

A GUIDE TO REFUTING JIHADISM

Critiquing radical Islamist claims to theological authenticity

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Executive Summary

Al-Qa'ida, Hamas and Lashkar-e-Ta'iba claim that their violent actions are supported within the four traditional schools of Sunni Islamic jurisprudence, and that traditional Islam itself mandates a jihadist view of scripture. A Guide to *Refuting Jihadism* counters these theological claims by demonstrating that their arguments are not based on Islamic consensus or traditionally recognised interpretations of classical Islamic sources.

Part I examines the division of the world into *Dar al-Islam* ('lands of Islam') and *Dar al-Harb* ('lands of war'). By demonstrating that the Islamist understanding of the former is much narrower than that of classical scholars, the report counters key jihadist tenets, including the requirements to re-conquer Islamic lands; to reject peaceful relations with illegitimate states; and to re-establish an expansionist 'Islamic' state, known as the Caliphate.

Dar al-Islam

- Central to the worldview espoused by jihadist groups is the division of the world into *Dar al-Islam* and *Dar al-Harb* and the subsequent belief that their violent campaigns against the realm of *kufir* ('disbelief') are not just religiously justified but obligatory.
- *Dar al-Islam* and *Dar al-Harb*, however, are not mentioned in the primary sources of *shari'a* ('Islamic principles and law'); rather they are paralegal descriptions of the reality of medieval international relations. According to traditional scholarship, the normative values exhibited in *Dar al-Islam* are the right to practise Islamic rules and the free exhibition of the symbols of Islam.
- The Islamist assertion, therefore, that there is a religious duty to re-establish an expansionist 'Islamic' state where *shari'a* functions as state law, known as the Caliphate, is not a definitive reading of religious scripture.

Reclaiming Muslim land

- Jihadist groups maintain that lands formerly under Muslim dominion are *Dar al-Harb*, and, as such, there is a religious necessity to fight in order to recapture them. Throughout Islamic history, however, lands have frequently exchanged authority, which developing Islamic jurisprudence recognised.
- Common among the four predominant Sunni schools of law, is the belief that if people can practise the rituals of Islam, then the land remains *Dar al-Islam*. Historically, *fatawa* ('religious edicts'; sg fatwa) to this effect were issued in relation to the *Reconquista* of Muslim Europe as well as the fourteenth-century invasion of eastern Muslim lands by the Tatars and Muslims living in India under British colonial rule.
- Contrary to jihadist belief, such territories remain *Dar al-Islam* within classical jurisprudence, and, as such, there is no obligation either to emigrate from them or to fight to reclaim them.

Peace treaties

- A key tenet of jihadist ideology is the rejection of peace treaties with perceived enemies, which are seen as an act of religious betrayal. Al-Qa'ida, Hamas and Lashkar-e-Ta'iba all refuse to recognise Israel, for example, arguing that it is an illegitimate state because it occupies what was, and should remain, Muslim land.
- Islamic jurists, however, considered peace treaties to be a legitimate form of mutual recognition of another polity and its sovereignty. Within *fatawa* literature there are examples of peace treaties with perceived enemies or 'illegitimate' states in response to the greater needs or benefit of Muslim communities.
- There is also a strong legal tradition of upholding a peace treaty even if the other party is at war with another Muslim state. Sunni jurisprudence, therefore, does not prevent a Muslim-majority state from entering into a peace treaty with Israel while other Muslim-majority states choose not to.

The Caliphate

- A point of unity among Islamists is the perceived religious duty to re-establish an expansionist Caliphate under a single leader who will unite Muslims globally under one interpretation of *shari'a*. For Islamists, rejection of this injunction constitutes rejection of an essential aspect of Muslim belief; and Muslims who disagree are charged with unbelief and then declared apostates from Islam – a practice known as *takfir*.
 - Traditional emphasis on single leadership, however, has been interpreted as an injunction against division where unity already exists, rather than unqualified support for the forceful unification of Muslim-majority countries.
 - Medieval scholars recognised the political realities of Islamic history, acknowledging that there have always been different Muslim states and empires and multiple leaders. As such, it was considered a form of extremism, among classical scholars, to exaggerate the issue of the Caliphate and declare *takfir* on those who rejected it.
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Part II demonstrates that the jihadist groups' rendering of the rules of Islamic warfare – particularly who can declare *jihad* ('religiously sanctioned warfare') and when, as well as who can be targeted, whether suicide operations are religiously lawful and who should fight – diverges from both classical and contemporary sources of Islamic law.

***Jihad* may only be declared by political authorities and for legitimate reasons**

- The four primary Sunni schools of law restrict the legitimate declaration of war to legitimate political leaders. Individuals and non-state actors cannot, therefore, legitimately declare *jihad*.
- Jihadists pursue the perceived liberation and re-conquering of Islamic lands. They assert that *jihad* must be continued at all times and places, for the sake of spreading Islam to the detriment of the disbelievers; and that it is mandatory. Classical scholars' understanding of *jihad*, however, is more restrictive.
- Many classical scholars advocated *jihad* as a defensive practice or for use in circumstances when Muslims face *hiraba* ('hostility') and are attacked. Others also considered it a duty to fight *jihad* whenever Muslims are being persecuted, arguing that hostility to Muslims occurs when they are prevented from practising their faith.
- *Jihad*, therefore, includes permissible defensive measures declared by legitimate political authorities to defend an attack or stop persecution. It is not permissible to initiate hostilities or to violate international treaties; nor is the aim of *jihad* either conversion or domination.
- Scholars also explained that peaceful means to guarantee freedom of religion are favoured over warfare. In the modern context, the maxim that warfare should only be initiated in accordance with international law finds support in classical, mainstream Islamic sources.

The Islamic prohibition on targeting non-combatants

- Jihadist organisations engage in terrorist activities which indiscriminately claim non-Muslim and Muslim civilian lives. They argue reciprocity, necessity, and collectivity in order to limit or disregard the general Islamic prohibition on the killing of non-combatants.
- They employ the well-established doctrine of necessity – *al-darura tubih al-mahzurat* ('necessity makes permissible the prohibited') and advocate collective guilt on behalf of the perceived enemies of Islam to circumvent the prohibition.
- The sanctity of human life, however, unites Islamic scholars past and present, and the prohibition on the killing of women and children is one of the few areas upon which there is consensus. The jihadists' disregard for such sanctity evidences their divergence from Islamic law.

The Islamic prohibition on suicide operations

- Central to the jihadist propagation of suicide operations is the widening of the Islamic tradition of *shahada* ('bearing witness'; also 'martyrdom') – traditionally seen as soldiers who die in the battlefield at the hands of their enemy – to permit the killing not only of the intended targets but also of the attacker(s), innovating the term *istishhad* ('the act of deliberately killing oneself with the intent of seeking martyrdom').
- Jihadists present suicide bombings as noble attacks against a more powerful enemy. Arguing necessity, they cite a disputed edict on the permissibility of attacking prisoners of war being used as a human shield in order to defend the indiscriminate nature of the attacks.
- Jihadist groups' use of suicide operations, however, does not meet the theoretical criteria laid down by the minority of jurists who permit such actions. These are: vital necessity; universal benefit; and certainty of outcome. Some scholars questioned whether they can ever be fulfilled; while other scholars stated such attacks were never permissible.
- Additionally, the use of suicide bombers dressed as civilians breaches the Islamic prohibition on perfidy in warfare.

The Islamic prohibition on treachery towards one's country of residence

- Jihadist ideologues advocate loyalty to the *umma* ('transnational Muslim community'), to the exclusion of any other communal or national loyalty. This is expressed as solidarity with countries perceived to be at the forefront of *jihad*, either by virtue of occupation (e.g. the Palestinian Territories and Kashmir) or by the presence or recent presence of Western forces (e.g. Iraq and Afghanistan). An extreme endpoint includes inciting Muslims living in Western countries to perform acts of terrorism against their fellow citizens.
- Traditionally, however, Islamic law does not permit Muslims to engage in hostile acts against the land in which they live, regardless of whether that country is Muslim-majority or not. Classical Islamic scholars recognised that, in lands where people's security was granted by law, there was a social contract or covenant between the people and the state. As such, Muslims living in non-Muslim majority countries were prohibited from violating the rights of others and breaking the law of the land – even if the resident country engaged in a war against a Muslim-majority country.

The existence of traditional legal opinion which differs from that of modern jihadists contradicts their claims to theological authenticity and, more significantly, exclusive truth. This report shows that the aims and methods of jihadist groups as well as the support they receive from some conservative Sunni and Islamist scholars is antithetical to the normative values displayed within classical Sunni jurisprudence.

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