



OPEN LETTER

TO DR. IBRAHIM AWWAD AL-BADRI,
ALIAS 'ABU BAKR AL-BAGHDADI',

AND TO THE FIGHTERS AND FOLLOWERS OF
THE SELF-DECLARED 'ISLAMIC STATE'

24TH DHUL-QI'DA 1435 AH / 19TH SEPTEMBER 2014 CE

Delegitimizing ISIS On Islamic Grounds: Criticism Of Abu Bakr Al-Baghdadi By Muslim Scholars*

By: Prof. Ella Landau-Tasseroni

Inquiry & Analysis #1205 | November 19, 2015



Middle East Media Research Institute

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Published in 2015 in the United States of America by
The Middle East Media Research Institute,
P.O. Box 27837, Washington, D.C., 20038-7837
www.memri.org

Introduction

The Islamic State (or Caliphate, *al-Dawla al-Islamiyya*) has sparked intense outrage and protest throughout the world since its inception in June 2014.¹ Many Muslims share this sentiment. On September 19, 2014, a group of 126 Muslim scholars addressed an open Letter to the ruler of ISIS, Abu Bakr al-Baghdadi. The Letter contains a rebuttal of al-Baghdadi's claim to religious and political authority, and condemns ISIS' policies as well as the statements, argumentations and actions of al-Baghdadi and his supporters. The critics base their position almost entirely on Islamic grounds, citing Koran, Prophetic sayings and statements by past theologians and jurists.

The group of critics comprises influential scholars and prominent figures. Many of them are Sheikhs and/or hold doctoral degrees; some live in Arab and Muslim countries, others elsewhere. Among them are 'Abdullah bin Bayyah, president of the Forum for Promoting Peace in Muslim Societies;² Jamal Badawi, from the Islamic Legal Counsel in North America; Yousuf al-Qaradhawi, the renowned but controversial head of the International Union of Muslim Scholars;³ Shawki Ibrahim 'Allam, the Grand Mufti of Egypt; and 'Ali Jum'a, the former Grand Mufti of Egypt, to name but a few. The fact that they criticize ISIS does not necessarily mark them all as relentless peace-seekers. Al-Qaradhawi, for example, does not always encourage peaceful resolutions of political problems concerning Arab and Islamic countries. He also endorses targeting American civilians in Iraq, and all Israeli civilians (including women and children), on the grounds that they support aggression against Muslims. And on the occasion of Ramadan 1436 (2015), the Muftis 'Allam and Jum'a emphasized and extolled the connection between Ramadan and Islamic conquests throughout history (including modern history).⁴

By August 2015 hundreds more religious and academic scholars, most of them Muslim, added their signature to the Letter; in addition, it received about 125,000 "likes" on the Facebook account that was opened for the purpose.⁵ The Letter was also translated into Persian, English, French, German, Spanish, Bosnian, Hungarian, Dutch and Turkish.⁶ However, it did not generate an intense debate in the Muslim public arena.

Since both al-Baghdadi and his critics speak and act in the name of Islam, I found it interesting to evaluate the Letter in light of relevant material from classical Islamic sources. I review the Letter section by section, summarizing the critics' arguments in each section (noting the page-number in the Arabic text) and then presenting my analysis. I do not presume to establish what in the Letter (or anywhere else) is authentically Islamic or deviates from Islam.

The Letter

The Letter opens with Koranic verses (103:1-3) that warn mankind of destruction which will encompass all except for those who believe, do good works and urge one another to follow the truth and to stand fast:

(I swear) by the declining day; Man is lost, except those who believe, do good works, enjoin one another to follow the truth, and bid one another to stand fast (*wa-tawasaw bi-l-sabr*)

These verses epitomize the classical Islamic message according to which one must adhere to the right belief and right practice, enjoin others to follow, and persist (*sabr*) in all of these in spite of difficulties. The applauded *sabr* mentioned in the verses means persistence, endurance, adherence to God's commands and waiting patiently for His decrees, all at once.

i. *Ella Landau-Tasserone is a retired professor at the Department for Islamic and Middle Eastern Studies at the Hebrew University of Jerusalem. Her research fields are early Islamic history, the Arabian tribal system, Islamic political institutions, hadith, Islamic historiography, and jihad. Among her publications are a series of articles on the tribal society in pre- and early Islamic times, two monographs on the institution of the Islamic "oath of allegiance," and a monograph on non-combatants in Islamic thought.*

By citing these verses as a motto of the Letter, the critics fully set the stage for its contents, as they censure al-Baghdadi for misguided doctrines and wrong practices. The very establishment of the Caliphate betrays a lack of patience for God's decree.

The terms of address are polite, avoiding the rhetoric of **vituperation** common in modern polemics between Muslims. Nevertheless these terms reflect the critics' rejection of al-Baghdadi's claims. They write, "To Dr. Ibrahim 'Awwad al-Badri, **nicknamed** Abu Bakr al-Baghdadi... and those affiliated with the **so-called** Islamic State [emphasis added]." The terms "nicknamed" (*mulaqqab*, as opposed to "teknonymed", *yukanna*),⁷ and "so called" (*ma sammaytumuhu*), express the critics' derision and rejection of the authenticity and legitimacy of the Islamic State and its leader. They are also unimpressed by the title "caliph", and by al-Baghdadi's attempts to emulate the first Islamic caliph, Abu Bakr (632-634 CE). Not only did al-Baghdadi assume the first caliph's *kunya*, he also copied his inauguration speech on the occasion of his own investiture.

In that speech the first caliph, Abu Bakr, urged the community to assist him and to correct him if he deviated from the right path. In its historical context (632 CE) this appeal reflects the fact that the caliphate was a new construct; there was no tradition of governance and the caliph had no coercive power, therefore he had to appeal to the community and seek its support. However, statutory coercive power soon developed, and by the end of the seventh century the idea that the community should participate in state affairs was completely marginalized. In modern times, the first caliph's speech is often presented by Muslims as proof that democracy is part and parcel of Islam. This argument is put to various uses, such as, on the one hand, applauding Islam as being democratically oriented long before the West, and, on the other hand, rejecting tyrannical authority in Muslim countries.

Al-Baghdadi cites the first caliph's speech in order to model himself on the original caliphate and thus achieve legitimacy. His critics cite it too, but for a different purpose. Although they reject his claim of caliphhood throughout the Letter, they feel the need to apologize. Therefore they cite from the very same speech the words "if I am wrong correct me...", thus presumably admitting that they may be mistaken on some points. They add, again by way of an apology, that "giving good advice is part of religion," so the Prophet had said. By this implicit apology the critics suggest that their intentions in criticizing al-Baghdadi are pure. They also stress that they are not going to discuss hearsay; they only comment on sayings and actions published by ISIS sources, or by Muslim (i.e. reliable) eyewitnesses.

After thus justifying the Letter, the authors present their criticism. They condemn statements by ISIS leaders for both their contents and their methodology.

First, the greeting statement common among ISIS members comes under scrutiny. It runs, "O God, bless Muhammad who was sent with a sword as a mercy to all creatures." According to the critics, this greeting includes both methodological and thematic errors, as follows:

The words "as a mercy to all creatures" are taken from Koran 21: 107 (not 22:107, as written in the Letter). The verse reads "We did not send you [for anything] but as mercy to all creatures." The critics argue that this Divine statement is general, absolute and eternal, not conditioned (*muqayyad*) by any circumstance or rule. In other words, the Mercy that the Prophet stands for is applicable to all creatures at all times, places and circumstances. The phrase "with a sword," on the other hand, is taken from a Prophetic statement (*hadith*), not from the Koran. It is conditioned in the sense that it was only valid in past specific time and place, and that the "sword" only affects people, not all creatures. It is wrong, they argue, to merge *hadith* and Koran and to confuse the general with the specific, the absolute with the conditioned. There can be no connection between God's mercy, which encompasses all creatures, and the sword, which only affects people. (pp. 1-2)

The critics' argument sounds convincing, in particular from the methodological point of view. Indeed, traditional Islamic texts do not usually mention "sword" and "mercy" together. However, citing both Koran and *hadith* in order to make a point has always been a common methodology among Muslim scholars. Furthermore, the sacred Islamic texts contain references to both concepts, i.e. mercy and the need for violence against non-Muslims. Many verses and Prophetic sayings express the idea that the Prophet was sent as a sign of Divine Mercy; at the same time he is reported to have declared that he was "sent with a sword."⁸ Thus, the Muslim

radicals' position that combines mercy with violence may easily be grounded in the sacred texts. It may also be compared to precedents in other cultures. Christian powers forced Christianity upon non-Christians, claiming that they were applying Christian love and acting in the best interest of the so-called savages; similarly, radical Muslims deem it their task to save humans from perdition by converting them to Islam.

A report about the Prophet (*hadith*) has him smile while envisaging people dragged into Paradise in fetters.⁹ The vision concerns infidels, former prisoners of war who were forced to convert to Islam. Muhammad's pleasure at the sight indicates that saving infidels from Hell is a virtuous act that may be implemented by force. From all the material adduced above it is clear that radical Islamists, who aspire to recreate the pristine Islamic state and emulate the Prophet, may easily be led to combine "sword" and "mercy", in spite of other Muslims' protest.

After criticizing the merging of mercy and the sword as proposed by ISIS, the critics develop several themes.

1. Principles of Islamic law and exegesis

The critics point out that a Muslim claiming religious authority must meet specific requirements: mastery of Arabic, and the ability to distinguish between different kinds of verses, namely, general or specific, absolute or conditioned, unequivocal or ambiguous, abrogating or abrogated.¹⁰ Furthermore, while discussing any issue at all a Muslim scholar should take into account all the relevant texts available from the Koran and the Prophetic sayings, the *hadith*. (pp. 2-3)

By detailing these requirements the critics imply that al-Baghdadi does not meet them. They present more explicit and specific criticism in the following sections.

2. Language

Mastery of Arabic is obviously first and foremost among the qualifications required from a Muslim scholar. The critics argue that ISIS speakers show ignorance when using Arabic. For example, when the caliphate (*khilafa*) was announced the spokesman, Abu Muhammad al-'Adnani, said, "this is [the fulfilment of] Allah's promise," (*hadha wa'd allah*), alluding to Koran 24: 55: "God has promised those who believe and do good works that He will establish them as successors (*la-yastakhlifannahum*) [to those who preceded them] on earth, just as He made those before them successors [to others]..." The critics argue, first, that it is erroneous to apply a Koranic verse to a specific event that occurred 1,400 after the Koran had been revealed; at the most, the speaker should have said, "this is part of Allah's promise" (*hadha min wa'd allah*). Secondly, the verb *la-yastakhlifannahum* mentioned in the verse means "He will make them successors," and has nothing to do with *khalifa* (a caliph or ruler), although the two Arabic words are cognates. Thus, al-'Adnani's mention of the verse in the context of establishing the caliphate was inappropriate. (pp. 3-4)

The first argument of the critics is hollow. There is no reason why ISIS would not see itself as the fulfillment of the Divine promise to make Islam and the Muslims strong and victorious. Classical Muslim exegetes interpreted 24: 55 as foretelling the victory and conquests of the Prophet and the early caliphate, and ISIS, emulating the pristine model, understandably applies the verse to itself. The second argument is linguistically accurate. The verse speaks of succeeding generations of humans, not rulers. Nevertheless pre-modern Muslim scholars sometimes interpreted the verse as an allusion to the institution of the caliphate; ISIS did not introduce any innovation here.¹¹

3. Simplifying religion

The critics protest against radicals who tend to simplify religion, for instance by sending their listeners to read the Koran for themselves and to take the call for jihad literally. The critics cite verses and *hadiths* that warn Muslims of independent learning and instruct them to consult experts. (pp. 4-5)

The critics' protest is to be understood against the backdrop of current trends in Islamic learning. In recent decades the authority of officially trained religious scholars has waned considerably. Radicals as well as liberals form their opinions relying directly on the fundamental sources, i.e. the Koran and the *Hadith*; they sometimes assume the role of muftis without traditional, formal education. This attitude makes their interpretations seem both fresh and pristine, and the accessibility of the internet allows them to propagate their interpretations and preaching. These autodidacts also refer their listeners and readers directly to the primary sources, eschewing the traditional interpretations and the established religious authorities. This has become known as "the democratization of religious knowledge," a phenomenon that has a great appeal especially to enthusiastic young Islamists. The authors of the Letter try to combat the phenomenon, but it is not likely to disappear soon.¹²

4. Disagreements

Under this title the critics discuss one aspect only, namely, leniency versus intolerance. The critics cite Koranic verses to the effect that Allah prefers the lenient attitude, including in matters relating to the propagation of Islam. The Prophet and the religious scholars always opted for the lenient solutions, say the critics, and throughout history conversion to Islam usually came about through preaching (*da'wa*), not by coercion as perpetrated by ISIS. (pp. 5-6)

To support this argument the critics rely on verses that are traditionally considered abrogated, notwithstanding their criticism of al-Baghdadi for failing to distinguish between abrogating and abrogated verses (see above). For example verse 16:125 (*ud'u ila rabbika*), which calls for peaceful propagation of Islam, has long been considered as abrogated by verses that urge the Muslims to fight in the way of Allah.¹³ Also, the critics take verses out of their context, again against their own advice to al-Baghdadi. For example, Koran 2:185, "Allah wants for you ease, not hardship" (*yurid bikum al-yusr*), refers to the Muslims, not to infidels. Also against their own declared method, the critics omit mention of inconvenient verses, e.g. Koran 48:29, which extols a hard stance towards infidels.

The historical argument adduced by the critics is only partly correct. Indeed parts of Africa and East Asia were converted gradually and peacefully. However, the first generations of Muslims, the *salaf*, practiced war against infidels, not peaceful preaching. Pre-modern Muslims interpreted the Islamic conquests of the seventh century as a means to propagate Islam, and jihad against infidels has always been aimed at "making Allah's word (i.e. Islam) reign supreme." Indeed large populations adhered to their religions under Muslim rule and only converted gradually, but not necessarily due to peaceful preaching. Often, conversion was the result of persecution and pressure.

5. Practical laws

The critics argue that application of the Shari'a must be practical and realistic, related to circumstances of place and time. The laws may change even in accordance to changing customs. In support of this idea they cite two of the greatest Muslim scholars, Abu Hamid al-Ghazali (eleventh century) and Ibn Qayyim al-Jawziyya (fourteenth century), who declare in unambiguous terms that adapting the Shari'a to reality is a necessity. (pp. 6-7).

This argument seems to contradict the notion that the Shari'a is absolute and eternal. But, in practice, Muslim scholars have always employed their ingenuity in order to make Shari'a laws compatible with the changing circumstances of their time. The Shari'a is eternal in the sense that it was given by Allah to be applied permanently, but this does not mean that the particulars of the law must be immutable. In fact, "the transformation of rulings according to time and circumstances" (*taghayyur al-fatwa bitaghayyur al-azman wa-l-ahwal*) has become a legal principle in some Islamic circles.¹⁴ Related to this is another established legal principle designed to adapt to reality, namely, "necessity makes forbidden things admissible" (*al-darurat tubihu al-mahzurat*).¹⁵ In the globalized world, the process has reached its peak with the rules developed by Yousuf al-Qaradhawi, intended to adapt the Shari'a to life in the modern West.¹⁶ The statements by al-Ghazali and Ibn al-Qayyim cited above thus reflect the true practice of Muslim scholars throughout the centuries. However, the principle is currently hotly debated precisely because of its relation to modernity

and to Western civilization.¹⁷ It is hard to imagine that the likes of al-Baghdadi would accept this flexible attitude, even though in general, Salafi Jihadis revere Ibn al-Qayyim, who was a close associate of Ibn Taymiyya.

6. Murder of innocent people

The critics accuse ISIS of killing many innocent people, and cite Koranic verses to prove that Allah forbids this. (p. 7)

The verses cited stipulate that killing is forbidden “except [killing] for a lawfully justified cause” *illa bi-l-haqq* (5:32, 6:151, 17:33). However, the term “justified cause” remains vague. Certain Koranic verses enjoin the Muslims to kill infidels (e.g. 2:191, 9:5). The early jurist and theologian al-Shafi’i (d. 820 CE) inferred from them that unbelief was a justified cause for killing. He made an exception for women and children because, taken prisoner, they were the Muslims’ property and it was not wise to destroy property. On the other hand, Abu Hanifa (legal scholar, d.767 CE), maintained that unbelief was not a justified cause for killing, and that only combatants should be killed.¹⁸ This stance too may be inferred from Koranic verses (e.g. 2: 190). A “justified cause” for killing is thus given to various interpretations.

7. Killing envoys

The murder of foreign journalists and aid workers by ISIS aroused strong condemnation around the globe, which the critics share. Presenting a Shar’i justification for their view, they argue that these people are comparable to envoys or messengers, specifically messenger of truth (journalists) and of mercy (aid workers) and therefore must be protected. It was the Prophet’s custom not to harm envoys, even if sent by his worst enemy.¹⁹ (pp. 7-8)

Yousuf al-Qaradhawi expressed his view on this issue elsewhere, presenting non-Shar’i justifications. He argued that French journalists kidnapped by ISIS were not legitimate targets because they were sympathetic to the Arab cause, they came to help it, and their government had opposed the American invasion of Iraq.²⁰ However, the Shar’i justification adduced in the Letter (i.e., that they are comparable to envoys) is more significant, for it illustrates the feasibility of applying tolerant traditional Islamic norms to modern circumstances, by inference. Another such illustration is the comparison made in the aftermath of 9/11 between the modern visa and the classical *aman*. *Aman* was a medieval legal institution based on trust. It enabled non-Muslims to stay safely in Muslim territories, and vice versa, on condition that the guests do not break any law of the hosts. Many Muslims denounced the attack of 9/11 on the grounds that the perpetrators had American visas, comparable to *aman*. By acting against their hosts they betrayed the trust embodied in the visas/*aman* they held, thereby breaking Islamic law.²¹

8. Jihad

Responding to a statement by al-Baghdadi that “there is no life without jihad,” the critics take the opportunity to give their version of the Sunni rules of jihad, based on the Koran and *Hadith*. The following is a summary of their presentation.

According to the critics, jihad is neither a goal in itself, nor a way of life, but a means to make Allah’s word supreme in the world; achieving this end guarantees peace, security and stability under Islam. War must be waged only against infidels, and in certain circumstances it is not necessary at all. Jihad is a collective duty, that is, a duty incumbent upon the community as a whole (*fard kifaya*), not upon each and every individual; moreover, an individual who wishes to participate in military jihad must have his parents’ approval. There are two kinds of jihad. The more important one (*al-akbar*) is the believer’s inner struggle to purify his own soul, whereas the less important one is belligerent jihad, namely war; the two are interconnected (because the believer must purify his soul before taking up arms against the infidels).

The ethics of jihad are as follows: it must be carried out with the right intention, and with justified cause and lawful goal and conduct:

- a. Right intention means that the Muslim fights for Allah, not for booty, fame, revenge or any other worldly objective.
- b. The cause of jihad must be prior injustice or aggression against Muslims.
- c. The goal must not be confused with the cause. In case of Muslim victory in a justified war, the goal must be making Allah's word supreme, according to Koran 2:193, "fight them until there is no *fitna* (seduction, sedition, unbelief)," and the Prophetic saying, "I was ordered to fight everyone until they say 'There is no god but Allah'..." This goal has already been achieved by the Prophet himself in the Arabian Peninsula, as proven by the Hodaybiyya treaty.
- d. The right conduct of war includes refraining from killing the wounded, women, children, those who run away, old people and hermits. Also, mutilation of dead bodies is forbidden. It is only allowed to kill combatants, though killing non-combatants may occur unintentionally. In addition, the Shari'a forbids killing prisoners of war. The few prisoners executed by the Prophet were war criminals. His act conforms to international law as applied in Nuremberg after WW2.

The critics concede that ISIS fighters are courageous, ready for sacrifice and zealous in the cause of jihad; however, they argue that the warfare they lead does not conform to the abovementioned principles and is therefore un-Islamic and forbidden by the Shari'a. (pp. 8-12)

This presentation is meant to demonstrate that ISIS deviates from Islam. Some parts of the criticism are more implicit than others, such as mentioning the rule of collective duty (*fard kifaya*) and the required permission of parents. As is well known ISIS urges each and every Muslim to join the jihad, characterizing it as a personal, not a collective, duty (*fard 'ayn*); ISIS also recruits many young people against the wish of their families. The critics do not reprimand ISIS straightforwardly on these matters but find it sufficient to mention the Islamic rules that ISIS violates.

The critics do not always adhere to the methodology that they themselves propose to al-Baghdadi at the beginning of the Letter. First, they do not take into account all the Koranic verses and *hadiths* relevant to the issue of jihad. For example, they stipulate that jihad must be a reaction to prior aggression or injustice, ignoring the sword verses, namely, Koran 9:5²² and 9:29.²³ Pre-modern Muslims invariably read these verses and many others as enjoining *offensive* jihad against all non-Muslims who refuse to surrender. The word *fitna* mentioned in 2:193, cited by the critics to explain the lawful goal of jihad, has routinely been interpreted by Muslim scholars as "unbelief." Accordingly, the verse actually states "fight them until there is no unbelief," namely, until they convert to Islam or surrender to the Muslims as protected, humiliated communities. In fact, the protected communities were also expected to convert to Islam at some point.²⁴ This pre-modern interpretation accords with the Salafi-jihadi position, not with the one held by the critics.

Like many Koranic verses, the famous Prophetic saying, "I was ordered to fight everyone until they say 'There is no god but Allah'...", also dictates offensive jihad until "Allah's word reign supreme." This contradicts the critics' statement that jihad must only be defensive. The critics do not ignore this *hadith* but offer an innovative interpretation of it, unknown to pre-modern Islam. They argue that Allah's promise to make Islam superior (Koran 48:28) was already fulfilled during the Prophet's time with the Hodaybiyya treaty between the Prophet and his enemies (628 CE) and the subsequent Islamization of the Arabian Peninsula. This interpretation allows the critics to argue that offensive jihad has become redundant since the Prophet's time.

This argument is problematic because it makes the Islamic conquests of the seventh century redundant as well, since they occurred after the Islamization of the Arabian Peninsula. The solution to this problem is to define these conquests as defensive warfare against the evil empires of the time, or as liberation of the populations oppressed by these empires, or as a means to secure freedom of expression (which to the critics only means the freedom to propagate Islam). This is al-Qaradhawi's interpretation of the Islamic conquests of the seventh century, in his book on jihad. Al-Qaradhawi also dismisses the abovementioned belligerent *hadith*

(“I was ordered to fight everyone...”) using the classical method: he argues that one person in the chain of transmitters (*isnad*) is not reliable and therefore the *hadith* is not valid.²⁵ It may be added that, according to the traditional Islamic point of view, peace and security can exist only under Islamic government. Therefore the critics’ argument against ISIS, that jihad must be a means to achieve peace and security, does not preclude ISIS’ policies. The latter’s ultimate goal is to make Islam rule, and hence, it may be argued, to achieve peace and security under Islam.

The conduct of war was discussed by pre-modern Muslim scholars in connection with sayings attributed to the Prophet or his associates, such as “do not kill old people, women and children...” (cited by the authors of this Letter). More often than not, these scholars adduced yet other Prophetic sayings that explain away, or contradict, these stipulations, so as to justify the killing of non-combatants. Targeting them, however, was frowned upon. Destruction of property and agriculture was often allowed in pre-modern jihad rules, although not the purposeless slaughter of animals. A close examination of these rules reveals that, in general, the stronger Islam became, the harsher the rules of conduct in war became.²⁶ The treatment of prisoners is a good example. The Koran (47:4, cited by the critics), offers two options: to release prisoners for a ransom or simply to release them. On the basis of the Prophet’s conduct as reported in his biographies, pre-modern Muslim scholars added two more options. One was the execution of prisoners at the discretion of the Muslim leader; the other was enslavement. The critics could not possibly ignore these two additions since they are recorded in every book of Islamic law. Yet they omit to mention them, while rebuking ISIS for executing prisoners. As for the reports about the Prophet executing prisoners, the critics set them aside by claiming that those prisoners were war criminals and deserved execution (they give no proof of this). The critics can thus argue that by executing them the Prophet was in fact acting in accordance with present-day international law, in contrast to the executions perpetrated by ISIS.

The critics phrase the doctrine of jihad in terms of the just war doctrine and the international laws of war. However, the terms “cause,” “goal,” “intention” and “conduct” are fuzzy in a way that baffles not only Muslims but also experts on international law. This is evident from the hot debates surrounding these terms both in theoretic discussions and in discussions of actual wars. The radicals may resort to the classical Shafi’i argument that the “others” are by definition aggressors against Islam by their mere refusal to convert.²⁷ In Islamic terms, banning *fitna* (unbelief) is surely a lawful goal, as Koran 2:193 and 8:39 stipulate. In fact, ISIS’ declared goal, to make Allah’s word reign supreme, has been the Shar’i goal of jihad for centuries and has not been abandoned even by Muslims considered to be moderate. Moreover, Muslim extremists often blame the West for fighting Muslims in various places around the globe. This presumably makes any Muslim attack on Western powers or interests anywhere a legitimate defensive war, with the cause being “aggression” and the goal being “liberation.”

As for the conduct of war, ISIS can easily find in the Islamic sources justifications and precedents for most of their acts. Such is the nature and content of the sources and the methods of interpretation, that they can be used to support various and even contradictory opinions. This also means that early Islamic sayings derived from the original sources, such as “do not kill old people” etc., may serve as modern jihad rules compatible with present-day international law. Similarly, the execution of prisoners, which was allowed by pre-modern Muslim scholars, may be avoided in our time by direct reliance on the Koran, and by interpreting the early precedents of prisoner-executions as particular, *khass*, to the circumstances of the Prophet’s career. The exegetical device of “particular-ness” (*takhsis*) means that certain acts of the Prophet were particular to a time and/or a place; therefore they are not valid precedents for subsequent generations. *Takhsis* was often employed by pre-modern Muslim scholars, allowing them to sift the various, sometimes conflicting options presented in the reports about the Prophet. The critics’ anti-ISIS argument, that the Prophet only executed war criminals and not all war prisoners, is a variation on *takhsis*.

9. Excommunication: Labelling other Muslims “unbelievers” (*takfir*)

Labelling other Muslims “infidels” or “unbelievers” has grave consequences, because, according to the Shari’a, Muslim apostates must be executed.

The critics broach the principles of *takfir* as follows:

- a. Whoever utters the declaration of faith (*shahada*): “There is no God but Allah and Muhammad is his Messenger,” and prays facing Mecca, must be considered a Muslim and therefore inviolable. No harm must come to him by another Muslim, and it is not allowed to doubt or investigate his belief.
- b. It is forbidden to label Muslims “unbelievers,” and it impermissible to kill or harm Muslims, or in fact any unarmed person. It was an un-Islamic crime to murder civilians who identified themselves as Muslims but failed to provide the correct answers to questions about details of their prayer.²⁸
- c. It is prohibited to label a Muslim “unbeliever” on account of an action on his part, without proving that he intended that action to express his unbelief. It is also forbidden to label as “unbeliever” a group of people. Each individual must be examined and judged separately. It is also prohibited to label anyone “unbeliever” on account of an issue that is not entirely agreed upon among the Muslim scholars (pp. 12- 15). The critics’ discussion of *takfir* is informed by one of the most important Islamic principles, namely, the mandatory solidarity and the prohibition of violence among Muslims. Having religious, political and social dimensions, this principle is recorded in the Koran (e.g. 5:51, 9:71) as well as in many Prophetic sayings. The other side of the very same coin is the order to fight unbelievers and to execute apostates, who betray the Islamic solidarity by falling beyond the pale of Islam.

The trauma of Islam’s first civil war (656-661 CE), the impact of the encounter with other religions, the prescribed duty to fight unbelievers, as well as theological reflections, led Muslims to discuss the definition of “Muslim” and the requirements stipulated by it. Among pre-modern Muslims the mainstream trend was to avoid excommunication and thus the necessity to execute apostates. To make this possible, complex categories were created. For example, a distinction was made between unbelief and heresy; between grave and minor sins; between apostates and political insurgents (*bughat*), and between “minor” or “concealed” unbelief and “major unbelief” that “puts one beyond the pale of Islam.”²⁹ Only the latter kind of unbelief deserved capital punishment. In the thirteenth-fourteenth century the renowned scholar Ibn Taymiyya denounced many beliefs and practices of fellow Muslims and characterized them as expressions of unbelief, but he was very cautious about labelling individuals “unbelievers.”

Since the mid-twentieth century, radical Muslims circumvented the prohibition to exercise violence against other Muslims by declaring their opponents to be unbelievers. During the early sixties, members of the Muslim Brotherhood incarcerated and tortured in Nasser’s Egypt argued that their torturers, and the government that sent them, could not be Muslims, or else they would not have treated them the way they did.³⁰ It followed that violence against the government and its agents was legitimate, even though they claimed to be Muslim. Since then, radicals use *takfir* to legitimize violence against other Muslims. Often, the radicals argue that their opponents are apostates because they fail to worship Allah according to His value, that is, in accordance with the radicals’ ways. The critics reject this argument. On the basis of Koranic verses they state that no mortal can know Allah’s value; mortals can only worship according to their ability. This argument conveys a degree of intra-Islamic pluralism on the critics’ part.

10. The Peoples of the Book

ISIS offers Christian Arabs the choice traditionally offered by Muslims to Jews, Christians and many other religious communities: They must either convert to Islam, or pay the humiliating poll tax (*jizya*) and be granted a protected status (*dhimma*), or face the sword. The critics severely criticize this policy and further blame ISIS for destroying churches and persecuting Christians. Their argument is that Christian Arabs have had a covenant with the Muslims since the early conquests 1,400 years ago, which is still in force. Moreover, Christian Arabs have always been partners to the Muslims, and have aided them in wars against the enemies of Islam. As for the humiliating poll tax, according to Koran 9:29 – “Fight those from amongst the People of the Book who do not believe... until they pay the *jizya*, out of their hand, humiliated” – applies only to Christians who waged war on Muslims. By contrast, Christians who surrender peacefully pay a tax that is not humiliating, by virtue of a covenant. The caliph Umar agreed to call this tax *sadaqa* – like the alms paid by Muslims – instead of *jizya*, in order to avoid humiliating those Christians. (pp. 15-17)

The critics entitle this section “Peoples of the Book” (*ahl al-kitab*), a term that traditionally denotes Jews, Christians, Sabians and Zoroastrians (see next section). However, only Christians are discussed in the Letter, because there are no Jews and hardly any Sabians in ISIS-controlled territories.

Since the early conquests in the seventh century the Muslims have offered Jews, Christians and several other communities three options: to convert, assume the position of protected but inferior residents (*dhimmi*), or face the sword. Becoming *dhimmi* meant being protected and autonomic in return for paying a poll-tax and being restricted by various stipulations, such as refraining from building new prayer houses, avoiding the display of religious symbols in public, being forbidden to ride a horse, and so forth. These stipulations are known as “The Pact of ‘Umar” as they are attributed to the second caliph, ‘Umar Ibn al-Khattab (634-644 CE).³¹ Whereas the critics censure ISIS for violating the 1,400-year-old covenants of the *dhimma* by persecuting Christians, ISIS sees itself as unbound by these covenants. ISIS’ predecessor, the Islamic State of Iraq (*dawlat al-Iraq al-Islamiyya*), announced these agreements to be null and void as early as 2007; the reason given was that the People of the Book had violated the agreements, and that consequently the process must start anew: the Islamic State must wage war on the People of the Book and offer them conversion, surrender as *dhimma*, or death.³² It may be added that the Ottomans abolished the *dhimma* in 1856, so the Peoples of the Book cannot be blamed for violating the covenant.

On September 3, 2015, ISIS published a report showing Christians signing a new *dhimma* contract. The stipulations in this contract reiterate the original restrictions. For example, Christians may not build churches, trade in pork, or sound church bells in public; they must pay the *jizya*, respect Islam, etc.³³

The annulment of ‘Umar’s pact and the new *dhimma* contract are not merely a means to make licit the murder, robbery and persecution of Christians. They are also a means to enhance the Caliphate’s legitimacy. They convey the idea that the new Caliphate is not simply a continuation of the ancient one; it is a re-enacting of the original ways and policies. The modern Caliph puts himself in the place of ‘Umar Ibn al-Khattab, the great conqueror and the initiator of the *dhimma* arrangements for the subdued populations.

The critics’ argument concerning the history of Christian Arabs is partly correct. In the seventh-eighth centuries, the Christian Arabs of the Arabian Peninsula were not marginalized, persecuted, forced to convert or separated from the Muslim society. However, the Christian Arabs of the Fertile Crescent presented a problem. They were requested to pay the humiliating poll tax but proudly refused, on account of their Arab descent. It is reported that the caliph ‘Umar (d. 644 CE) consented to accord them a special status and call their tax *sadqa* instead of *jizya*. Later, many Muslim scholars objected to a distinction between groups of Christians on the basis of ethnicity. The issue is known in the sources as “The Christians of Banu Taghlib.”³⁴

The critics’ argument that Koran 9:29, “Fight those have been given the Scriptures but do not believe...” applies only to aggressive Christians (or Jews, etc.) is incorrect. Such a restriction is not mentioned in the verse or in pre-modern Koran exegesis and law books. The verse was regularly presented as justification of the Islamic conquests. It is only modern Muslim scholars, among them al-Qaradhawi, who claim that the seventh century conquests were launched in defense of Islam and the Muslims.³⁵

11. The Yazidis

The critics harshly censure the atrocities committed by ISIS against the Yazidis. Their argument is that, according to the Shari’a, Yazidis are like Zoroastrians whom the Prophet considered as one of the Peoples of the Book and therefore eligible for the protected-humiliating status of *dhimma*. This means that they may adhere to their religion on condition that they submit to the Muslims, pay the *jizya*, and obey the Shari’a laws that concern them. As long as they abide by these conditions they may not be killed or harmed. The greatest pre-modern Muslim scholars considered the adherents of most other religions, including Hindu and Buddhists, as Peoples of Book entitled to the *dhimmi* status. (p. 17)

Historically, the critics' argument is accurate. In the Koran, the term "the Peoples of the Book" who must be fought until they surrender and become *dhimmi* denotes Jews, Christians and Sabians.³⁶ Other non-Muslims are idolaters that must be fought until they convert or die. However, being pragmatic, early Muslim jurists accorded the protected status not only to the Koranic Peoples of the Book but also to members of most other religions.³⁷ ISIS' policy towards the Yazidis, however, is a result of a research done by ISIS scholars, who established that the Yazidis have no scriptures, and therefore are not a People of Book but rather polytheists. Accordingly, they are not eligible for protected status and must either convert or face the sword.³⁸

12. Enslavement

The critics condemn ISIS for enslaving women. It is a fact known to all, they say, that since the Prophet's time Islam strove to abolish slavery. Moreover, this institution was banned by the whole world, including all Muslims, a hundred years ago. (p. 17)

Contrary to this argument, the Shari'a never strove to abolish slavery, but to regularize it. Prisoners of war, both men and women, were regularly enslaved, as was customary in the ancient and medieval world. In fact, even conversion to Islam did not inevitably set them free. It was always considered meritorious, but not mandatory, to free slaves who had been converted to Islam. Furthermore, sexual intercourse with slave girls was sanctioned by the Shari'a. ISIS members pride themselves on having revived a Prophetic custom (*sunna*) that has been abandoned, namely, taking slave girls as concubines.³⁹ Reviving a *Sunna* of the Prophet has always been very highly regarded in Islam.⁴⁰

The second part of the critics' argument is not a Shar'i one. Indeed, slavery has been abolished by the international community at least *de jure*, and the Muslim world consented. In Saudi Arabia slavery was abolished only in the last quarter of the twentieth century, decades later than in the West. However, it seems that for some Muslims, not necessarily radicals, the institution of slavery is still in force.⁴¹

13. Coercion

According to the critics it is forbidden to coerce anyone to convert to Islam. They cite several verses, among them Koran 2:256: "No compulsion is there in religion. Rectitude has become clear from error. So whoever disbelieves in idols and believes in God has laid hold of the most firm handle, unbreaking; God is All-hearing, All-knowing."⁴² The critics also censure ISIS for enforcing the Shari'a in the public sphere under the labels "Commanding right and forbidding wrong" and *hisba* (see below). To justify their criticism they cite Koranic verses (13:31, 26:4) conveying the idea that Allah wants the presence of infidels and sinners on earth, or else he would have guided them to the right path. It follows that it is not the mortals' task to take matters into their hands and enforce the right path. (p. 18)

In modern times 2:256 ("No compulsion is there in religion...") has been cited by many as a proof that Islam is not a religion of the sword but a peaceful, tolerant religion. The verse was also widely discussed by pre-modern Muslim scholars. They needed to solve the contradiction between this verse (and others that express toleration) and the Koranic command to engage in jihad against the infidels in order to make Allah's word supreme. The most common technique to solve such contradictions was abrogation. Scholars would decide which of any contradictory verses was revealed to the Prophet later than the other, and consider the later one as binding and the earlier one as superseded. Thus many pre-modern Muslim scholars have considered the lenient verses, including 2:256, as abrogated. Consequently, they considered as binding the Divine command to fight infidels in order to eradicate unbelief. Others explained away the tolerant verses in various ways. All the pre-modern explanations eventually recognize the belligerent verses as the binding ones.⁴³

The critics are aware of the abrogated status habitually accorded to 2:256, but they polemicize against it, wishing to preserve the validity of its tolerating content. They argue that it cannot be considered abrogated because it was revealed after the conquest of Mecca in 630 CE, shortly before the Prophet's death. This argument is meaningless. First, there was ample time between the con-

quest of Mecca (630 CE) and the Prophet's death (632 CE) in which revelation and abrogation occurred. Secondly, while abrogation is decided by the relative antecedence of contradictory verses, Muslim scholars have almost never agreed on the antecedence or otherwise of specific verses.⁴⁴ One of the rare cases of consensus was precisely the matter of warfare against infidels. The sword verses (9:5, 9:29, among other belligerent verses) have been always considered as superseding all the tolerant verses, whether by abrogation or by another exegetical device.

Pre-modern Muslim scholars were not concerned with religious freedom as a human right or with the idea of tolerance in the modern, pluralistic, egalitarian sense. Rather, they discussed coercion in religion because they had to determine the attitude of Islamic law towards non-Muslims in light of contradictory Koranic verses. Using exegetical techniques to resolve contradictions, they reached varying opinions on the matter of coercion. These are examined by Friedmann in his book *Tolerance and Coercion*. Differences aside, all the opinions are based on distinction between various groups of people. There were groups who must be coerced to convert to Islam or die, such as Arab idolaters, apostates and Manicheans. Others were tolerated, and could continue practicing their religions as protected-humiliated communities (*dhimmi*, see above). Thus, the potential *dhimmis* were not coerced to convert, yet surrender they must, by force if necessary. Among the pre-modern Muslim scholars there were those who explicitly stated that Islam was the purpose of creation, and that, eventually, the protected *dhimmis* must convert too.⁴⁵ Certain Koranic verses (e.g. 2:193) have been interpreted in this manner, and apparently they guide ISIS in this vein: "Fight them until there is no *fitna* anymore, and religion is Allah's." As already mentioned in another context, pre-modern Muslims understood the key term *fitna* as "unbelief."⁴⁶

Enforcing the Shari'a in the public sphere is by no means an innovation by ISIS. The verses cited by the critics (13:31, 26:4) indeed state that infidels exist because Allah so willed; yet there was a complete consensus among pre-modern Muslims that one of the major tasks of a Muslim ruler was to enforce the Shari'a. The precept, "commanding right and forbidding wrong," was the basis of the function of the *muhtasib/hisba*, which in medieval times involved both supervision of markets and keeping order and moral conduct in public places. This precept is also the basis of the religious police (*hisba*) operating in Saudi Arabia today, whose function is to ensure proper conduct in public (e.g. refraining from smoking during the fast hours of Ramadan), and appropriate dress and appearance (especially for women).⁴⁷ A horrendous case that attracted international attention occurred in 2002, when the religious police in Mecca hindered the rescue of schools girls from a blazing building because they were not properly dressed; it was "wrong" for the pajama-clad girls to flee out into the public space, and it was also "wrong" for men who were present on the scene to touch them in order to rescue them. Fifteen girls died in the fire.⁴⁸ Such a religious police was established by ISIS in the areas under its control, bearing the medieval name *diwan al-hisba*.

"Commanding Right and forbidding wrong" has been widely discussed by both pre-modern and modern Muslims. Among the questions debated, one may find the following: Is this injunction directed at the authorities or at individuals? Is it to be applied only in the public sphere, or also in people's private homes? Some religious leaders were known for their activism in implementing this precept. In the fourteenth century Ibn Taymiyya, for example, led his followers through the markets to destroy wine vessels, for wine is wrong.⁴⁹ A completely different interpretation and application of the injunction are offered by al-Qaradhawi, one of the authors of the Letter. He holds that the duty is incumbent on each and every Muslim. This rule serves him as a springboard to allow both immigration and integration of Muslims in the West, two controversial issues among modern *'ulama*. Al-Qaradhawi argues that Muslim immigrants who integrate and participate in local politics may implement the duty of "commanding right and forbidding wrong" among non-Muslims.⁵⁰ ISIS can thus rely on a panoply of precedents and legal opinions to choose their model and modes of "commanding right and forbidding wrong." At any rate they do not seem to be innovative in this matter.

14. Women's rights

The critics point out that in the ISIS-controlled areas women are treated like prisoners. They are deprived of freedom of movement, of the right to study, to work and earn a living, and to dress according to their taste. Forced marriages are also customary. To this the critics react by citing a verse that implies a common source for both males and females (Koran 4:104), and Prophetic

sayings recommending lenient treatment of women and education for all Muslims. Moreover, the first Koranic word revealed to the Prophet was: “read;”⁵¹ the critics infer from this report that women must not be denied access to education. (pp. 18-19)

There is no denying that, by modern liberal standards, the Koran, the *Hadith* and Islamic law contain many discriminatory rules against women. Nevertheless these rules may be alleviated by interpretation and careful application. Certain regimes and movements apply these rules in an extremely harsh way that is not stipulated by the Shari’a. The critics point the way to improvement of social conditions for Muslim women without renouncing the Shari’a or adopting a foreign system of law.

15. Children

ISIS forces children to participate in fighting and other atrocities, and also kills and tortures children. In condemning this, the critics cite Koran 4:75, which urges the Muslims to defend the weak, among them women and children. (p. 19)

The critics could have also referred to the Islamic legal distinction between minors and adults, to stories that the Prophet would not allow children under 15 (or 14) to participate in jihad. There are also many Shari’a rules concerning the protection of children and their rights (*ahkam al-sighar*). I do not know what Islamic models or legal precedents, if any, ISIS uses to justify its treatment of children.

16. Koranic punishments (*Hudud*)

The Koran stipulates specific punishments for certain crimes that are considered crimes against Allah or His religion. For example, unlawful sexual intercourse incurs public stoning, wine consumption incurs public flogging, and theft brings upon the perpetrator the amputation of hand and/or foot. The critics argue that the Shari’a has developed complex procedures for establishing guilt, and also for defining mitigating circumstances, the purpose of which has been to avoid implementing the *hudud* as far as possible. The critics therefore censure ISIS for hastening to mete out the *hudud* punishments, contrary to the lenient spirit of the Shari’a. (p. 19)

Minor difference among the various schools of law notwithstanding, pre-modern Islamic law indeed displays a strong tendency to limit the application of the *hudud* as far as possible.⁵² This may be due to the fact that the law developed under, and in cooperation with, established and legitimate Muslim regimes. The more consolidated the power of a state, the less brutal it needs to be when exercising its authority. Apparently, a nascent, controversial Islamic regime such as ISIS may attempt to legitimize itself by displaying religious fervor. Application of the *hudud* is one way of doing so.

17-18. Torture and humiliation of the living; mutilation of the dead

According to its own publications, ISIS regularly practices such acts. The critics blame it for committing un-Islamic atrocities, and for harming Islam’s image among other nations. (pp. 19-20)

The latter argument is not likely to sway ISIS, which obviously takes pride in these acts and does not see them as a stain on Islam’s reputation, otherwise it would not have broadcasted them.

As for the former argument, it is indeed grounded in the classical sources, for torture and abuse of the living and the dead are definitely not part of Islamic law. The Prophet is described as having treated prisoners kindly before putting them to death, and he is reported to have forbidden mutilating corpses and execution by fire.

It should be noted that execution by fire is not mentioned in the Letter, because the first such atrocity perpetrated by ISIS occurred in February 2015, several months after the Letter’s publication. However, the critics would have surely condemned it, for

an explicit prohibition of execution by fire is attributed to Prophet, the reason being that that only Allah may torture by fire (i.e. in Hell).⁵³ Some pre-modern Muslim scholars nevertheless allowed it, whereas others stipulated that if the enemy resorts to such a measure, the Muslims are allowed to reciprocate.⁵⁴ ISIS is obviously aware of this, for it justified the burning of the Jordanian pilot (in February 2015) by alluding to the principle of an eye for an eye (*al-mu'amala bi-l-mithl*). The argument was that he had set fire to people by firing bombs from his aircraft.⁵⁵

19. Attributing crimes to God

ISIS fighters attribute their conquests to Allah and not to their own prowess. The critics argue that, by doing so, they also attribute their atrocious crimes to Allah. They present as an example the taking over of Farqa in North Eastern Syria, where ISIS fighters committed their habitual atrocities of torture and abuse. To support their argument the critics cite Koran 7:28: “When they commit an obscenity they say, we found that our fathers did it, and God has ordered us to do it; tell them, God does not order obscenities, are you telling about God that which you do not know?” (p. 20)

Early Muslims customarily attributed their conquests to Allah, but the sources that report such scenes do not usually tell of tortures and other atrocities committed by the Muslim conquerors, let alone by the Prophet himself. That such conduct occurred may be inferred from the fact that pre-modern jurists discussed it and banned it. Pre-modern juristic arguments against torture and abuse rely on reports about the Prophet and interpretations of the Koran. The critics’ argument – that by attributing its conquests to Allah ISIS is also associating Him with its crimes – is thus an innovative theological argument against the perpetration of atrocities.

20. Destruction of tombs of prophets and of Companions of the Prophet

The critics rebuke ISIS for destroying tombs of prophets and of Companions of Muhammad. They rely on a reported permission from the Prophet to visit graves. Koranic verses (102:1-2) also vindicate their argument by stating that visiting graves is beneficial since it reminds mortals of death (and consequently of the Last Judgment, God’s commands, etc.). Al-Baghdadi justifies the destruction of tombs by citing a saying attributed to the fourth caliph ‘Ali, the Prophet’s cousin and son-in-law. ‘Ali reports that the Prophet instructed him to destroy all idols and tombs that rise above the ground. The critics admit that this report may be true, but claim that it does not include the tombs of prophets. As proof they note that the Companions buried the Prophet and his closest associates, Abu Bakr and Umar, in a place adjacent to the mosque in Medina, where worshippers come regularly. (pp. 20-21)

The issue of the veneration of the dead and pilgrimage to holy graves has been hotly debated among Muslims. Some conceived it as an infringement upon monolatry (the worship of Allah alone), because pilgrims beseech the deceased to intercede with God on their behalf, or else ask the deceased for help in matters of health, fertility, etc. Among the vehement opponents to these customs were Ibn Taymiyya and Muhammad b. ‘Abd al-Wahhab.⁵⁶ Thus, while the critics’ textual and historical base may be firm, ISIS is not the first Islamic movement to oppose the veneration of the dead.

21. Rebellion against legitimate rulers

The critics regard ISIS as rebels against established, legitimate authority. They cite Koranic verses and Prophetic sayings enjoining obedience to Allah, the Prophet and the authorities, and mention Islamic legal rulings regarding the dismissal of rulers from office. According to these rules, only when a ruler avowedly becomes an apostate or prevents Muslims from prayer may he be deposed. Furthermore, only a special legal consultative body (*ahl al-hall wa-l-'aqd*) may oust him if he sins. It is strictly forbidden to take up arms against rulers, even if they are unjust, hated and despised. The critics point out that, even if a ruler avoids implementing the Shari’a, in part or even in full, no violent action is permitted against him, because Allah says (Koran 5:44-45, 47): “Whoever does not judge according to what Allah has revealed, those are unbelievers”, “...Whoever does not judge according to what Allah has revealed, those are the wrongdoers”, “...Whoever does not judge according to what Allah has revealed, those are the sinners.”

This means that there are three degrees: unbelievers, wrongdoers and sinners. Unbelievers are only those who totally prevent the implementation of the Shari'a in a Muslim country. Those who fail to implement parts of it, or only follow its intent (*maqasid*) without implementing every detail, are merely sinners or wrongdoers, i.e., are guilty of Ibn Abbas; this kind of unbelief or sin does not put them beyond the pale of Islam, as stated by Ibn Abbas.⁵⁷ Moreover, in certain Muslim countries the religious law is somewhat restricted by ordinances of government (*abkam sultaniyya*), for reasons of national security. Such restrictions are legitimate, say the critics. (pp. 21-22)

The critics cite verses that contradict their own argument. They argue that rebellion against a ruler is forbidden even if he avoids implementing the Shari'a, although according to 5:44 such a person is an unbeliever, and no unbeliever may rule over Muslims. The critics' underlying assumption is apparently that no Muslim ruler is likely to *totally prevent* his subjects from fulfilling the Shari'a. Consequently, no Muslim ruler is likely to be guilty of *major* unbelief, but only of minor unbelief, or of sin or "wrongdoing" (Koran 5:45, 47). In these cases no rebellion is permitted against him. The stance described by the critics is indeed the mainstream pre-modern Sunni view on the matter of government. This attitude developed under the traumatic impact of the early civil wars (*fitan*), which were a blatant breach of Muslim solidarity commanded by Allah and the Prophet. The first and second civil wars (656-661, 680-692 CE) were particularly distressing to the community because they resulted in permanent rifts between factions ultimately developed into the Khawarij, various Shi'a groups, and the mainstream Sunna. Over the centuries, religious leaders of the mainstream Sunna developed quietist attitudes in order to avoid discords and bloodshed. Needless to say, the rulers and their agents fully supported the quietist trend.⁵⁸

Paradoxically, Koran 5:44-45, 47 are precisely the verses adduced by radicals in order to justify rebellion against certain Muslim rulers: They accuse these rulers of avoiding implementation of the Shari'a, thus declaring them to be unbelievers and justifying rebellion against them.⁵⁹ Perhaps this is why the critics emphasize that deposition of a ruler depends not on his actions and the judgment passed on him by others, but on his own explicit rejection of Islam, or his active role in leading Muslims astray. The radicals' use of the verse also explains why the critics adduce Ibn Abbas' interpretation of 5:44. Although the verse states explicitly, "Whoever does not judge according to what Allah has revealed, those are unbelievers," the interpretation of Ibn Abbas – that the unbelief intended in this verse is minor and therefore the perpetrator is still a Muslim – makes it possible to accept rulers even if they fail to implement Allah's laws. Radicals, however, are not likely to be convinced by these arguments. In fact they despise the pre-modern quietist consensus, and they attach a pejorative label to their opponents who reject rebellion, calling them proponents of "*murji'a*," meaning a heretical quietist attitude.⁶⁰

22. The caliphate

The critics reject al-Baghdadi's claim to the title of caliph. They state that the election of a caliph must ensue from a consensus of all Muslims, and that installing a caliph without such a consensus only leads to discord and internal wars. They cite the second caliph, 'Umar b. al-Khattab, as declaring, "Whoever pledges allegiance to someone without consulting the Muslims, he must not be followed, nor the one receiving the pledge, lest they be executed." The critics argue that the number of ISIS supporters does not exceed a few tens of thousands. So, if ISIS recognizes the rest of the Muslims, numbering some 1.5 billion, as believers, then al-Baghdadi cannot be caliph, because he is not accepted by all these Muslims. And if ISIS regards all Muslims who are not its followers to be unbelievers, then again al-Baghdadi cannot be caliph, because his supporters are too few to require a caliph. (pp. 22-23)

The critics' position reflects the familiar Sunni trauma of internal wars (*fitan*). These wars erupted precisely because of lack of consensus about leadership. Oppositions to caliphs arose in all Muslim caliphates, and at the same time theories evolved that outlawed all opposition. These theories are based on the duty to obey God and His representatives, the duty to preserve Muslim unity and solidarity, and the appeal to the consensus of the community.

The argument that a small number of Muslims does not need a caliph has no basis in Islamic sources; moreover, it seems unwarranted in view of the early history of the caliphate. When the first caliph, Abu Bakr, was nominated in 632, the size of the Muslim

community in the Hijaz was very small compared to the numbers of the Arab tribes who rejected the new caliph's authority. Abu Bakr had to impose his rule by both force and diplomacy, in what has become known as "The Apostasy Wars" (*hurub al-ridda*), recorded in every book on the history of Islam. The historical precedent from the pristine period thus speaks against the critics' argument.

It should be noted that ISIS uses very similar arguments when trying to invalidate the caliphate of Mullah Omar in Afghanistan. Although not shy of internal wars and bloodshed, ISIS appeals to the consensus of the Muslims, which Mullah Omar lacks, and cites precisely the same *hadiths* adduced by the critics in their letter.⁶¹

23-24. Affiliation with nation states and immigration

ISIS aspires to abolish the nation states and establish in their place a single unified caliphate. In this context al-Baghdadi declared that Syria and Iraq do not belong to the Syrians and the Iraqis, respectively, and called upon all Muslims to immigrate to the ISIS-controlled areas. The critics' response to this is that calling foreigners to settle in Syria and Iraq is comparable to Israel's encouragement of Jewish newcomers to settle in Israel at the expense of the local Palestinians. They also assert that affiliation with places does not contradict Islam, as proved by the Prophet's attachment to Mecca and to Medina. Finally, they cite the famous Prophetic saying, "There should be no immigration after the conquest [of Mecca in 630 CE]; rather, jihad and intention [to please God]." (pp. 23-24)

Obviously, the material cited by the critics about attachment to specific places cannot be taken to refer to nation states, since the latter are a modern creation that has no legal basis in Islam. However, nation states exist and have long been accepted as legal by all Muslims. Arabs and Muslims did not reject the idea of nation states even though, in the Middle East, it was related to the demise of the Ottoman caliphate, and even though it was artificially implemented by imperial powers. During the twentieth century, the nation state superseded both pan Arabism and pan-Islamism. However, for radicals who wish to emulate pristine Islam, nation states are a foreign element that must be uprooted.

ISIS' call for a caliphate presents a dilemma to many non-radical Muslims, because, while they reject ISIS, they cannot openly denounce the idea of the caliphate.⁶² One solution, albeit an impractical one, is to envisage a caliphate formed through consensus rather than violence. Al-Qaradhawi, for example, argued: "A group cannot just announce a caliphate. This is not the way to establish a caliphate. A caliphate can be established when several Muslim countries, which are ruled by the Shari'a, come together and form a caliphate. It doesn't have to be like the original Islamic Caliphate. It can take the form of a federation or a confederation. We can form a union like the Europeans, which will develop gradually."⁶³

The issue of immigration (*hijra*) is a different matter. It was discussed in early Islam in the context of the relative status of early Muslims. After the Prophet's migration to Medina many of his followers joined him there. The Immigrants were the elite of the nascent Muslim community. In order to distinguish between this early elite and later converts, a saying was attributed to the Prophet denying the status of Immigrant to those who joined the community after the conquest of Mecca in 630 CE. The Immigrants remained highly revered in the Muslim community, although actual power was gained by the later converts, the Quraysh of Mecca.

Pre-modern Muslim scholars continued to discuss migration, but in a completely different context. When territories that had been conquered by Muslims changed hands and reverted to other powers, the question arose whether Muslims who lived there were obliged to migrate to Muslim lands, or could continue living under the authority of infidels. Opinions differed. Some scholars held that if the authorities prevented Muslims from practicing their religion, they had to migrate to Islamic territory, but otherwise they could stay. Others enjoined migration under any circumstances. ISIS considers itself the only true Islamic land and all other regimes as unbelievers. It can therefore call upon its supporters to leave their homes and migrate to ISIS-controlled territories, on the basis of pre-modern legal opinions. From this point of view, migration to ISIS territories is the correct course of action, both because infidel lands are no place for Muslims and because this is an emulation of the Prophet and his early Companions.

The Letter's Conclusion

Concluding their Letter, the critics emphasize the theme of mercy, citing Koranic verses and *hadiths* to prove that Allah is merciful and Islam is the Religion of Mercy. They call upon ISIS to repent and return to the true religion.

Following this conclusion, but before the executive summary and signatures, the critics cite a passage from a book on eschatology, *Kitab al-Fitan* by Nu'aym b. Hammad (died 838 CE). In this passage, the fourth Caliph Ali Ibn Abi Talib (died 661 CE) foretells the advent of the Abbasid dynasty in 749 CE, and warns the Muslims against following and assisting them. He characterizes the Abbasids as bearers of black banners, ruthless, treacherous, and presuming to propagate true Islam while in fact deviating from it. He says they will use teknonyms (like "Abu Muhammad") and relational names (like al-Khurasani), and wear their hair long, like women. They will quarrel among themselves and then Allah will bring the truth to whoever He chooses.

The critics draw parallels between 'Ali's prediction and ISIS, stating that the black banners, the cruelty, the internal quarrels, the breaking of alliances and the use of teknonyms,⁶⁴ all are applicable to ISIS in every detail. The conclusion is obviously that, just as 'Ali warned against following the Abbasids, so people must be warned against following ISIS. The truth that Allah will eventually reveal to those He chooses is true Islam as expounded in the present Letter, say the critics (pp. 24-27). These remarkable parallels between ISIS and the Abbasids, as described in the passage attributed to 'Ali, have been noted as early as July 8, 2014, apparently by the Egyptian doctor Raghieb al-Sirjani,⁶⁵ though the critics do not mention this fact. Obviously the analogy between Allah's truth and the Letter is their own addition, and an audacious one too.

'Ali Ibn Abi Talib, the cousin and son in law of the Prophet, to whom this prophecy is ascribed, became the fourth caliph in 656 CE and was assassinated in 661. He became the eponym of the Shi'a party which aspired to restore the rule of his descendants. The Abbasid dynasty (749-1248 CE) claimed to replace 'Ali's descendants as representatives of the family of the Prophet, but the Shi'a rejected the claim and strongly resented the Abbasids. 'Ali's prophecy is one of many Shi'i reports that express hatred of, and disappointment with, the Abbasid dynasty. The Abbasids, however, gained the recognition of the majority of Sunni Muslims and continued to face Shi'i opposition for centuries. Hence, the critics put themselves in an odd position by citing 'Ali's warning against the Abbasids. What we have here is moderate Sunnis censuring radical Sunnis by relying on an anti-Sunni report. Last but not least, the critics state that they are applying a 1,200 years old saying (sic., they mean an over 1,350 years old saying) to the present, ignoring the fact that they denounced ISIS for applying Koranic verses – 1,400 years old – to the present (above p. 3). If anything, the eternal Koran is more apt than a *hadith* by 'Ali to be applicable to times and places other than the seventh century.

Conclusion

Throughout the Letter the critics reject the legitimacy and authority of al-Baghdadi and ISIS and denounce their doctrines, policies and practices. They detail many atrocities perpetrated by the organization and express in many ways their view that ISIS deviates from Islam, which is a merciful religion. Nevertheless the critics express some appreciation of ISIS' basically good intentions and of the courage and dedication of its members. For the most part the critics rely on Islamic sources, sometimes giving their own interpretations to the same texts used by ISIS. Occasionally they commit the same methodological errors that they point out in critiquing ISIS' argumentations.

The critics make no reference to the fact that ISIS insists not only on legitimizing itself but also on building an Islamic state according to Islamic models. First, ISIS describes al-Baghdadi's qualifications in accordance with the classical requirements from a caliph. Second, ISIS avoids emulation of nation state models, reviving instead early and classical Islamic institutions. Among them are the *bay'a* (the contract between the ruler and the community), the laws for the seizure of war booty, the poll tax (*jizya*), the Koranic punishments for specific crimes (*hudud*), Shari'a courts, and courts for complaints against state officials (*mazalim*). Al-Baghdadi sometimes punishes or even executes judges when their decrees displease him, but so did pre-modern Muslim rulers. The monetary system too reverted to the seventh century. During 2015, ISIS minted copper, silver and gold coins emulating the coins of

the early caliphate.⁶⁶ Most of the horrendous practices too have precedents in the conduct of the Prophet and his Companions and were common at their time. Taking young girls as sex slaves, executing people by beheading, and offering polytheists the choice between conversion and the sword are amply documented in the biographies of the Prophet, the Companions and the Islamic law books. Some of ISIS crimes perhaps have no precedent in the Prophet's conduct, but ISIS finds Islamic justifications for them too.

Interestingly, the Taliban of Pakistan challenge the legitimacy of al-Baghdadi on religious grounds, with arguments that are sometimes parallel, and sometimes different from, those recorded in this Letter. Like the latter the Taliban argue that the lack of consensus on al-Baghdadi and the discord that he causes delegitimize his rule. They also contend that he is not eligible to be caliph to begin with because he lacked religious and political leadership prior to his self-nomination. In contrast to the Letter, the Taliban accuse al-Baghdadi, among other things, of being *insufficiently* strict in imposing Islamic rule, namely of failing to strictly implement the Koranic punishments, to collect the legal alms (*zakat*), to levy the poll-tax and to invite infidels to convert (regardless of the fact that all these are, in fact, practiced by ISIS). The Taliban also accuses al-Baghdadi of killing a great number of jihad fighters (they omit mention of murdered civilians). The Taliban, who declare that jihad will never stop and act accordingly, also blames ISIS for failing to defend Islam and to provide peace and security.⁶⁷ This accusation is of course ironic, coming from the Taliban. Al-Baghdadi, however, might argue that he is working on achieving peace and security, since these can only be provided under true Islamic rule, which he is fighting to establish (see p. 5-6 above). The Taliban's accusations are probably a response to an ISIS fatwa published in its Magazine *Dabiq* (July 2015) that invalidated Mullah Omar's caliphate on religious grounds. Among other things, the fatwa stated that Mullah Omar cannot be caliph because he is not a member of the Quraysh tribe, as required by the Shari'a; that he is a regional leader, not a universal caliph, and that the contract (*bay'a*) between him and his supporters did not name him caliph.⁶⁸

Both al-Baghdadi and his critics see themselves as adhering to, and practicing Islam in its correct form. Both rely on Islamic sacred sources. However, the reading and interpretation of the sources are always and of necessity selective. The reason for this is the fact that they contain various, often contradictory rulings, reflecting both disagreements among Muslims and developments over time. Was this not the case, history would not have witnessed endless quarrels among Muslims, each faction claiming that it is the only one that follows the right path. Various techniques and interpretations were developed over time to solve the problem of contradictions. The result is a panoply of options to choose from, on each and every issue.

Emulating the Prophet and making Allah's word reign supreme are ideals directly derived from classical Sunni Islamic consensus, doubtlessly shared by many non-radical, even moderate, Muslims. However, it is obvious that most of the Muslims are not driven to commit atrocities in the name of these core ideals. They practice their religion without emulating each and every act performed in the seventh century.

Endnotes:

* I wish to thank Yigal Carmon, founder and president of MEMRI, for bringing to my attention the document discussed in this article. Thanks are also due to Yael Yehoshua from MEMRI for assistance and useful suggestions, and to Barak Barfi, a Research Fellow at the New America Foundation, for important references and material.

- 1 The date of its declaration is usually given as June 29, 2014. See "*Dai'ib Yu'lin Iqamat al-Khilafa al-Islamiyya*," The BBC, June 30, 2014, at http://www.bbc.com/arabic/middleeast/2014/06/140629_iraq_isis_caliphate (accessed July 26, 2015). The Caliphate emerged in the vacuum created in the aftermath of the 2003 invasion of Iraq. It branched off from al-Qaeda in Iraq, and was first known as ISIS and ISIL ("The Islamic State in Iraq and Syria", or "in Iraq and the Levant"), terms that are still in general use by non-members of the organization. I shall conform to the general usage (ISIS) rather than the organization's self-appellation (IS). See a brief history of ISIS on al-Jazeera: <http://www.aljazeera.net/news/reportsandinterviews/2014/6/14> (accessed October 23, 2015), and in more detail, Cole Bunzel, "From Paper State to Caliphate: The Ideology of the Islamic State", *The Brookings Project, Analysis Paper*, No. 19, March 2015, at <http://www.brookings.edu/~media/research/files/papers/2015/03/ideology-of-islamic-state-bunzel/the-ideology-of-the-islamic-state.pdf> (accessed October 23, 2015).

On the structure and legal basis of ISIS see Andrew F. March and Mara Revkin, "Caliphate of Law," *Foreign Affairs*, April 15, 2015, at <https://www.foreignaffairs.com/articles/syria/2015-04-15/caliphate-law> (accessed August 21, 2015).

- 2 Bin Bayyah is considered one of the 500 most influential Muslim scholars, see <http://themuslim500.com/profile/h-e-sheikh-abdullah-bin-bayyah> (accessed August 23, 2015). He has issued a fatwa against ISIS, see Dina Temple-Raston, "Prominent Muslim Sheikh Issues Fatwa against ISIS Violence," *NPR*, September 25, 2014, at <http://>

- www.npr.org/2014/09/25/351277631/prominent-muslim-sheikh-issues-fatwa-against-isis-violence (accessed August 23, 2015). He was also involved in the Mardin Peace Conference, convened in March 2010 to spread the message that Islam is a religion of peace, see <http://www.binbayyah.net/portal/en/tasrehaat/1038> (accessed August 23, 2015).
- 3 For an Islamic controversy concerning al-Qaradhawi, his views and methodology see e.g. Ron Shaham, “The Rhetoric of Legal Disputation,” *Islamic Law and Society* 22, 2015, 114-141.
 - 4 See S. Helfont, *Yusuf al-Qaradawi: Islam and Modernity*, Tel Aviv, The Moshe Dayan Center for Middle Eastern and African Studies, 2009, 59-88; however, on July 27, 2015, al-Qaradhawi issued a declaration banning suicide attacks in Palestine, see MEMRI Special Dispatch No. 6116, [Sheikh Al-Qaradawi: Permission Previously Given to Palestinians to Carry Out Suicide Attacks – No Longer Valid](#), July 28, 2015. On ‘Allam and Jum’a, see MEMRI Special Dispatch No. 6104, [Current and Former Egyptian Muftis: Ramadan is the Month of Victory and Conquests](#), July 14, 2015.
 - 5 <https://www.facebook.com/LetterToBaghdadi> (accessed July 8, 2015).
 - 6 <http://www.lettertobaghdadi.com>. The first signature on the original Letter is that of the Sultan of the Sokoto Caliphate in Nigeria, Abu Bakr Muhammad Sa’d. There are many more condemnations of ISIS by senior Muslim religious figures, see e.g. “Egypt’s Top Religious Authority Condemns ISIS,” *alarabiyya.net*, August 12, 2014, at <http://english.alarabiya.net/en/News/middle-east/2014/08/12/Egypt-s-top-religious-authority-condemns-ISIS.html> (accessed July 15, 2015); “Muslim Leaders Reject Baghdadi’s Caliphate,” *al-Jazeera.com*, July 7, 2014, at <http://www.aljazeera.com/news/middleeast/2014/07/muslim-leaders-reject-baghdadi-caliphate-20147744058773906.html> (accessed July 19, 2015); Dr. ‘Ali al-Hakami, “*Wilayat Da’ish Batila*,” *al-Madina*, September 21, 2014, at madina.com/node/558400 (accessed July 20, 2015).
 - 7 A *kunya* (teknonym), namely the construct “Abu So-and-So” – in this case Abu Bakr – is usually a term of respect, whereas a *laqab* (soubriquet, nickname) is usually either neutral or pejorative.
 - 8 The injunction to fight the infidels occurs many times in the Koran; see Ella Landau-Tasseron, “Jihad,” *The Encyclopedia of the Qur’an*, ed. Jane McAuliffe, vol. 3, Leiden: Brill, 2003, 35-43. For the ubiquitous belligerent Prophetic saying, “I was ordered to fight the people until they say, ‘there is no God but Allah,’” see e.g. Bukhari, *Sahih al-Bukhari*, Damascus and Beirut: Dar Ibn Kathir (1993), 1/17 (*Kitab al-Iman* No. 25). The following link gives 444 references to this hadith: <http://library.islamweb.net/hadith/hadithsearch.php?srchtxt=%C3%E3%D1%CA%20%C3%E4%20%C3%DE%C7%CA%E1&startno=0>. For a collection of “mercy” sayings cited from Ibn Hanbal, Bayhaqi and Muslim, among others, see <http://www.sunnah.org/arabic/rahma.htm>.
 - 9 See Yohanan Friedmann, *Tolerance and Coercion: Interface Relations in the Muslim Tradition*, Cambridge: Cambridge University Press, 2003, 118.
 - 10 Specific and conditioned verses are those whose application or implementation is restricted. An abrogated verse is a Koranic verse that was superseded by another verse, revealed to Muhammad at a later stage. Ambiguous verses are those that should not normally be used as legal proof because they are not unequivocal.
 - 11 See e.g. Ibn Kathir, *Tafsir Qur’an al-Azim*, Cairo: al-Maktaba al-Tijariyya al-Kubra, n.d. 3/300-302; Waki, *Akhbar al-Qudat*, Beirut: ‘Alam al-Kutub, 2001, 296. The verses usually invoked in classical Islam in support of the caliphate are 2:28 and 38:25.
 - 12 See e.g. Adis Duderija, *Constructing a Religiously Ideal ‘Believer’ and ‘Woman’ in Islam: Neo Traditional Salafi and Progressive Muslims’ Methods of Interpretation*, New York: Palgrave MacMillan, 2011; M. Hakan Yavuz, *Towards an Islamic Enlightenment: The Gulen Movement*, New York: Oxford University Press, 2013, especially 47-68; Shmuel Bar, *Warrant for Terror: The Fatwas of Radical Islam and the Duty to Jihad*, Lanham, Md.: Rowman & Littlefield, 2006; Jonathan A. C. Brown, “Is Islam Easy to Understand or Not?: Salafis, the Democratization of Interpretation, and the Need for the Ulema,” *Journal of Islamic Studies* 26/2 (2015), 117-144.
 - 13 See R. Firestone, *Jihad: The Origin of Holy War in Islam*, 47-65; Landau-Tasseron, “Jihad.”
 - 14 Al-Qaradhawi mentions several medieval scholars who adhered to this principle, see *al-Shari’a wa-Taghayyur al-Fatwa*, <http://old.manaratweb.com/A8022/> November 30, 2001 (accessed August 21, 2015). He discusses the matter on his official site, see <http://qaradawi.net/new/component/content/article/220-2014-01-26-18-21-41/2014-01-26-18-26-08/742-> (accessed September 7, 2015).
 - 15 See e.g. Ibn Nujaym, *al-Ashbah wa-l-Naza’ir*, Beirut: Dar al-Kutub al-‘Ilmiyya, 1999, 1/73-75; al-Kilani, Rashad Salih al-Kilani, *Taghayyur al-Fatwa bi-Taghayyur al-Azman wa-l-Ahwal*, Riyadh: Jami’at al-Imam Muhammad Ibn Sa’ud, 2010; Hanan bint Muhammad Justaniyya, *Darurat Tubihu al-Mabzurat*, Riyadh: Jami’at al-Imam Muhammad Ibn Sa’ud, 2010.
 - 16 These rules are known as *fiqh al-aqaliyyat*. In fact, al-Qaradhawi relies on Ibn Qayyim al-Jawziyya cited here, see Shammai Fishman, *Fiqh al-Aqaliyyat: A Legal Theory for Muslim Minorities*, Washington D.C.: Hudson Institute, 2006, at <http://hudson.org/research/9795-fiqh-al-aqaliyyat-a-legal-theory-for-muslim-minorities> (accessed July 16, 2015); Jakob Skovgaard-Petersen and Bettina Graf, *The Global Mufti: The Phenomenon of Yusuf al-Qaradawi*, New York: Columbia University Press, 2009.
 - 17 A search for *taghayyur al-fatwa* on the web produced 54,500 results in 30 seconds.
 - 18 See Landau-Tasseron, “Non-Combatants in Muslim Legal Thought,” Washington D.C.: Hudson Institute 2006, at http://hudson.org/content/researchattachments/attachment/1136/20061226_noncombatantsfinal.pdf (accessed August 23, 2015).
 - 19 See al-Hakim al-Naysaburi, *al-Mustadrak*, Beirut: Dar al-Ma’rifah, 1998, 2/ 484, on the treatment of the messengers sent to Muhammad by his archenemy, the false prophet Musaylima.

- 20 Helfont, *Yusuf al-Qaradawi*, 80-81.
- 21 See MEMRI Special Dispatch No. 1785, [Major Jihadi Cleric and Author of Al-Qaeda's Shari'a Guide to Jihad: 9/11 Was a Sin](#), December 14, 2007, (accessed August 21, 2015).
- 22 "And when the sacred months are past, then kill the idolaters wherever you find them, and seize them, besiege them, and lie in wait for them in every lookout; but if they repent, and perform the regular prayers and pay zakah, then let them go: for Allah is Forgiving, Merciful."
- 23 "Fight those from amongst the People of the Book who do not believe in God and the Last Day, and do not forbid what God and His messenger have forbidden, and do not adhere to the religion of truth - until they pay the jizya out of their hand, humiliated."
- 24 See Friedmann, *Tolerance and Coercion*, 98-100.
- 25 Yusuf al-Qaradawi, *Fiqh al-Jihad: Dirasa Muqaririna li-Abkamibi wa-Falsafatibi fi Daw' al-Qur'an wa-l-Sunna*, Cairo: Maktabat Wahba, 2009, 1/315-324, 365-69, 2/1194-5; the same opinion about the conquests is held by the Shi'i scholar Murtaza Mutahhari, "Jihad in the Qur'an," in Mehdi Abedi and Gary Legenhausen (eds.) *Jihad and Shabadat: Struggle and Martyrdom in Islam*, Houston, Texas: The Institute for Research and Islamic Studies, 1986, 96-7.
- 26 See Landau-Tasseron, "Non- Combatants."
- 27 Al-Qaradhawi applies a similar argument to the idolaters mentioned in Koran 9:5, whom Allah commanded to fight: the war against them was defensive because they were by definition aggressors. See al-Qaradhawi, *Fiqh al-Jihad*, 1/287-88. Cf. Bin Laden's claim that 9/11 was defensive: Alia Brahim, *Jihad and Just War in the War on Terror*, Oxford: Oxford University Press, 2010, Chap. 5.
- 28 The critics refer to the murder of three Syrian truck drivers who failed a test about prayer. The event, a video of which was posted to YouTube in June 2014, occurred in August 2013, almost a year before the inauguration of al-Baghdadi as Caliph. See <http://www.allvoices.com/article/15294394> (accessed August 24, 2015).
- 29 See e.g. Wilfred Madelung, "Early Sunni Doctrine Concerning Faith as Reflected in the "Kitab al-Iman" of Abu 'Ubayd al-Qasim b. Sallam (d.224/839)," *Studia Islamica* 32 (1970), 233-254.
- 30 See Rif'at Sayyid Ahmad, *al-Nabi al-Musallab*, London: Riyad al-Rayyis li-l-Kutub wa-l-Nashr, 1991, 2/77.
- 31 See Milka Levi-Rubin, "Shurut 'Umar and Its Alternatives: The Legal Debate on the Status of the *Dhimmis*," *JSAI* 30 (2005), 170-206.
- 32 See MEMRI Daily Brief No. 53, [The ISIS Caliphate and the Churches](#), August 27 2015.
- 33 MEMRI JTTM Report, [ISIS Issues Dhimma Contract For Christians To Sign, Orders Them To Pay Jizyah](#), September 3, 2015.
- 34 See Friedmann, *Tolerance and Coercion*, 61-69
- 35 See above p. 6 and note 25.
- 36 Mentioned in Koran 2:62, 5:69, 22:17, see Sinasi Gündüz, *The Knowledge of Life: The Origins and Early History of the Mandaeans and Their Relation to the Sabians of the Koran and to the Harranians*, Oxford: Oxford University Press, 1994.
- 37 See Friedmann, *Tolerance and Coercion*, Chapter 2.
- 38 See March and Revkin, "Caliphate of Law".
- 39 See MEMRI Special Dispatch No. 5833, [French and British ISIS Fighters Discuss Use of Yazidi Women as Sex Slaves](#), September 3, 2014; MEMRI JTTM report, [ISIS Releases Pamphlet on Female Slaves](#), December 4, 2014. ISIS even held a competition to memorize chapters of the Koran in which the winners were to receive slave girls, see MEMRI Inquiry and Analysis No. 1181, [Sex Slavery In The Islamic State – Practices, Social Media Discourse, And Justifications; Jabhat Al-Nusra: ISIS Is Taking Our Women As Sex Slaves Too](#), August 17, 2015.
- 40 I. Goldziher, *Muslim Studies*, ed. S.M. Stern, London: George Allen and Unwin Ltd., 1967, 2/32-33, 73; R. Gleave, "Personal Piety," in Jonathan Brockopp (ed.) *The Cambridge Companion to Muhammad*, Cambridge, Cambridge University Press, 2010, Chapter 5, 103-122.
- 41 See the legal ruling by a Palestinian-Jordanian cleric, MEMRI TV Clip No. 5032, [A Woman Must Not Have Sex With Her Slave; She Can Marry Him, Turning Him Into Her Master](#), August 5, 2015.
- 42 Translation Friedmann, *Tolerance and Coercion*, 87.
- 43 See Friedmann, *Tolerance and Coercion*, 87-120; Landau-Tasseron, "Jihad."
- 44 See Firestone, *Jihad*, Chapters 3-4.
- 45 Friedmann, *Tolerance and Coercion*, 98-100

- 46 Also modern exegetes hold the same view, such as the Wahhabi Abu Basir al-Tartusi, *Sayd al-Qalam*, (no details of publication), at <http://abubaseer.net/?p=3429>, p. 111 (accessed July 7, 2015).
- 47 Called “The Hisba,” or “The Authority for Commanding Right and Forbidding Wrong” (*Hay’at al-Amr bi-l-Ma’ruf wa-l-Nahy ‘an al-Munkar*). Also translated as “the Commission for the Promotion of Virtue and Prevention of Vice.”
- 48 http://news.bbc.co.uk/2/hi/middle_east/1874471.stm (accessed July 21, 2015).
- 49 See the monumental work by Michael Cook, *Commanding Right and Forbidding Wrong in Islamic Thought*, Cambridge: Cambridge University Press, 2000. On Ibn Taymiyya see David Waines, “Ibn Taymiyya” in Andrew Rippin (ed.), *The Islamic World*, London: Routledge, 2008, 374-79; for another case of an activist scholar, see Nimrod Hurvitz, “Authority within the Hanbali *Madhhab*: The Case of al-Barbahari,” in Daphna Ephrat and Meir Hatina (eds.), *Religious Knowledge, Authority and Charisma: Islamic and Jewish Perspectives*, Salt Lake City: University of Utah Press, 2014, 36-49 (notes 278-280). For a modern opinion in the matter (which is that the tenet is to be applied by scholars) see ‘Abdallah b. Ibrahim al-Tariqi, *Ahl al-Hall wa-l-‘Aqd, Sifatuhum wa-Waza’ifuhum*, Mecca: Rabitat al-‘Alam al-Islami, 1419, 123-5, 147-50.
- 50 Helfont, *Yusuf al-Qaradawi*, 93-94.
- 51 This is a reference to the story of the first revelation in which the Angel read to the Prophet (Koran 96, Surat al-‘Alaq).
- 52 See J. Schacht, *Introduction to Islamic Law*, Oxford: Clarendon Press, 1964, Chap. 24.
- 53 Bukhari, *Sabih* 3/1098 (*Kitab al-Jihad wa-l-Siyar, Bab La Yu’adhdhab bi-Adhab Allah*).
- 54 Ibn Rushd, *Bidayat al-Mujtahid wa-Nihayat al-Muqtasid*, Beirut: Dar al-Fikr, 1995, 1/309.
- 55 This was obviously the message conveyed by the pictures of airstrikes and their aftermath that were included in the video of the pilot’s execution.
- 56 Ibn Taymiyya, *al-Wasita bayna al-Haqq wa-l-Khalq*, Medina: Matabi’ al-Jami’a al-Islamiyya, 2010; idem, *Majmu Fatawa Shaykh al-Islam*, Medina: Mujamma’ al-Malik Fahd l-Tiba’at al-Mushaf al-Sharif, 2004 27/214-288; Goldziher, *Muslim Studies*, 1/209-238; Beránek, Ondřej and Pavel Tupek, *From Visiting Graves to Their Destruction: The Question of Ziyara through the Eyes of Salafis*. Waltham, MA: Brandeis University, Crown Center for Middle East Studies, 2009.
- 57 See above p. 13. Ibn Abbas was a cousin of the Prophet, a Companion and an expert on the Koran.
- 58 See Patricia Crone, *God’s Rule: Government and Islam*, New York: Columbia University Press, 2004, 135-38, 228-233; M. J. Kister, “Social and Religious Concepts of Authority in Islam”, *JSAI* 18 (1994), 84-127; B. Lewis, *Islam in History*, Chicago: Open Court, 1993, part VI: History and Revolution (especially 261-322)
- 59 Daniel Lav, *Radical Islam and the Revival of Medieval Theology*, Cambridge: Cambridge University Press, 2012, 151-8; see also 53-4, 83-4 and *passim*.
- 60 Daniel Lav, *Radical Islam*, Chapters 3-6.
- 61 See MEMRI JTTM report, [In Issue 10 Of ISIS English-Language Magazine ‘Dabiq,’ Fatwa Gives Shari’a-Based Arguments Invalidating Taliban Leader Mullah Omar’s Claim As Caliph](#), July 16, 2015; see also below, p. 16.
- 62 See MEMRI Special Dispatch No. 5895, [Columnist On Muslim Brotherhood Website: Most Of The World’s Muslims Want An Islamic Caliphate](#), December 1, 2014.
- 63 See MEMRI TV Clip No. 4465, [Al-Qaradhwai: Islamic Caliphate Should Look Like The EU](#), August 26, 2014.
- 64 In fact the Abbasids habitually used sobriquets like “al-Mansur” etc. rather than relational names such as “al-Baghdadi.”
- 65 See “*al-Dawla al-Islamiyya fi al-Iraq wa-l-Sham*” apparently written by Raghīb al-Sirjani, founder and manager of the site: *Mawqi’ al-Islam*, <http://forum.islamstory.com/71225-%C7%E1%CF%E6%E1%C9-%C7%E1%C5%D3%E1%C7%E3%ED%C9-%DD%ED-%C7%E1%DA%D1%C7%DE-%E6%C7%E1%D4%C7%E3.html> (accessed September 18, 2015)
- 66 See Andrew F. March and Mara Revkin, “Caliphate of Law,” *Foreign Affairs*, April 15, 2015 at <https://www.foreignaffairs.com/articles/syria/2015-04-15/caliphate-law>. On the coinage see MEMRI JTTM Report, [ISIS Touts New Currency As Means For Toppling ‘Capitalist Financial System of Enslavement’](#), August 31, 2015. Some of these “revivals” were launched after the Letter had been posted. On *bay’a*, see Ella Landau-Tasserón, “The Religious Foundation of Political Allegiance: A Study of *Bay’a* in Pre-modern Islam”, *Research Monographs on the Muslim World*, series 2, paper 4, May 2010, Hudson Institute, <http://hudson.org/research/9890-the-religious-foundations-of-political-allegiance>.
- 67 MEMRI JTTM Report, [In Document, Tehreek-e-Taliban Pakistan Outlines Shari’a Arguments Against The Legitimacy Of The ISIS Caliphate](#), August 24, 2015.
- 68 See MEMRI JTTM Report, [“In Issue 10 Of ISIS English-Language Magazine ‘Dabiq,’ Fatwa Gives Shari’a-Based Arguments Invalidating Taliban Leader Mullah Omar’s Claim As Caliph.”](#) July 16, 2015.