happen, either through paying taxes or not revolting, are thereby guilty of war against Islam. It is therefore a declaration of war on a global scale in which no one can remain neutral. The warning of Sayyed Imam is very true, but in al-Zawahiri's view, it is also utterly irrelevant. What matters not is how many people may be killed, what matters is that Shari'ah law is applied. In true totalitarian fashion al-Zawahiri sees humans as the raw material to which the law of movement is applied. I remind the reader that the issue at stake here is the question whether or not western societies are at war with Islam and if a Muslim can live safely in the west. Al-Zawahiri tries to prove here that *even* if an aman was granted and that thus 9/11 would have been illegal, the west continuously engages in breaches of such an agreement based on the fact that it imposes a jahiliyaah order on Muslims. This imposition of a jahiliyaah order is a war against Islam which sparks a defensive jihad obligatory on all. All that do not resist these acts of war become guilty of it, be they Muslim or non-Muslim.

With regard to **social liberties and freedoms**, Zawahiri writes:

"The family of someone who has obtained a visa to Western countries may be subjected to attack.

a. His child may be forced to study a Western curriculum. If the father refuses to send his child to the schools, his child will be taken from him by force and could be turned over to non-Muslim parents.

b. A Muslim cannot compel his son or daughter to pray, fast, go on pilgrimage, or even observe the laws of ritual purity. If he tries to compel them to do so or to implement, for example, the tradition of the prophet (may God bless him and grant him peace) that says, "Command your sons to pray at seven years, and beat them for it at ten years," then his renegade son or the son's renegade mother -- particularly if she is a non-Muslim -- or his neighbour or the child's teacher can lodge a complaint against him. The child might be taken from him and turned over to another family that might be non-Muslim.

c. His daughter cannot wear even a head covering, let alone a full hijab in the schools of France. In some other countries the niqab [veil that covers the face] is outlawed.

d. If his daughter wants to go out to have fun in a nightclub with her boyfriend, he cannot prevent her. If he tries, she can summon the police to punish him.

e. If his daughter brings her lover home, he has no right to prevent her. If he tries, she may call the police for help to enable her to do what she wants.

f. If a Muslim in the West fears that his child may be corrupted and decides to emigrate with him to Muslim lands and his Western wife objects, he will be forcibly prevented from doing so, in addition to the punishments that may be imposed on him, such as deportation or being forbidden even to approach his child's residence. The stories of this are repeated and well-known.

g. A Muslim may not prevent his son or daughter from engaging in debauchery, drinking alcohol, gambling, watching pornographic films, or listening to depraved music.

h. A Muslim may not object to his daughter's marrying whomever she wishes, even a dissolute person or an non-believer.

i. If a Muslim marries a second wife, he will be punished, perhaps imprisoned, and they will invalidate his marriage. This is an attack on his honor, by depriving him of his legitimate right to his second wife. For this reason, Muslims marry a second wife secretly and do not dare to announce the marriage or register it.

j. A Muslim may not carry out the Koranic provision against his wife if she is rebellious toward him, abstains from his bed, or deprives him of his right to be chaste himself. He who is Truth, may He be blessed and exalted, says: "And those you fear may be rebellious admonish; banish them to their couches, and beat them. If they then obey you, look not for any way against them; and God is All-high, All-great" [Koranic verse; Al- Nisa 4:34]. If he tries to take his right without her consent, she has the right to prosecute him for having "raped" her. If he tries to implement the Koranic provision of beating, prison awaits him.

K . A Muslim husband or wife cannot prevent his or her partner from bringing alcohol into the house or from watching depraved materials. If either of them objects out of concern for the morals of the children, the police are waiting.

I. A Muslim may not prevent his wife, if she is not virtuous or a non-Muslim, from befriending anyone she wishes, Muslim or non-Muslim, or from corresponding with him, inviting him to the house, and mixing socially with him.¹⁰⁶¹ [..] A Muslim in the West is also not safe regarding his property. Here are some examples of how they attack his property:

a. He is subjected to taxes some of which are spent on killing and fighting Muslims. It is not permissible to pay such taxes to the countries of the West that are waging war on Muslims, except involuntarily by compulsion. Consenting to a contract requiring such things is a great sin"

With regard to the **constitutional political and religious freedoms** as enshrined in for instance the European Charter on Human Rights, Zawahiri asks:

Is a Muslim safe with regard to his religion by virtue of such a visa?

a. Reviling the prophet (may God bless him and grant him peace) is blatant hostility to a Muslim's religion and creed. The Western countries such as America and Britain not only allow such reviling, but they honor the reviler of the prophet (may God bless him and grant him peace) and consider him a hero. Salman Rushdie was given many

¹⁰⁶¹ Ibid., pp. 125-126.

prizes in Britain and other countries.¹⁰⁶² [...] The Western peoples and governments believe that any writer or artist has the right to ridicule the prophet (may God bless him and grant him peace), as happened with the cartoons insulting the prophet's honor that were published in a number of Western countries. Those governments refuse to forbid, let alone punish, their creator. If one group of the people break a covenant and the remainder agree with them, their promise of safety lapses and all of them are fought, as will be shown later, God willing.

b. The current laws on terrorism punish the mere instigation to terrorism. In other words, calling Muslims to jihad against their attacker makes a Muslim liable to the punishment of those laws.

c. A Muslim in the West cannot publicly proclaim the Koran's descriptions of the Jews without being imprisoned for anti-Semitism.

d. An attack on Muslims in any country is an attack on Muslims everywhere. It will be shown shortly¹⁰⁶³

Zawahiri thus argues that each of these activities, most of which are the most natural preconditions of living in a secular liberal democratic society, are in fact an attack on Islam and thus obligate all Muslims, including those living in that society, to engage in jihad. Quoting one of the great Imams of the Hanifa school of law, Shaybani, Zawahiri

¹⁰⁶² See for the extent of the consequences of this statement, on the same page: "Thus any Muslim who has entered on a visa or with a more explicit safe-conduct may kill Salman Rushdie and the cartoonists who ridiculed the prophet (may God bless him and grant him peace), regardless of any visa, safe-conduct, or treaty. This judgment relates not only to physical persons who ridiculed or participated in ridiculing, but extends to immaterial and corporate entities that acted or participated in the action. Details of this will come shortly, with God's help. In other words, if an entire country or people has done the reviling, participated in it, or colluded in it, a Muslim may punish them. Any promise of safety between him and that entity lapses, whether the safe-conduct consisted of a visa (something we do not grant) or any other form of safe-conduct."

¹⁰⁶³ al-Zawahiri, "Exoneration," pp. 126-127.

makes it clear what the implications of this typology of liberal democratic societies entails.¹⁰⁶⁴

Islamic law assumes that the lives and property of non-believers are legitimate targets, except by virtue of a peace treaty (*sulh*), a safe-conduct (*aman*), or a covenant of protection (*dhimmah*); for the land of the enemy is a land of fighting, plunder, and legitimate targets.¹⁰⁶⁵

A peace treaty thus cannot exist when the very essence of the land of non-believers is a declaration of war against Islam. A contract of Dhimmah or a safe-conduct *only* apply to Islamic lands and thus the only conclusion left is that Al-Qaeda sees Islam as being in perpetual war with not only the internal enemy, but also the external enemy. This enemy is an enemy not because of acts of violence against Muslims, but because his system of living is jahiliyaah and *thus* an attack on Islam. In the same way as Jews were an enemy towards Aryans in the philosophy of the nation-socialist, an animosity not based on their actions but on their very being, so too the non-believer due to his unbelief is deemed and enemy that must be destroyed. This too is the real world expression of Qutb's rallying call to tear down the institutes *and* benefactors of Jahiliyaah. There is no essential difference between the two.

In the Shari'ah interpretation of the Islamists ideologies, people are not free to do as they see fit. Such a concept of freedom is jahiliyaah; it is inimical to fitrah and constitutes an act of war against Islam. The Islamists' concept of freedom dictates that man can only be free once all traces of jahiliyaah have been eradicated. Thus, everyone who defends or prefers to live in any system other than Islam voluntarily becomes an enemy. Under such conditions, individual guilt is established and no *aman* can guarantee the lives of such a person.

¹⁰⁶⁴ Muhammad ibn al-Ḥasan al-Shaybānī (750 – 805) was one of the most important disciples of Abu Hanifa, founder of the hanifa school of law which was the school of law of the Abbasids, Seljuqs, and Ottoman empires.

¹⁰⁶⁵ al-Zawahiri, "Exoneration," p. 130.

As we will see the question which is closely associated with this declaration of total war, is to which degree the killing of otherwise forbidden categories of people can be justified. The Shari'ah, unlike secular totalitarian ideologies, has restricted some categories of people from being killed in war. These include, women, children, and Muslims. The question now is this: should jihad be halted if one cannot avoid killing these people? What if a righteous Muslim lives in a country which engages in a war against Islam? Can he be killed, even if it is unintentionally? Can a Muslim even remain Muslim if he does not engage in jihad himself?

6.3.3 Consequences for multicultural societies

The consequence of this totalitarian worldview is that every Muslim, as a part of the organic unity of the ummah, is called upon to defend Islam and is judged as an individual on his upholding of this duty. This position is summarized in a quote attributed to Shaykh Ahmad Shakir (1892-1958), the vice-chairman of the supreme Shari'ah court in Cairo and a renowned scholar of hadith:

We stated above that every Muslim in the world should now fight them and kill them wherever they are found, be they civilians or military men. We meant every word. Wherever a Muslim lives, to whatever nation or ethnic group he belongs, he has the same obligation that we have here in Egypt and Sudan. Even British Muslims, if they are truly Muslim, have the same obligation as other Muslims as far as they are able. If they cannot fulfil the obligation, they should emigrate from the enemies' country or from those countries where they are unable to fight the enemy as God commands them to do.¹⁰⁶⁶

Here Shakir echoes Ibn Taymiyyah's insistence on hijra. If a Muslim cannot safely live in the land of the unbelievers, because this land is Dar al-Harb and engages in a war against Islam, then he must make

¹⁰⁶⁶ *Ibid.*, p. 34.

the hijra to a place where he can live safely and engage in jihad from there. If he does not do so then he voluntarily rejects to participate in the defensive jihad which places him outside of the fold of Islam, thereby making him an agent of jahiliyaah and a legitimate target.

We have thus arrived at what amounts to a declaration of global war against everything that is jahiliyaah, against everything that is associated implicitly and explicitly with jahiliyaah and is binding upon all Muslims in any country. A declaration of war could hardly be more total since it mobilizes the entire ummah against the rest of the world. This is the remedy against that type of thinking that led the ummah out of the proverbial Garden of Eden and caused the disorder al-Zawahiri sees in the world. The only way in which a society can safeguard itself against being attacked in the name of this Jihad is by adopting, out of their own free will of course since there is no compulsion in religion, the Shari'ah. Law and policymakers should take care to notice that this war is thus far formulated purely in terms of *defence*. We haven't reached the part on *offensive* jihad yet, which is also a part and parcel of classical Islamic teachings. The *usul al-fiqh* that Zawahiri uses might seem extreme to most, however, the sources and *ulama* upon which he draws do not lack any authority amongst Sunni Islam. Whether or not Zawahiri is right in his judgment is up to the ummah to decide and not to this writer. However it would seem that Zawahiri's position cannot be dismissed out of hand and would require a thorough investigation into its sources and logical consistency.

Whilst still on the topic of a *defensive* jihad, there are certain categories of those who act against Islam namely the Shi'a Muslims, Jews and Christians.

Accusation 3: Targeting innocent Shi'a is un-Islamic

The accusation is aimed directly at Abu Musad al-Zarqawi, 1966-2006, the leader of Al-Qaeda in Iraq after the fall of Saddam Hussein. Al-Zarqawi carried out numerous terrorist operations in Iraq and Jordan

and he is here being accused of targeting all of the Shi'a in Iraq. Al-Zarqawi did indeed cause massive slaughter amongst those he deemed the enemies of Islam. Due to his Salafi-Wahhabi background, which thoroughly despises the Shi'a perhaps even more than they do the Jews, al-Zarqawi saw himself legitimized in creating slaughter wherever he could. This caused a lot of resentment amongst the masses who did not approve of the killing of those whom they saw as fellow Muslims. The argument is reminiscent of those Nazi's who could not stand killing Jewish children. They needed and received further indoctrination in order to assure they could perform their task. Al-Zawahiri replies to Imam in an interesting fashion in that he is basically lying. He responds:

the Al-Qa'ida Organization in the Lands of the Two Rivers does not target the entire Shiite people but targets the traitor militias such as the Badr¹⁰⁶⁷

He thus creates the idea that the Shi'a are targeted for their treachery in the war in Iraq and not because they are Shi'a. In a letter to Zarqawi from October 11, 2005, however, Zawahiri writes:

The mujahed movement must avoid any action that the masses do not understand or approve, if there is no contravention of Shari'ah in such avoidance, and as long as there are no other options to resort to, meaning we must not throw the masses –scant in knowledge – into the sea before we teach them to swim. [...] Among the things which the feelings of the Muslim populace [...] will never find palpable are the scenes of slaughtering the hostages. [...] Your response, while true, might be: why shouldn't we sow terror in the hearts of the Crusaders and their helpers? [...] we are in a

¹⁰⁶⁷ *ibid.*, pp. 216-217.

media battle in a race for the hearts and minds of our umma.
[..] we don't need this.¹⁰⁶⁸

Al-Zawahiri thus displays a great deal of media savvy, he does not disagree with al-Zarqawi's actions, but rather he does not think that the Muslim ummah is ready to accept this logical outcome of the law of movement. In other words, they have not been indoctrinated enough. Whilst al-Zawahiri thus states in response to Imam that the attacks on the Shi'a are due to their helping of the Americans, His true animosity towards the Shi'a are quite more genocidal than he wants to confess to in an open exchange with Imam.¹⁰⁶⁹

The reason Zawahiri nonetheless does not want Zarqawi to engage in such wide scale slaughter is purely related to political and propaganda opportunity and operational capacity. Although he does make an exception for the ordinary Shi'a whose going astray of the path of Islam cannot be blamed on them but on their leaders.¹⁰⁷⁰

The reasons thus for avoiding a genocide is not because Al-Qaeda 'only' targets those Shi'a of the Badr militia, their treason is inherent in their being Shi'a, but because it is not in their benefit to do so at this time. If this is how Al-Qaeda views other Muslim sects, one should be alarmed at what is in store for non-Muslims.

Jews

¹⁰⁶⁸ Mansfield, ed., *His Own Words, a Translation of the Writings of Dr. Ayman Al Zawahiri*, pp. 259, 263-273.

¹⁰⁶⁹ "People of discernment and knowledge among Muslims know the extent of danger to Islam of the Twelver school of Shiism. It is a religious school based on excess and falsehood whose function is to accuse the companions of Muhammad of heresy in a campaign against Islam in order to free the for a group of those who call for a dialogue in the name of the hidden Mahdi who is in control of existence and infallible in what he does. Their prior history in cooperating, with the enemies of Islam is consistent with their current reality of connivance with the crusaders. [..]The majority of Muslims don't comprehend this and possibly could not even imagine it". Ibid., p. 267.

¹⁰⁷⁰ al-Zawahiri, "Exoneration," pp. 269-271.

Congruent with Qutb and Khomeini, Zawahiri in numerous publications has declared his animosity to Jews openly and clearly. The reason for this is twofold. Firstly it is founded upon a literal adherence to the depiction of the Jews in the Quran and hadith.¹⁰⁷¹ See for instance the Quran's depiction of the Jews as those who are 'most intense in their animosity towards the believer', Quran 5:82 , and the infamous hadith "[..]Allah's Apostle said, The hour will not be established until you fight against the Jews, and the stone behind which a Jew will be hiding will say, ' O Muslim! There is a Jew hiding behind me, so kill him'".¹⁰⁷² Whilst one may argue over the exegesis of these sources, to al-Zawahiri and other Islamists ideologues they clearly constitute a divine decree commanding eternal hatred towards the Jews. The Quran and the hadith however do not suffice to account for the genocidal hatred that is characteristic of al-Qaeda and its affiliates. Based purely on the Quran and hadith one would be forced to acknowledge that the Jews are indeed still the *ahl al-kitab* who are entitled to protection under the dhimmi laws. As I pointed out in the chapter on Qutb, there is a line of reasoning, such as employed by Wahhabi Islam, which holds that certain texts of the Quran and hadith are in conflict with one another. Since Muhammad himself declared that the Jews and Christians worship others besides Allah, they are in fact polytheists. Polytheists only have the option of conversion or death; the rules of dhimmah do not apply to them thus sanctioning their killing if they do not convert. Zawahiri goes a step further. To him and others like him this Islamic anti-Semitism is mixed with a European brand of anti-Semitism. In Islam Jews are ridiculed but never seen as the epitome of an all powerful satanic evil. This view is of Christian origin. Furthermore, the view of the Jews as a force of evil behind all the all of the worlds ailments such as capitalism, bolshevism or cosmopolitanism is a conspiracy theory which derives mainly from books such as Henri Ford's 'the eternal Jew' or the

¹⁰⁷¹ "A Muslim in the West cannot publicly proclaim the Koran's descriptions of the Jews without being imprisoned for anti-Semitism." Ibid., p. 126.

¹⁰⁷² Bukhari, *Shahih Bukhari*. vol 4 number 2926, p. 113

infamous protocols of the elders of Zion. This is a distinctly 19th and 20th century phenomenon which has been incorporated in al-Zawahiri's view on Jews and culminates in a genocidal hatred that runs through his writings.

Sensitive to the history of anti-Semitism in the west, al-Qaeda has issued statements condemning the holocaust and the Nazi's and pointed to the history of the Jews under Islam rule in contrast.¹⁰⁷³ That being said, al-Qaeda's display of sympathy to the plight of the Jews is utterly superficial. Wahhabi Islam is notoriously anti-Semitic and the internet is replete with sermons praising Hitler for punishing the Jews for their 'sins' by Wahhabi and non-Wahhabi imams alike.¹⁰⁷⁴ To Islamist ideologues, the Jews play the same role in the religious sense as they did to the Nazi's in the biological sense, that is, the role of the existential enemy. Whilst they will often blame this on the establishment of Israel, it in reality predates the existence of Israel altogether or is rather cynical in its use of Israel as an excuse. In 'Knights under the prophet's banner' Zawahiri explicitly states that the hatred of Israel amongst Muslims is a "cause that has been firing up the feelings of the Muslim nation from Morocco to Indonesia for the past 50 years. In addition it is a rallying point for all the Arabs, be they believers or non-believers, good or evil".¹⁰⁷⁵ This has led to a highly

¹⁰⁷³ al-Zawahiri, "Exoneration," p. 222.

¹⁰⁷⁴ The non-Wahhabi spiritual leader of the MB for instance, Sheikh Yusuf al-Qaradawi who is hailed by London's former mayor Ken Livingstone as "one of the leading progressive voices in the Muslim world" and is praised by John Esposito for his "reformist interpretation of Islam and its relationship to democracy, pluralism and human rights" declared in a 2009 Al-Jazeera interview: "Throughout history, Allah has imposed upon the [Jews] people who would punish them for their corruption," he said. "The last punishment was carried out by Hitler. By means of all the things he did to them - even though they exaggerated this issue - he managed to put them in their place. This was divine punishment for them. Allah willing, the next time will be at the hands of the believers." News, "Moderate" Qaradawi Defends Hitler and Nuclear Terror."

¹⁰⁷⁵ Mansfield, ed., *His Own Words, a Translation of the Writings of Dr. Ayman Al Zawahiri*, p. 211.

artificial and euphemistic distinction between Jews, which Islam claims to respect on the one hand, and Zionists on the other, which it sees as its mortal enemies. If one scratches the surface of the anti-Zionist rhetoric however, one will find that it is actually talking about the canonical description of Jews, Israel being just the natural outcome of their nature. Ibn Ishaq's biography of the prophet Muhammad is often quoted by Islamic scholars themselves as an accurate portrayal of the nature of the Jews which bears many resemblances to Martin Luther's "the Jews and their lies" and the national-socialist depiction of the Jews. In order to deal with the Jews accordingly, Zawahiri has to remove the protection the status of *ahl al-kitab* accords them and he does so either along the lines of declaring them polytheists or as follows:

The differentiation between the Jews and the Zionists is meaningless because the majority of the Jews support Israel while a very small minority have no say.¹⁰⁷⁶

The best description of the widely held hatred towards Jews in the works of Islamist ideologues is that texts such as the Exoneration do not bother to explain why this hatred is there. It is presumed to be a matter of common knowledge. Whilst Zawahiri needs numerous pages to defend his attacks on western targets, his attacks on the Jews are, in the framework of his type of thinking, a self explanatory phenomenon. Most importantly however is the observation that the Jews fulfil a role that is needed by Zawahiri in order to constitute the ummah's identity. In the words of Claude Lefort:

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.¹⁰⁷⁷

¹⁰⁷⁶ al-Zawahiri, "Exoneration," p. 225.

¹⁰⁷⁷ Lefort and Thompson, eds., *The Political Forms of Modern Society: Bureaucracy, Democracy, Totalitarianism*, pp. 286-287.

In practical terms, there is no doubt that if Al-Qaeda or likeminded movements would have recourse to WMD's, they would not hesitate to use it against Israel or any Jewish population centre anywhere in the world.

Sayyed Imam conversely argues that the focus of al-Qaeda on Israel is not genuine. Whilst Israel must be fought in a defensive jihad, it cannot be said that Israel, or the Jews as such are the *only* source of the ummah's problems. If anything Sayyed Imam reminds al-Zawahiri of the fact that Muslims themselves share equal guilt. Nevertheless, Imam does not go into the issue of the rampant anti-Semitism or its genocidal aspirations in al-Qaeda's ideology.¹⁰⁷⁸

Christians

The position of Al-Qaeda vis a vis Christians is twofold. On the one hand the Christians are Crusaders against Islam who therefore are all legitimate targets according to the doctrine of the unity of the disbelievers. The Christians in Egypt, known as the Copts, seem to occupy a separate position. Zawahiri warns them not to support Hosni Mubarak and not stop those who wish to convert to Islam from doing so.¹⁰⁷⁹ This ambiguity in the doctrine of the unity of the unbelievers and opponents of Islam is typical for the treatment of Christians in Zawahiri's ideology when compared to his views on the Jews. This may be in part due to the Quran's own milder description of the nature of Christians.

¹⁰⁷⁸ Imam and McCants, "The Denuation of the Exoneration." part 2.

¹⁰⁷⁹ "First: Beware, beware of supporting the crusaders and at their head America, and their agents and at their head Husni Mubarak, at the expense of Muslims. The battle between us and them is at its fiercest. Do not stick yourselves in the midst of it, we do not want to battle against you. [...] the support of the [Coptic] Church to Husni Mubarak in the latest elections is considered an aggressive action against Muslims and even against all the honest and maltreated victims in Egypt[...]. Second: [...] do not antagonize the Muslims and their jihadist pathfinders. They do not want to start a battle with you. [...]". al-Zawahiri, "Exoneration," p. 225.

6.3.4 Summary

In summary, the cause of disorder is described in a typical totalitarian fashion. Starting with the premise of the formula for self and world salvation, those who oppose that formula are by default existential enemies. The first category of those enemies is the internal enemy. The law of movement cannot begin to fabricate the envisioned Utopia until the Islamic nation is purged of its internal enemies. These include most notable the taghut rulers and the imams of defeat. The division between internal and external enemies however, is somewhat dissolved by the idea that the internal enemy is an agent of the external enemy. Both represent the forces of jahiliyaah that oppose Islam. This includes all the advocates of jahiliyaah and one's advocacy thereof is established simply by living the life we commonly associate with that of liberal-democratic rule of law societies. Even the mere adherence to the laws of such a society constitutes grave unbelief or an attack on Islam since those laws include taxes which might be used to fund a war against Muslim countries. The freedoms which are the hallmark of these societies such as the freedom of speech or the freedom of religion and the criminal laws that prohibit the beating of the wife, rape in the marriage, hate speech and making preparations for jihad are all considered to be an attack on Islam prompting a defensive jihad of the entire ummah against that society and all of its supporters. A special place is reserved for the Jews who are considered to be the prime agents of jahiliyaah and the masters of some sort of global conspiracy against Islam. Above all it is the Jews who are the existential enemy of Zawahiri's conception of Islam. As such Zawahiri creates an absolute dichotomy which results in a permanent war which can only end when there is no more jahiliyaah. It calls upon all Muslims, including those who live in a non-Islamic society and which he deems as being 'close to unbelief' due to that fact, to carry out jihad or make preparations for jihad against those societies. By attaching an ideological judgment on every action a person takes based upon the transcendent and impervious to human amendment Shari'ah, and rewarding those actions with either

approval or punishment, the totalitarian requirement of an order of being which is constituted upon the logicity of ideological thinking is met. In addition, the definition of the existential enemies and the inescapability of that definition for those people fulfil the second requirement for totalitarianism namely, the creation and signing of a death warrant by the law of nature itself. The Jihadist movement only needs to accelerate the law of movement that is derived from this fact by engaging in an epic eschatological battle against all those forces that oppose Islam. The disorder in the world is *not* constituted by western interference in Islamic lands. This is but a symptom for which the west cannot be blamed. It is in the nature of jahiliyaah to obstruct and hamper Islam, imperialism or meddling in the internal affairs of Muslim lands is the natural outcome of this jahiliyaah nature. To islamists such as al-Zawahiri, the fact that one belongs to the domain of jahiliyaah in the first place, that one does not submit oneself to the authority and sovereignty of the Shari'ah is the reason for jihad. This ideological death sentence should be a dire warning for Muslims and non-Muslims alike.

6.4 The belief that salvation and a return to Eden is possible

If the disorder in the world is caused by an absence of Jihad, and this absence is caused by the internal and external enemies that make jihad impossible by word or deed, then the hope for any change depends on the revival of the call to Jihad. Zawahiri has learned from the errors of the early vanguard movements and does not advocate a frenzied rally towards jihad but rather calls Muslims towards a careful planning and preparation for jihad. The Qutbian plan for a society wide mobilization through da'wa and jihad by word and wealth applies here. Oftentimes law and policymakers are preoccupied with the violent aspects of jihad whilst ignoring all the other forms. Here Zawahiri makes it clear that all these other forms are part and parcel of the jihadist revivalist enterprise.

Additionally we have not called the people to carry out haphazard jihad. We are urging them to mobilize their energies and resources and make preparations for jihad. No one should fall back even those who are not physically able to carry out jihad at one time or another. Let them make preparations and God will give strength and success or other people will come later and benefit from their preparations. Gaining sufficient strength and ability to carry out jihad is a Shari'ah obligation. What people should not do is to refrain from fighting and occupy themselves with making a living, raising their children, get promotions at work, and competing for the crumbs of this worldly life when actually jihad is the individual obligation of each one of them. They are obligated to make preparations for it because a prior act that is necessary to perform a duty is also a duty. Every capable man is required to answer his brothers' call who asks for his help in the various fields of jihad.¹⁰⁸⁰

The accusation made against Zawahiri in earlier in which Sayyed Imam claimed that jihad needs a realm of safety is repeated here. Since there is no realm of safety, Imam says, hope for change has turned to despair and the Muslims are left with the six options that all entail quietism and an abandonment of jihad. Zawahiri retorts to the question of despair and the hope for change by calling in mind the example of the prophet in Mecca and Medina. In Medina Muhammad did indeed have a realm of safety which he was lacking in Mecca. For as far as possible Muslims should therefore emigrate to, or endeavour to create a contemporary Medina. In the case in which this is not possible and the Muslims are confined to a Meccan like state, Zawahirhi says:

The foregoing is a collection of opinions by the ulama to demonstrate that they stipulated only the ability to eliminate

¹⁰⁸⁰ *Ibid.*, pp. 75-76.

vice. They did not stipulate that before they can denounce vice, the Muslims should have a realm where they have the upper hand, which they can defend and keep as they did in Medina. Furthermore, where did the author get the condition that they should have the power to defend and keep their realm?¹⁰⁸¹ To repeat what I said earlier, we are not asking the currently weak to carry out jihad but to make preparations for jihad. We urge those who are totally unable to participate, which is accepted as an excuse by Shari'ah, to do all they can to uphold religion and support jihad and the mujahidin.¹⁰⁸²

Al-Qaeda and their likeminded movements play skilfully on the feelings of guilt that may live in the heart and minds of Muslims everywhere. Whilst many would not feel an appetite for leaving their material wealth, family and loved ones behind to join the violent jihad in Afghanistan, Iraq or Gaza, they do understand that in the case of defensive Jihad they are obligated to participate if they are physically capable of doing so. This is normal Shari'ah doctrine. By not participating they are in fact violating the Shari'ah and abandoning their Muslim brothers and sisters.¹⁰⁸³ Al-Qaeda and scores of pro defensive jihadist organizations repeat these accusations against such weak Muslims time and again. It has been the main ingredient of domestic policy of many Arab dictators that they seek absolution from their sins, and thus avoid the issue of being deemed a taghut, through demonstrations of their support for the mujahedeen in Palestine for example. For if they at least support the jihad they cannot be called taghut. The peace agreement between Egypt and Israel removed this

¹⁰⁸¹ Ibid., p. 80.

¹⁰⁸² Ibid., pp. 92-93.

¹⁰⁸³ "What would be the judgment on those who refrain from preparation and jihad to begin with, who devote much of their effort to justify alleged national interests that are not connected, even by their own reckoning, with what the Koran and Sunnah dictate? Additionally such a course of action blatantly violates the rules of religion and the texts of the Koran and Sunnah, which the prophet's companions established as their law." Ibid., p. 42.

excuse and thus warranted the assassination of Sadat. Thus, supporting jihad by word or wealth thus absolves the sin, both for a government and for the individual, of not fighting there yourself. This is where the Qutbian vanguard movements come into play. By donating money or by volunteering for organizations that whitewash the jihadist operations and make them politically acceptable they are in fact participating in the jihad without actually risking their lives. Whilst this is a rather weak form of jihad compared to the martyrs who are actually fighting, it is accepted by Shari'ah law. In principle this is comparable to the Catholic indulgence through which sins could be absolved by offering monetary assistance to the church. It benefits the jihadist operations whilst at the same time making the non-participation in violent jihad, the sin, acceptable; a handsome trade-off.

Al-Qaeda knows from Quranic evidence, that men dislike fighting even if it has been commanded. Violent jihadist operations are for a vanguard of professional revolutionaries such as Khomeini, Lenin and Hitler envisioned in respectively the revolutionary guard, the bolshevist vanguard movement and the SS. The ordinary people cannot be expected, even though they should, to make such sacrifices. The elitist fascist character of the *Fasci di Combattimento* resounds in the structure of Al-Qaeda's mujahedeen. To apply this to the accusation of Imam, Zawahiri thus says that such a realm was not necessary in Mecca. The Medina model is for the jihadist vanguard groups, the Meccan model is for the Qutbist da'wa organizations. In this way the hope for change is entrusted to each and every Muslim according to their own personal circumstances and capabilities. Violent jihad therefore is nothing but the crest of a much larger wave of jihadist operations and organizations which can permeate Islamic and non-Islamic societies, even without breaking any laws.

The whole history of the Qutbist vanguard movements and the EIJ is one of repression and even though one may not like it, this repression has for the largest part worked to accomplish the failure of political

Islam in the Sunni world. When one looks at the regimes in this region, especially in Turkey and Indonesia, once sees a systematic refusal of certain political and religious freedoms designed to curtail da'wa for political Islam. Zawahiri in 'Knights' clearly underlines the success of this strategy of repression and freely admits in Exoneration that one of the main functions of preparing for jihad is to spread the word of Islam in the hopes that the regime will one day fall so that the mujahedeen may rise.¹⁰⁸⁴ The absence of violent jihadist organizations therefore in no way implies that jihad itself has been abandoned, it can take many forms. Especially in the EU or the US with its unparalleled freedoms and constitutional rights which do not exist in the Islamic world, these forms may be perfectly legal and go undetected.¹⁰⁸⁵ The preparatory trajectory of the 9/11 operation took place to a great extent in these countries for good reasons. Law and policy makers should be careful to keep this in mind: violent jihad is but the crest of a wave, it is the wave itself which should be the focus of attention.

6.5 The agent of salvation: the Revolutionary Vanguard

As with Qutb and Khomeini, this part of the chapter is dedicated to the vanguard movement which is modelled on the example of the prophet and his companions and to a certain extent on the life of ibn Taymiyyah. The hope for change is vested mainly in the jihadist vanguard movements, as Taymiyyah himself stated: 'faith is confined

¹⁰⁸⁴ "The third phase of preparing for jihad, after concentrating on the unity of the ummah and aggression against Jews and Crusaders is "Being ready for the moment when the existing regime collapses. It is a regime that has decayed to the point of making its collapse inevitable. However, historical changes might take many years and the winner is he who seizes the opportunity of change and is ready to exploit it." *Ibid.*, pp. 111-117.

¹⁰⁸⁵ See in this regard: Amos N. Guiora, "Multiculturalism and Religious Extremism: Whose Human Rights Do We Protect?," in *Terrorism: Ideology, Law, Policy*, ed. Geliijn Molier, Afshin Ellian, and David Surland (Dordrecht: Republic of Letters, 2011).

to the believing mujahidin.¹⁰⁸⁶ The mujahedeen through their sacrifice have earned the right, Zawahiri states, to give itjihad, to rally the Muslim ummah and to speak on its behalf. It is them that live according to the model of the prophet and the salafiyaah that are the true guardians of Islam. One can see here the obvious parallel to Khomeini's vanguard of fuqaha. The masses on the other hand have their own role to play.

6.5.1 Manipulating the masses and taghut governments

They are the base of support, the realm of refuge which is needed to perform the violent jihad. They deliver the monetary, religious, charitable and social infrastructure upon which the violent jihad is built even when living in a non-Islamic or taghut society. Without this popular base, the mujahedeen could not exist for very long. We have already seen in the paragraph about the Shi'a in Iraq that Zawahiri warned Zarqawi about the strategic flaw of alienating the masses. It is therefore the task of the mujahedeen to inspire the masses and to lead by example.¹⁰⁸⁷

Popular sympathy requires that the masses have great confidence in the struggler vanguard and a belief that this vanguard is loyal to the masses against the enemies. This cannot happen unless the struggler vanguard makes sacrifices in addition to victories over the nation's enemies, and today's enemies are the United States and Israel. As to the rulers, the nation will not be convinced of their enmity until it sees them killing their own people in defense of America and Israel, in addition to France in the Arab Maghreb. The rulers and the foreign enemy have become one.¹⁰⁸⁸

There is an important phrase in this quote, 'the nation', meaning the ummah, 'will not be convinced of their enmity until it sees them killing

¹⁰⁸⁶ al-Zawahiri, "Exoneration," p. 45.

¹⁰⁸⁷ Al-Qaeda's internet magazine aimed at Muslims globally in a very fashionable and professional layout is called 'inspire'.

¹⁰⁸⁸ al-Zawahiri, "Exoneration," p. 116.

their own people'. When one looks at the actions of Hizbollah and Hamas, one can see time and again that they are launched from civilian areas and designed to provoke an armed response from Israel that is sure to kill civilians in Lebanon and Gaza. This is a well thought out strategy on the side of these jihadist organizations. By provoking civilian casualties they can be sure to arouse animosity amongst the ummah and thus rally them further to their cause. This also applies to naïve western observers of this phenomenon that fail to grasp the intent and strategic benefit of creating civilian casualties on the side of Hamas and Hizbollah.¹⁰⁸⁹ A totalitarian logic is at play here. Famous examples of such logic were the mock trials of Stalin's great terror. A person, whom the NKVD knew to be innocent, was asked to confess to a crime he did not commit, but which the revolution needed him to confess to. If he confessed he was ostensibly a criminal but in reality a hero of the revolution who would die a martyr. If he refused he was both objectively and in reality a criminal who would die all the same. The same logic applies to Hamas and Hizbollah. They are both jihadist vanguard organizations that rely on a vast transnational network of non-violent Qutbist da'wa organizations for funding, political influence, and other forms of support. By creating civilian casualties they increase the perception an ummah under threat thus assuring increased loyalty and funding for the vanguard organization. A good example of this is the repeated accusation of an Israeli genocide against the Palestinians in Gaza and the West Bank. Whilst any objective reason for such a classification is missing, the number of Palestinians has increased nearly eightfold since 1948 making this the least effective genocide in history; it is very successful at rallying support for Hamas and Hizbollah in the Islamic and non-Islamic world.¹⁰⁹⁰ At the same time it forces the taghut regimes to participate

¹⁰⁸⁹ I reiterate the earlier cited quote by Zawahiri on the importance of Israel as a useful: "cause that has been firing up the feelings of the Muslim nation from Morocco to Indonesia for the past 50 years. In addition it is a rallying point for all the Arabs, be they believers or non-believers, good or evil".

¹⁰⁹⁰ According to the PCBS, the Palestinian central bureau of statistic, "statistics show the Palestinian population in 1948 was 1.4 million and

in the support for the vanguard lest they lose the last bit of credibility they still have. It must be remembered that a ruler cannot be deposed as long as he maintains a semblance of Islamic qualities. Since the Arab governments hold a monopoly on mass media, these message of incitement against the external enemy, which is also to blame for all the other misfortunes of the Arab world, has been spread for decades, thus enabling the regime to outwardly appear to be a good Islamic government fighting for Muslims, whilst at the same time providing the propaganda needed by the jihadist vanguards which in turn results in the support of the masses. The external enemy therefore is used as a focal point for the rallying of the masses, as well as for forcing the taghut governments to cooperate in the external agenda of the jihadist movements.¹⁰⁹¹ In this game of power, the most

estimated at approximately 10.9 million by the end of 2009. " This indicates that the number of Palestinians worldwide has multiplied eight times since the Nakba in its 62nd anniversary."Ma'an News Agency, "Pcbs: Palestinian Population Doubled since 1948," no. 05/15/2010 (2010), <http://www.maannews.net/eng/ViewDetails.aspx?ID=283683>.

¹⁰⁹¹ See for an example of how the attacks of 9/11 benefited the jihadist vanguard al-Zawahiri, "Exoneration," pp. 65-66.: "Someone might say: Where is the victory that this attack brought? " The answer is: If the attack only turned upside down their history, power balances, strategic and military doctrines, and global order, that is enough of a victory. The raid was a momentous historical junction that caused many ideas and studies to be reconsidered." That event's greatness is evident in five aspects: One: It restored Islam to the forefront in the wars against the infidels whereas formerly nationalist and ethnic factors and interests were the primary factors in provoking wars and conflicts. It thus brought out the crusader hostile spirit from its concealment and forced it into action. Two: It gave prominence to the great role of jihad in overturning global balances. Third: It ended the idea that "national states" control "politics" and declare "peace" or "war." The management of the conflict is not in the hands of persons of a particular national affiliation but is in the hands of people spread--as the Americans say--over more than 60 countries who are joined by nothing else except salafi jihadist Islam or what they call "Wahhabi" Islam. Indeed the four brigades that struck America were commanded by four men of four different nationalities. One was from Egypt, the second from the Gulf, the third from Syria, and the fourth from Al-Hijaz. Four: It irreversibly ended the era when the United States could attack the Muslims with impunity, God willing.

efficient outcome for a taghut government is to cooperate on the level of indoctrinating the population against the external enemy whilst at the same time keeping a tight control on the jihadist movements concerning the internal enemy. This realistic approach on politics is advocated by Zawahiri himself as he describes that the first priority of the vanguard should be to emphasize the unity of the ummah through the confrontation with the external enemy. Only when this is achieved can the struggle against the internal enemy take shape upon the basis of a unified mass led by the vanguard.

6.5.2 The jihadist vanguard

One of the functions of the jihadist vanguard is to safeguard the message of Islam in the face of the imams of defeat and the onslaught against Islam by the external enemies. This, according to al-Zawahiri, is modelled on the example of the prophet and his companions whose importance as the purest generation of Islam shines through in the following hadith:

I heard the messenger of God saying: "The wheel of Islam will turn. Stick to the book, for when the book and the rulers are separated, you should stick to the book. The time will come when your rulers will serve their own interests, not yours. If you disobey them, they will kill you and if you obey them, they will mislead you." His listeners asked: "Oh messenger of God, what shall we do?" True interest lies in seeking God's pleasure no matter what the cost is, for it is all God's will and wisdom.

Five: It was the beginning of the collapse of the "New World Order," which the Americans enjoyed for a few years only and it marked the beginning of America's total collapse, God willing. The cycle of terror continues. We believe that this is in fulfilment of the oath made by Abu-Abdallah [Bin Ladin], may God give him victory, that the Americans would never know security. Among the slaves of God are those who if they swear by God, God will fulfill their oath. A sixth sign of success is the prophet's declaration: "Learn that if the whole nation gathers to hurt you, they will not be able to do anything to you except what God has destined for you." Who can dispute this declaration's greatness?"

"Be sure that we shall test you with something of fear and hunger, some loss in goods or lives or the fruits of your toil, but give glad tidings to those who patiently persevere"
[Koranic verse; Al-Baqarah 2:155].¹⁰⁹²

The vanguard is the modern day example of this first pure generation who stood closest to 'the book'. The taghut already occur in this hadith which explains its appeal on Zawahiri. The tests this hadith refers to are an object of specific interest. In his description of the vanguard, one of the chief ideologues of al-Qaeda Shaykh Abu-Yahya al-Libi illustrates the nature of the vanguard through an appeal to the following hadith:¹⁰⁹³

A sect of my nation will continue to defend righteousness until the Day of Resurrection." In his interpretation of this Hadith, Al-Nawawi said: "It is possible that this sect will be divided into various kinds of believers, including courageous combatants, jurists and speakers, hermits who promote virtue and prohibit vice, and other types of good people."¹⁰⁹⁴

Al-Libi thus posits al-Qaeda as the last bastion of Islam as prophesized in this hadith. The vanguard is thus conceived to be the pinnacle of the Islamic community in any time period. Zawahiri makes it clear who this vanguard is and who it is not. The MB is, as we have seen in Knights, is definitely not the vanguard since "they are trying to transform their creed into the government's creed. They are seeking to reassure the government."¹⁰⁹⁵ Instead Zawahiri argues that the

¹⁰⁹² Ibid., p. 43.

¹⁰⁹³ al-Libi, 1963-2009, was one of the chief trainers of Al-Qaeda and is said to have arranged his own capture by the Americans in order to provide false information concerning Iraq's involvement with al-Qaeda. The object of this false information was to supply the USA with the arguments needed to invade Iraq thus opening up a new area for jihad. See: Omar Nasiri, *Inside the Jihad: My Life with Al Qaeda: A Spy's Story* (New York: Basic Books, 2006).

¹⁰⁹⁴ al-Zawahiri, "Exoneration," pp. 71-72.

¹⁰⁹⁵ Ibid., p. 116.

Taliban is the vanguard both Qutb and Khomeini spoke of and which was prophesized in the hadith mentioned.¹⁰⁹⁶

The Taliban is ideally situated to take on the role of the vanguard since they consist of young men well versed in Islam through the madrassas of Pakistan. These madrassas, which were set up in the preceding decennia with gulf-money, epitomize the ideal of the cooperation between jihadist vanguard movements and the Qutbist da'wa organizations. Whilst the political constellation of the Gulf states did not allow for the internal enemy to be fought, it did achieve a compromise in which the ulama received access to enormous oil funds in exchange for their support of the government. This money was thus funnelled towards setting up the Qutbist da'wa organizations at home and abroad as a means of preparing for jihad. With the invasion of Afghanistan by the Russians the opportunity arose for those who had been preparing themselves to flock to the new arena of jihad which was missing in their own abodes. It became the arena of jihad which Zawahiri and numerous other jihadists who had fled Egypt longed for and which would put the jihadist vanguard to the test. The opening up of this arena is the watershed event in the history of the Sunni Islamist movements.¹⁰⁹⁷ The madrassas and other religious institutes of the Sunni Islamic world could now pour their trained young men into this arena to complete the transformation from da'wa to jihad.

¹⁰⁹⁶“Today we are witnessing a jihadist reawakening that enjoys the support of the ulema and students of religious disciplines. Indeed hundreds of ulema and thousands of students, backed by the Pashtun and Baluchi tribes and thousands of Pakistani and Afghan religious schools, are waging jihad against the crusaders in Afghanistan. The Taliban movement is basically a movement by religious scholars and students of religion.” Ibid., p. 71.

¹⁰⁹⁷ Zawahiri's *Knights under the prophets banner* is basically a detailed account of this evolution towards the events in Afghanistan and Zawahiri emphasizes the importance of this opening up the Afghan arena for jihad as being the saving moment for an otherwise dying movement.

6.5.3 The arena of jihad is the furnace of the Muslim nation, the totalitarian attitude of the vanguard movement

As with their fascist and national-socialist counterparts, the vocabulary used to rally Muslims to the cause of jihad, to the revolutionary struggle, is laced with heroism, *action directe*, romanticized notions of violence over abstract intellectualism and martyrdom over the safety of *bourgeois* life. It offers the downtrodden an opportunity to become the new elite in a reversal of the roles of society. The old elites, the intellectuals, the wealthy, the cultured become the new downtrodden as the men of action and commitment become the new elites. It offers a chance for men to lose themselves in the movement. The dynamics of such movements and the essentially totalitarian appeal they exert on those classes who would in any other system be the losers is beautifully described by Eric Hoffer as:

A mass movement attracts and holds a following not because it can satisfy the desire for self-advancement, but because it can satisfy the desire for self-renunciation [...] The burning conviction that we have a holy duty towards others is often a way of attaching our drowning selves to a passing raft. What looks like giving a hand is often a holding on for dear life. Take away our holy duties and you leave our lives puny and meaningless. There is no doubt that in exchanging a self-centered for a selfless life we gain enormously in self-esteem. The vanity of the selfless, even those who practice utmost humility, is boundless.”¹⁰⁹⁸

Islamists movements all emphasize that the Quran tells Muslims they are the best of nations and yet, everywhere they look the mirror of reality reflects an image of the Muslim world as the worst of nations. In terms of political power, literacy, academic and economic output,

¹⁰⁹⁸ Hoffer, *The True Believer; Thoughts on the Nature of Mass Movements*, pp. 12-15.

standard of living and civil freedoms, the Islamic world ranks at the bottom end of nearly every scale. Yet, the flaming memory of the golden age of Islam is not too far gone to have been forgotten. This discrepancy between the actual and historical conditions, the discrepancy between the prophesized and actual state of the ummah and the realization that perhaps the torch of success has been passed on to other non Islamic nations is intolerable. Instead of accepting that one's way of life is unproductive, that the Quran perhaps is a fallible guide to life, the only way in which those without the talents or means to improve their lives can retain their sense of honour and dignity is when they construe an image in which all deficiencies of reality are to be blamed on internal and external enemies. One therefore has to create a completely artificial idea of loneliness, an image of Islam as being under attack, as Muslims as having been humiliated by an evil outside force that has the ummah living on its knees as a powerful image that can drive a revolutionary mass movement of revival and palingenesis.¹⁰⁹⁹ It is an artificially created loneliness and anomie which in turn creates a yearning for salvation. The true heroes then are not the western schooled academic, the successful businessman but the men of the sword and dedication who attack the enemies of Islam on the battlefield. Thus, the inversion of values becomes apparent and the pious men of purity and sacrifice, those who under any other system would be of very little meaning, become the saving graces of an entire nation. Its mechanisms were discovered by the fascist in Europe in the 1920' and 30's and perfected and brought to ideological adulthood under totalitarian rule. In addition, just as with their secular counterparts, the Islamists

¹⁰⁹⁹ Qutb, Khomeni and Zawahiri repeat time and again that the material wellbeing of the non-Islamic world is actually a pitiful existence. Their freedoms and cultural achievements are worthless. Only Islam has real values and civilization. And were it not for the evil forces of jahiliyaah, Islam would have its rightful part of the earth's wealth. One should forgive me for making the observation that this type of logic resembles the logic of a disgruntled embittered teenager or to quote Friedrich Nietzsche:" Our vanity is hardest to wound precisely when our pride has just been wounded".

needed an arena in which they could unleash the vanguard of revolutionaries. Khomeini like the Stalinist went on a course of internal purges and oppression, Zawahiri, followed the course of the national-socialists and sought an arena in external warfare. The invasion of Russia in Afghanistan gave Zawahiri his Poland, and he seized the opportunity to make it into the training ground for an entire new generation of jihadists whose flame had all but died out. Sheikh Abdullah Azzam, mentor to bin Laden and the chief organizer and ideologue of the Afghan campaign hoisted the banner of jihad with following exclamation which is rife with fascist connotations:

This religion came through the sword, rose by the sword, will persist by the sword, and will be lost if the sword is lost. This religion is a religion of prestige, awe, strength, and dignity. Weakness about religion is a crime whose perpetrator deserves hellfire. [...] He also said: The popular jihadist movement, with its long way, bitter hardships, huge sacrifices, and tremendous burdens, purifies the soul. The soul then rises above life's minor disagreements and desires. Grudges evaporate, the souls are refined, and the convoy proceeds from the lowlands to the loftiest peaks far from the odorous mud and the strife over personal goals. Along the way of jihad, leaders emerge, competent persons able to contribute and make sacrifices come forward, and courageous, devoted men appear.¹¹⁰⁰

The *esprit de corps* of any fascist and totalitarian vanguard group is typified by its embrace of the harshness and demand for personal sacrifice of a life in the trenches. It is the antithesis of the life of the petty bourgeois, which it utterly disdains. It attempts to fabricate men imbued with an unwavering dedication to the cause at hand, with a spirit capable of performing any task which is required, without yielding to petty emotions, a voluntary annihilation of self-interest,

¹¹⁰⁰ al-Zawahiri, "Exoneration," pp. 34-35.

and above all the willingness for sacrifice. In short it requires an attitude which goes against man's basic instinct for survival. What the movement offers in return is glory, heroism, a symbolic form of immortality perhaps, and the casting off of the artificially created loneliness and anomie in return for acceptance into an equally artificial and ultimately lonely elite corps. In a world in which one is either an enemy or a hero of the revolution one loses the rights to oneself in either case. Totalitarian mobilization begins by propagandizing the idea of anomie and an epic battlefield, in which you stand alone against the forces of the enemy and you can only be saved by the friendly and caring embrace of the movement. Once this is internalized, indoctrination is used to make the future revolutionary understand that his life is no longer his own and only has value as an instrument of the movement for the salvation of mankind, thus creating the greatest loneliness of all and from which there is no way back. The first stage is the domain of the Qutbist da'wa organization, the second stage is the domain of the professional revolutionary jihadist movements. Once trapped into this web, there are only two options, despair or ever increasing fanaticism. The more one loses oneself in the movement, the less there is to lose. It is for this reason that secular totalitarian movements bombard their subservient with a never ending stream of propaganda and indoctrination. The artificial environment of the movement cannot last on its own. It requires a constant process of fabricating man into something which he is not by nature. In addition, since every birth starts the world anew, this process can have no end if the totalitarian movement wishes to keep alive. North-Korea is the best example of the perfected totalitarian society. It has destroyed every normal human bond of blood or friendship and has made everyone perfectly lonely and impotent in the face of the state. His life is, in every sense of the word, meaningless outside of the totalitarian movement. Islamic totalitarian movements however have one great benefit over secular totalitarian movements. Secular totalitarian movements always had a great deal of trouble in exerting their followers to the maximum since their

sense of self-interest could only be fully defused by making them utterly impotent. Religious totalitarian movements can substitute this last phase of total domination by the promise of heavenly rewards. This in the end is an unverifiable concession to self-interest. The literature of Islamists ideologues is replete with exhortations of Shahada, martyrdom and participation in Jihad. The descriptions of the rewards of jihad are plentiful and wonderful and thus become a goal of their own, something which the secular strictly atheistic totalitarian movements could never offer and thus has to replace by violence. Whilst in secular totalitarianism it is a mere theoretical possibility, in Islamic totalitarianism is a very plausible possibility that men willingly agree to surrender themselves to the movement completely. Zawahiri refers to the rewards of 'pleasing Allah' continuously. The call for martyrs is coupled to the promise of a reward in the afterlife through the notion of the abandonment of the pleasures of this earthly life. This life is merely a test designed by Allah to separate those strong in faith from the weak. Only the strong deserve entry into the gardens of the shaheeds. He did not invent this himself however, Islam gives him these concepts.¹¹⁰¹ These tests were given to Muhammad himself as well.¹¹⁰² In addition, the example of the prophet and his first companions has functioned as the model for every jihadist and Islamic revivalist ever since.¹¹⁰³ Thus

¹¹⁰¹ Ibid., p. 60.

¹¹⁰² Qutb, *Milestones*, pp. 123, 127. " Islam came to establish only one relationship which binds men together in the sight of God, and if this relationship is firmly established, then all other relationships based on blood or other considerations become eliminated", "We see that the blood relationships between Muhammad -peace be on him - and his uncle Abu Lahab and his cousin Abu Jahl were broken, and that the Emigrants from Mecca were fighting against their families and relatives and were in the front lines of Badr, while on the other hand their relations with the Helpers of Medina became strengthened on the basis of a common faith. They became like brothers, even more than blood relatives."

¹¹⁰³ "The Qur'anic training of the first noble generation of Muslims was of this character to the highest degree. They lost their personalities and identities in

jihad becomes a purifying action in which one leaves the interest in worldly life behind, joins the ranks the prophet and his companions, and raises his eyes to Allah alone.¹¹⁰⁴

6.6 The mechanism of salvation: Jihad

In this last paragraph of this chapter I will conclude by combining everything I have written thus far about Islamism in conjunction with the main accusations and the defences between Sayyed Imam and al-Zawahiri. These accusations and defences leave the realm of theory which we have discussed so far and turn to the condition of jihad in actual real word circumstances. We have already covered three accusations in the previous paragraphs and I will continue with the fourth here. There is however some overlap between the first three and the ones I will be discussing here but I have chosen to do so since it would otherwise have become very confusing to discuss those matters without the necessary introduction. Some of the accusations of Sayyed Imam are of a very technical nature, such as the question of whether one needs one's parent permission to go on jihad. I will not go into the questions since their nature transcends the intent of this research which is after all concerned with the question whether or not Islamism is a novel form of totalitarianism. Only if those questions add something to that research question will I make mention of them. It is imperative that the reader understands that all the arguments made by al-Zawahiri are first of all not his own but are drawn from the sources of fiqh. Secondly they are made in the best of juristic traditions that is, they first refer to the law, the Quran and the Sunna, and then to the different legal perspectives as offered by the schools

this matter, acting as workers for the One in authority, and were pleased with God in every decision and in every condition."Ibid., p. 156.

¹¹⁰⁴ "Anyone in whom God sees goodness and truth, He will give him firmness and shield him from error. If God sees not these qualities, he will sift and purify the ranks from those who lack truth and firmness. [Almighty God said:]'If ye turn back (from the Path), He will substitute in your stead another people; then they would not be like you'! [Quran 47:38]" al-Zawahiri, "Exoneration," p. 60.

of law, the madhabs. Furthermore, Zawahiri indicates time and again whether or not there is a consensus amongst the classical and medieval ulama, and if not, where they differed and why he chooses one opinion over the other if such a difference does occur. More often than not however, there is consensus on the main points I discuss here. The accusations and the defences against those accusations are often very lengthy and due to their legal nature defy summarization. I have tried to avoid going into too much detail, however, especially in the first few accusation I cannot suffice by stating the summary. This would do the fiqh of jihad no justice and would leave the reader with little usable knowledge when it comes to understanding the modus operandi of al-Qaeda, and understanding the challenges it posed to law and policy makers concerned with counter-terrorism and multiculturalism. After these first few accusations however, matters become more repetitive and I will suffice by giving a summary.

The question of killing innocent people is one of the core issues of Islamists' fiqh and the attacks made against it. In 2010 a 600 page fatwa was issued which deemed terrorism un-Islamic.¹¹⁰⁵ Ever since 9/11 a host of such fatwa's has been released, all of which operate on the same principles namely that killing innocent people is un-Islamic and thus al-Qaeda itself is un-Islamic. These fatwa's were hailed as a clear sign of moderate Islam's opposition to al-Qaeda. However, if looks beyond the jubilation and actually studies these fatwa's certain elements come to the fore that indicate that things are not a simple as they are portrayed. Furthermore, some of these fatwa's, such as the 600 page fatwa just mentioned, are of Sufi origin. Salafist and especially jihadist Salafist consider Sufi's to be apostates and a part of the problem they are trying to redeem. Fatwa's such as those therefore are of little consequence to the Islamists discourse. When

¹¹⁰⁵ Shaykh-ul-Islam dr Muhammad Tahir-ul-Qadri. "Fatwa on Suicide Bombings and Terrorism ". (Place Published: Minhaj-ul-Quran International, 2010), http://www.minhajbooks.com/images-books/Edict-Terrorism-Fitna-Khawarij/Edict-Terrorism-Fitna-Khawarij_1.pdf.

one reads such fatwa's, it becomes clear why. They often appeal to lofty and noble ideas derived from the Quran and in part the Sunna, but strand on the issue of fiqh and Shari'ah law. It would go too far to treat this subject of Sufi criticism of Islamism here. That would require a separate study. However, in order to demonstrate that the Islamists discourse does not go unopposed I will refer to Sayyed Imam's main counter-arguments. Imam, unlike Sufi ulama, has some of the strongest credentials within Islamists circles due to his prior work for the EIJ and his former ties to al-Zawahiri. Nevertheless, one should not expect too much of Sayyed Imam's accusations against al-Qaeda. The main arguments he employs follow the same mechanism as al-Zawahiri. That is, Imam does not disagree with the object of jihad, conquering the world with Islam, but he objects to some of its methods. Some of these objections are rather weak and have their basis in general rules whilst ignoring specific examples of the prophet which contradict these. Others are rather strong and defy al-Qaeda's "Jihad for Jihad's sake"; instead arguing that in the end the deciding factor should be what is good for the ummah, something which al-Qaeda seems to disregard in their eschatological fervour.

6.6.1 The structure of Sayyed Imam's accusations

The overall structure of Imam's accusations is one of general rules and not so much of detailed fiqh argumentation. Summarized the arguments are as follows:

According to Imam, jihad requires:

- 1) An abode of emigration and support or a safe base;

Seeing that the ummah currently does not have such an abode in which it is empowered, imam argues, jihad operations must be suspended and Muslims should instead focus on non-violent jihad, or on what Bassam Tibi calls, institutional jihad. Although al-Zawahiri support the notion of non-violent jihad, he refuses Imam's argument on the grounds that it denies the obligation to rebel against taghut

leaders. In addition, without this possibility of rebellion, how could one ever create a safe base of operations? Therefore, al-Zawahiri states, this precondition nullifies any possibility for jihad. Moreover, Afghanistan and Iraq have proved to be fertile training grounds for the mujahedeen and thus form as such as base.

2) Equivalence in number and equipment;

Here imam claims that a precondition for Jihad, which al-Zawahiri rightfully claims has no precedent in fiqh, is equality in numbers and equipment. I won't go into this argument since it is rather weak due to its lack of a basis in fiqh. Al-Zawahiri also rightfully states that this precondition, again, would postpone jihad indefinitely.

3) Safeguarding women and children;

This precondition will be dealt with in the next paragraph.

4) Provision of support;

Again al-Zawahiri states that this precondition is logically impossible since Imam will not allow rebellion when the Muslims have no base of power. This is augmented by the impossible precondition of equality in numbers and equipment. To add insult to injury, Imam adds the precondition of ample provisions and support. Provisions and support which cannot be given since the other preconditions have made jihadist operations that would ensure such support impossible.

5) A group with which one can side;

Imam claims that one first needs a group with which one can side *before* engaging in jihadist operations. Al-Zawahiri of course claims that al-Qaeda is such a group, but also mentions that this precondition has no basis in fiqh and that, in the light of the earlier preconditions, such a group could never merge if it were up to imam. .

6) Distinction of ranks.

This is perhaps one of the most important points of Imam. It follows from the third precondition and is related to the categories of people that cannot be killed according to the Shari'ah. Imam argues that in modern jihadist operations, such as 9/11, one cannot distinguish between illegitimate and legitimate targets. Thus, imam argues, the jihadist operations should cease. In addition, it relates to the earlier mentioned distinction on the basis of individual guilt versus collective guilt. I will deal with this in the next paragraph as well.

Imam then sums up six prohibited actions:

- 1) Killing protected individuals on the pretext of shielding oneself;

See the next paragraph.

- 2) Sanctioning burglary and the seizure of funds;

Al-Zawahiri refers to the numerous rules dealing with the taking of booty in the Shari'ah and the numerous hadith concerned with the taking of booty. Imam argues that one cannot engage in such acts when a Muslim is a national of a non-Islamic country and thus receives protection from that country, since this would entail treason. It is interesting to note that both sides of this divide are pre-occupied with avoiding unlawful treachery even against an enemy. Al-Zawahiri replies, as we have seen, that no Muslim can live safely in a non-Islamic society since the essential characteristic of such societies is jahiliyaah, which in turn is a war against Islamic itself thus nullifying every treaty.

- 3) Treachery and breaking of promises;

This topic has been dealt with in our discussion of the aman.

- 4) The inability to protect children;

See next paragraph

5) Serving abroad as a client or mercenary;

This matter is quite inconsequential for this research and has therefore been left out.

6) Being forced to take political refuge.

Imam argues that one should not be forced into exile due to jihadist operations. If, through jihadist activities, the local authorities would force someone to ask political asylum in say, the Netherlands, one would basically force a Muslim to live in a non-Islamic land. Al-Zawahiri in turn reminds Imam of the duty of hijra. Even the prophet went into political exile to Medina because of his fight for Islam. In addition, the Muslim who is forced to seek refuge in a non-Islamic country might very well be able to continue his jihad from there. Moreover, he would be *required* to do so since he has to actively oppose the jahiliyaah surroundings in which he finds himself.

Finally, Imam offers six options for action.

1) emigration;

This is the option of Hijra. Seeing that there is no real abode of Islam to which one could make the Hijra, the first precondition acknowledges this, the question is raised by al-Zawahiri: Hijra to where? The general theme of the rebuttal of Imam by al-Zawahiri is that Imam has become an 'imam of defeat', In an exchange of ad hominem arguments which are not relevant to this research, and there are quite a lot of them, al-Zawahiri concludes that the Hijra Imam mentions is impossible because no Jihad is allowed to take place. Fortunately, al-Zawahiri argues, the vanguard of al-Qaeda has created such a place for Hijra, namely Afghanistan and Iraq.

2) isolation;

This option is what Oliver Roy refers to as neo-fundamentalism. That is, Muslims who do not engage in open jihad, but strive to separate themselves as much as possible from their jahiliyyah environment. This can require non-violent jihadist legal and political action in order to ensure that such enclaves of maximum isolation are ensured. In essence one would aim to create a state within a state. Al-Zawahiri, unsurprisingly, sees this as a form of cowardice bordering on a betrayal of Islam itself. Whilst in principle comparable to Muhammad's hijra to Medina, it should be reiterated that this Hijra was the precursor to Jihad. Imam however, sees this modern Hijra as a way of escaping the jahiliyaah world without intending to engage in jihad. As such, al-Zawahiri argues, imam admits defeat.

3) forgiving; 4) turning aside; 5) patience;

Whilst al-Zawahiri is not opposed to the act of forgiveness, citing a number of verses to praise its value, he reminds Imam that one may forgive an enemy for what he has done to him, but that one cannot forgive an enemy for crimes committed against fellow Muslims or Allah. Turning aside would be the ultimate admission of defeat and is not taken seriously by al-Zawahiri. The fifth option, patience, does have some background in the hadith especially with regards to taghut and not rebelling against an unjust, but not infidel, leader. Imam would be right in this respect if it were not for al-Zawahiri's rather strong claim that none of the Arab leaders can be said to escape implement Shari'ah law. As such he deems them not only unjust but apostates. In such a case, rebellion is required since the leader no longer can lay claim to any legitimacy.

6) hiding one's faith.

This final option is something which can be said to originate in Shia Islam to some degree. Without going into details, al-Zawahiri maintains the same position as Khomeini: If no one is there to guide the Muslim ummah except the imams of defeat, the hiding one's faith is no longer an option. The survival of Islam depends on a vanguard of

Muslims who are willing to sacrifice themselves in order to safeguard Islam and the ummah. Imam's option of hiding one's faith would only weaken the already weakened Islamic world.

Sayyed Imam ends his argument with a very pessimistic appraisal of the situation in which Muslims find themselves.

Popular movements, including Islamic ones, have never changed the regime in Egypt throughout history. If you come out of the components, you fall into the prohibited things; and if you emerge unscathed from the prohibited things, the options grab you; and if you escape from the options, the impediments prevent you; and if you get by the impediments, it's into the abyss of despair, and so there is no hope for change. After that, dear reader, it is not just jihad about which you need not speak to me, but about any Islamic or popular activity -- and that's the end of the matter.¹¹⁰⁶

Having described the basic outline of Sayyed Imam's arguments against al-Qaeda we will now take a more in depth look at some of the issues raised here. A good starting point for this debate is the following question: When talking about the prohibition on killing innocent people, what is the definition of innocent?

6.6.2. Accusation 4: killing innocent people is prohibited in Islam

The Shari'ah is very clear. It is forbidden to kill an innocent person. But who is innocent? The Shafi'i law book, which is accredited by the Al-Azhar as conforming to 'the practice and faith of orthodox Sunni Islam' states the following hadith by Muhammad:

The blood of a Muslim man who testifies that there is no god but Allah and that I am the messenger of Allah is not lawful to shed unless he be one of three: a married adulterer, someone

¹¹⁰⁶ al-Zawahiri, "Exoneration," p. 207.,

killed in retaliation for killing another, or someone who abandoned his religion and the Muslim community.¹¹⁰⁷

The category of persons who are not subjected to retaliation for injurious crimes include “a Muslim for killing a non Muslim”.¹¹⁰⁸ So according to this hadith and this code of laws which represent ‘the practice and faith of orthodox Sunni Islam’ the category ‘innocent’ is rather different from what a western audience accustomed to liberal-secular criminal law would expect. Whilst the blood of a Muslim may not be shed unless [...] the blood of a non-Muslim is a different matter. As we shall see this discrimination on the basis of religion permeates the entire Shari’ah. The classes of non Muslims who may not be killed will be explained shortly. There are of course additional laws which seek to regulate the affairs of criminal punishment in an Islamic state but the main point remains, ‘innocent’ is a very flexible term and the act of killing must be an intentional act as we shall come to see. Zawahiri first explains the meaning of ‘innocent’ as follows:

What do you mean by innocent people? They come in three classes: First class: They might be those who do not fight alongside the countries they live in and do not help them with their persons, wealth, counsel, or other types of assistance. These may not be killed but on condition that they hold themselves separately from the others. If they are not separated from the others, it is permitted to kill them including old people, women, young boys, sick persons, incapacitated persons, and unworldly monks.¹¹⁰⁹

Zawahiri here says two important things which clarify most of the accusation that will follow. First of all, there are indeed categories of people that Muslims are forbidden to kill. These include women, children too young and elderly too old to fight, monks and the invalid.

¹¹⁰⁷ Ibn al-Naqīb al-Misri and Keller, *Reliance of the Traveller: The Classic Manual of Islamic Sacred Law Umdat Al-Salik*, p. 583.

¹¹⁰⁸ *Ibid.*, p. 584.

¹¹⁰⁹ al-Zawahiri, "Exoneration," pp. 40-42.

Provided they do not fight by word or action. This means that they should not criticize Islam for this is construed as fighting by word in the same way as Ibn Qayyim classified jihad by word as an act of jihad. These categories of forbidden persons are standard elements of the fiqh of jihad.¹¹¹⁰ One is indeed not allowed to kill them with *intent*. Killing them *without* the express intent to do so, for example as collateral damage or the inescapable consequence of an otherwise lawful action, *is* legal and not forbidden. This is what the fatwa's against terrorism often fail to mention and I suspect this omission is not without reason. Zawahiri explains this concept by referring to the prophet himself. Law and policymakers and those engaged in the public debate about Islam should take note of the following argument for it is a very strong one which is often neglected when someone says that Islam forbids the killing of innocent people.

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

¹¹¹⁰ See for a very detailed account of the consensus amongst the earliest schools of law on these issues: al-Tabari, *Al-Tabari's Book of Jihad, a Translation from the Original Arabic*.

considered them all violators just as he did with Banu-Qurayzah, Banu-al-Nadir, and Banu-Qunayqa and just as he did with the people of Mecca. That was his policy with those who abrogated or violated the peace.¹¹¹¹

There are numerous legal points which follow from this short summary of zawahiri's position. First of all, the killing of otherwise forbidden categories is made legal by the necessity of jihad. The battle of Ta'if was *not* a defensive but offensive jihad.¹¹¹² So even if the cut throat necessity of defending ones land is absent, it is still legal, according to the prophet, to accept the collateral deaths of otherwise forbidden categories if they cannot be avoided. The hadith reads:

Narrated As-Sab bin Jaththama: The Prophet passed by me at a place called Al-Abwa or Waddan, and was asked whether it was permissible to attack the pagan warriors at night with the probability of exposing their women and children to danger. The Prophet replied, "They (i.e. women and children) are from them (i.e. pagans)." I also heard the Prophet saying, "The institution of Hima is invalid except for Allah and His Apostle."¹¹¹³

The commentaries on this hadith quoted by both Zawahiri and the ones found in the handbooks of fiqh of the different madhabs all

¹¹¹¹ al-Zawahiri, "Exoneration," p. 42.

¹¹¹² "Public opinion did not confine the killing of human shields to jihad of defense but permitted it in all operations of jihad, and drew upon the Sunnah of the prophet, prayers and peace be upon him, in his exasperated labor against the people of Al-Ta'if and his brigades which raided the non-believers, among whom were women and children. The prophet, prayers and peace of God be upon him, and his companions were not, in these cases in jihad of defense, yet the siege of Al-Ta'if was after the conquest of Mecca. Ibn Qudamah [Al-Maqdisi - Islamic scholar of the Hanbali madhhab] said in Al-Mughni [a well-known Hanbali book of fiqh] that Amr Ibn al-'As [Muslim conqueror of Egypt in 641-642 Hijri] had installed the catapult against the people of Alexandria [Egypt].²⁶⁶ This was jihad al-talab [jihad of oppression]" Ibid., p. 208.

¹¹¹³ Bukhari, *Shahih Bukhari*. volume 4 book 56 number 3012

agree on this issue.¹¹¹⁴ Zawahiri refers extensively and sums up their positions as follows:

Having cited the scholarly positions available to us from the various legal schools on the question of shooting at non-believers when they are mixed with Muslims or when they take them as human shields or take as shields people who may not be killed, such as women, children, protected minorities (dhimmis), or people with safe-conduct, we say in summary: The jurists' positions can be divided into three:

A. Prohibition: This is the position cited from Malik and al-Awza'i.¹¹¹⁵

¹¹¹⁴ See for an overview of the earliest jurist's consensus on this issue: al-Tabari, *Al-Tabari's Book of Jihad, a Translation from the Original Arabic*, pp. 61-66. Zawahiri in addition quotes medieval jurist's consensus, al-Tabari is mainly from an earlier period. Ibn Qudamah, (1147-1223 main author of the hanbali fiqh handbook D.S.) "may God have mercy upon him, said: Using catapults is permissible because the prophet, prayers and peace of God be upon him, used them against the people of Al-Ta'if and Amr Ibn al-As used them against the people of Alexandria. [...] Ibn Hajar (1372-1448 one of the main Shafi'i jurists D.S) says: "The word *bayat*, as used in the Hadith, means that the non-believers are attacked at night, so that one cannot distinguished among them as individuals. "The phrase, 'They are of them,' means that it is so in that case. It does not mean that they may be killed by aiming at them; the meaning is that if the parents can be reached only by trampling the children, who, if hit, are hit because they were mixed with the former, the latter may be killed." [...] Al-Nawawi (1234 – 1278, the main author of the Shafi'i madhab D.S.) Says: "Its implied meaning: He was asked about the rule governing the children of nonbelievers who are attacked while they are spending the night, and so some of their women and children are mortally wounded. He said that the children belong to their parents; in other words, there is nothing wrong with doing so. The legal status of their parents applies to them in inheritance, marriage, retaliation, bloodwit, and other matters. The meaning also is if they are not intentionally targeted without necessity" al-Zawahiri, "Exoneration." p. 167

¹¹¹⁵ al-Awza'i represents a legal opinion from before the formation of the madhabs.

B. Unconditional permission, with cancellation of blood money and expiation: This is the position of the Hanafis and the later Malikis who agree with them.

C. Distinction: This is the position of the Shafi'is and Hanbalis. They do not prohibit shooting, as long as there is necessity or need for the Muslims to do so. Muslims are not aimed at except in cases of necessity, because omitting to do so would lead to halting the jihad. They disagree about any Muslims killed, whether the slayer has no liability, whether he is liable for blood money along with expiation, or whether he is liable for expiation only, as we have mentioned. And God is most knowing!¹¹¹⁶

From this round up it becomes clear that the concept of “innocent” is in need of thorough revision if the Islamists’ discourse is to be declared invalid. As I have explained in the first chapter, one of the reformers that offer strong arguments for reforming Shari’ah law and escaping the consensus which still permeates much of the Islamists’ debate is Bassam Tibi.

Secondly, the night raid is seen as a metaphor for the inability to distinguish between the ranks. Sayyed Imam claims that the inability to distinguish between the ranks is one of the reasons why jihad must be halted in general because it means one cannot distinguish the guilty from the innocent, and the class of those who can be killed from those who cannot be killed. Zawahiri of course, for the reasons stated above and with reference to the example of the prophet himself refuses this accusation outright. It should be mentioned that for his sternness and the dry nature of the legal material of the Exoneration, Zawahiri sometimes surprises the reader with an unexpected sense of equally dry humour.¹¹¹⁷

¹¹¹⁶ al-Zawahiri, "Exoneration," p. 162.

¹¹¹⁷ “[..] All right, let the apostate rulers in our countries enjoy themselves and congratulations to the crusaders' agents, Mahmud Abbas, Al-Maliki, Karzai, and Ahmadov. As long as the infidels use our own people to fight us,

Thirdly, this offensive jihad does not distinguish between enemies and non-enemies. The phrase ‘they are of them’ indicates that to the prophet, those who opposed him and those who were associated with them are the same. It is the responsibility of those who are in their midst to distance themselves from those that oppose the prophet. If they are from the forbidden categories then their deaths are acceptable as long as they are not committed intentful. The Quranic statement that the Muslim nation is one thus also carries meaning for the non-Muslims. Through this hadith, the non-Muslims are also one nation thus dividing the world in a camp of the good and a camp of the wicked. Those in the camp of the wicked can leave for the camp of the good anytime they please but if they fail to do so, Zawahiri says, they should know that the Shari’ah has universal sovereignty and authority and they shall be dealt with accordingly. This leads to the fourth point.

The guilt of opposing the prophet is established not by any individual action but by association. The killing of all the males of the Banu-Qurayzah proves that punishment is collective and based upon affiliation. Zawahiri explains these points by showing the reader why they cannot be seen as innocent:

Second class: Some do not go forth in their own persons to fight alongside their belligerent countries but they assist them with money or counsel. These are not called innocent persons because they support the troops. [...] Ibn-Qudamah reported a consensus among the ulama that it is permitted to kill women, young boys, and the old and infirm if they help their people in battle. Ibn-Abd-al-Birr said: They all recounted that the prophet killed Durayd Bin-al-Sammah in the Battle of Hunayn

we will be deterred and stop jihad. We will turn our attention to the women and children and take care of them. This is the Shari’ah option that the rationalization document advocates. The document’s author used to refute this dubious argument in the days when he was free and could think for himself.”Ibid., p. 114.

because he gave clever counsel to his people in war. All ulama agree that an old man of this type should be killed in war. Al-Nawawi, citing the book "Consensus on Matters of Jihad," said that old men among the infidels should be killed if they are men of counsel. Ibn-Qasim, may he rest in peace, wrote in his commentary: The unanimous opinion is that those who support the troops should be killed. Ibn-Taymiyyah cited this unanimous opinion. He also said that those who give any kind of aid to the sect that refuses to accept Islam should suffer the same fate.¹¹¹⁸

It thus follows that all those who assist those who are in opposition to the prophet, who oppose Islam, are not innocent and can be killed even if they are from the otherwise forbidden categories. Why is this important? After 9/11 it was often said by Muslim organizations that al-Qaeda killed innocent people and was thus un-Islamic. I repeat al-Zawahiri's words: "Those who claim that killing innocent persons is absolutely forbidden are in a position of accusing the prophet, may God's peace and prayers be upon him, his companions, and the generation following them that they were killers of innocent persons, as they see it." Those who worked in the twin towers were agents of jahiliyaah. Their profits were taxed and thus they supported America, the agents of jahiliyaah as Zawahiri puts it, financially. Furthermore, the Muslims that were in the twin towers abandoned faith by working with and for the government whilst they had the option to leave for an Islamic abode. All ulama cited agree that if one has the ability to make the hijra then one should in order to prevent cooperating with the forces of jahiliyaah against Muslims.

Third class: If they are Muslims, they may not be killed if they stand apart from the rest. However, if they mix with others and one cannot avoid killing them along with the others, then it is permitted to kill them. This is obvious in the case of Muslim captives used as human shields. When some people

¹¹¹⁸ Ibid., pp. 40-42.

express regret at what happened to the innocent persons without knowing who they are, this kind of thinking is the result of being influenced by Western turns of expression and the Western media. Even Muslims who you would not have thought would ever talk that way have begun to use other cultures' terms and phrases which violate Shari'ah.¹¹¹⁹

So who is innocent? And when can they be killed? From the above it is clear that unbelievers, who are not protected by the contract of dhimmi which is a largely empty category as we saw, are not innocent. Of them, certain categories may not be killed with *intent*. They may however be killed if jihad, both defensive and offensive, requires it. Thus the statement "Islam forbids the killing of the innocent" is in al-Zawahiri's terms used by Muslims who "have begun to use other cultures' terms and phrases which violate Shari'ah". Or as Sam Harris stated: 'religious moderation is a result of secular knowledge and scriptural ignorance'. In this regard Zawahiri's view on jihad differs from secular totalitarian views. The latter deem any measure that is necessary to fabricate Utopia lawful, whilst Zawahiri is bound by the laws of Shari'ah. However, as we will come to see with regard to the use of weapons of mass destruction, this law too is not as binding as one might think.

So how does Imam repudiate al-Zawahiri? One of the strongest arguments is a general principle derived from the Quran: "God forbids you not, as regards those who have not fought you in religion's cause, nor expelled you from your habitations, that you should be kindly to them, and act justly toward them; surely God loves the just" [Quran 60:8]."

In addition, Imam, and other critics of al-Qaeda often times quote these verses:

¹¹¹⁹ Ibid.

Fight in the cause of God those who fight you, but do not transgress limits; for God loveth not transgressors. Quran, 2:190

The prohibited month for the prohibited month,- and so for all things prohibited,- there is the law of equality. If then any one transgresses the prohibition against you, Transgress ye likewise against him. But fear God, and know that God is with those who restrain themselves. Quran, 2:149

The last verse is interesting. Imam stresses the part which emphasizes restraint and thus claims that the jihad should be devoid of transgressions and should be characterized by restraint. Based on the same verses, however, al-Zawahiri concludes that “repaying in kind” is a general principle which means that if the forces of jahiliyaah kill an x amount of Muslims, then the Muslims should be allowed to “repay in kind”. Furthermore, the restraint to which the last verse refers is interpreted through the consensus of the ulama and the aforementioned hadith on the battle of Ta’if. If Muhammad was allowed by Allah to besiege Ta’if with catapults, knowing that people of the forbidden categories could die, then how can this be beyond restraint? Imam, al-Zawahiri argues, thus accuses the prophet of acting outside the boundaries of the Quran.

With regard to the killing of Muslim, the second main accusation levelled against Zawahiri, the defence is of a different order.

6.6.3. Accusation 5: killing Muslims is forbidden

Sayyed Imam’s main line of attack against Zawahiri’s killing of Muslims is based upon the Quran

There might be Muslims among them, and wrongful intentional killing of a Muslim is a great sin, one of the seven deadly ones. God says: 'And whoso slays a believer willfully, his recompense is Gehenna, therein dwelling forever, and God

will be wroth with him and will curse him, and prepare for him a mighty chastisement. [Quran 4:93]

Zawahiri's reply in short is based on the lack of intent on those who perform the jihadist action on the one hand, and the possible apostasy of the Muslims that are killed on the other. Lastly, Zawahiri states that if a Muslim is killed, then the Shari'ah laws regarding such a crime apply. The vanguard too cannot escape and does not want to escape the sovereignty and authority of the Shari'ah.¹¹²⁰ Furthermore, Muslims that are killed in a jihadist operation become martyrs. Due to this fact, the jihadist operation must always take the precedence over avoiding the killing of otherwise forbidden categories.¹¹²¹

It is indeed unlawful to kill a Muslim outside of the bounds placed by the Shari'ah in an Islamic state. Killing Muslims outside of the Islamic

¹¹²⁰ "I say: a. There is no doubt that a Muslim's blood is protected everywhere, whether in the Abode of Islam or in the Abode of Non-Belief -- and not only the blood of a Muslim, but the blood of all whose killing the Shari'ah forbids. The mujahidin must investigate carefully before undertaking any kidnapping. b. If a Muslim is killed by mistake in one of these operations, his killing is not called intentional, and the verse that the author cited is not to be used as an argument against him. Rather, one uses the verse that precedes it: 'It belongs not to a believer to slay a believer, except it be by error...' [Koranic verse; Al-Nisa' 4:92]. This is one of the ABC's of jurisprudence that the author ignores. Indeed, the writer ignores the fact that the mujahidin only undertook their jihad to defend Muslims, not to kill Muslims. Therefore, if an error takes place at their hands -- and errors usually happen in all battles -- they regret it and accept the verdict of the Shari'ah regarding it. We have already explained what the scholars have said about the duty of someone who kills a Muslim while shooting at non-believers." Ibid., p. 182.

¹¹²¹ "Ibn Taymiyyah (may God have mercy on him) says: "The scholars agree that if the infidel army uses its Muslim captives as human shields, and the Muslims are in danger if they do not fight, they fight even if that leads to the killing of the Muslims being used as shields. If there is no danger for the Muslims, there are two well-known positions taken by scholars on the permissibility of fighting that leads to the killing of these Muslims. When such Muslims are killed, they are martyrs; and one does not desist from duty of jihad on account of those who are killed as martyrs. When Muslims fight non-believers, any Muslim who is killed is a martyr." Ibid., p. 185.

state however is a different matter altogether and is of the upmost importance for multicultural societies to understand. The basic position is that a Muslim who voluntarily lives in *dar al-harb*, the land of war and unbelief thereby apostatizes from Islam. This is the oldest position.¹¹²² Ibn Taymiyyah in his Mardin fatwa however offered a third alternative in the case in which a Muslim could leave a safe and full Islamic life under non-Islamic rule. In that case the Muslim did not commit apostasy *but* as soon as that state turned against other Muslims, for instance through war or supporting those who attacked the Muslims, then the Muslims had a duty to resist or make a hijra.¹¹²³

Ibn Taymiyyah had this to say about anyone who flees from the Muslims to the Tartars: "Any army commander or other person who goes over to them has the same legal status as they; they are as much apostates from the laws of Islam as he is."¹¹²⁴

Since Muslims living in non-Islamic societies are in modern times bound by their laws, they obey laws other than those of Allah and thus committed acts of *shirk* which amounts to or is close to apostasy. As I have showed in paragraph three, Zawahiri is not eager to declare takfir on Muslims as he sees such things as a sign of radicalism, but on

¹¹²² "The early jurists (*fuqaha' al-salaf*) warned of this. They said that any Muslim who enters the Abode of War (infidel territory) for some purpose should not decide to reside there, since thereby he would be voluntarily consenting to the application of the non-believers' laws to him and thus apostatizing from Islam." Therefore, this description applies to any Muslim who voluntarily, without compulsion, and not being a refugee holds infidel nationality. This is supported by the fact that the acquisition of citizenship in any state by naturalization requires agreement to obey its laws. Some countries, such as America and Britain, even require the person being naturalized to swear loyalty to the constitution and laws of the state; and this is an obvious act of non-belief." Ibid., p. 188.

¹¹²³ This is the essence of the Mardin fatwa, analyzed in: Michot, *Muslims under Non-Muslim Rule*.

¹¹²⁴ al-Zawahiri, "Exoneration," p. 194.

the other hand he cites numerous fatwa's that declare such Muslims apostates. I therefore concluded that for all intent and purposes, these Muslims in the view of Zawahiri are apostates. Is there any canonical legitimacy to this position outside of the consensus of the jurists as described by Zawhairi? Yes there is. Zawahiri quotes the Quran and hadith to make this point:

God the Almighty said: "When angels take the souls of those who die in sin against their souls, they say: 'In what (plight) Were ye?' They reply: 'Weak and oppressed Were we in the earth.' They say: 'Was not the earth of Allah spacious enough for you to move yourselves away (From evil)?' Such men will find their abode in Hell,- What an evil refuge" [Koranic verse An-Nisa; 4:97]¹¹²⁵ In the Hadith by Al-Turmuzi and others about Jarir Ibn Abdullah, the prophet of God, prayers and peace of God be upon him, had sent a brigade to Khath'am, so people took shelter in kneeling, and they were quickly being killed, and [news] reached the prophet, prayers and peace of God be upon him, so he ordered half the blood money for them and said "I am exempt from any Muslim who lives among polytheists." They asked him: Oh prophet of God and why? He answered: I do not doubt that they will not escape hell. In the Al-Nissa'i narration: "Conscience is free from those who live among polytheists."¹¹²⁶

Thus a Muslim who lives outside of the realm of Islam can be killed on three separate grounds. First, because he has agreed to live under a law other than Allah's law, thus committing apostasy. Secondly, since these states are in a continuous state of war against Islam, see the second accusation in paragraph three, these Muslims had the obligation to fight a defensive jihad or to emigrate, they did neither. Thirdly, on the basis of the Quran and the hadith, these Muslims had a duty to emigrate which they did not do, thus their killing, thought not

¹¹²⁵ *Ibid.*, pp. 213-214.

¹¹²⁶ *Ibid.*, pp. 214-215.

intentional as long as apostasy is not confirmed, is allowed because jihad necessitates it. Apart from these general rules, Zawahiri states that those Muslims who live in the lands of unbelief are generally Muslims who are weak in their faith and thus do not deserve too much consideration when compared to the necessities of jihad.¹¹²⁷ What we thus see here is a totalitarian distinction which classifies men by either their total allegiance to the movement or their opposition to it. There are very few grey areas. In defending this worldview with the canonical sources and the opinions of the authoritative ulama, Zawahiri tells Muslims everywhere that they are either with the vanguard or with a possible target. You either leave the lands of the infidel or risk getting killed in them. If you die you will be judged by what Allah and the prophet have said and if you are found wanting, hell will be your abode. Mobilization for the cause of Allah and the reach of the Shari'ah are thus global. One should keep this in mind when confronted with Qutbist da'wa organizations in non-Islamic lands that are aware of these injunctions. If they are aware of them it means they both defy them, and run the risk of being deemed an apostate, or are actually working as agents of the vanguard movement. They have very little choice in the matter due to the strict logicity of the movement. This has consequences for multicultural societies; consequences which law and policymakers and counterterrorism experts should be well aware of since they form the main ideological background to Qutbist da'wa organizations operating in the West. In this respect the report by the Dutch intelligence agency (AIVD) "from Da'wa to jihad", is quite right in its analyses of this aspect of Da'wa.¹¹²⁸

6.6.3. Accusation 6: Multiculturalism, Muslims live safely in the land of unbelief

Sayyed Imam states that al-Qaeda cannot state that Islam is under attack by non-Muslims since Muslims live in peace in their lands.

¹¹²⁷ Ibid.

¹¹²⁸ Dutch General Intelligence and Security Service, "From Dawa to Jihad."

Secondly, Muslims are treated with respect and kindness, attacking the unbelievers is thus treachery and forbidden. Thirdly, Muslims have every right to live where they want to live as long as they live in peace. "In the countries of original non-believers today there are millions of Muslims living and working in safety."¹¹²⁹

Is it honorable to stay with people, even if they are non-believers and non-Muslims, who allow you to enter their lands and stay there, guarantee safety for you and your money, grant you an opportunity to work or study there or grant you political asylum along with an honorable life there and other good things and then you act treacherously toward them, kill and destroy them?¹¹³⁰

First of all, Sayyed Imam builds his argument around the dishonour of treachery and not on canonical sources or established fiqh. Zawahiri therefore replies with references to the canonical sources and thus so along two lines. First he states that indeed Muslim must, if the circumstances allow it, act with kindness and gentleness towards all men, if only for the purpose of spreading Islam through non-violent da'wa. Then he turns to the Quranic verses that deal with such a situation. From these verses it becomes clear that whilst one must act with kindness, one may not befriend the unbeliever. Moreover, if the unbeliever is guilty of attacks on Islam or Muslims, and this as we have seen is nearly always the case in a liberal democratic rule of law state, then the Muslim is obliged either to make hijra or to prepare for jihad because his brethren are under attack. The doctrine of loyalty and enmity forces the Muslim to side with the ummah at all times. This is not treachery; it is being subservient to the authority and sovereignty of Allah. The forgiving element to which Imam refers by using the concept of kindness is brushed aside by al-Zawahiri:

¹¹²⁹ al-Zawahiri, "Exoneration," p. 202.

¹¹³⁰ Ibid., pp. 216-217.

I ask: Is it chivalrous for a Muslim to see his Muslim brothers being killed, displaced, tortured and their wealth stolen, and [see] the corrupt leaders set up as absolute masters over their countries, while he woos the oppressive criminals because they have bought his contentment for worldly crumbs?¹¹³¹

With regards to Muslims living in the land of the unbelievers I have already given some of the counter arguments in earlier paragraphs. They pertain to the duty to emigrate to the land of Islam if Islam is under attack by that non-Islamic society. This attack as we saw in earlier is constituted rather easily. All the laws that make up the liberal democratic secular societies are seen as attacks against Islam and thus hijra is a duty.¹¹³²

¹¹³¹ For completeness I here refer to the verses from the Quran which are used to show that the Muslim must come to the aid of the ummah when it is attacked and thus cannot be friends with the unbelievers: "God the Righteous, the Almighty and the Blessed says: "Allah forbids you not, with regard to those who fight you not for (your) Faith nor drive you out of your homes, from dealing kindly and justly with them: for Allah loveth those who are just" [Koranic verse Al-Mumtahinah; verse 60:8]. "Allah only forbids you, with regard to those who fight you for (your) Faith, and drive you out of your homes, and support (others) in driving you out, from turning to them (for friendship and protection). It is such as turn to them (in these circumstances), that do wrong" [Koranic verse Al- Mumtahinah; verse 60:9]. God the Righteous, the Blessed and the Almighty says: "Thou wilt not find any people who believe in Allah and the Last Day, loving those who resist Allah and His Messenger, even though they were their fathers or their sons, or their brothers, or their kindred" [Koranic verse Al-Mujadilah; 58:22]. And the Righteous, the Blessed and the Almighty [One] says: "And why should ye not fight in the cause of Allah and of those who, being weak, are ill-treated (and oppressed)?- Men, women, and children, whose cry is: 'Our Lord! Rescue us from this town, whose people are oppressors; and raise for us from thee one who will protect; and raise for us from thee one who will help'" [Koranic verse An-Nisa; 4:75]. "Those who believe fight in the cause of Allah, and those who reject Faith Fight in the cause of Evil: So fight ye against the friends of Satan: feeble indeed is the cunning of Satan" [Koranic verse; An-Nisa;4:76]." Ibid.

¹¹³² "I have made it clear [...] that a Muslim in the countries of the West is not safe with regard to his life, property, honor, or religion. I have made it clear

In short if Muslims voluntarily agree to live in the land of unbelief and leave the fold of Islam, then it is *not* the responsibility of the jihadist vanguard organization to halt jihad and the spreading of Islam in order to spare *their* lives. Their lives are subservient to the cause of Islam. Zawahiri continues to conclude that if a Muslim has no other option that to move to the land of unbelief, for instance for reasons of political asylum, then some conditions apply. The foremost of these is that the Muslim must promise the *least* amount of allegiance to the laws of the land. Secondly, the Muslim must keep hatred for that society in his heart and act upon it insofar as possible.¹¹³³ The question of citizenship thus becomes a question a jihad. A Muslim who voluntarily agrees to live in a non-Islamic land is faced with a

that a "Muslim" in their midst by choice and desire who acquires their nationality and who enters into complete or virtually complete loyalty to them is, if not a non-believer, close to non-belief. I cited the fatwas of Ibn Hazm, al-Wansharisi, Alish, Rashid Rida, and others. How, then, can we make this an impediment to waging jihad against enemies, shooting at them, and repaying them in kind? b. If we grant him that there are millions of Muslims residing and working in the countries of the West in safety, are there not hundreds of millions of Muslims in the countries of Islam under bombardment, starvation, and the injustice of corrupt regimes because of the West? Are they not our brothers? Are the Muslims not a single nation and a power against those other than they? This dissociation from reality is amazing." Ibid., p. 202.

¹¹³³ "Shaykh Hamud al-Uqla, (a contemporary Saudi cleric and advisor of al-Qaeda D.S.) (may God have mercy on him) was asked regarding a group of Libyans forced to take political asylum in Britain, whether it was lawful for someone forced and compelled to do so, and whether they might take an oath. He issued a fatwa to them in which he said: [...] it is permissible to apply for British nationality [...] provided that you hate them and their religion and do not befriend them, while practicing your religion as much as you can. "As for the oath or promise upon taking the aforementioned nationality, as long as they give you a choice between an oath and a promise and you have an alternative to the oath, you make the promise, but in your hearts you harbor faith in God along with hatred for them." Thus, he advised them that it was permissible to obtain that nationality because they were forced, but that they should harbor hatred in their hearts and content themselves with the least possible expression of loyalty, by promising, not swearing." Ibid., p. 190.

choice between apostasy and participating in jihad against the land that offers him his new nationality. The famous Egyptian icon of Islamic revivalism and student of Muhammad Abduh, Rashid Rida, which I mentioned earlier in chapter two and in the introduction, issued the following fatwa concerning the acquisition of the French nationality during the French occupation of Tunisia:

By acquiring such citizenship, he agrees to give his money and his life to fighting Muslims if his country calls on him to do so; and it certainly will do so when there is need. The question involves many legal precepts about which there is agreement and known to be a necessary part of the Islamic religion. One who acquires such citizenship considers it permissible to violate these precepts, and doing so is universally agreed to be non-belief.¹¹³⁴

The consequences for multicultural societies are grave and I cannot stress their importance enough.

Muslims who agree with the logicity of al-Zawahiri or with the fiqh and canonical sources that underlie that fiqh, are thus forced to concede that they must either leave the abode of unbelief, the non-Islamic country, or retreat and separate as much as possible from their jahiliyaah surroundings and make preparations for jihad. Making these preparations is the only viable excuse for not making the hijra. As ibn Taymiyyah stated:

It is necessary to make preparations for jihad by making ready our strength including steeds of war. We must do this when actual jihad is not possible. What is necessary for the successful conduct of the jihad obligation is in and of itself also an obligation.¹¹³⁵

¹¹³⁴ *Ibid.*, p. 194.

¹¹³⁵ *Ibid.*, p. 101.

As long as an organization is dedicated to the concepts of *hakimiyat*, *fitrah*, *ubudiyaah* and *jahliyyah* then one can very reasonably expect them to belong to the category of Qutbist da'wa organizations, and thus see them as the front organizations of the jihadist vanguard movement.

6.6.4 Accusation 7: Multiculturalism, treaties , international law and citizenship are sacred covenants

Treaties and international law.

Sayyed Imam briefly states that, unlike in the time of the prophet, our current age is ruled by international law and peace treaties between Islamic and non-Islamic lands. These treaties should be seen as covenants between Muslims and non-Muslims, covenant which cannot be broken without divine punishment. Al-Zawahiri agrees that this point is valid *if* these treaties are indeed covenants.¹¹³⁶ The Exoneration in that respect is not a manifesto in which Zawahiri goes to every extreme do disprove anything Sayyed Imam says. Instead of outright refusing this point, Zawahiri tries to ascertain whether or not such a treaty is a covenant or not. In short, Zawahiri repeats the argument that Islam is constantly under attack by the jahiliyaah societies due to their unbelief and the laws and policies that flow from this unbelief. The simple fact that a Muslim cannot advocate the divine duty for jihad, that he cannot say what the Quran says about Jews without being persecuted for hate speech, that he cannot exercise his rights over his wife without being charged with rape all amount to attacks on Muslims. And since the Muslim nation, according to the Quran, is one nation, all Muslim are being attacked and thus any covenant is void. In addition, it is not the Muslims who

¹¹³⁶ "Know, my dear brother, that the plausible argument of those who forbid fighting and killing them other than in the countries where they are fighting hinges on two points: First, the plausible argument of a covenant. They say that they have a covenant and that whoever kills someone possessing a covenant will never smell the odor of paradise, as stated in the Hadith." Ibid., p. 196.

made these covenants but the taghut rulers who wear crowns placed on their heads by jahiliyaah agents, for this reason too, the covenants have no value and are void.¹¹³⁷ Furthermore, Zawahiri makes the *inter alia* argument that international law is not part of Shari'ah law and thus cannot be considered binding upon Muslims. If a Muslim would respect such a covenant it would require him to acknowledge a law other than the Shari'ah which amounts to apostasy.

Citizenship

The next important accusation is that citizenship *is* in fact a sort of covenant between the non-Islamic state and the Muslim which cannot be broken. Again Zawahiri does not dispute that a valid covenant cannot be broken. There are however certain exceptions which apply. Even if there was a covenant, and even if the non-Islamic state did not do anything to attack Islam anywhere in the world, which as we saw is quite impossible, then there is one condition under which a covenant *must* be broken and its founded yet again on prophetic example. The Murder of the Dutch cinematographer and writer Theo van Gogh in 2004 by Muhammad Bouyeri, is a direct result of the line of argumentation given here by Zawahiri.

In a hadith the prophet is quoted as saying: "If anyone promises a man safety of life and property and then kills him, I am done with that

¹¹³⁷ Ibid. "No, by God! There is no covenant between us and them. In fact, they are belligerents wherever they live and stay, even if they take hold of the curtains of the Kaaba. The treaty that governments have made with these crusaders is not legal. It is based on the idolatrous charters of the United Nations. It was made by classes that do not regard God in their works and whose only interest is in keeping their seats and thrones. Even if the treaty were legal, its violations number not in the tens, but in the hundreds. They range from their fighting us because of religion and proclamation of the crusade, to their expelling Muslims from their lands, backing their expulsion, their breaking of many covenants, their interference in the affairs of Islamic law, their help to the enemies of Islam everywhere, their pursuit, killing, or capturing the mujahidin of the world, their plundering of the resources of Muslims, and other things one-tenth of which would be enough to invalidate their covenant, if it were legal."

man, even if the victim was an non-believer.” Under Shari’ah law, a promise of safety, an *aman*, is sacred. There are however a few cases in which Muhammad himself ordered or allowed the killing of a man who gave a Muslim an *aman*. These cases thus form the precedents upon which the exception is built. Ka’ab al-Ashraf (?- 624) was a man who was one the foremost members of the Jewish tribe the Banu Nadir. He was known to have mocked the prophet in his poetry. Whilst different sources give different circumstances the core of the story remains that the Banu Nadir were not on the best of terms with the Muslims. This however, needn’t be a problem since Muhammad at that time was known to make covenants after having been betrayed by belligerent tribes multiple times without resorting to murder. In this case however the added crime of insulting Muhammad had to be penalized by death.¹¹³⁸ In the hadith that deals with this affair, which is classified under the header ‘telling lies in war’, the following decree is given and cited by al-Zawahiri:

Narrated Jabir: The Prophet said, "Who is ready to kill Ka'b bin Ashraf (i.e. a Jew)." Muhammad bin Maslama replied, "Do you like me to kill him?" The Prophet replied in the affirmative.

¹¹³⁸ Ibid., p. 139. “Ibn Taymiyyah distinguishes among types of non-believers with regard to covenants and promises of safety: "He [the prophet] distinguished between those who have merely broken a covenant and those who in addition have offended the Muslims. Whenever word reached the prophet that someone who had entered into a covenant had offended the Muslims, he deputized someone to kill him, whereas he exiled many or showed kindness to many who had only broken a covenant. Also, the companions of the messenger of God entered into a covenant with the people of Damascus, who were non-believers. When the latter broke the treaty, they fought them, but then they made a treaty with them again or a third time; and similarly with the people of Egypt. Nevertheless, whenever they defeated the holder of a treaty who had offended the Muslims by libeling the faith, committing fornication with a Muslim woman, or the like, they killed him. The killing of such people without giving a choice is specifically commanded, and it is well-known that they [the companions of the prophet] distinguished between the two sorts.”

Muhammad bin Maslama said, "Then allow me to say what I like." The Prophet replied, "I do (i.e. allow you).

The exoneration uses the version given in the biography of Muhammad by Ibn Ishaq. Since the reliability of Ibn Ishaq is not of the same sort as the Quran and the hadith I have left Ibn Ishaq out of my primary sources even though it is officially recognized as part of the sunna.¹¹³⁹

Bin Maslama then proceeded to go to al-Ashraf, negotiated a pledge of safety with him on Ashraf's behalf, and later that night Maslama with a companion came to Ashraf and killed him. The moral of the story is that if the prophet is insulted or mocked, then even the otherwise holy *aman* is void and can be used by means of a trick to instill a false sense of security.¹¹⁴⁰ How does this then apply to modern day multiculturalism and Muhammad Bouyeri? As we have seen jihad is an obligation binding upon all Muslims individually when Islam is under attack. The mocking of the prophet or of Islam is considered an attack and thus Muslims must perform jihad or make preparations for jihad against such attackers. Sayyed Imam stated that *even* if this were true, a covenant of security, an *aman*, given by the state to a Muslim citizen would not allow the jihad to continue since that would be illegal. What Zawahiri has shown here with the example of the prophet and Ashraf, is the following: Even if the country as a whole is not at war with Islam, even if the country forbade insulting the prophet or Islam, thus abolishing the right to free speech, even if all those conditions apply, then the Muslim must still kill the one who insults the prophet and break the treaty. He may even ask for asylum and act treacherously in order to carry out his

¹¹³⁹ Bukhari, *Shahih Bukhari*. volume 4 book 56 number 3031 page 166. For completeness I however I refer to Ibn Hisham, Ibn Ishaq, and Guillaume, *The Life of Muhammad: A Translation of Ishaq's Sirat Rasul Allah*, p. 369.

¹¹⁴⁰ al-Zawahiri, "Exoneration," p. 135. Taymiyyah states: "One learns from this that offending God and His Prophet necessitate killing; no *aman* and no treaty can protect from it."

mission. The team that performed the 9/11 attacks had visas and promises of safety which they used to perform jihad operations. The Somali refugee who attacked the Danish cartoonist Kurt Westergaard applied for asylum and used this to opportunity to try to assassinate the modern day Ashraf. Muhammad Bouyeri would later in court state that he did not hate Theo van Gogh, but that his religion commanded him to kill van Gogh. He simply had no choice. Bouyeri it should be mentioned was a third generation immigrant, born in the Netherlands in 1978 and by all accounts a rather plain uneventful figure prior to his radicalization.

The arguments which I have thus described in this paragraph about citizenship, the duty to make hijra or prepare for jihad are thus not mere theory. They are actual practice. Muslims do in fact abuse visas, act treacherously, speak about tolerance and peace and all those things advocated by Zawahiri in order to further the goal of jihad. The team that executed the 9/11 attacks, the murder of Theo van Gogh and the attacks on Kurt Westergaard all prove that this is not mere theory but actual practice in which the laws of the non-Islamic country are used to undermine its safety. Underlying that behaviour is not a random willingness for violence and mayhem, but a strict logicity built upon Islamic legal rulings. Law and policymakers, counter-terrorism experts, and participants in the multicultural debate in general should therefore be very much aware of these rules and their real world implementation. What it says in general, is that Islamism cannot be possibly appeased. It's concept of justice, peace, harmony and tolerance come alive only when the world is cleansed of all forces of jahiliyaah. Until then, they are at war, not because of any action on the side of the non-Muslims, but because the ideology of these movements orders them to. In other words, in the view of Zawahiri and those like him, and I have shown that those are plenty and often figures of authority, Islam means war *for* peace: the *Pax Islamica*.

For this reason, Ibn Hajar (may God have mercy on him) said regarding the lessons to be learned from the story of the killing of Ka'b Ibn al-Ashraf: "It implies the permissibility of such speech as is needed in war, even if the speaker does not say what he really means." [...] With regards to 9/11 Zawahiri additionally states: "When our brothers obtained visas, they did not lie. They used the applications. They did not say to them, "You will be safe from us," and then killed them. Instead, they said, "We have come to study." What they meant was, "to study aviation in order to kill you." They said, "We have come for tourism," but the tourism of the Muslim nation is jihad. They said, "We have come for commerce," but jihad, according to the text of the Koran, is "a commerce that shall deliver you" [Quran 61:10].¹¹⁴¹

6.6.5 Conclusion on Multiculturalism and citizenship

After the arguments, accusations and defences of the prior three paragraphs, I think it is necessary to summarize some of the findings before moving on to other subject. Zawahiri summarizes the position a Muslim must take vis a vis his citizenship or residency in a non-Islamic society as follows: First as to the question of an aman and thus to the question whether or not a Muslim may act against the society that gave that aman in the form of a visa, asylum or citizenship.

If we assume for argument's sake that a visa from America or from any other crusader country allied with America in its more than 50-year-long aggression against Muslims is an *aman*, this *aman* is void for two reasons. First, no *aman* protects the life of someone who wages war against God and His prophet, harms Muslims, and insults their prophet and religion. Second, America and its allies violate the *aman* every day.

¹¹⁴¹ *Ibid.*, p. 134.

This thus means that any act that can be seen as an attack against Muslims or Islam automatically violates *amans* given by that country *and* its allies. One must remember that to think in legal terms of one on one relationships is not the Shari'ah way of thinking. We saw that in the example of the prophet in which he dealt out collective punishments and judged otherwise forbidden categories of people legal because they were 'of them'. If a Muslim is attacked the whole body of the ummah is attacked, the guilty party, if he is not immediately corrected by the state, thus induces guilt on that state and on all of its members. This is repeated in the following point of the conclusion:

The American people are a single juridical person in their peace and in their warfare. Even as each individual member does not have an independent treaty in peace, so each individual member does not have an independent treaty in war, if they assent to what their leader does -- *a fortiori* if they aid him with taxes, political support in elections and the media, and by being recruited into the army and the security apparatus.

The ethos of Zawahiri is such that every action by any person anywhere carries a weight in terms of the Shari'ah and must be punished or rewarded by that Shari'ah. In other words, there is nothing outside of the Shari'ah. One can oppose it, but then one declares his animosity and must face the consequences. Individual consent to the Shari'ah is whole irrelevant and can only slow down the movement towards the fabrication of Utopia. In practical terms this means that it is simply not possible to 'just be a regular citizen of a non-Islamic country'. Since you pay taxes you support your jahiliyaah government. Since you think freedom of religion should entail the freedom to leave Islam you are helping apostates. Since you think freedom of speech is essential you support insulting the prophet. This type of thinking is essentially totalitarian. I call into memory the definition given by Claude Lefort. Totalitarianism

[..] is a *form of society*, that form in which all activities are immediately linked to one another, deliberately presented as modalities of a single world; that form in which a system of values predominates absolutely, such that every individual or collective undertaking must necessarily find in it a coefficient of reality; that form in which, lastly, the dominant model exercises a total physical and spiritual constraint on the behavior of private individuals. [...] Every activity, from the most modest to the most important is actualized and presented as a moment of a collective project. Not only do individuals seem to lose in the party the status that differentiates them in civil life, thus becoming, 'comrades', social beings, but they are also called upon to share their experience, to expose their activity and that of their milieu to a collective judgment that gives them meaning.¹¹⁴²

The secular totalitarian party is replaced by the jihadist vanguard movement and the leader, the *Fuhrer*, that functions as the conduit between the transcendent law of nature and its immanentization is replaced by the impersonal model of the prophet and the Quran. The vanguard movement sees no realm of existence as being outside of its field of action or judgment and both are actualized by the logicity of ideological thinking. Accordingly, there are only two possible modes of being, one accelerates the fabrication of Utopia or one hinders its fabrication. Upon this model is loyalty and enmity founded. Thus there can be no loyalty to the enemies of Islam. Who is the enemy? All those who resist Islam and act in disobedience to the Shari'ah. Why is this important? The totalitarian nature of the vanguard movement does not stop with that movement. It extends to the Qutbist da'wa groups that support them and those groups, by enlarge, enjoy all the political, civil and cultural freedoms they could wish for under the present laws of western secular liberal

¹¹⁴² Lefort and Thompson, eds., *The Political Forms of Modern Society: Bureaucracy, Democracy, Totalitarianism*, p. 81.

democracies. Mosques that explicitly or implicitly preach these messages, sell their books, and propagate their cause are in principle protected by the freedom of religion. Furthermore, through these organizations people are recruited to go for summer courses in Saudi Arabia or Pakistan where laws are even more accommodating to spreading and aiding the Islamists' cause. Totalitarianism as I have shown in part I of this book does not need a state to exist; it is a movement with many parallel organizations, inner and outer layers, fellowtravellers and enablers. The current counterterrorism laws deal with acts of violence, but not with these nonviolent actors. The freedom accorded to them will be, and is being used to the fullest by movements who have had little or no room to manoeuvre in their countries of origin. It were these strict laws that resulted in the near extinction of the vanguard movements and whether one likes it or not, one should take lessons from that historical fact.

There is one final observation I must make with regard to the multicultural side of this analysis. Classical Islamic law states that before hostilities can commence, the enemy has to be invited to Islam. In modern times however, the invitation to Islam is assumed to be a matter of fact since anyone can buy a copy of the Quran or receive one free of charge. Due to mass media coverage, none are deemed to be wholly ignorant of Islam. In addition it is agreed by consensus of the ulama that if Islam is harmed by warning the enemy then such a warning need not be given.¹¹⁴³ Thus, Zawahiri says,

Muslims are not obligated to give them notice of the commencement of war if they are certain that they have acted treacherously -- *a fortiori* if they have given them repeated and frequent notice. [...] The mujahidin may use every trick, including reviling Islam and Muslims and pretending not to be

¹¹⁴³ al-Zawahiri, "Exoneration," pp. 173-174. Zawahiri gives the opinions of the different ulama and madhabs..

Muslims, so as to manage to strike at the hostile non-believers in their land.¹¹⁴⁴

It should be remembered that jihad is of many forms. Setting up recruiting agencies for violent jihad, charitable organizations for funnelling money to the vanguard et cetera are all forms of jihad. Abusing the laws of the land and pretending to disagree with the fiqh of jihad as presented here are part and parcel of this jihadist enterprise. One should be keenly aware of this.

6.6.6 Accusation 8: jihadist operations do not benefit the ummah

Again Zawahiri concedes that there might to be some validity to this claim. It has been repeated by others besides Sayyed Imam and basically entails the claim that the jihad in Afghanistan resulted in the destruction of the Taliban and the loss of many Muslim's lives.¹¹⁴⁵ The jihad in Iraq resulted in popular resentment with the actions of Zarqawi. We already saw that Zawahiri raised this issue with Zarqawi and asked him to soften his actions so as not to scare the masses away from jihad. This argument is however *not* an argument against jihad as such, it is an argument of timing and opportunity. Zawahiri responds:

True, if the damages from an affair are greater than its benefits, it is not deemed legitimate. However, I would point to two things here: First, the benefits and damages intended by this maxim are real and legitimate benefits and damages, not imaginary ones. Second, the people most suited to

¹¹⁴⁴ Ibid., p. 154.

¹¹⁴⁵ Especially the document the Denudation of the Exoneration by Sayyed Imam is full of ad hominem attacks on al-Zawahiri in which Imam accuses al-Zawahiri of having brought down mayhem on the ummah above all. Imam and McCants, "The Denudation of the Exoneration."

consider the benefits and damages are the mujahidin, not those who abstain, who don't know how to carry a gun!¹¹⁴⁶

The disdain for the imams of defeat and weak Muslims is clear. It is the vanguards who are the representatives of the Muslims and they should be allowed to judge what is opportune and what is not. The fuqaha in Khomeini's system take the same position. The elitism of the trenches is exemplified in this statement. Furthermore, those Muslims who have died have done so in the cause of jihad, in the cause of Allah and thus are martyrs.

6.6.7. Accusation 9: Warfare and Weapons of Mass Destruction

Following the prophetic example at the battle of Ta'if, in which catapults which cause general destruction were used, and which took place at night, which means one cannot distinguish the targets, the subject of weapons of mass destruction comes into play.¹¹⁴⁷ The main issue is whether or not the jihadist can make use of weapons which do not discriminate between lawful and unlawful categories of people. With respect to the catapults that were used at night, the objection that some of the dead were of the forbidden category was not such that jihad should be halted.

This is due to the need of the jihad or necessity and because if these things were abandoned due to fear for those whom it is not licit to kill, it would lead to halting the jihad.¹¹⁴⁸

The question then turns to modern day catapults, artillery and conventional weapons. By using *qiyas*, analogy, Zawahiri argues that if catapults may be used on prophetic example, than this also goes for

¹¹⁴⁶ Ibid.

¹¹⁴⁷ al-Zawahiri, "Exoneration," p. 169.

¹¹⁴⁸ Ibid.

artillery and bombs since their aim and use is the same.¹¹⁴⁹ From this the question rises if WMD's are allowed or not. How far does the reach of analogy go in this case? The way in which a judgment, *itjihad*, is reached is as I have described in chapter one on the basis of Islamic jurisprudence. First one looks for a specific rule, if it cannot be found then one looks for a rule similar to it, analogy. If this does not suffice one looks at the general principles. In a fatwa on WMD's Shaykh Nasir Bin-Hamad al-Fahd (1968-) a Saudi ulama of little repute, takes as the general principle the Quranic principle of 'repaying in kind', meaning an eye for an eye.

God says: 'And if you chastise, chastise even as you have been chastised' [Koranic verse; Al-Nahl 16:126]. And God says: 'Whoso commits aggression against you, do you commit aggression against him like as he has committed against you' [Koranic verse; Al-Baqarah 2:194]. And God says: 'And the recompense of evil is evil the like of it' [Koranic verse; Al-Shura 42:39].[...] Anyone who considers America's aggressions against Muslims and their lands during the past decades will conclude that this is permissible based on the rule of 'repaying in kind' alone, without any need to mention other proofs. One of the brothers has added up the number of Muslims they have killed with their direct and indirect weapons. The total is nearly ten million. As for the lands that their bombs,

¹¹⁴⁹ "In their current state, Muslims cannot confront America and Israel by conventional warfare, with armies containing fleets, airplanes, armored vehicles, and artillery. They can, however, avert the evil of all those weapons trained on them by means of jihad operations that make use of the methods permitted by the Shari'ah [...] If jurists have drawn an analogy between artillery and the catapult that the prophet (may God bless him and grant him peace) set up against Al-Ta'if, and approved of its use without equivalence, is it not all the more proper for us to use such means by way of equivalence -- to bomb them as they are bombing us and blow them up as they are blowing us up -- even if as a consequence some of them die whom it was not proper to kill in the first instance? And God Almighty is supreme and most knowledgeable." al-Zawahiri, "Exoneration," p. 178.

explosives, and rockets have burnt, only God can compute them. The most recent thing we have witnessed is what has happened in Afghanistan and Iraq. This is besides the uprooting that their wars have caused for many Muslims. If a bomb were dropped on them, destroying 10 million of them and burning as much of their land as they have burned of Muslim land, that would be permissible without any need to mention any other proof. We might need other proofs if we wanted to destroy more than this number of them!¹¹⁵⁰

In summary:

First: the concept of repaying in kind applies. Second: al-Fahd makes the point, justly, that the *object* of such a strike would have to be in the cause of Allah and not just killing as many people as possible. Thirdly: By using the hadith of the battle of Ta'if he reiterates the point made by Zawahiri and the classical and medieval ulama that killing of the forbidden categories is permitted as long as the goal is just and the killing is without *intent*. Fourthly: Since Muhammad used catapults in Ta'if, the use of weapons that cause general destruction *is* legitimate. Fifthly: Since the Muslim nation and the jahiliyaah nation are one, in that they support each other and are friends to one another, repaying in kind can be exacted on those who '*are of them*'.

All of this, in principle, does amount to the opinion that the use of WMD's is permitted. However, in my opinion, when it *specifically* comes to the question of nuclear weapons, it seems weak for five reasons. Firstly; the boundaries of *qiyas*, analogy must be stretched enormously in order to justify going from catapults and night raids to nuclear arms. Secondly, the author of the fatwa is of very little repute. Whilst he has written books on fiqh and other Islamic matter, he is not known for anything outside of this fatwa. Thirdly: No other fatwas for destruction on this scale have been given or are known in the Sunni world. Fourthly, the concept of repaying kind and the unity of

¹¹⁵⁰ *Ibid.*, p. 174.

the disbelievers makes sense in the literal interpretation of the sources, but it relies on the strictest of literal interpretations bordering on the absurd, even for al-Qaeda. One has to take into account that the Quran itself stipulates that there are borders which one should not transgress. Even though these borders are not defined in the Quran, it stands to reason that this might be one of them. Fifthly, the concept of advancing the cause of jihad and measuring the means in terms of beneficial and disadvantageous to the cause of jihad beg the question of whether or not the use of for instance a nuclear weapon would not cause revolt against al-Qaeda in the eyes of Muslims. As stated in his letter to Zarqawi, the masses must learn to swim before being thrown in the sea. I doubt the masses would ever accept this unless it pertains to Israel or Jewish targets. Research shows that in the Islamic world the dislike if not hatred of Jews is above 80% in almost all Islamic countries.¹¹⁵¹ Furthermore, according to the logic of Zawahiri and al-Fahd, Muslims could equally be amongst the victims without this being an obstacle.

Having said that, it is not my intention or place to judge on the legitimacy of the itjihad in question. According to the logic of al-Qaeda, the use of nuclear weapons seems perfectly legitimate. The events of 9/11 were attacks of mass destruction and many plots have been uncovered since in which attacks with chemical weapons or attack s aimed at causing general destruction and a maximum casualty rate were attempted. In looking at their general attitude of the logicity of ideological thinking, and the tens of thousands that have died in smaller jihadist actions I would argue that al-Qaeda or likeminded organizations would indeed use these weapons if they had them.

6.7 Summary

¹¹⁵¹ PEW Global Attitudes Project, "Islamic Extremism: Common Concern for Muslim and Western Publics."

Since the topics discussed in the Exoneration are wide and varied I will limit my summary to the general theme and conclusion. It is clear that the doctrines developed by Sayyed Qutb and which remained largely theoretical have been developed further and put into practice by al-Zawahiri and al-Qaeda. The basic assumption is that the formula for self and world salvation is Islam and that its concomitant law of movement is Jihad. If jihad is abandoned then the process of Islamizing the world and returning it to its rightful harmony is postponed and perhaps postponed indefinitely. This is the major cause of disorder and chaos in the world. Salvation thus lies in the revival of the doctrine and implementation of jihad. The internal enemies that have caused jihad to be halted are the, by now, familiar categories of the imams of defeat, the taghut rulers, and all those Muslims, who are normally called moderate Muslims, who refuse to partake in jihad or make preparations for jihad. These moderates, according to Zawahiri, are committing unbelief or are close to unbelief. In addition, those that claim that offensive jihad is unlawful or that claim that Islam is not under attack and that there thus is no need for an individually binding obligation for defensive jihad are in the eyes of Zawahiri the worst of traitors and unbelievers and must be fought at all costs. This is important since it signifies that the main target of Zawahiri's terror campaign is aimed at Muslims themselves. If his legal and theological arguments are perceived as being valid and authoritative it would confront Muslims both in the Islamic world as in the non-Islamic world with a choice between unbelief or jihad. Jihad then can be of many forms: the Qutbist da'wa organizations such as the MB or its offshoots, or violent jihadist organizations such as the Taliban. The external enemy too is the familiar category of the Jews, Christian crusader and 'the west'. They constitute a single entity and an attack on any of its members if lawful. With regards to the forbidden categories of women, children, the old or even Muslims, Zawahiri makes it clear that in his view there is no Prophetic example, Quranic injunction or legal consensus that makes the killing of these categories unlawful *provided* that such killing is the unintended side-

effect of an otherwise lawful jihadist action. Zawahiri basis these positions firmly on the prophet's own conduct. In the eyes of Zawahiri this extends to the permissibility of the use of WMD's against the internal and external enemies of Islam. The mass slaughter of the Shi'a in Iraq and the events of 9/11 are thus justified by an appeal to those sources which any Muslim would agree are authoritative. It is to be expected that should al-Qaeda have the means of acquiring WMD's that these would without a doubt be used against civilian and non-civilian targets in the realm of the external enemy as well. Through this entire discourse, Zawahiri proves that al-Qaeda and its ideology that now has a worldwide audience is in accordance with the Robespierrian credo of

[..] the mainspring of popular government in revolution is virtue and terror both: virtue, without which terror is disastrous; terror, without which virtue is powerless. Terror is nothing but prompt, severe, inflexible justice; it is therefore an emanation of virtue; it is not so much a specific principle as a consequence of the general principle of democracy applied to the homeland's most pressing needs.¹¹⁵²

It is the most complete implementation of Arendt's description of totalitarianism as "a system of governance whose essence is terror and whose principal of action is the logicity of ideological thinking". The adherence of Zawahiri to this ideological thinking is in all sense of its meaning relentless and ruthless and cannot be falsified or amended by any fact derived from reality. His main accusation against Sayyed Imam is indeed that the latter has allowed the demands of the real world to interfere with the purity of the jihadist ideology. The separation between the realm of ideology and reality is complete and founded upon Islamic legal theory and theology. The greatest threat that al-Zawahiri and al-Qaeda pose in my opinion is that their ideology is not inner-worldly, it is not devised upon mere human speculation but is derived from 'that source form which all authority springs'

¹¹⁵² Robespierre and Zizek, *Virtue and Terror*, p. 115.

namely divine revelation. With the promise of reward in the afterlife, and the threat of punishment, no incentive from this world could undermine the jihadist discourse.

In conclusion: What Zawahiri demonstrates beyond doubt, is that there can be no compromise or debate with al-Qaeda or like minded individuals and organizations. Everyone who does not adhere to their ideology is branded an internal or external enemy and thereby has lost all rights to life. Its calls to prepare for jihad in the case that physical fighting is impossible pose a difficult choice to those who adhere to the sources and the interpretation of those sources as expounded by Zawahiri. The dichotomy Zawahiri thus creates is complete and has spawned a myriad of front organizations that aid the cause of al-Qaeda without actually engaging in violent jihad. This can include fundraising, spreading their ideology, and preparing people and material for violent jihad. Due to the freedom of religion, congregation and speech, many of these front organizations operate within the framework of the law of many western democratic rule of law states. There should however be no mistake in the appraisal of their intentions. A solution can be found in labeling such organizations as essentially political organizations thus removing some of the constitutional impediments against criminal prosecution. The main challenge however and this is not a small matter, is challenging Zawahiri's Islamic legal and theological foundations. This cannot be done by the non-Islamic society and must come from Muslims themselves. Their cause can be aided however by following the model of many Islamic worlds that entails repressing Qutbist da'wa organizations, including mosques, and promoting the voices of moderation. The question remains, and I cannot answer it, to what degree the interpretation of Zawahiri of the classical sources is valid. If it would prove to be valid, and there indications that it is, then the fight ahead will be a most difficult and painful one.

In terms of its totalitarian character it is clear that it conforms to the definitions given by the normative school of thought. The empirical

school being of little help since al-Qaeda does not have a solid base of operations but is rather a decentralized cell-like structure which operates in disregard of boundaries and is transnational. Nevertheless, armed with a totalitarian ideology and program of action the al-Qaeda vanguard movement conforms to all criteria for a totalitarian vanguard movement. The interesting discrepancy with vanguard movements from the past being that every Muslim, anywhere in the world can in principle belong to this vanguard without the need for a physical, logistical or organizational structure. It arms the Qutbian notion of the anarchic vanguard with all the weaponry modern day mass communication and weapons proliferation provide. In principle anyone who can be reached through propaganda, and imbued with indoctrination, can be rallied to the cause of the vanguard. Its appeal and radius of action is therefore truly global. It ranges from Afghanistan to Amsterdam, from Nigeria to New York. Having said that, whilst violent jihadist operations and non-violent jihadist front organizations may occur globally, the actual goal of fabricating society will have to take place in a geographically defined space. Totalitarian action is one thing, building a totalitarian society is something else. Whilst the Taliban in Afghanistan might have constituted such a state for a very small amount of time, their power was never uncontested and did not accord to the empirical criteria of a totalitarian society. It is in al-Qaeda's best interest to open up as many fronts of jihad as possible, Iraq being the case in point. With every front it opens, it increases its chances of spawning a vanguard movement that can actually assume real political power. Jihadist actions by themselves are mere acts of violence that cannot be expected to constitute power. The optimistic appraisal of the situation then, through the lens of al-Qaeda, is that in the long run such a theater of operations will lay the ground for their professed goal of establishing an Islamic state. The pessimistic option is that such a state will never be attained for various reasons. Does this mean that their terror will end? Definitely not. Knights under the prophet's banner already indicated that it is the duty of the vanguard

movement to persist and to prepare for jihad and the assumption of power. In the meantime jihadist operations should not be halted for it is in the cause of Allah and therefore rewarding in its own right. The goal of the Islamic state is concurrent with but not the ultimate goal of jihadist operations. This is the ultimate expression of totalitarian political action; its actions are inspired by motives which defy our common understanding, we try to frame them within that common understanding thus denying their essential characteristics. Those who would state that Islamism is utilitarian are mistaken. Those who say that it is driven by resentment against injustices committed against it are mistaken.

While our common sense is perplexed when confronted with actions which are neither passion inspired nor utilitarian, our ethics is unable to cope with crimes which the ten commandments did not foresee.¹¹⁵³

¹¹⁵³ Arendt, "Social Science Techniques and the Study of Concentration Camps," p. 243.