

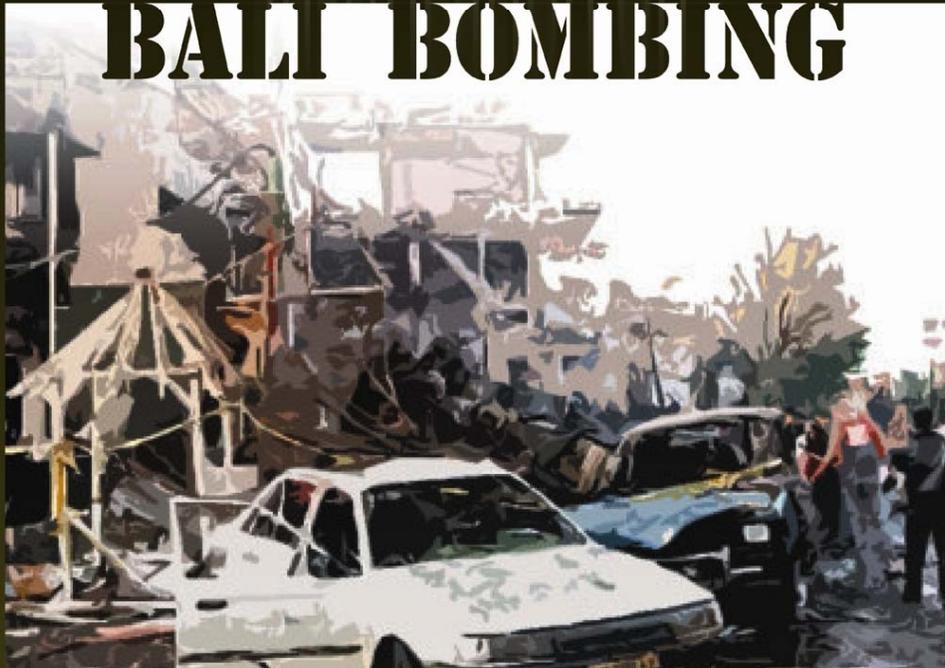
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Countering
Imam Samudra's
Justification For The

BALI BOMBING



MUHAMMAD HANIFF HASSAN

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ABOUT THE AUTHOR

MUHAMMAD HANIFF HASSAN

Mr Muhammad Haniff Bin Hassan is a Research Analyst at the Institute of Defence and Strategic Studies (IDSS). He holds MSc in Strategic Studies at Institute of Defence and Strategic Studies, Nanyang Technological University. He received his early education from Aljunied Islamic School. He then continued his tertiary education at the Faculty of Islamic Studies, National University of Malaysia with honours in Syariah and Civil law.

Mr Haniff is also active in social activities as a member of the Islamic Religious Council Appeal Board, HSBC Insurance Islamic Advisory Board, Council for Association of Islamic Religious Teachers and Scholars of Singapore (PERGAS) and Management Committee of Al-Irsyad Islamic School. He writes extensively in Berita Harian (local Malay newspaper) and has also published articles in the Straits Times. He has published four books in his name and helped to publish two books on behalf of PERGAS and Islamic Religious Council of Singapore.

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For my beloved wife, Faiza and my wonderful children.....

INTRODUCTION

It has been widely accepted that the current threat of terrorism from Muslim groups can only be overcome through a multi-pronged approach: Counter terrorism not only as a military “shooting war” or law enforcement operation, but as a “battle of ideas” as well. Measures to disrupt and degrade a terrorist group’s military and economic infrastructure should be supplemented with measures targeting the terrorist group’s ideas and propaganda. If left unchecked, both will continue to harvest sympathy, transform it into logistical assistance and eventually generate a new pool of terrorist recruits.

For a “battle of ideas” to be successful and contribute to the success of the “bigger war”, understanding extremist and terrorist ideas is very important. Proper study of the ideas must be made before counter-ideological responses can be devised or alternatives ideas can be offered. In this respect, effective counter-ideological work against terrorist ideology requires authentic documents linked to individual terrorists or terrorist organizations.¹

Imam Samudra’s book entitled *Aku Melawan Teroris* is significant. It allows the researcher to study the underlying ideas and motivation of the Bali bombing and possibly other terrorist acts committed by members of Jemaah Islamiyah and other *ihadists*. It also facilitates researchers to understand the specific dynamics of extremism in Southeast Asia and helps governments to devise effective counter-ideological initiatives within anti-terrorism policies.

Imam Samudra was convicted by Indonesian court and was sentenced to death on 10 September 2003 for masterminding the Bali bombing that killed 200 people and wounded 300 on 12 October 2002. He was the field commander for the perpetrators.

Aku Melawan Teroris was authored by Imam Samudra when he was under detention by the Indonesian authority from his arrest on 26 November 2002. It was published in 2004 and became a bestseller.

The book contains his confession and justification for committing the Bali bombing. The book informed the public of the basis for his action as manifested in the Bali bombing that he had neither committed the act blindly nor had he contradicted the teaching of Islam as claimed by the authorities and his critics.

This book seeks to map out Imam Samudra's ideas behind the Bali bombing. It will then make an attempt to offer criticism and an alternative viewpoint on *jihad*.

This book takes theological and juristic approach in responding to Imam Samudra's ideas, considering the nature of Imam Samudra's argument, which is often couched, in juristic and jurisprudential pronouncements. Furthermore, Imam Samudra and his likes despise rationalistic and philosophical arguments, considering them heretical and "Western". Also, Muslims by and large are more comfortable with theological and juristic interpretations of religious questions. This will add credibility to the arguments and thus, help to prevent them from being influenced by terrorists.²

What is meant by the theological and juristic approach is the classical *ulama's* methodology of *ijtihad* or deduction from the Quran and the *hadith* (Prophet's tradition)³, based primarily on three important sciences popularly known as *Usul Fiqh*⁴, *Usul Tafsir*⁵ and *Usul Hadith*⁶. This approach requires an exhaustive study of the classical Muslim scholars' texts to investigate their stand on the pertinent issues. If the ideas propagated by the Muslim terrorists contradict the opinions of those Muslim scholars, then they form a potent means to prove the terrorists wrong. This is especially so, because Muslim terrorists argue in defence of their ideas using the same approach, within what some call the classical or traditional approach.⁷

Simultaneously, the book is an example of how the approach works. This could be useful to those who are keen to study counter-ideological work and have never been exposed to the Islamic studies tradition. Nevertheless, the book does not claim to be the first of its kind. There have been many similar works by other scholars. The book seeks to enrich such existing work. Underlying this work is a belief also that the richness of classical Muslim scholars' tradition is an asset in "the battle of ideas" against extremism and terrorism. The least one can say is that this classical tradition is a double-edged sword, which can be used for good and evil, meaning that the tradition itself is not the problem that caused extremism and terrorism.

While the primary objective of this book is to counter Imam Samudra's justification of the Bali bombing, it is not exclusively targeted to members of Jemaah Islamiyah and *jihadists* who share many of Imam Samudra's ideas. This book is written for the general public, Muslims and non-Muslims.

It is hoped that the alternative perspectives offered in this book will help to

“immunize” Muslims in general against the viral threat of extremist ideologies that are disseminated through various means.

Although it might be impossible to persuade fanatical members of Muslim terrorist groups to give up their ideology, in the battle for the hearts and minds, the majority of Muslims, can be convinced to renounce such ideology and defuse any motivation to support it.⁸

The alternative perspectives of this book also seek to reduce the anxiety of non-Muslims as well as their concerns and misunderstanding of Islam and Muslims arising from Imam Samudra’s book and other materials from extremist groups. This is especially important in the context of a multi-racial and multi-religious country because “often, terrorism also aims to destabilize a society or a country. It may be a direct or indirect objective because instability will make counter-terrorism operations more complicated and difficult.”⁹

Lastly, in God I seek guidance and to the readers:

“..... Give then the glad tiding to [those of] My servants who listen [closely] to all that is said, and follow the best of it: [for] it is they whom God has graced with His guidance, and it is they who are [truly] endowed with insight.” (The Quran, 39:17-18)

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Part 1

THE INTRODUCTION

BALI BOMBING I: THE INCIDENT, THE PERSON & THE JUSTIFICATION

Brief Illustration of the Incident¹⁰

Bali Bombing I was the worst single terrorist attack after September 11. The victims comprised 20 nationalities, including Indonesians. It was the worst terrorist act in Indonesia's history. A car bomb ripped through a nightclub packed with foreign tourists on the island, sparking a blaze that killed 202 people and injuring 300 others. The Saturday bombing came on the second anniversary of the Al-Qaeda linked attack on the USS Cole off Yemen that left 17 sailors dead. Three days earlier, the U.S. had issued a worldwide alert for possible terror attacks.

The location of the bombing, Legian, was a crowded area, popular with foreign tourists. The Sari Club & Discotheque was located on the busy main road linking the towns of Kuta and Legian.¹¹

The place was also a favourite of motorcycle taxi drivers, child beggars and prostitutes who loitered nearby. It is believed that most of the unidentified corpses with missing body parts belonged to this group.¹²

It was a well-planned and coordinated attack. The bomb's impact was heightened by the high human traffic in the area. The composition of the bomb of high and low explosives also signals a high level of sophistication. Its use of a suicide operative was also a first in Indonesia's history.

There was more than one explosion that night – one after another. The first destroyed Paddy's Pub. Moments later, the Sari Club was the target. The third bomb exploded on an empty road in the Renon area, about 50 meters

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away from the honorary US Consul's office. There were no casualties in that blast, while damage was minimal in the area that was also close to the Australian Consulate. Renon is only 11 kilometres away from Kuta.¹³

The bomb blast in Paddy's Pub occurred at 11.08 pm, local time. The forensic laboratory examination has confirmed that the explosive was made of TNT, and it is estimated that the bomb comprised of between 500 grams and 1 kilogram of TNT.¹⁴ It is suspected that this bomb was detonated by a suicide bomber.¹⁵

The second bomb was placed inside the middle section of a parked Mitsubishi L300 van and was detonated in front of Sari Club, seconds after the first bomb. A report from an Australian Police investigating team illustrates the impact of the bomb:

“The explosion resulted in a tremendous release of energy in the form of gas, heat and light. This essentially caused a pressure wave, fragmentation and fire - all of which contributed to the devastation seen at the Sari Club. As a measure of the force of the blast, the sound from the explosion was heard up to 15 km away. A taxi that had been in close proximity to the Mitsubishi van when the bomb was detonated was picked up off the street outside the club and thrown about three car-lengths to the north before coming to rest on its wheels. This was one of two taxis in the street when the explosions occurred. Other cars in the immediate area were totally destroyed by the force of the explosion and the fire that followed. The explosion caused a fire which engulfed the Sari Club, and it is believed that the fire spread to several vehicles in the street, along with Paddy's Bar.”¹⁶

The bombing had effectively leveled the Sari Club to the ground. The combined effect of the two bombs ignited a fire that engulfed the Sari Club and the buildings in its immediate vicinity.¹⁷ The investigation indicates that a high explosive with a low velocity of detonation was used with a weight thought to be between 50-150kg.¹⁸

The third bomb occurred at Raya Puputan Renon, Denpasar. Residue of TNT and fragments of a shattered cellular phone were found. This was assumed to be a high power explosive bomb and was triggered electronically by remote control. The weight of the explosive was estimated at 500 grams to 1 kilogram.¹⁹

Immediately after the incident, an investigation team was formed involving a number of Indonesian Police forces. An operation called “Operasi Bali Tegar Agung” or “the Grand and Strong Bali Operation” was launched to capture the perpetrators. A 30-day deadline was set as a total of 5,515 police personnel were mobilized, excluding the foreign intelligence agencies assisting in the investigations. Helping the Indonesian police were 11 Federal Bureau of Investigation (FBI) agents from the United States, 26 Australian police officers, two German policemen, two from the Scotland Yard and several others from Japan, Switzerland, Sweden and Finland.²⁰

Brief Profile of Imam Samudra

In his book, Imam Samudra writes that he was born on 14 January 1970/71. He himself is unsure of the exact year he was born.²¹

His mother is Embay Badriyah binti Sam`un and his father is Ahmad Sihabuddin bin Nakha`i. They have 12 children. The eighth child was Abdul Aziz, Imam Samudra’s birth name. His parents belong to the Banten ethnic, known for its *pendekar* (warrior) nature.²²

He claims to have a lineage of the *mujahid* (fighter). His great grandfather was Kyai Wasyid, one of the independence fighters against the Dutch colonialists in the Banten area. His monument currently stands in Serang city, the capital city of Banten province.²³

His primary education was at a local national school (SDN 9 Serang) starting in 1978. He continued his secondary education at national school (SMPN 4 Serang) and completed state senior high school at Cikukur in 1990.²⁴ Imam Samudra received his religious education from a young age. He was a bright student. He often passed his examinations with flying colours. He received various awards for his academic excellence.²⁵

When he was in primary 2, he started attending a *madrasah* (religious school) near his home after his school hours. He furthered his religious education at a *madrasah* known as MTS Insaniyah in Serang.²⁶ Nevertheless, it was his enrolment in Pesantren Ramadhan, jointly organised by Muslim organisations, which include Muhammadiyah and Persatuan Islam. Pesantren Ramadhan was an ad hoc pesantren program designed for non-full time pesantren students during their school holidays. Coincidentally, Imam Samudra’s school holidays

were during the month of Ramadhan, thus explaining the name of the program. He wrote:

“To me, Pekan Ramadhan at that moment was really full of guidance and mercy. That was the starting point that made me understand how beautiful, great and complete Islam is. There, I understand that Islam is the only path leading to a life of honour both here and in the hereafter. Before, I only understood Islam as some sort of ritual. Starting from that moment onwards, I began to understand the meaning of life, the meaning of divine service. I began to understand and felt humility. I began to understand that my past had been wrong.”²⁷

After that, he has stopped greeting his school friends with “Good morning”. Instead, he chose to greet them with “Assalamualaikum”. He resisted shaking hands with female students. He abhorred the fact that many female Muslim students did not cover themselves as required by the *syariah*.²⁸

His interest on *jihad* developed after reading Abdullah Azzam’s famous book “Allah’s Signs in the Afghan Jihad”. He was then 16 years old. He read the book many times. Every time he finished reading the book, he prayed that God would one day bring him to Afghanistan, which he described as the land of martyrs or dwellers of paradise. He also prayed that God would select him to be among the Mujahideen and accept him as a martyr. Then, he stopped watching TV and listening to music. To remind him of Afghanistan, he pasted a map of Afghanistan in his study room. The opportunity to join the Mujahideen in Afghanistan came when he attended a talk at Al-Furqon mosque, Jalan Kramat Raya Jakarta, after completing his religious education at Madrasah Aliyah Negeri (National High Madrasah) Cikukur, Serang. He met a person by the name of Jabir (who died in the Antapani bombing incident in Bandung) who offered him the opportunity at a cost of Rp300,000. The year was 1990.

After he successfully raised sufficient funds and got his passport, he and Jabir departed for Dumai. From Dumai, they took a ferry to Melaka in Malaysia. A day later, they travelled to Subang Airport and took a Malaysian Airlines flight to Karachi, Pakistan. From Karachi they traveled to Peshawar. Two unknown Arabs joined them to the Afghan-Pakistan border. To cross the border, they had to trek on foot for four hours until they reached Khalifah camp in Khost. His adventure in Afghanistan started there.²⁹

Imam Samudra married his childhood friend, Zakiyah Derajat binti Saiful Fauzan.³⁰ He has four children.³¹

Imam Samudra had various nicknames, possibly to maintain secrecy and avoid detection due to the nature of his involvement in jihadist activities. His known nicknames are Kudama, Abu Omar, Fatih, Fat[h], Faiz Yunshar, Heri and Hendri.³²

After his adventure in Afghanistan, Imam Samudra reportedly returned to Malaysia and stayed there for a few years. In Malaysia, he taught at Madrasah Luqmanul Hakim in Ulu Tiram, Johor, a religious school founded by members of Jemaah Islamiyah.³³ Imam Samudra admitted that he knows Hambali and Abu Bakar Baasyir.³⁴

Other than the Bali bombing, Imam Samudra was also reportedly involved in church bombing in Riau in 2000³⁵ and robbery of Elita Gold Jewellers, although in his book he alluded to deny of involvement in the Elita robbery.³⁶

Imam Samudra is well-versed in information technology and computers. He shows his knowledge on hacking and credit card fraud through the Internet in his book. He recommends Muslims develop expertise in these areas and used it against non-Muslims.³⁷

On 26 November 2002, Imam Samudra was arrested, as he was about to board a ferry to Sumatra. He was brought to a court in Denpasar and charged for his involvement in the Bali bombing. His trial commenced on 2 June 2003. Prosecutors sought the death sentence for him on 28 July 2003. After months of trial, he was found guilty by the court and sentenced to death on 10 September 2003.³⁸

Imam Samudra Justification of Bali Bombing

Definition of *Jihad*³⁹

Imam Samudra's definition of *jihad* does not deviate from definition held by traditional Muslim scholars. Literally, *jihad* means giving your best, putting effort in achieving an objective. In this respect, a person seeking a path can be considered as *jihad*.

From the syariah perspective, *jihad* is defined as doing your best to uphold God's laws, propagating and establishing it. But it is also defined as fighting

the infidels who fight against Islam and the Muslims. The latter is popularly known as *jihad fi sabilillah* (fighting in the way of God).

Imam Samudra holds the opinion that the above meanings of *jihad* had reached consensus among the *ulama salafush saleh* (scholars amongst the pious ancestors), especially the founders of the four schools of jurisprudence (Hanafi, Maliki, Syafi'i and Hanbali). He went so far as to suggest for further elucidation, the following references:

1. *Al-Jihad Sabiluna* by Syaikh Abdul Baqi Ramdhun
2. *Kitabul Jihad* by Syaikh Ibnul Mubarak
3. *Fi At-Tarbiyah al-Jihadiyah wal-Bina'* by Syaikh Asy-Syahid Dr. Abdullah Azzam,

or any books on *jihad* written by competent *ulama* (Muslim scholars), who also participate actively in *jihad*. He refers to them as *ulama amilin* (the practicing *ulama*).

After the introduction on the meanings of *jihad*, he goes on to discuss and present his analysis on the Bali bombing which in his opinion, without the slightest doubt, was a manifestation of *jihad fi sabilillah*.

Bali bombing = *Jihad Fi Sabilillah*⁴⁰

Since the main target of the Bali bombing are the Americans and their allies who are guilty of attacking the Muslim *ummah* in Afghanistan in 2001, Imam Samudra argues that they deserved to be attacked. He equates the colonial powers that are guilty of attacking the helpless and innocent babies with those whom the Quran refers to as the *Musyrikeen* (Arab polytheists) in the following verse⁴¹:

“...And fight against those who ascribe divinity to aught beside God, all together – just as they fight against you, [O believers,] all together - and know that God is with those who are conscious of Him” (The Quran: 9:36)

In his opinion, war must be waged against them in retaliation for what they did. In this respect, the verse acts as guidance for his action - the Bali bombing I.

Civilian Targets⁴²

It is common knowledge that America, Australia, Singapore, Thailand as well as a few other countries conscript their civilian population. In view of this, Imam Samudra argues that tourists from amongst these nations who visit Indonesia cannot be considered as civilian. In addition, before 12 October 2002, the Americans were well aware of the condition in Indonesia.

Obviously such a hostile condition would frighten any ordinary civilian. What's more when there were a few bombing cases reported in a few towns, would it then be logical for American civilians and their allies to choose Indonesia for a visit?

Defying such threats clearly demonstrates that they are in fact not civilian as claimed when the attack on 12 October 2002 took place.

Justifying his action, Imam Samudra points out that the precedent for targeting civilian had been set by the following incidents:

1. The trade embargo on Iraq initiated by America through UN in 1991 which brought about the death of 600,000 babies and subsequently the figure rose to 1.5 million. (Jakarta Post, 4 December 2002).
2. Thousand of civilian deaths as a result of the American embargo on Afghanistan during the Taliban rule (1994 – 2001).
3. Israel's attack on civilians with the Pentagon's consent. America had provided the military hardware as well as financial support.
4. Post World Trade Centre and Pentagon attack, America demonstrate its military brutality and ruthlessness beyond words, driven solely by vengeance and hostility.

Quoting from www.khurasan.com, the alleged death toll during the American attack on Afghanistan was reported at around 200,000 civilians. The question he raised is why then did the American cry foul? The Bali bombing I, as he sees it, is a response by Muslims who realised and understood the meaning of defending the Muslims' self-respect. It is directed at America and its allies. It is a *jihad* that must be carried out even though only a small number of Muslims participate in it.

Basic Rule: Killing or Attacking Civilians is Forbidden⁴³

The first verse on *jihad* that was revealed to the Prophet instructs the Muslims to fight the infidels who fought against them. Those who are not directly involved in it must not be attacked. Imam Samudra cites:

“And fight in God’s cause against those who wage war against you, but do not commit aggression – for, verily, God does not love aggressors.” (The Quran, 2:190)

War as he understands it has always been fought by military personnel. Conventional war, he observes in general, follows the same principle. Islam therefore forbids the act of transgressing the limit. This means that it is forbidden to kill women and children, destroy crops, as well as kill those who are old and those who devote their entire lives to worship. However, the rule only applies when the infidels do not transgress the boundary. As long as America and its allies did not attack and kill Muslim civilians and observed this limit, the *Mujahideen* would not go to war in adherence with this basic rule.

Attacking Civilians From Amongst The Colonial Race Is A Fair And Just Act⁴⁴

In view of the continuing attacks by America and its allies on Muslim civilians, Imam Samudra is of the view that they have in fact transgressed the limit. It is only fair then to reciprocate accordingly. In his view it is not only justified but is a way out of this deplorable state of affairs that God has shown base on the following verse:

“..Thus, if anyone commits aggression against you, attack him just as he has attacked you...” (The Quran, 2:194)

To him targeting civilians now is a matter of tipping the scale to attain equilibrium – blood with blood, life with life and civilian with civilian.

“Hence, if you have to respond to an attack, respond only to the extent of the attack leveled against you.....” (The Quran, 16:126)

Therefore, the Bali bombing which killed many civilians is not without basis as he puts it. The full spectrum of law based on the Quran and *Sunnah* (Prophet’s tradition) together with the interpretation and *fatwa* from competent *ulamas* in

this field have been taken into consideration.

Imam Samudra asserts that war is cruel and blood curdling but injustice cannot be allowed to go on unpunished. The cause of this upheaval is the very act of the polytheists. Their aggression is more cruel than the ordinary war that is being fought and for this reason God makes war against them an obligation so that balance is attained.

Why must it be in Bali?⁴⁵

In exacting a response to the aggression of the colonial race, there is no specific place where this response must be carried out. In his view, the main consideration is the people that will be targeted, not the place. He justifies his argument by quoting the following verse:

“And slay them wherever you may come upon them...” (The Quran, 2:191)

In his understanding the verse does not specify the place when the attack is legitimate. In short, the place could be in America, Japan, Jakarta, Bandung, Jogjakarta or any other cities. Another consideration that matters is to maximize the impact of the attack. A single devastating attack is preferable to multiple attacks with minimal outcome.

Attacking a homogenous target is much more effective than attacking a heterogeneous target, where the targeted race mingles with others who are not the target. In this respect, the homogenous target (America and its allies) that congregates in a place, ranks high in the target list. This was the reason for choosing Sari Club and Paddy’s Pub in Bali.

Imam Samudra admits that based on the surveillance of targets, the time of the attack was determined to avoid casualty among the locals. However, as it turns out, some locals were killed. This is something that he regrets. He seeks forgiveness from God for the “human error” and offers his apology to the victims’ families.

Stages Of Jihad⁴⁶

To reach a concrete understanding on the Bali bombing I operation, Imam Samudra stresses the need to first understand the stages of *jihad* according to

the understanding of the *Salafush-Shalih* (pious predecessors). In his elucidation of the subject, two reference books are specified, namely the *Tarbiyah Jihadiyah* by Sheikh Asy-Syahid Abdullah Azzam and *Tafsir Ibnu Katsir* which was made available to him in detention.

Stage 1: Patience

The Muslims in this stage were commanded to persevere against various abuses, acts and attacks directed at them by non-believers. This resulted in the physical torture of the Muslims from the ruling tribe of Quraisy, especially amongst the slaves.

Imam Samudra also highlights that the People of the Book (Quranic term for the Jews and Christians) and the polytheists were bent on forcing the Muslims to denounce Islam. Despite the external and internal pressure they face, the Muslims were commanded to remain constant in prayer, pay their alms, be patient as well as forgive the cruelty of the non-believers. Citing the following verse:

“Out of their selfish envy, many among the followers of earlier revelation would like to bring you back to denying the truth after you have attained the faith – [even] after the truth has become clear unto them. Nonetheless, forgive and forbear, until God shall make manifest His will: behold, God has the power to will anything.” (The Quran, 2:109)

he concludes that during the *kafful yad* (self-restrain) period, the Muslims were forbidden to wage war against the non-believers. To substantiate his argument, he cites the following verse:

“Art thou not aware of those who have been told, “Curb your hands, and be constant in prayer and render the purifying dues”?...” (The Quran, 4:77)

and the following *hadith* (Prophet’s tradition):

“Verily, I am commanded to forgive, so do not fight the tribe.” (Narrated by Ibnu Abi Hatim)

Stage 2: Permission to fight

When the physical abuse and pressure increased and became violent after the initial intimidation and “Muslim cleansing” did not yield the desired objective, the non-believer resorted to expelling them from their homeland. Against this background, the following verses were revealed:

“Permission [to fight] is given to those against whom war is being wrongfully waged – and, verily, God has indeed the power to succour them - those who have been driven from their homelands against all right for no other reason than their saying, “Our Sustainer is God!” (The Quran, 22:39 – 40)

Mujahid and Adh-Dhahhak mentioned that many of the earlier exegetes like Ibnu Abbas, Urwah bin Zubair, Zaid bin Aslam, Muqatil bin Hayyan, Qatadah and others were of the opinion that this was the first verse revealed on armed *jihad*.

The permission given in this verse is not tantamount to a commandment to wage war. At this stage, fighting is permitted and is not an obligation.

Stage 3: The obligation to fight a limited war

At this stage the Muslims were commanded to fight those who wage war against them and leave those who do not fight them alone.

“And fight in God’s cause against those who wage war against you, but do not commit aggression – for, verily, God does not love aggressors.” (The Quran, 2:190)

When this verse was revealed, the Prophet was reported to be fighting only those who wage war against him. In corroboration to it, Imam Samudra cites the following:

“Fighting is ordained for you (*kutiba ‘alaikum al-qital*), even though it be hateful to you; but it may well be that you hate a thing while it is good for you, and it may well be that you love a thing while it is bad for you: and God has full knowledge thereof.” (The Quran, 2:47)

Explaining the obligatory nature of *jihad* in this verse, Imam Samudra points

out that the word *kutiba* in this verse means it is obligatory. The same word is also used by the Quran when referring to fasting, as in the verse:

“O you who have attained to faith! Fasting is ordained for you (*kutiba ‘alaikum al-shiyam*) as it was ordained for those before you so that you might remain conscious of God.” (The Quran, 2:183)

Drawing on the analogy, he concludes that if not performing the fast is sinful, then, abandoning *jihad* is also sinful. This is because with the revelation of verse 47 of chapter 2, *jihad* became obligatory.

In reality nobody likes war, in the same way oppression and physical abuse are resented. When someone is ill-treated, tortured, waged war against and oppressed, his inner soul will revolt, become angry, and of course he has the desire to retaliate. Using this as a launching pad, Imam Samudra presents his contemporary version of *jihad* as the prescription. *Jihad* as the apparatus to put an end to this injustice is then set in motion. The wisdom behind the action is not only legitimate where Islam is concerned but highly logical.

Stage 4: The obligation to wage war against all non-believers/polytheists

The first three stages in Imam Samudra’s view were transitional, pending on the final revelation on the rule of *jihad*. When the verses:

“..slay those who ascribe divinity to aught beside God whenever you may come upon them...” (The Quran, 9:5)

“[And] fight against those who – despite having been vouchsafed revelation [aforetime] – do not [truly] believe either in God and His Apostle have forbidden, and do not follow the religion of truth [which God has enjoined upon them], till they [agree to] pay the jizyah (exemption tax) with a willing hand, after having been humbled [in war].” (The Quran, 9:9)

and

“And fight against those who ascribe divinity to aught beside God, all together – just as they fight against you, [O believers,] all together – and know that God is with those who are conscious of Him” (The Quran, 9:36)

were revealed the final ruling on *jihad* had been sealed. The revelation of the *ayat as-saif* (verses of the sword) dictates that the polytheists were given two choices, either to accept Islam or war. All previous peaceful agreements after these revelations became null and void. To give more credence to his deduction, Imam Samudra quotes a *hadith* in which the Prophet said:

“I am commanded to fight against men till they declare that there is no deity except God and that Muhammad is His messenger, and they are constant in prayers and pay the alms.” (Narrated by Al-Bukhari and Muslim)

In addition to the *hadith*, he argues his case further by quoting Ali bin Abi Talib⁴⁷ who said that the Prophet was sent with “four swords” with the following explanations:

1. The first sword (commandment to fight) against the polytheists stated in verse 5 of chapter 9.
2. The second sword against the People of the Book (the Jews and the Christians) stated in verse 29 of chapter 9.
3. The third sword against the hypocrites stated in verse 73 of chapter 9.
4. The fourth sword against the dissenters stated in verse 9 of chapter 49.

He then comments that Ali bin Abi Talib was among the earlier generation whose integrity had been vouchsafed by the Prophet who obviously acted under divine guidance. Ali’s words, the way he sees it, were strongly supported by the *hadith* of the Prophet in which he said:

“I was sent near the day of Resurrection with the sword so that only God is worshipped and no others will be ascribed divinity to, except Him. And my sustenance is guaranteed to be under the shadows of my lance; and humiliation and debasement is to those who go against my commandment. Whosoever resembles a tribe he is from among that tribe.” (Narrated by Ahmad)

and the *hadith*;

“Know that the paradise is under the shadow of the swords.” (Narrated by Al-Bukhari and Muslim)

Imam Samudra is aware of the criticisms of the verses and *hadiths* coming from the non-Muslims represented by the orientalist as well as a small fraction of Muslims who fell uneasy about it. There are also Muslims who re-conceptualise the understanding of these verses and *hadiths* to suit contemporary context and to appease the non-Muslims. Some even go so far as to reject them totally.

To him the fourth stage signaled the finality and obligation of offensive *jihad*, which is a level higher than the defensive *jihad*. This is his conclusion and stand on *jihad*.

How Long Will This *Jihad* Continue?

The basis for his answer lies in the following verse:

“And fight against them until there is no more oppression (*fitnah*) and all worship (*din*) is devoted to God alone.” (The Quran, 8:39)

Presenting his understanding of the words; *fitnah* and *din* used in the abovementioned verse, he says they mean one must “fight against them until there is no more polytheism and so that the excellent religion of God that is Islam prevails over other religions.” He concludes that war would continue to be waged until:

1. All mankind bear testimony to the unity of God and that Muhammad is His Prophet.
2. There is no more ingratitude on earth.
3. God’s religion prevails over other religions, in the sense that the Islamic law is completely instituted as he understood from the verse:

“He is who has sent forth His apostle with the [task of spreading] guidance and the religion of truth, to the end that it may prevail over all [false] religion – however hateful this may be to those who ascribe divinity to aught beside God” (The Quran, 9:33 and 61:9)

***Ahluts Tsughur* and The International *Mujahidin*⁴⁸**

There are many issues related to *jihad*, which require elucidation. Unfortunately

if such a task is undertaken by those who are incompetent, the result will be confusion and inaccuracy.

Imam Samudra puts it plainly that the authorities in such matters are the *Ahluts Tsughur* and the international *mujahidin*. *Ahluts Tsughur*, according to him, refers to scholars who participated in real armed jihad and experience it in the real battlefield. His list of them includes Sheikh Maulawi Mullah Muhammad Umar, the *Amirul Mukminin* (commander of the faithful) of the *Daulah Islamiyah* of Afghanistan during the Taliban's rule. Also on the list is Sheikh Usamah bin Laden, Dr. Aiman Azh-Zhawahiri, Syaikh Muhammad Athef, Sheikh Sulaiman Abu Ghaitis and others whom the Americans and their allies brand as terrorists. To him they are the practitioners of contemporary *jihad*, therefore qualifying them to comprehend the complexities associated with suicide bombings and its application in *jihad*.

Istisyhad, Istimata and Suicide Bombing⁴⁹

Imam Samudra begins his explanation of the above by describing its earlier manifestation in Islamic history. He cites Ibnu Nuhas who was himself a martyr and wrote a chapter in his book, *Masyari'ul Asywaq* on *inghimas* (penetrating the enemies). In that chapter, Ibnu Nuhas cited 16 *hadiths* about acts of individuals attacking enemies' armies singlehandedly disregarding their own safety, which could be considered as suicidal. Imam Samudra then provides explanation given by Abu Hurairah and Abu Ayyub Al-Anshari (both were companions of the Prophet) to put things in its proper perspective.

Imam Samudra reports that Abu Hurairah, when asked to comment on such incidents, read the following verse aloud:

“But there is [also] a kind of man who would willingly sell his own self in order to please God...” (The Quran, 2:207)

When eyewitnesses of the incidents commented, “the person has thrown himself into destruction”, Abu Ayyub Al-Anshari corrected them by explaining that the following verse does not refer to such incidents:

“And spend [freely] in God's cause, and let not your own hands throw you into destruction; and persevere in doing good: behold, God loves the doers of good” (The Quran, 2:195)

Instead, the verse corrected those Muslims who were reluctant to sacrifice their wealth and life for jihad in the path of Allah.

Imam Samudra points out that “the destruction” specified by the verse refers to Muslims’ preoccupation with worldly matters at the expense of *jihad*. Thus, a suicide operation, *istimata* or *istisyhad* is legitimate and, concluding from what Imam Ibnu Nuhas had written, is strongly encouraged.

But Imam Samudra admits that Muslim scholars are in disagreement on the permissibility of “martyrdom operation”. Nevertheless, he is inclined towards those who permit it because of their arguments and because it is supported by contemporary “*Ahluts Tusghur*”.

Part 2

THE RESPONSE

ON MUSLIM AND NON-MUSLIM RELATIONSHIP⁵⁰

Imam Samudra and the Idea of Perpetual War

Looking at the overall view of Imam Samudra, it is argued that the most important aspect of his views that shape his justification for Bali bombing I is his subscription to the view that Muslims are in constant war against non-Muslims and the basis of relationship between Muslims and non-Muslims is armed *jihad* and war, not peace.

Imam Samudra views that armed *jihad* is the only kind of relationship that could exist between Muslims and non-Muslims. To him, armed *jihad* is a standing obligation until the end of the world and its aim is to fight the infidels wherever they may be found, in accordance with the Prophet's utterance to "fight the polytheists until they say 'There is no god but Allah'."⁵¹ Armed *jihad* is to be carried out until every inch of Muslim's lands are liberated from the non-Muslims and when they all submit to the rule of Islam.

He argues that verses on *jihad* in the Quran revealed in stages and Allah revealed verses in chapter 9 of the Quran, in particular verse 5, to finalise the last stage. He claims that these last verses abrogated the earlier verses revealed on *jihad* that state *jihad* is only permissible when Muslims are attacked.

It is argued that such understanding has contributed to the development of a binary perspective in Imam Samudra's mind which is the "either you are with us or against us" point of view. The effect of this understanding is the promotion of hate, hatred, animosity and hostility towards all non-Muslims.

To support this understanding, Imam Samudra revives the historical experience of the war of crusades, colonialism, the persecution of Palestinian Muslims

by the Israeli and the attack on Afghanistan and Iraq by the coalition forces.

This understanding had affected the idea to coexist peacefully with non-Muslims, thus explaining the call for non-integration and non-accommodative stance and social exclusivism.

The view is also tantamount to encouraging negative mindsets and attitudes of Muslims towards non-Muslims. Muslims who accept this will develop misconceptions on how he should relate with non-Muslims, emotionally and socially. Non-Muslims generally will be seen as enemies first before proven otherwise. Clearly, this will develop into prejudices and intolerance. This assertion will also negatively influence the perspective of non-Muslims towards Islam and Muslims. Either way, the outcome is destructive.

It is then important that clarifications be made to counter such view. The following section will put forth a very important foundation for Muslims-non-Muslims relationships. In contrary to Imam Samudra's view that propagate the idea of perpetual war between Muslims and non-Muslims, this book will point out, based on primary sources of Islam, the Quran and the *Sunnah* (Prophet's tradition), that peace and harmony is the basis of this relationship, not war. It argues that the claim that the final stages of *jihad* abrogated all the previous stages is unfounded and is not supported by prominent classical Muslim scholars. It then asserts that the primary function of *jihad* is not to fight non-Muslims because of difference in faith but to establish justice and eradicate oppression and *jihad* in Islam can only be waged against those who wage war.

Similar View Among Muslim Scholars

On the issue of *jihad* being the basis of relationship with non-Muslims, it is admitted that Imam Samudra's view can also be found among some classical and contemporary Muslim scholars and thinkers. Indeed, Imam Samudra holds such views because it can be found in their works.

The view was especially popular and prominent during the codification period of *fiqh* (Islamic jurisprudence).

The principle that *jihad* is the basis of relationship between Muslims and non-Muslims was embodied, among others, in the concept of *Dar Al-Islam* (land of Islam) and *Dar Al-Harb* (land of

war) that can be found in the works of classical scholars. The construction of *Dar Al-Islam* and *Dar Al-Harb* within those works was the application of the said principle at state level and inter-state relationship. James Turner Johnson, writer of *The War Idea In Western and Islamic Tradition* writes:

“On the subject of the Islamic state, its relations with non-Islamic societies, and the idea of *jihad* as the form of war between the Islamic and non-Islamic world, the juristic tradition coalesced early in the Abbasid dynasty, with the definitive work being done in the late eighth and early ninth centuries CE (second and third centuries AH [After Hijra, Islamic calendar]). Central to this conception was a division of the world into two realms, that of the Dar Al-Islam or territory of Islam, that is the Islamic community, and the remainder of the world, defined as the Dar Al-Harb or territory of war.”⁵²

The meaning of *Dar Al-Islam* and *Dar Al-Harb* among the classical Muslim scholars can be summarized as follows:⁵³

1. *Dar Al-Islam* (Land of Islam).

Ad-Dusuqi, from the Maliki school of law, stated that the Land of Islam must be owned by Muslims and Islamic ruling system is applied (even if non-Muslims take over it). The scholars of the Hanafi school, however put their emphasis on the security of Muslims. Thus, according to them, the Land of Islam is where the Muslims are safe and are not persecuted because of their religion.

2. *Dar Al-Harb* (Land of War).

Most scholars define *Dar Al-Harb* as where both the ruling system and the government are not Islamic. For the Hanafi school however, *Dar Al-Harb* is defined as the country where Muslims are neither protected, nor feel safe or at peace.

Among contemporary Muslim scholars that subscribe to the view that Islam is at constant war against the non-Muslims and the basis of relationship between Muslim and non-Muslim country is war is Majid Khadduri. He is of the view that *jihad* is enjoined by God upon all believers. He asserts that in Islamic legal theory, *jihad* is a permanent obligation upon believers to be carried out by a

continuous process of warfare; psychological, political and military, until *Dar Al-Islam* overcomes *Dar Al-Harb*. Moreover, he mentions that the law of Islam allows only brief spans of peace, guaranteed by a treaty, not exceeding ten years in duration.⁵⁴

Abdul Karim Zaidan also holds a similar view. He says that peace between *Dar Al-Islam* and *Dar Al-Harb* is only achieved through a treaty or when *Dar Al-Harb* becomes *Dar Al-Islam* or submits to it. For that reasons, Muslim scholars termed non-Muslim countries as *Dar Al-Harb*.⁵⁵

Sayyid Qutb alluded to this view by emphasising that the nature of the relationship between the Muslim and non-Muslim communities is conflict due to the fundamental differences between them; the former is based on full submission (*ubudiyah*) to Allah only and the other is based on submission (*ubudiyah*) to fellow humans or false gods from the Islamic perspective. It is therefore certain that man-made beliefs and ideologies will see Islam as the main threat. Thus, they will always strive to undermine Islam and Muslims.⁵⁶ To prove this point, he highlighted that the conspiracy between the Arab pagans and the Jews against the Prophet, even though Islam accords the Jews special status as People of the Book. Such respect did not prevent them from committing treason that went against the Medina Charter they had previously agreed upon. Sayyid Qutb also viewed contemporary cases of cooperation between communists, polytheist and Christians against Muslims in Russia, China, Yugoslavia, Albania, India and Kashmir in the same light.⁵⁷

Sayyid Qutb expressed his disagreement with Rashid Ridha and Muhammad Izzat Daruzah who argued in their commentary of chapter 9 of the Quran against the generalisation of armed *jihad* upon all non-Muslims.⁵⁸

The concept of *Dar Al-Islam* and *Dar Al-Harb*, the two most popular and prominent classification of states, when it is juxtaposed with the command of Allah to fight the non-Muslims wherever they are,⁵⁹ fits well with the idea subscribed by Imam Samudra and his like. It perpetuates the development of binary perspective (us versus them), which also means that it is obligatory upon Muslims to establish a *Dar Al-Islam* so they can wage war against all *Dar Al-Harb* until Islam prevails above other religions.

Establishing Right Foundation Of Relationship

As a counter-argument to Imam Samudra's view, it is argued that Islam propagates

the basis of the relations between Muslims and non-Muslims as peace and harmony, not *jihad* (war).⁶⁰

This is based on the following underlying principles:

1. Islam is a religion that loves peace.

The Quran says:

“But if they incline to peace, incline thou to it as well, and place thy trust in God: verily, He alone is all-hearing, all-knowing!” (The Quran, 8:61)

2. Islam is a religion that is revealed as a mercy to all creations.

The Quran says:

“And [thus, O Prophet,] We have sent thee as [an evidence of Our] grace towards all the worlds.” (The Quran, 21:107)

The Prophet Muhammad said;

“Those who do not love his fellow mankind, Allah does not love him” (Narrated by Al-Bukhari & Muslim)

Therefore it is illogical that Islam, which commands its followers to love and have mercy on all mankind and other living creatures, would also command constant war against non-Muslims merely because of a difference in faith.

3. Islam honours and respects all mankind.

The Quran says:

“Now indeed, We have conferred dignity on the children of Adam.” (The Quran, 17:70)

Honouring the children of Adam includes disallowing their persecution. Allah has forbidden the killing of mankind, in general. The Quran says:

“... if anyone slays a human being - unless it be [in punishment]

for murder or for spreading corruption on earth - it shall be as though he had slain all mankind; whereas, if anyone saves a life, it shall be as though he had saved the lives of all mankind..." (The Quran, 5:32)

4. There is no compulsion in religion.

The Quran says:

"There shall be no coercion in matters of faith..." (The Quran, 2:256)

"And [thus it is:] had thy Sustainer so willed, all those who live on earth would surely have attained to faith, all of them: dost thou, then, think that thou couldst compel people to believe" (The Quran, 10:99)

These two Quranic verses clearly forbid compelling others to accept Islam. As such it is untenable that the basis of relations with non-Muslims is war, in order to force them to accept Islam.

5. Islam allows marriage with People of the Book (Jews & Christians).

The Quran says:

"...And [lawful to you are], in wedlock, women from among those who believe [in the divine writ], and, in wedlock, women from among those who have been vouchsafed revelation before your time..." (The Quran, 5:5)

Even though there is a difference in opinion as to whether this ruling is still applicable in the present context, it was definitely a part of the Islamic jurisprudence during the time of the Prophet Muhammad and the earlier generation of Muslims.

How could Islam allow a Muslim to marry a member of the People of the Book, while at the same time found the basis of Muslim-non-Muslim relationship on hate or war?

The Quran says:

“And among His wonders is this: He creates for you mates out of your own kind, so that you might incline towards them, and He engenders love and tenderness between you: in this, behold, there are messengers indeed for people who think!”
(The Quran, 30:21)

It would be a paradox as the objective of marriage in Islam, regardless of whether it is with a Muslim woman or a woman of People of the Book, is to achieve love and calmness in one's lives.

6. Islam makes sharing the message of Islam an obligation to Muslims

The Quran says:

“Call thou [all mankind] unto thy Sustainer's path with wisdom and goodly exhortation, and argue with them in the most kindly manner: for, behold, thy Sustainer knows best as to who strays from His path, and best knows He as to who are the right-guided.” (The Quran, 16:125)

How is it possible for one to share the message and teaching of Islam with non-Muslims, in the best possible manner, if he harbours resentment and hatred towards them to the extent of waging war against them?

In sharing the religion of Islam with others, Muslims are only required to share the message, not to force others to accept Islam. The Quran says:

“but we are not bound to do more than clearly deliver the message [entrusted to us].” (The Quran, 36:17)

This explains why the Prophet Muhammad never failed to remind his army to invite non-Muslims to Islam. The Prophet Muhammad said to Ali;

“Invite them to Islam and tell them their duties. By Allah's name, if Allah guides them by your efforts, that would be better for you than a red camel.” (Narrated by Al-Bukhari)

This indicates that inviting non-Muslims to Islam through peaceful interactions is preferred over war.

7. Allah deliberately created mankind in diversity, including the diversity of belief and religion. Hence, this should not be a source of conflict, rather it should be an opportunity to know one another.

The Quran says:

“O men! Behold, We have created you all out of a male and a female, and have made you into nations and tribes, so that you might come to know one another. Verily; the noblest of you in the sight of God is the one who is most deeply conscious of Him. Behold, God is all-knowing, all-aware.” (The Quran, 49:13)

How could Muslims fulfill this Quranic injunction to ‘know each other’, if their hearts are filled with hatred and a resolution to wage war against non-Muslims?

Once it is clear that the basis of relations between the Muslims and non-Muslims are peaceful, another question then arises – can there be positive feelings towards non-Muslims?

In this matter, Sheikh Faisal Mawlawi has described several types of relationships between Muslims and non-Muslims:⁶¹

1. Acquaintance

As mentioned, Allah created mankind in diversity so that they might get to know each other and benefit from relationships.

This diversity and difference is a law of nature that has both positive and negative effects.

Sheikh Faisal comments:

“Therefore, I cannot turn away or run away, in disgust when I see a non-Muslim just because he is a non-Muslim and refuse to talk to him even though there are no problems between us.

If you, my fellow Muslims, are preachers, than this country (the West) is fertile ground for you to share the message of Islam.

Then, engage with the non-Muslims and get to know them better. May their hearts become closer to yours. This acquaintance and engagement between a Muslim and non-Muslim is a basic relationship that should exist.”⁶²

2. Coexistence (Living together)

Islam allows living together with non-Muslims. The Quran says:

“As for such [of the unbelievers] as do not fight against you on account of [your] faith, and neither drive you forth from your homelands, God does not forbid you to show them kindness and to behave towards them with full equity: for, verily, God loves those who act equitably” (The Quran, 60:8)

If Muslims are encouraged to perform good deeds to non-Muslims, then there are little grounds to disallow them from living together.

The history of the early Muslims showed that they traveled and migrated to distant countries, away from the majority Muslim states. They interacted with the local population and integrated themselves harmoniously into the society. In fact, it was through such interactions that Islam spread peacefully to the Malay Archipelago. The examples of these early Muslims prove that it is an acceptable practice for Muslims to live together peacefully with non-Muslims.⁶³

Likewise for the Muslims who later migrated to America and Europe to flee persecution from their own governments.

3. Mutual Help

Islam also allows Muslims and non-Muslims to work together in anything that is good. This can be seen in the Prophet Muhammad’s involvement in the *Hilf Al-Fudhul*, where a pact was made by several Arab tribes to defend a man who was cruelly abused by another man from another Arab tribe. The Prophet participated in this pact before he was decreed as a Prophet. When he recalled this incident during his prophethood, he said, “If I was called to that incident again, I would definitely participate.”⁶⁴

His statement clearly shows the need to work together in good deeds, regardless

of whether the other parties involved are Muslims or not.

Sa`id Hawwa commented on this incident;

“Allah has ordained on the Muslims to help one another in good deeds and faith in His revelation in the Quran;

“...but rather help one another in furthering virtue and God consciousness, and do not help one another in furthering evil and enmity; ...” (The Quran, 5:2)

It is permissible for a group of Muslims to enter into a pact to uphold righteousness and virtue, as long as it does not encourage discrimination and animosity against the Muslims. It is also permissible for Muslims to enter into pacts with non-Muslims against any forms of cruelty and abuse, as long as the interests and concerns of the Muslims in the short or long term is not compromised. In the incident quoted previously, after his ordainment as the Prophet, he still expressed willingness to support such a pact again, if called again.”⁶⁵

Sheikh Faisal Mawlawi also explains the variety of bonds that binds human beings together:⁶⁶

1. The Bond of Humanity

This is a bond that unites all mankind as human beings descended from the first man, Adam. Islam acknowledges this, and in the Quran there are many statements which is directed to the human race in general; “O mankind,...”, “O Children of Adam...”.

2. The Bonds of Race/Nationality/Ethnicity

Islam also acknowledges and allows the existence of such bonds. The early Muslims used to include their tribe name in their names; for example, Abu Zar Al-Ghifari was from a tribe called Ghifar. They were not instructed to drop these affiliations upon receiving Islam.

Islam also does not instruct Muslims to sever relationships with their parents merely because they do not share the same faith and religion. Islam enjoins

Muslims to establish a good relationship with their parents as long as their parents do not force them to transgress Allah's commands.

3. Common Interest and Common Good

The nature of human beings as social creatures, more often than not, puts them in positions of mutual need and mutual benefit because of their common interest.

As a result, pacts and agreements are made between people. For example, the incident mentioned earlier of the *Hilf Al-Fudhul* and agreements between the Prophet Muhammad with various Arab tribes, as well as with the Jews as recorded in the Constitution of Medina.

4. Emotional Attachment to Homeland

It is natural for people to develop a bond with others from the same country. It is recorded that the Prophet and his companions expressed and shared their emotions for their beloved homeland (Mecca) after their migration to Medina. Islam allows such attachments.

5. Islamic Bond

This is the most honourable bond that binds all Muslims together.

The Quran says:

“whose hearts He has brought together: [for] if thou hadst expended all that is on earth, thou couldst not have brought their hearts together [by thyself]: but God did bring them together. Verily, He is almighty, wise..” (The Quran, 8:63)

As the various relationships and bonds occur naturally among people, it can be concluded that Islam allows the relationships and bonds with non-Muslims. These relationships and bonds must be positive in nature, based on love, respect, peace and trust, in line with the essence of Islam that is peace, mercy and love.

The Quran says:

UNLICENSED TO KILL

“Lo! It is you who [are prepared to] love them, but they will not love you, although you believe in all of the revelation....” (The Quran, 3:119)

Allah describes in this revelation, that the Muslim’s love for others should transcend the animosity others show them.

Sheikh Faisal Mawlawi quoted Sheikh Rasyid Ridha in his explanation of this revelation:

“Verily men, in their lack of seriousness towards their relationships, love and mercy for their fellow man, depend on their level of true faith and how close they are to the Truth. Why is it not so, when Allah has addressed the best of the believers as “Lo! You are the ones who love them....”⁶⁷

The Quran says:

“Alluring unto man is the enjoyment of worldly desires through women, and children, and heaped-up treasures of gold and silver, and horses of high mark, and cattle, and lands. All this may be enjoyed in the life of this world – but the most beautiful of all goals is with God.” (The Quran, 3:14)

What is forbidden in Islam is to love those who wage war against Islam and Muslims.

The Quran says:

“Thou canst not fond people who [truly] believe in God and the Last Day and [at the same time] love anyone who contends against God and His Apostle – even though they be their fathers, or their sons, or their brothers, or [others of] their kindred....” (The Quran, 58:22)

If fostering positive feelings towards non-Muslims was forbidden for Muslims, it would be a great psychological burden to Muslims. In fact, it conflicts with the natural behaviour of man as a social creature. This is especially so for Muslims who are living in the midst of a multi-religious society. It is not in line with the essence of Islam as a religion that suits the nature of human beings.

The positive feelings that Muslims have for non-Muslims do not mean they are compromising their faith. It simply reflects that Muslims respect others' choice of faith.

Response To The Argument Of Final Stage Of Revelation On *Jihad* And Abrogation Of The Previous Verses

Among the verses that culminate the final stage of *jihad* obligation on Muslims are the followings:

1. "An so, when the sacred months are over, slay those who ascribe divinity to aught beside God wherever you may come upon them, and take them captive, and besiege them, and lie in wait for them at every conceivable place. Yet if they repent, and take to prayer, and render the purifying dues, let them go their way: for, behold, God is much-forgiving, a dispenser of grace." (The Quran, 9:5)
2. "Fight against them! God will chastise them by your hands, and will bring disgrace upon them, and will succour you against them; and He will soothe the bosoms of those who believe." (The Quran, 9:14)
3. "[And] fight against those who – despite having been vouchsafed revelation [aforetime] – do not [truly] believe either in God or the Last day, and do not consider forbidden that which God and His apostle have forbidden, and do not follow the religion of truth [which God has enjoined upon them], till they [agree to] pay the exemption tax with a willing hand, after having been humbled [in war]." (The Quran, 9:29)
4. "Behold, the number of months, in the sight of God, is twelve months [laid down] in God's decree when He created the heavens and the earth; [and] out of these four, are sacred; that is the right reckoning; this is the ever-true law [of God]. Do not, then, sin against yourselves with regard to these [months]. And fight against those who ascribe divinity to aught beside God, all together – just as they fight against you, [O believers,] all together - and know that God is with those who are conscious of Him." (The Quran, 9:36)
5. "O Prophet! Strive hard against the deniers of the truth and the hypocrites, and be adamant with them. And [if they do not repent,] their goal shall be hell – and how vile a journey's end!" (The Quran, 9:73)

6. “O you who have attained to faith! Fight against those deniers of truth who are near you and let them find you adamant; and know that God is with those who are conscious of Him.” (The Quran, 9:123)

In analysing the above verses, one will note that they do not contain any provision of being under attack first before Muslims can wage armed *jihad*. Because the message of the Quran transcends time and space, the verses infer the meaning that Allah calls Muslims to constantly wage armed *jihad* against the non-Muslims wherever they can be found and when there is opportunity “till they [agree to] pay the exemption tax with a willing hand, after having been humbled [in war].”

A faction of Muslims takes the first forty verses of chapter 9 which include the first, second and third verses above as the final instructions on *jihad* because they were revealed near the end of the Prophet’s life, abrogating among others the following verses on *jihad*, which were revealed earlier:

1. “Permission (to fight) is given to those against whom war is being wrongfully waged – and, verily, God has indeed the power to succour them - those who have been driven from their homelands against all right for no other reason than their saying, Our Sustainer is God!” For, if God had not enabled people to defend themselves against one another, [all] monasteries and churches and synagogues and mosques – in [all of] which God’s name is abundantly extolled – would surely have been destroyed [ere now].” (The Quran, 22:39, 40)
2. “Hence, fight against them until there is no more oppression and all worship is devoted to God alone, but if they desist, then all hostility shall cease, save against those who [willfully] do wrong.” (The Quran, 2:193)
3. “And how could you refuse to fight in the cause of God and of the utterly helpless men and the women and the children who are crying, “O our Sustainer! Lead us forth [to freedom] out of this land whose people are oppressors, and raise for us, out of thy grace, a protector, and raise for us, out of Thy grace, one who will bring us succour..”” (The Quran, 4:75)
4. “.....Thus, if anyone commits aggression against you, attack them just as he has attacked you – but remain conscious of God, and know that God is with those who are conscious of Him.” (The Quran, 2:194)

5. “And fight in God’s cause against those who wage war against you, but do not commit aggression – for, verily, God does not love aggressors..” (The Quran, 2:190)

This first verse is amongst the first few verses that were revealed on armed *jihad*. It was revealed after more than 10 years of persecution, committed by people of Mecca. For those 10 years, Muslims were commanded to persevere patiently and maintain peaceful means of propagating Islam. They were prohibited from retaliating to the physical abuse and violence against them.

The above earlier revealed verses teach that *jihad* is not only to defend Muslims but also oppressed people of other faiths. The verses clearly state that the motive of aggression is in retaliation to an aggression by the other party. In these verses, the motive of war is stated as a response to abuse, oppression and persecution.

Louay Safi explained the first and the second verses:

“It should be made clear here that oppressiveness of a particular regime is not to be determined by comparing the values and conduct of that regime with Islamic norms and standards, but rather by its toleration of the Muslim interaction with its subjects and the communication of Islam to the general public. Corruption and mismanagement should not be considered, therefore, the criteria that classify a particular regime as oppressive, deserving, thus, to be fought, because, it may be recalled, Muslims are commanded to invite mankind to Islam through friendly means and effect social and political change using the peaceful methods of education and moral reformation. Only when their peaceful efforts are frustrated and met with violence, are they justified to use violence to subdue the aggressive party. As it was shown above, the Prophet did not resort to war against the Pagan Arabs until they persecuted the Muslims and violated their lives and properties; nor did he fight the Jews of Madinah until they betrayed the Muslims and conspired with their enemies. Similarly, the Prophet declared war against Byzantium and its Arab allies only when they killed the messengers and missionaries who were sent to peacefully summon people to Islam and introduce to them the new revelation of God.”⁶⁸

In reality, the majority of Muslim scholars reject the abrogation argument because there is no strong evidence that the verses in chapter 9 were revealed to abrogate the others.

On verse 5 of chapter 9, there was no mention about it abrogating earlier verses on defensive *jihad* by At-Tabari and Ibn Katsir, the two most prominent exegetes of the Quran. In fact, Al-Qurtubi reported that some scholars, among them Adh-Dahhak and Atho', were of the view that verse 5 of chapter 9 was abrogated by the following verse:

“Now when you meet [in war] those who are bent on denying the truth, smite their necks until you overcome them fully, and then tighten their bonds, but thereafter [set them free,] either by an act of grace or against ransom, so that the burden of war may be lifted: thus [shall it be]. And [know that] had God so willed, He could indeed punish them [Himself]; but [He wills you to struggle] so as to test you [all] by means of one another. And as for those who are slain in God's cause, never will He let their deeds go to waste.” (The Quran, 47:4)

Al-Qurtubi also reported one opinion from Al-Husain bin Al-Fadl that viewed verse 5 of chapter nine abrogating other verses on patience towards enemy's disturbance or persecution, but no mention of earlier verses on defensive *jihad*.⁶⁹

The prevalent opinion is that all verses on *jihad* cannot be interpreted independently of each other. They are to be studied together to derive the true understanding of *jihad* in Islam. In this respect, the Muslim scholars have agreed that verses which are general and unconditional must be interpreted as conditional.⁷⁰ Thus, the meaning of verses from chapter 9, which is unconditional, would fall under the meaning of the verses; fight the non-Muslims only when they fight you.

Muslim scholars also ruled that “*la ama illa wa huwa makhsus*” (there is no generality without exception).⁷¹ Therefore, they are always cautious when approaching verses, which are unconditional. They will make serious effort to look for other verses or *hadith*, which possibly would limit the generality of the verses. A similar attitude should be applied in dealing with the verses of chapter 9. By following this methodology the scholars would be able to determine the limit as regards to the scope in which unconditional verse is to be applied. Consequently, the verse after it has been qualified

would be interpreted within this scope and not beyond it.

Classical Muslim scholars like Abu Hanifah and Ahmad b. Hanbal also argued that, except verse 29, the verses of chapter 9 of the Quran referred specifically to the Arab pagans of that time.⁷² Some of them were more specific by saying that the verses were revealed on the people of Mecca or Quraisy.⁷³ An-Nawawi, among many other scholars wrote, that the verse does not refer to the People of the Book (Jews and Christians).⁷⁴ Thus, it is inappropriate to apply these verses to all non-Muslims today.

Even if one looks carefully at verses 1-40 of chapter 9 from the Quran, one will find that the command to fight is not directed to all Arab pagans. The generality of the verses in the first group is restricted by other verses in the same chapter 9, such as follows:

1. “But excepted shall be – from among those who ascribe divinity to aught beside God – [people] with whom you [O believers] have made a covenant and who thereafter have in no wise failed to fulfil their obligations towards you, and neither have aided anyone against you: observe, then, your covenant with them until the end of the term agreed with them. Verily, God loves those who are conscious of Him.” (The Quran, 9:4)
2. “How could they who ascribe divinity to aught beside God be granted a covenant by God and His Apostle, unless it be those [of them] with whom you [O believers] have made a covenant in the vicinity of the Inviolable House of Worship? [As for the latter,] so long as they remain true to you, be true to them: for, verily, God loves those who are conscious of Him.” (The Quran, 9:7)
3. “How [else could it be]? – since, if they [who are hostile to you] were to overcome you, they would not respect any tie [with you,] nor any obligation to protect [you], They seek to please you with their mouths, while their hearts remain averse [to you]; and most of them are iniquitous.” (The Quran, 9:8)
4. “But if they break their solemn pledges after having concluded a covenant, and revile your religion, then fight against these archetypes of faithlessness who, behold, have no [regard for their own] pledges, so that they might desist [from aggression].” (The Quran, 9:12)

5. “Would you, perchance, fail to fight against people who have broken their solemn pledges, and have done all that they could to drive the Apostle away, and have been first to attack you? Do you hold them in awe? Nay, it is God alone of whom you ought to stand in awe, if you are [truly] believers!” (The Quran, 9:13)

The first and the second verses mean that those whom the Muslims have peace agreements and “they have not failed you in anything and have not backed up any one against you [Muslims]” should not be fought against. The aggression is only directed towards hostile tribes who break their agreement and attack Muslims and “if they prevail against you [Muslim], they would not pay regard in your case to ties of relationship, nor those of covenant” as stated in the third, fourth and fifth verses.⁷⁵ Al-Qurtubi and At-Tabari reported that the verses were revealed on the people of Mecca or the Quraisy tribe.⁷⁶

Verse 36 of chapter 9, which contains, “And fight against those who ascribe divinity to aught beside God, all together – just as they fight against you, [O believers,] all together”. The original Arabic used for “all together” is *kaffah*. The more accurate meaning of the verse is not a command to fight all Arab pagans but to be united in fighting them or to fight them collectively.⁷⁷ Thus, the verse is not an argument for fighting against all non-Muslims.

As of the verse 29 of chapter 9 which command Muslims to fight the People of the Book until they become Muslims or pay *jizyah*, it is argued that the verse does not in any way command Muslims to wage arm *jihad* against all Jews and Christians.

The verse simply suggests that *jizyah* is an option for Muslims in dealing with the Jews and the Christians. The term *jizyah* occurs in the Quran only once, but its meaning and purpose have been fully explained in many authentic *hadith*. It is intimately bound with the concept of the Islamic state as an ideological organisation: And this is a point which must always be borne in mind if the real purport of this tax is to be understood. In the Islamic state, every able-bodied Muslim is obliged to take up arms in *jihad* (i.e., a just war in God’s cause) whenever the freedom of his faith or political safety of his community is imperiled: In other words, every able-bodied Muslim is liable for compulsory military service. Since this is, primarily, a religious obligation, non-Muslim citizens, who do not subscribe to the ideology of Islam, cannot in fairness be expected to assume a similar burden. On the other hand, they must be accorded full protection of all their civic rights and of their religious freedom: it is in

order to compensate the Muslim community for this unequal distribution of civic burdens that a special tax is levied on non-Muslim citizens (*Ahl Az-Zimmah*, lit., “convenated” (or “protected people”), i.e., non-Muslims whose safety is statutorily assured by the Muslim community). Thus, *jizyah* is no more and no less than an exemption tax in lieu of military service and in compensation for the “covenant of protection” (*Zimmah*) accorded to such citizens by the Islamic state.⁷⁸

The practice of *jizyah* was also directed to rulers of states that had launched wars against the Islamic state of the time. It was also a matter of options or strategic consideration. This explains why Muslim military commanders gave the ultimatum to the Romans and the Persians – embrace Islam, pay the poll tax or face war.

The war against the Persians and Romans was in retaliation to their actions against the Prophet and their refusal to end the enmity. This is not a reflection of the original principle of relationship, but retaliation to the threat of war and an effort to put an end to the hostility.

It was reported that Abyssinia maintained its Christian identity long after Islam was established in Arabia and North Africa. Few Muslim families could be found there in the fourth *Hijri* century. From the beginning, Abyssinians showed goodwill to the early Muslims who sought refuge there. Good relations between Abyssinia and the Islamic state continued, the former being the only nation to acknowledge Islam at that time.

The peaceful relationship between Abyssinia and the Islamic state is very significant. It debunks the concept of the two territorial divisions of the world, and the corollary conception of a permanent state of war, which does not permit the recognition of any non-Muslim state as a sovereign entity and insists that the latter should always pay tribute to the Islamic state. For although Abyssinia had never been a Muslim nation, it was recognized by the early Islamic state as an independent state that could be left alone without being imposed any kind of tax or forced into the orbit of Islamic state.⁷⁹

In fact the verse itself indicate that *jizyah* is only imposed to certain segment of Jews and Christians, who – despite having been vouchsafed revelation [aforetime] – do not [truly] believe either in God or the Last day, and do not consider forbidden that which God and His apostle have forbidden, and do not follow the religion of truth [which God has enjoined upon them],....”⁸⁰

This is supported by the context in which the verse was revealed. It was reported that the verse was revealed when the Prophet was preparing for the battle of Tabuk, a military expedition against the Romans which was launched because the Romans had assisted an Arab tribe that had killed the Prophet's messenger against his army.⁸¹ By supporting the tribe which was at war with the Prophet, the Romans had itself declared war against the Prophet.

Muslim scholars also points out the importance of understanding the context of the revelation of the final verses on *jihad*.

The most appropriate interpretation of the final revelation on *jihad* is that they refer to non-Muslims who have been in a prolonged state of war against Muslims through unprovoked aggression and violence. The hostilities remained even after the Muslims migrated to Medina in search of peace. Despite entering into various treaties with the Muslims in Medina, those tribes treacherously violated their part time and again. In that late stage in the Prophet's mission, it became clear that peaceful relations with those tribes was impossible, hence the instruction in that chapter to denounce the treaties and wage war.

It is thus important to understand the dynamics of the relationship between the Quraisy and the Muslims in Medina to have a full appreciation of the situation. The fact that Allah mentioned in verse 5 of chapter 9, "who broke their oaths and aimed at the expulsion of the Messenger", is proof that the verse and was revealed on the people of Mecca because that attribute can only fit them.⁸²

Muzammil H. Siddiqi, former President of the Islamic Society of North America, wrote:

"It is important that we study the religious texts in their proper context. When these texts are not read in their proper textual and historical contexts they are manipulated and distorted. It is true that some Muslims manipulate these verses for their own goals. But this is not only with Islamic texts, it is also true with the texts of other religions."⁸³

The position that *jihad* is not a perpetual war against non-Muslims is also supported by the following verses;

1. "As for such [of the unbelievers] as do not fight against you on account of

[your] faith, and neither drive you forth from your homelands, God does not forbid you to show them kindness and to behave towards them with full equity: for verily, God loves those who act equitably. God only forbids you to turn in friendship towards such as fight against you because of [your] faith, and drive you forth from your homelands, or aid [others] in driving you forth: and as for those [from among you] who turn towards them in friendship, it is they, they who are truly wrongdoers!" (The Quran, 60:8 - 9)

2. "...And never let your hatred of people who would bar you from the Inviolable House of Worship lead you into the sin of aggression: but rather help one another in furthering virtue and God-consciousness, and do not help one another in furthering evil and enmity; and remain conscious of God: for behold, God is severe in retribution!" (The Quran, 5:2)

The above verses clearly state that Islam allows Muslims to coexist and befriend non-Muslims who do not fight them or who are not hostile towards them. In fact, Muslims are expected to uphold justice even to those who have committed injustices against them.

Muslims are not only obliged to defend fellow Muslims against oppression and persecution, but also fellow human beings, even people of other faith. Allah mentions monasteries, churches and synagogues together with mosques to indicate that all places of worship and its communities must be defended from acts of destruction in the following verse:

"...For if God had not enabled people to defend themselves against one another, [all] monasteries and churches and synagogues and mosques – in [all of] which God's name is abundantly extolled – would surely have been destroyed [ere now]. And God will most certainly succour him who succours His cause: for verily, God is most powerful, almighty." (The Quran, 22:40)

Muslims are required to stand up against any form of oppression and injustice to any human being because the Prophet was sent as mercy to the universe. Allah has revealed in the Quran;

"And [thus, O Prophet,] We have sent thee as [an evidence of Our] grace towards all the worlds." (The Quran, 21:107)

It is important to note that the mere acts of discrimination and injustice does not justify Muslims going to war or taking up armed rebellion against a state. The offending act must be severe to the extent that it involves violence against people and property, and all peaceful means of resolving the situation had been exhausted.

Abdul Hamid A. Abu Sulayman wrote;

“Jihad, as the duty to pursue what is true and right includes protection of the human rights of life, belief, honour, family and education. The highest purpose of jihad is to change one’s own life so that one will pursue these rights in submission to Allah. The second highest purpose is to defend the rights of justice for everyone, always, everywhere; and the substance of justice is human rights.”⁸⁴

Argument for Non-Perpetual War in Muslims’ Conduct of War

In waging war, Muslims must not only ensure that their motive is in accordance to Islam, but they are also required to adhere strictly to the Islamic code of conduct in war as taught by the Prophet.

The Prophet said;

“Do not kill the elderly who are sick, young children or women and do not behave excessively, accumulating the spoils of war. Be kind, for Allah loves those who are kind.” (Narrated by Abu Daud)

“...do not embezzle the spoils, do not break your pledge and do not mutilate (the dead) bodies, do not kill the children.” (Narrated by Muslim)

“Do not kill people of monasteries.” (Narrated by Ahmad)

The reason for prohibiting the killing of the elderly, the sick, young children and women⁸⁵ is because generally they are non-combatants. Thus, a difference in faith is not a wanton license to kill and not a justification for war. Hostility in the form of an act of war justifies the war, whether initiated by non-Muslims or fellow Muslims.

The misled notion, that it is the Muslims' duty to wage war against all non-Muslims, is inconsistent with the various rulings forbidding the killing of innocent people who are not involved in the war, that is, children, women and priests.

On the treatment of the prisoners of war, the Quran says:

“Now when you meet [in war] those who are bent on denying the truth, smite their necks until you overcome them fully, and then tighten their bonds, but thereafter [set them free,] either by an act of grace or against ransome, so that the burden of war may be lifted: thus [shall it be]. And [know that] had God so willed, He could indeed punish them [Himself]; but [He wills you to struggle] so as to test you [all] by means of one another. And as for those who are slain in God's cause, never will He let their deeds go to waste.” (The Quran, 47:4)

If a difference in faith is sufficient to justify the killing of non-Muslims, there would have been no need for the above ruling. Prisoners of war should just be killed, unless they embrace Islam. On the contrary, as prisoners of war are no longer in the position to fight, Islam requires Muslims to provide good treatment to them.

Even in war, Muslims are to fulfill their obligations and agreements with people of other faith. The Quran says:

“But excepted shall be – from among those who ascribe divinity to aught beside God – [people] with whom you [O believers] have made a covenant and who thereafter have in no wise failed to fulfil their obligations towards you, and neither have aided anyone against you: observe, then, your covenant with them until the end of the term agreed with them. Verily, God loves those who are conscious of Him..” (The Quran, 9:4)

Reconstruction Of *Dar Al-Islam* And *Dar Al-Harb*

Although the issue *Dar Al-Islam* and *Dar Al-Harb* is not raised in Imam Samudra's book but, as mentioned above, it has a strong link with the idea of armed *jihad* being the basis of Muslim-non-Muslim relationship in the work

of the classical scholars which often become the source of reference for the *jihadists*, like Imam Samudra. Therefore, it is important to include clarification and response to the concept here.

Such a dichotomy, if not clarified, could paint Islam as a simplistic religion that sees the world only with a binary perspective - “either you are with us or against us”.

Indeed, this dichotomy has contributed to misunderstandings both among non-Muslims and Muslims. For example Martin Van Creveld wrote in his book, *The Transformation of War*;

1. “(the) Koran divides the world into two parts – dar al Islam (the House of Islam), and dar al Harb (the House of the Sword), that were supposed to be perpetually at war....”
2. “The conquering Arabs (Muslims) had the right to put inhabitants of occupied countries to death should they fail to convert to Islam.”
3. “Jihad was actually the only kind of relationship that could exist between the faithful and the unbelievers.”⁸⁶

The truth is, it is incorrect to say that the Quran divides the world into *Dar Al-Islam* and *Dar Al-Harb* and there is no divinity to the classification.⁸⁷

As the Quran is the main source and reference of Islam and Muslims, such an assertion wrongfully convinces readers of its importance in Islam. The classification of states to *Dar Al-Islam*, *Dar Al-Harb* and *Dar As-Sulh* does not originate from the Quran. Nowhere in the Quran is such a classification explicitly mentioned.⁸⁸

Tariq Ramadan wrote in his book *To Be a European Muslim*:

“*Dar al-Islam* and *dar al-harb* are two concepts which cannot be found either in the Qur’an or in the *Sunna*. They actually do not pertain to the fundamental sources of Islam whose principles are presented for the whole world (*lil-alamin*), over all time and beyond any geographical limitation..... In fact, they were a human attempt, historically dated, to describe the world and to provide the Muslim community with a gauge to measure the world by adapting it to their reality.”⁸⁹

The classification also did not originate from the time of the Prophet, neither was it known in the time of the companions of the Prophet, the first Muslim generation. Muslim scholars developed it a few hundred years later in the early Abbasid dynasty.⁹⁰

It is also significant to note that *Dar Al-Islam* and *Dar Al-Harb* are not the only classifications found in the writing of Muslim scholars. Islamic terminology is full of many other classifications: *Dar Al-'Ahd* (Land of Covenant), *Dar Al-Sulh* (Land of Truce), *Dar Al-Maslubah* (Land of Pillaged Land), *Dar Al-Bid'ah* (Land of Heresy), *Dar Al-Baghy* (Land of Usurpation), *Dar Al-Adl* (Land of Justice) and *Dar Al-Kufr* (Land of Unbelief).

It is suggested that the classification of states by the Muslim scholars was their attempt to interpret their context and to implement certain Islamic laws, of which the application differed, depending on the country where Muslims lived.

The context that influenced those Muslim scholars was constant war between Muslims and non-Muslims (the Romans and the Persians). Muslim scholars felt that it was important to classify countries to ensure that laws pertaining to *jihad* were applied to the correct situation and place. It also helped them to issue *fatwa* according to the appropriate social and political environment because it is a fundamental principle in Islamic law that *syariah* is implemented with due consideration of the context.

The concept was influenced by the codification period of Islamic law. It was a period where Muslims were dominant in the international political scene. The classification bore the psychological element of human beings in such a context – a sense of superiority above others.

The binary perspective in the classification was also influenced by the political culture between states at that time. States then had a strong tendency of using war as the preferred means of solving a problem or conflict. History has recorded that rulers went to war over trivial reasons. Such a prevalent attitude in the political scene also affected the perspective of Muslim legal scholars.

It was also made based on their interpretation of the history of the Prophet, which was partly filled with conflicts between Medina as *Dar Al-Islam* and Mecca as *Dar Al-Harb* and the various agreements he made with Arab tribes as *Dar As-Sulh*.

Tariq Ramadan wrote;

“It was the *ʿulama* who, during the first three centuries of Islam, by considering the state of the world – its geographical divisions, the power in place through religious belonging and influence as well as the moving game of alliances – started to classify and define the different spaces in and around them. This process was necessary for at least two reasons: First, by marking out the Islamic territories, the *ʿulama* were able to point out what the essential conditions making a space of a nation Islamic were and what rulings determining the political and strategic relations with other nations or empires were. Second, it allowed them to establish a clear distinction, as regards legal issues, between the situation of Muslims living inside the Islamic world and those living abroad or those who traveled often such as traders (and thus required specific rulings).”⁹¹

Khalid Blankinship is more specific. He argues that the only polity that founded its foreign policy on the principle of unmitigated war against non-Muslims is the Umayyad caliphate, which led to its collapse because of the difficulty in sustaining the morale of the Muslim forces, its territories and its fiscal basis of the regime, which was based on war booty.⁹²

It is also crucial to highlight that Muslim scholars were themselves in disagreement about the definition of *Dar Al-Islam* and *Dar Al-Harb*, as stated before.

This divergence of definitions is significant because in the perspective of the Hanafi school, the binary classification is a question of security and protection and not a strict question of Islam and *kufir* (non-acceptance of Islam).

Furthermore, the existence of the land of war does not necessarily translate into a state of war between the two opposing factions.⁹³ It need not be an indication of, neither would it produce hostility and animosity against non-Muslims. Abu Yusuf and Ash-Shaibani, the two most prominent scholars of the Hanafi school, viewed that *Dar Al-Harb* status can be given to a land under the rule of a Muslim and populated by Muslim if it is governed by the unIslamic rules.⁹⁴ The Shafiʿii school, however, viewed that a predominant non-Muslims land which is not at war with the Muslims does not constitute a *Dar Al-Harb*.

Also, not all Muslim scholars divide states according to that binary perspective. The Shafī'i school introduced a third category called *Dar Al-'Ahd* (Land of Treaty) or *Dar Al-Amn* (Land of Peace). It referred to non-Islamic countries, which had signed peace agreements or treaties with one or more Islamic countries, whether it was a temporary or permanent agreement.⁹⁵

Based on the above, it can be argued that most of the secular Muslim countries today are not *Dar Al-Islam* and most of the non-Muslim countries, which are not at war with the Muslim world, are not *Dar Al-Harb*. Zaid Shakir argues that such nuances clearly weigh against the idea of Muslims at perpetual war with the non-Muslims.⁹⁶

In this respect, Sheikh Faisal Mawlawi offers a very interesting view. He says that in today's context, any Muslim-ruled state, which is a member of the United Nations, is by default, in a peaceful agreement with all other members of the United Nations by way of the United Nations charter.⁹⁷

It is in this context, Zaid Shakir wrote that in the modern world, we see this restructuring of Muslim political praxis from a scheme of permanent warfare against non-Muslims to one which include protracted truces, formal diplomatic relationships and membership in the international community of nation-states. The new political praxis "has led to the implicit and explicit recognition of the institutions and regimes which collectively work to make peace, not warfare, the dominant reality governing the relations between sovereign states."⁹⁸

When a state enters the agreement to be a member of United Nations, it actually enters a contract. Islam requires Muslims to fulfill all contracts that have been agreed upon, regardless of whether the contract was signed with Muslims or non-Muslims.

The Quran says:

"O you who have attained to faith! Be true to your covenants." (The Quran, 5:1)

"...but truly pious is he.... and they who keep their promises whenever they promise...." (The Quran, 2:177)

Said Hawwa said that Islam also requires Muslims to honour and fulfill international conventions. Such an attitude is part of the etiquette of good Muslims.

For instance, when the Prophet was advised to include an official seal in the letters that he wished to send to other rulers, he accepted. This was the protocol of the time; otherwise, the receiving rulers would not accept his letters. So he sealed his letters using his ring, which was engraved with the word Muhammad, The Messenger of Allah.⁹⁹ From this, Said Hawwa inferred that the Prophet was deferring to international conventions.¹⁰⁰

The Prophet did not begin his relations with the non-Muslim governments with the threat of war. This was demonstrated in the Prophet's letters to the kings and rulers that contained only invitations for them to embrace Islam. He wrote to the Persian King:

“In the Name of Allah, the Most Beneficent, the Most Merciful.

From Muhammad, the Messenger of Allah to Chosroes, King of Persia.

Peace be upon him who follows true guidance, believes in Allah and His Messenger and testifies that there is no god but Allah Alone with no associate, and that Muhammad is His slave and Messenger. I invite you to accept the religion of Allah. I am the Messenger of Allah sent to all people in order that I may infuse fear of Allah in every living person, and that the charge may be proved against those who reject the Truth. Accept Islam as your religion so that you may live in security, otherwise, you will be responsible for all the sins of the Magians.”¹⁰¹

He only waged war against the states that waged war against the Muslims upon receipt of his letters. He also waged war against the Romans because they supported the Arab tribe that killed his messenger to them. Likewise, for the Persians who had sent two men to execute the Prophet. All these acts were taken as a declaration of war against the Prophet Muhammad.

The content of the Prophet's letters to various rulers also threw some light on the issue. The format of the letters was similar, with the following components:

1. A declaration that there is no god but Allah.

2. A declaration that he is the Messenger of Allah.
3. A call to embrace Islam.
4. A reminder that the ruler will bear the sins of his people for refusing to accept Islam.¹⁰²

No ultimatum was given that if rulers refused to accept Islam, they should either pay tax or faced the consequence of war (*jihad*) from Muslim army. The case of Abyssinia as mentioned before is a good example. Abyssinia was left alone because it was neither *Dar Al-Harb* nor *Dar Al-Islam*.

Louay Safi wrote;

“... the doctrine of the two territorial divisions of the world and its corollary concept of the permanent state of war, was influenced by the factual conditions that existed during the period when this conception was conceived, namely the hostile relations between the Abbasid caliphate and Byzantine Empire. The jurist who devised the classical doctrine has, obviously overlooked not only the peaceful coexistence between the early Islamic state and Abyssinia, but also the earlier hostility of Byzantium and its allies against the emerging Islamic state.”¹⁰³

The non-confrontational or non-hostile attitude towards non-Muslims can also be seen in the way Islam was spread in various parts of the world. China was a good example. Islam arrived in China during the first century of the *Hijrah* calendar. It was reported that the spread of Islam in China was started by one of the Prophet’s companions – from the first generation of Muslims – without any wars.¹⁰⁴

History has no record of any significant conflict between Muslims and non-Muslims in China, until the Ching Dynasty established by the Manchus,¹⁰⁵ or between the Islamic state and any of Chinese states. The peaceful coexistence between Muslims and non-Muslims and between the Islamic state and non-Islamic states of China was not on the basis of submission of any state in China to the authority of the Islamic state. There was no record that any particular state in China paid taxes to any Islamic state of the time.

In fact, Muslims in China served in various Chinese royal courts as military commanders and officials.¹⁰⁶ If Islam’s fundamental teaching is based on hostility and war against people of other faith, how could this have happened?

Today the basis and context, used by the Muslim jurists of the past, have changed. Generally, the culture of war is no longer dominant in relations between states and countries today. The protest of millions of people against war, especially in the recent example of attacks on Iraq, clearly shows this.

The general inclination of countries today is also more towards democracy and ensuring human rights, including the freedom to choose one's religion. Democracy has overcome the iron fists of the past.

Even if the concept of *Dar Al-Islam* and *Dar Al-Harb* was correct then, the very basis and context of the jurists' decision is no longer valid. The peaceful relations prevalent among mankind today already facilitate the objective of spreading the message of peace. How can Muslims rationalise trying to spread the message of peace, to people already inclined towards peace, by "inclining towards war" in their way of thinking?

Tariq Ramadan wrote;

"This debate, along with problems of definition it has brought about, is based on old concepts which seem far removed from our own time. To apply them to contemporary reality as they were thought out more than ten centuries ago appears to be a methodological mistake. In a world which has become a village, where populations are in constant flux and within which we are witnessing a process of increased complexity regarding financial and political power as well as diversification in strategic alliances and sphere of influence, it is impossible to stick to an old, simple and binary vision of reality. It would be inappropriate and inadequate and could lead to an over simplistic, and indeed blameworthy, perception of our era."¹⁰⁷

On this basis, it is clear that the principle of relations between Muslims and non-Muslims is peace and harmony.

Even though Muslims differ with non-Muslims in matters of faith, they are not allowed to go to war against non-Muslims just because of that difference. While certain factions do show enmity towards Islam, as long as there is no threat of war, Muslims cannot retaliate with war. Muslims are only to respond accordingly. That is, arguments with arguments or providing proof against proof.

The Quran says:

“Hence, if you have to respond to an attack [in argument], respond only to the extent of the attack leveled against you; but to bear yourselves with patience is indeed far better for [you, since God is with] those who are patient in adversity.”
(The Quran, 16:126)

Conspiracy Theory Debunked

Another important idea that contributes in shaping Imam Samudra’s attitude towards non-Muslims is the view that all non-Muslims are the same in their attitude towards Islam and Muslims. They will never be pleased unless all Muslims abandon their religion and follow the non-Muslim’s way of life. All non-Muslims share a common hate towards Islam and will never cease conspiring against it.¹⁰⁸

To support such view, Imam Samudra cites the following verses:

“..... [Your enemies] will not cease to fight against you till they have turned you away from your faith, if they can.” (The Quran, 2:217)

“For never will the Jews be pleased with thee, nor yet the Christians, unless thou follow their own creeds....” (The Quran, 2:120)

The fundamental problem in such view is that it generalises all non-Muslims as one monolithic group. Reading the two verses in isolation of other verses has contributed to this over-generalisation. As a result the conclusion drawn from the above verses becomes inconsistent with the position taken by the Quran towards non-Muslims.

In reality, the Quran acknowledges that non-Muslims are not one monolithic group. It is in this light that the Quran advises the Muslims on the proper mode of interaction with various types of non-Muslims. The two verses previously cited if read in conjunction with other verses of a similar theme would provide a more accurate picture of Islam’s attitude towards non-Muslims. For example, the Quran says:

“As for such [of the unbelievers] as do not fight against you on account of [your] faith, and neither drive you forth from your homelands, God does not forbid you to show them kindness and to behave towards them with full equity: For, verily, God loves those who act equitably. God only forbids you to turn in friendship towards such as those who fight against you because of [your] faith, and drive you forth from your homelands, or aid [others] in driving you forth: And as for those [from among you] who turn towards them in friendship, it is they, they who are the wrongdoers!” (The Quran, 60:8-9)

The Quran also recognizes that among non-Muslims some are followers of revealed scriptures. In view of this, God referred to them as “*Ahl Al-Kitab*” (People of the Book) and makes provision for special laws which govern the interaction between Muslims and them. When God declares that the meat (of animals) slaughtered by them as *halal* (permissible) and that it is also *halal* (permissible) to marry their women, one cannot but conclude that God intended the Muslims and “*Ahl Al-Kitab*” to co-exist peacefully side by side:

“Today, all the good things of life have been made lawful to you. And the food of those who have been vouchsafed revelation aforetime (*ahl al-kitab*) is lawful to you, and your food is lawful to them. And [lawful to you are], in wedlock, women from among those who believe [in divine writ], and in wedlock, women from among those who have been vouchsafed revelation before your time – provided that you give them their dowers, taking them in honest wedlock, not in fornication, nor as secret love-companions...” (The Quran 5:5)

The differences among the *Ahl Al-Kitab* are highlighted further in the following verse:

“Thou wilt surely find that, of all people, the most hostile to those who believe [in his divine writ] are the Jews as well as those who are bent on ascribing divinity to aught beside God; and thou wilt surely find that, of all people, they who say, ‘Behold, we are Christians,’ come closes to feeling affection for those who believe [in this divide writ]: This is because there are priests and monks among them, and because these are not given to arrogance. For, when they come to understand

what has been bestowed from on high upon this Apostle, thou canst see their eyes overflow with tears, because they recognize something of its truth; [and] they say: “O our Sustainer! We do believe; make us one, then with all who bear witness to the truth.” (The Quran 5:82-83)

The above verses not only provide distinction between the Christians and the Jews in relation with Muslims but also contain positive remarks about the Christians and there are many other similar verses that can be found in the Quran:

“For verily, those who attained to faith [in this divine writ], as well as those who follow the Jewish faith, and the Sabians, and the Christians – all who believe in God and the Last Day and do righteous deeds – no fear need they have, and neither shall they grieve.” (The Quran, 5:69)

“Verily, those who have attained to faith [in this divine writ], as well as those who follow the Jewish faith, and the Christians, and the Sabians – all who believe in God and the Last Day and do righteous deeds – shall have their reward with their Sustainer; and no fear need they have, and neither shall they grieve.” (The Quran, 2:62)

In the above verses, Allah mentions the Jews and the Christians as separate entities from the believers (Muslims) in a positive tone. There are two possible interpretations for the verses. Firstly, those who are praised among the Jews, the Christians and Sabians are those who have already embraced Islam, the final revelation to prophet Muhammad, and not those who still remain with their faith. Secondly, the Jews, the Christians and the Sabians are praised because of their potential to become true believers and followers of the last and final revelation to Muhammad, in view of the commonalities that they have with Islam.

Both interpretations are highly plausible. As for the Sabians that were mentioned in both verses, the scholars differed on their exact beliefs. They were reported to have lived in Iraq, at a time during which Islam had not spread into their homeland. Some scholars were of the opinion that the Sabians were those whom the Prophet’s message had not reached.¹⁰⁹ Therefore, the praises mentioned in the verses are not restricted to those who have embraced Islam brought

by prophet Muhammad.

Similar perspective can also be found in the following verse:

“For, if God had not enabled people to defend themselves against one another, [all] monasteries and churches and synagogues and mosques – [all of] which God’s name is abundantly extolled – would surely have been destroyed [ere now]. And God will most certainly succour him who succours His cause: For, verily, God is most powerful, almighty.” (The Quran, 22:40)

In this verse, despite the fundamental differences between Islam, Christianity and Judaism, God mentions monasteries, churches and synagogues positively as places “in which God’s name is abundantly extolled”. This surely does not refer to Muslims performing their prayer in those houses of worship because their place of worship is in the mosque.¹¹⁰

Although one can cite examples of the persecution of the Muslims by the Meccan people, the betrayal of the Jews of Medina and the collaboration between the Jews and the Meccans against the Prophet to demonstrate the deep hatred the non-Muslims had, it is also noteworthy to highlight examples of good relationships between the Prophet and non-Muslims. In fact, there were historical instances that showed non-Muslims assistance and support towards the Prophet and Muslims. The following are some of the examples:

1. The Prophet was constantly protected by his uncle Abu Talib who was not Muslim, by popular historical account, until his death.¹¹¹
2. Under intense persecution by the Meccan people, the Prophet commanded his followers to seek refuge in Abyssinia, which was under the rule of a Christian king. He commended the King as a fair ruler who would not wrong any of his subjects.¹¹²
3. Once the Prophet went to city of Taif to seek support for his message but was rejected. He could not reenter Mecca safely until Al-Mut`im bin `Adiy, a notable figure in Mecca who was not a Muslim, put him under his protection.¹¹³ Abu Bakr, a companion of the Prophet, also received protection from a non-Muslim leader in Mecca.¹¹⁴

4. After migration to Medina, the Prophet entered into peaceful agreement with various non-Muslim Arab tribes. The Prophet maintained his commitment to the agreement until his death.¹¹⁵
5. The Prophet launched a big punitive military operation against the Meccan, which led to the fall of Mecca into the hands of the Muslims for attacking his ally, an Arab non-Muslim tribe. It was a blatant violation of the agreement of Hudaibiyah that was concluded voluntarily and contain clauses, which favour the Meccan pagans. Amongst the content of the agreement was that both parties would cease attacking each other and this included their respective allies as well for a period of ten years.¹¹⁶

One who studies the Quran carefully will realise that generalisation is not the way to view this world. The Quran also views Muslims in different shades. The Quran says:

“Behold, as for those who have attained to faith, and who have forsaken the domain of evil and are striving hard, with their possessions and their lives, in God’s cause, as well as those who shelter and succour [them] – these are [truly] the friends and protectors of one another. But as for those who have come to believe without having migrated [to your country] – you are in no wise responsible for their protection until such a time as they migrate [to you]. Yet, if they ask you for succour against religious persecution, it is your duty to give [them] this succour – except against a people between whom and yourselves there is a covenant: For God sees all that you do.” (The Quran, 8:72)

“And those who henceforth come to believe, and who forsake the domain of evil and strive hard [in God’s cause] together with you – these [too] shall belong to you; and they who are [thus] closely related have the highest claim on one another in [accordance with] God’s decree. Verily, God has full knowledge of everything.” (The Quran, 8:75)

“[And] so, We have bestowed this divine writ as a heritage unto such of Our servants as We chose: And among them are some who sin against themselves; and some who keep half-way [between right and wrong]; and some who, by God’s leave,

are foremost in deeds of goodness: [and] this, indeed, is a merit most high!” (The Quran, 35:32)

“Such of the believers as remain passive – other than the disabled – cannot be deemed equal to those who strive hard in god’s cause with their possessions and their lives. God has exalted those who strive hard with their possession and their lives far above those who remain passive. Although God has promised the ultimate good unto all [believers], yet has God exalted those who strive hard above those who remain passive by [promising them] a mighty reward.” (The Quran, 4:95)

These verses show that God classifies the believers into different groups according to the good work they have done. To each He accords the proper status and ruling as He deemed fit. Failure to think along this lines in preference to homogeneity would have resulted to an oversimplification which put an individual in a position where he sees things in black or white only and in doing so ignores the various shades of grey that God in His wisdom acknowledges.

The Quran also calls Muslims to view the existence of non-Muslims as part of a pluralistic nature created by Allah.

“O men! Behold, We have created you all out of a male and a female, and have made you into nations and tribes, so that you might come to know one another. Verily, the noblest of you in the sight of God is the one who is most deeply conscious of Him. Behold, God is all-knowing, all-aware (The Quran, 49:13)

This verse states that God created the different sexes and ethnic groups among mankind for positive reasons, not negative, to foster rather than to diminish their mutual desire to understand and appreciate the essential human oneness underlying their outward differentiations; and correspondingly, all racial, national or tribal prejudice is condemned – implicitly in the Quran.¹¹⁷

More pertinently, the Quran explains that religious diversity is intentional:

“And unto thee [O Prophet] have We vouchsafed this divine writ, setting forth the truth, confirming the truth of whatever there still remains of earlier revelations and determining what is true therein. Judge, then, between the followers of earlier

UNLICENSED TO KILL

revelation in accordance with what God has bestowed from on high, and not follow their errant views, forsaking the truth that has come unto thee. Unto every one of you have We appointed a [different] law and way of life. And if God had so willed, He could surely have made you all one single community: But [He willed it otherwise] in order to test you by means of what He has vouchsafed unto you. Vie, then, with one another in doing good works! Unto God you all must return; and then He will make you truly understand all that on which you were wont to differ.” (The Quran, 5:48)

The verse explains that God could have made mankind as a single community or nation. Instead, He created diversity, wherein every peoples has its own law and way of life, to test who among mankind is truly committed to peace and the common good.¹¹⁸

The Quran proclaims that differences among human beings will remain:

“And had thy Sustainer so willed, He would surely have made all mankind one single community: But [He willed it otherwise, and so] they continue to hold divergent views – [all of them,] save those upon whom thy Sustainer has bestowed His grace. And to this end has He created them [all]....” (The Quran, 11:118-119)

The Quran once again stresses that the unceasing differentiation in men’s views, ideas and preference of moral choices is not incidental but represents a god-willed, basic factor of human existence. Hence, it is neither possible for Muslims, nor are they commanded to make everyone believe in one faith. The Quran says:

“And [thus it is:] had thy Sustainer so willed, all those who live on earth would surely have attained to faith, all of them: Dost thou, then think that thou couldst compel people to believe, notwithstanding that no human being can ever attain to faith otherwise than by God’s leave...(The Quran, 10:99-100)

In conclusion, pluralism is a deep-founded teaching of the Quran and diversity exists in all aspects of God’s creation. Diversity adds richness and variety to

life and Islam requires Muslims to live with these differences and vie with one another in good deeds.

The views held by proponents of “conspiracy theory” towards all non-Muslims that they are inherently hostile and always conspire against Islam and the Muslims clearly are misfits within various testimonies of the Quran.

Similar to the principle in understanding verses of the Quran on *Jihad*, the two verses (The Quran, 2:120 & 217) quoted by these Muslims in support of their opinion must not be interpreted, detached from other verses of the Quran and the practices of the Prophet in his history. The failure on their part to follow this accepted methodology had often led them to conclude in a manner that do little justice to Islam’s balanced and comprehensive view towards non-Muslims.

It is also important to understand both verses by looking at the context of its revelation. Al-Qurtubi and At-Tabari cited a view from Mujahid that the verse “[Your enemies] will not cease to fight against you ...”¹¹⁹ was revealed with regards to the Quraisy of Mecca extreme hostilities towards the Muslims.¹²⁰ In other word, the verse is more appropriately attributed to the attitude of the Quraisy at that time towards the Muslims.

Some would argue that verse 120 of chapter 2 could be applied to all non-Muslims (other than the People of the Book) and verse 217 of the same chapter could be applied to all Jews and Christian because the words used in the verses are used in the general form (*lafz `aam*).¹²¹ In this respect, the principle “*Al-Ibrah bi umum al-lafz la bi khusus as-sabab*” (What must be considered is the generality of text wording, not the particularity of the cause of revelation) must be applied. This means when a text is expressed in a general form, it should be understood as so, although the context of the revelation is specific to a particular point in time.

Since the Quran has not indicated in the verses that they refer to specific contexts only, both verses should be applied to all non-Muslims (other than the People of the Book) and all Jews and Christians.¹²²

Here again, it is important to note that Muslim scholars usually do not accept *lafaz `am* (words with general meaning) as it is before making an exhaustive search for other verses that could qualify its interpretation.¹²³

In applying the methodology of *takhsis* to the two verses cited by Imam Samudra using the various verses of the Quran, which mention the different categories of non-Muslims and peace as the principle basis of the relationship between Muslims and non-Muslims, the scope of those verses now have been limited to the specific groups and contexts only. As a result both verses that were quoted (The Quran, 2:120, 217) could never be used as a general worldview of Muslims towards all non-Muslims.

JIHAD IN BALI AND JIHAD IN ISLAM

Although, Imam Samudra describes armed *jihad* as another form of *dakwah* (Islamic propagation), but in the face of the Jews, Christians and other non-Muslims onslaught against Muslims and their lands such as in Afghanistan, Iraq, Palestine, Kashmir and Chechnya, he despises those who choose the path of *dakwah* as a means to defend and uphold the teaching of Islam. He views them as defeatists, do not understand the comprehensiveness of Islam (Islam *kaffah*) and have deviated from the path of the *Salafus Soleh* (the pious predecessors).

This book is of the view that it is important to stress that the idea of peaceful *dakwah* does not necessarily mean rejecting armed *jihad*, which is a part of the teaching of Islam. The basis of armed *jihad* as stated in the Quran is clear. Various verses of the Quran on armed *jihad* have already been mentioned and explained.

The real issue here is about the correct concept of *jihad*. This requires understanding *jihad* in relation to the overall teaching of Islam. This includes a conceptual understanding of who is authorised to wage *jihad*, and also when, where, why and how should it be waged.

With these issues in focus, the following part is an attempt to offer alternative perspectives to Imam Samudra's view and allegations against those who choose not to follow his path.

Jihad and the Comprehensiveness of Islam

The idea of Islam as a comprehensive religion means it does not only concern

matters of faith and rituals. A corollary to that is it does not recognise the secular notion of separating religion from politics, social matters or the public domain. In simple term, Islam is described as “a way of life”.

It is then argued that the comprehensiveness of Islam requires Muslims to look at the issue of armed *jihad* not in isolation of other aspects of the religion, but primarily the very fundamental aspects of it -- the spirit of the religion. This also requires Muslim to consider the various options or means that Islam permits its followers to choose in upholding and defending the religion.

Peace is the primary spirit of Islam

While armed *jihad* is permissible in Islam, there is enough evidences to show that Islam prefers peace to war or violence. The following are some of the arguments in support of it:¹²⁴

1. The name “Islam” means peace and tranquility. Hence any acts of aggression, war and violence would not be consistent with its meaning.
2. The Prophet was appointed as a blessing to the world as stated in the Quran. The Quran says:

“And [thus, O Prophet,] We have sent thee as [an evidence of Our] grace towards all the worlds.” (The Quran, 21:107)

Aggression, war and violence would not sit well with such an understanding.

3. Aggression and violence will only impede people from listening to the message of Islam. God prohibited the Prophet from such behaviour and the Quran states:

“And it was by God’s grace that thou [O Prophet] didst deal gently with thy followers: for if thou hadst been harsh and hard of heart, they would indeed have broken away from thee. Pardon them, then, and pray that they be forgiven. And take counsel with them in all matters of public concern; then, when thou hast decided upon a course of action, place thy trust in God: for, verily, God loves those who place their trust in Him.” (The Quran, 3:159)

This message was also repeated by the Prophet in his saying:

“Give good tidings and do not make them turn away, make it easy, do not make it difficult.” (Narrated by Muslim)

4. The Prophet was taught to return evil with kindness rather than aggression. The Quran says:

“But [since] good and evil cannot be equal, repel thou [evil] with something that is better – and lo! He between whom and thyself was enmity [may then become] as though he had [always] been close [unto thee], a true friend!.” (The Quran, 41:34)

5. Violence will only bring about complications, difficulties and burden for the individual. The Prophet has said

“Verily the religion is simple and a person should not make it difficult lest he is defeated by it.” (Narrated by Al-Bukhari)

6. The Messenger used peaceful means to establish the city of Medina as his political base.

7. Islam is more effectively propagated in a peaceful environment. This can be seen from the large numbers of people who reverted to Islam in the peace after the Treaty of Hudaibiyah, as compared to the tumultuous 19 years prior to it.¹²⁵

8. History has shown that Islam has been propagated successfully under peaceful conditions such as the spread of Islam in the Malay Archipelago and in China.

9. Muslims are encouraged to greet others with ‘*Assalamualaikum*’ which means ‘*Peace be upon you*’. This is none other than to inculcate in Muslims the message of peace and to spread it among mankind.

10. The Quran favours peaceful means above war. The Quran says:

“But if they incline to peace, incline thou to it as well, and place thy trust in God: Verily, He alone is all-hearing, all-knowing.” (The Quran, 8:61)

Abhorrence of shedding human blood, war and violence is the spirit of Islam

The comprehensiveness of Islam requires Muslims to understand, before waging armed *jihad*, that Islam abhors killing. Killing and murder are considered as major sins. Those who kill and commit murder with no justification are threatened with severe punishment in this world and the hereafter. The Quran says:

“... if any one slays a human being – unless it be [in punishment] for murder or for spreading corruption on earth – shall be as though he had slain all mankind; whereas if anyone saves a life, it shall be as though he had saved the lives of all mankind.” (The Quran, 5:32)

“And do not take any human being’s life – [the life] which God has willed to be sacred – otherwise than in [the pursuit of] justice. Hence, if anyone has been slain wrongfully, We have empowered the defender of his rights [to exact a just retribution]; but even so, let him not exceed the bounds of equity in [retributive] killing. [And as for him who has been slain wrongfully -] behold, he is indeed succoured [by God]!” (The Quran, 17:33)

“Say: “Come, let me convey to you what God has [really] forbidden to you: “Do not ascribe divinity, in any way, to aught beside Him; and [do not offend against but, rather,] do good unto your parents; and do not kill your children for fear of poverty - [for] it is We who shall provide sustenance for you as well as for them; and do not commit any shameful deeds, be they open or secret; and do not take any human being’s life – [the life] God has declared to be sacred – otherwise than in [the pursuit of] justice; this has He enjoined upon you so that you might use your reason.” (The Quran, 6:151)

Islam honours the children of Adam and this encompasses all human beings, Muslims and non-Muslims. Thus, Islam rules that the life of any human being is sacred and guarantees its protection. The Quran says:

“And We have conferred dignity on the children of Adam.” (The Quran, 17: 70)

Islam warns Muslims against harshness and extremism, and also violence and war. The Prophet has said

“Verily, Allah is kind and gentle, loves the kind and gentle, and confers upon the kind and gentle that which he does not confer upon the harsh.” (Narrated by Muslim)

“Indeed, kindness and gentleness does not exist in anything, without beautifying it; and it is not withdrawn from anything, without ruining it.”(Narrated by Muslim)

On peaceful resolution, the Quran says:

“.....and reconciliation is better....” (The Quran, 4:128)

Although this verse was revealed in the context of conflict in marriage life, it carries the same spirit of the verse (8:61), “But if they incline to peace, incline thou to it as well.”

Islam teaches Muslims to prefer restraint and non-violence. The Prophet has said

“The strongest of you is not he who knocks out his adversary, the strong one is he who keeps control over his temper.” (Narrated by Al-Bukhari and Muslim)

A companion by the name of Abu Hurairah narrated that a man said to the Prophet “O Messenger of Allah, my relatives are such that I cooperate with them but they cut me off, I’m kind to them but they ill-treat me, I forbear but they are rude to me.” The Prophet said “If you are as you say, you are feeding them with hot ash, and as long as you continue as you are, Allah will always help you. He will protect you against their mischief.” (Narrated by Al-Bukhari and Muslim)

A companion of the Prophet related that he (the Prophet) narrated the account of one of the Prophets who was assaulted and wounded by his people, yet while wiping the blood from the face he prayed, ”O Allah! Forgive my people because they do not know.” (Narrated by Al-Bukhari and Muslim)

In facing adversaries, God recommends that Muslims retaliate with a better deed. The Quran says:

“But [since] good and evil cannot be equal, repel thou [evil] with something that is better – and lo! he between whom and thyself was enmity [may then become] as though he had [always] been close [unto thee], a true friend.” (The Quran, 41:34)

God prefers Muslim to forgive those who have done evil to him. The Quran says:

“Make due allowance for man’s nature, and enjoin the doing of what is right; and leave alone all those who choose to remain ignorant.” (The Quran, 7:199)

“Hence, forgive [men’s failings] with fair forbearance.” (The Quran, 15:85)

“Hence, [even if they have been wronged by slander,] let not those of you who have been graced with [God’s] favour and ease of life ever become remiss in helping [the erring ones among] their near of kin, and the needy, and those who have forsaken the domain of evil for the sake of God, but let them pardon and forbear. [For,] do you not desire that God should forgive you your sins, seeing that God is much-forgiving, a dispenser of grace?” (The Quran, 24:22)

“And vie that you might be graced with mercy. And vie with one another to attain to your Sustainer’s forgiveness and to a paradise as vast as the heavens and the earth, which has been readied for the God-conscious.” (The Quran, 3:133-134)

Ethics and morality is the essence of Islam

Like other religions, morality is one of the most important elements in Islam. Morality influences all aspects in Islam. Nothing, including war, can be detached from it.

Morality is one of the fundamental teachings of Prophet Muhammad.

The Prophet has said:

“I was sent to perfect the high moral standards.” (Narrated by Al-Hakim)

God describes Prophet Muhammad as a person with the highest morals. The Quran says:

“for, behold, thou keepest indeed to a sublime way of life” (The Quran, 68:4)

God made Prophet Muhammad as the best example. The Quran says:

“Verily, in the Apostle of God you have a good example for everyone who looks forward [with hope and awe] to God and the Last Day, and remembers God unceasingly” (The Quran, 33:21)

Muslims are required to maintain good moral conduct in all aspects of their lives. The Prophet said:

“The best of you are those who have the best manners / morals.” (Narrated by Al-Bukhari & Muslim)

“Among the Muslims the most perfect as regards his faith, is one whose character/morals is/are excellent.” (Narrated by At-Turmuzi)

Thus, Muslims are expected to always strive to emulate the Prophet, by perfecting their morals in all aspects of life: Individual, family, social, economic, politics and so forth.

Islam is not only about armed jihad and jihad is not only with arms

Imam Samudra accepts that the meaning of *jihad* is not restricted to armed *jihad* only.

Looking at the level of knowledge and his educational background, it is also safe to assume that Imam Samudra understands that *jihad* is not the only teaching of Islam or neither is it the only obligation of Muslims.

However as a brief clarification, it is reiterated here the wider meaning of *jihad* as stated by Ibn Qayyim:

“Prophet Muhammad was at the pinnacle of observing *jihad*. He mastered all of its varieties. He performed *jihad* for the sake of Allah to the utmost; with his heart and his body, through *da’wah* and information, with the sword and the spear. As for his time, it was all dedicated to *jihad*, with his feelings, speech and actions. He is the highest of creations as per the words of Allah, and has the most honoured position by the side of Allah...

[The Quran, 25:52]; this is a Meccan revelation. In it, Allah commands *jihad* against the unbelievers through debate, propagation and conveying the Quran. The same manner of *jihad* is conducted against the *munafiq* (hypocrite)...

As for *jihad* against one’s own self, it precedes *jihad* against enemies on the outside, and is the starting point. Indeed, as long as one does not do *jihad* on one’s own self to make it do what is commanded, and to leave what Allah forbids and declares war upon, one will not be able to do *jihad* against the enemies outside ...

Between the two (one’s self and the enemy) is the third enemy, namely Satan...

The *Salaf* of the past differed in opinion on the meaning of *jihad*. Ibn Abbas said, ‘It is an act which requires much effort, and for which one does not fear condemnation from others. Muqatil said ‘Performing for Allah with the best of performance, worshipping with the best of worship’. Abdullah bin Al-Mubarak said ‘Fighting one’s own *nafs* [self].’”¹²⁶

Conclusion & remarks

Based on the true spirit of Islam, it can be concluded that Islam prefers peace to war. The wider meaning of *jihad* as proposed by the classical Muslim scholars suggests that the means for upholding and defending the religion is not limited to armed *jihad* only but also covers non-violent means such as peaceful

propagation through writing or verbal communication, lobbying or civil movement.

In principle also, it can be said that not every act of hostility and animosity from non-Muslims should be confronted with armed *jihad*.

Thus as long as there are peaceful means, Muslims are to explore them before resorting to war or violent means¹²⁷ and as long as act of hostility and animosity has not reached the level of act of war. In Islam, peace is the rule and war is the exception; it is adopted only as a necessity to maintain and establish peace, the objective of humanity.¹²⁸ This is similar to that advocated by the Just War Theory.

Islam *kaffah* (Islam as a comprehensive religion) suggests armed *jihad* should be considered with due consideration to other obligations. In this respect, even though *jihad* with arms is considered the most honourable act of devotion in Islam, it does not mean that it is the most preferred one or the best option vis-à-vis other teachings and obligations in view of the context, circumstances and environment. One has to make other considerations before launching armed *jihad*. One has to give due consideration to the advantages and the disadvantages as stipulated by the *syariah*.

Jihad with arms is never applied to all situations. That is why *jihad* was defined by the *ulama* in various forms and levels to suit various people and situations as mentioned by Ibn Qayyim.

Islam teaches Muslims to observe priority in practicing the religion. That is why there are acts that is considered as *wajib* (obligation) and there are also the *mandub* (encouraged) Therefore, in carrying out *jihad*, one must look at the list of priorities in a particular context and which of the various forms of *jihad* mentioned above is better preferred to the other.

Although armed *jihad* is highly honoured in Islam but it is bestowed only on those who carry it out consistently with the ethics and the need for it. There is no honour for those who go to war in the name of *jihad* with no regard to the Islamic rule of *jihad* and cause more harm.

When a situation does not warrant for armed *jihad*, restraining oneself from doing so, is a *jihad* on oneself. This is encouraged, and not one which is condemned by the religion. Neither is it an act of cowardice.

Although *jihad* is an obligation in Islam, the responsibility towards the obligation differs from person to person and from community to community. For example, when a Muslim country is attacked, the immediate responsibility to defend it is upon its own inhabitants. If they are unable to do so, then the responsibility will be transferred to those nearest to it and so on.¹²⁹

One must also note that he cannot strive against what is prohibited by committing what is also prohibited or causes greater detriment or harm. For example, one cannot rebel against a tyrant ruler if that will cause greater oppression against the population or tremendous bloodshed of innocents.

When one has a narrow understanding of *jihad* by limiting it to armed struggle only or views that armed *jihad* is the most honourable form of devotion in all situations, he will be in danger of falling into extremism, as he sees armed *jihad* as the only means to resolve any issues. He will be too obsessed with trying to gain the honour of armed *jihad* and martyrdom, at the expense of ignoring the context, situation and circumstances of its application.

Since ethics and morality is essential in Islam, Muslims are obligated to adhere to Islamic code of conduct in war for example, no killing of non-combatants. Some of these points will be touched upon in the subsequent section.

The Ruling of Jihad: *Fardhu Ain* and *Fardhu Kifayah*

Imam Samudra views that *jihad* today is *fardhu ain* (personal obligation) upon every single Muslim. This is because the classical Muslim scholars ruled that if an inch of Muslim's land is seized than it becomes incumbent on all Muslims to liberate it through armed *jihad*. In today's context, Imam Samudra argues that there are plenty of Muslim lands that remain occupied by non-Muslims such as Palestine, Iraq, Afghanistan, Chechnya, Kashmir and Mindanao. Since people of the respective lands are not able to repel the enemy by themselves, Muslims all over the world are to render their hands and participate in *jihad* against the occupying forces.

Similar views are also expressed by many contemporary Muslim scholars. When Afghanistan was invaded by the Russian army, Abdullah Azzam wrote a book specifically on this issue and concluded that *jihad* was *fardhu ain* (personal obligation). His view was supported by many other Muslim scholars in a form of testimony published in his book.¹³⁰ Such a sentiment was also expressed in the case of the Israeli occupation of Palestinian land and the American

wars on Iraq and Afghanistan.¹³¹

Nevertheless, it is important to note that Muslim scholars have ruled that laws of war can only be administered and executed by the *Ulii Amri*, or persons of appropriate authority. No individual or groups are allowed to declare and wage war or *jihad* in the name of Islam or the community. As war will always affect the public at large, the declaration of war requires a proper mandate. The best people to hold such a mandate are those who are mandated to be the government. Furthermore, the teaching of *syura* (consultation) in Islam requires proper consultation of the people before war can be waged in their name. A serious matter such as the waging of war, if left to individual or Muslim groups to decide and without going through a proper consultation process, will only create chaos and injustice -- which is against the principle of any religion.¹³²

In the history of the Prophet, one would find that *jihad* was permitted towards the end of the Meccan period but was not implemented by him until he was in Medina. Before launching his first expedition, Prophet Muhammad called for a meeting of the *Muhajirin* (Muslim migrants from Mecca) and the *Ansar* (Helpers, Muslims of Medina) in order to receive their mandate. He was especially careful to consult and consider the opinions of the *Ansars* who were new to Islam. Jihad was launched after the leader of the *Ansars* made a speech declaring that they will march together with their fellow Muslims and the Prophet to protect Medina from the hostility of the Meccan people.

Only in a situation where the government has collapsed, are Muslims allowed to organise themselves collectively to fight against any aggression, as what had happened in Afghanistan during the invasion by Soviet Union.

Imam Samudra's view that jihad is *fardhu ain* is at best his personal opinion. He has no authority to declare jihad against anybody on behalf of the Muslims. Neither can he operationalise his view by committing the Bali bombing because it is against the principle of proper authority held by the Muslim scholars. It is also wrong for him to judge others who do not agree with his act.

Similarly, Jemaah Islamiyah activities in the name of *jihad* and Al-Qaeda's declaration of *jihad* in the name of the Muslim *ummah* are not legitimate. The Muslim community neither approved of, nor gave mandates for such actions taken in their name. Even worse still, they failed and refused to consider the adverse outcome of their actions, not only on the general public, but also on

other Muslims and Muslim groups.

Today, Muslim groups that have had no relations with these groups have also come under suspicion. The good relations that they have meticulously fostered over decades with non-Muslims, have been destroyed within months due to the reckless actions of a few. Muslim activists who had no connection with these groups have had to face public outrage and explain Islam all over again to non-Muslims.

Another important point to note is that the ruling for armed *jihad* in Islam may be *farḍhu ain* or *farḍhu kifayah*.¹³³ Muslim scholars have different opinions on when armed *jihad* is a *farḍhu ain* or *kifayah*. Muslim scholars who view arm jihad is *farḍhu ain* say so when people of the invaded Muslim land have no capacity to repel the enemy on their own. Thus, the responsibility is transferred to the nearest Muslim community and so on.¹³⁴

It is argued that in deciding on whether the respective people has no sufficient capacity to carry the obligation on their own and to what extent the obligation is transferred to other Muslim community is not a simple problem in which an absolute result can be obtained. It is a matter of judgment or *ijtihad*. In such situation, often, differences of opinion occur and are unavoidable. When the result of *ijtihad* differs, after each party follow a standard *ijtihad* methodology, one cannot claim his opinion is absolutely right and dismiss others as wrong or misleading. In such a situation, it is permissible for a Muslim who views armed *jihad* as *farḍu kifayah* to choose not to join it and instead perform other forms of *jihad*. He should not be condemned for his action and his action should be best left to be judged by God.

Based on the above understanding, one should not judge a person as being careless or neglectful merely because he does not participate in armed *jihad* or because he prefers other forms of *jihad*. His stand is not totally unfounded because the Quran says:

“With all this, it is not desirable that all of the believers take the field [in time of war]. From within every group in their midst, some shall refrain from going forth to war, and shall devote themselves [instead] to acquiring a deeper knowledge of the Faith, and [thus be able to] teach their home-coming brethren, so that these [too] might guard themselves against evil.” (The Quran, 9:122)

and the Prophet also has said that there are various groups of people who although were not involved in armed *jihad*, received the same rewards from Allah as those who carried out armed *jihad*. The Prophet has said in *hadiths*:

“Whoever provides provisions for people who fight for the sake of Allah, indeed he has gone to war, and whoever looks after the families of those who fight for the sake of Allah, he has gone to war.” (Narrated by Al-Bukhari & Muslim)

“Indeed, there are several among you in Madinah, those you do not see on the pathways or crossing the valleys, but they are with you in gaining rewards. They are restrained by illness. (Narrated by Muslim)

Assuming that the ruling of *jihad* as *fardhu ain* is accepted, there is another important aspect that needs to be considered before armed *jihad* can be waged which is prioritising of responsibilities because armed *jihad* is not the only *fardhu ain* burdened on the shoulders of the Muslims at any particular point in time.

Prioritising is essential in Islam. Islamic practices are regulated by a dynamic system of prioritising. Priority consideration can be seen in many of the Islamic jurisprudence’s maxims:¹³⁵

- Difficulty will bring relief
- Harm must be eliminated
- The origin of a ruling on a certain matter (non-worship) is *halal* unless there is proof (*dalil*) on its prohibitions
- When any arrangement becomes restricted, it will be made flexible
- A crisis allows the prohibited
- There is no *haram* (forbidden) if there is crisis, and there is no *makruh* (permissible but discouraged) if there is necessity
- Harm cannot be eliminated with another kind of harm
- If you have to choose between two types of harm, the bigger harm should be overcome by choosing the lesser harm / Choose the lesser of the two evils
- *Hudud* (Islamic criminal punishment) may be aborted because of doubt
- The extent of a need is assessed on the crisis, whether it is general or specific

- Prioritise a confirmed benefit above a doubtful one
- Prioritise a bigger benefit above a smaller one
- Prioritise a collective benefit above that for an individual
- Prioritise multiple benefits above single ones
- Prioritise a permanent benefit above a temporary one
- Prioritise the essence of a benefit above its form
- Prioritise a stronger future benefit above a weak current one
- Harm may not be eliminated with a similar harm or a bigger one
- May sustain a lesser harm to avoid a bigger one.
- May sustain a specific harm to avoid a general one
- A small harm may be forgiven to achieve a bigger benefit
- A temporary harm may be forgiven to achieve a permanent benefit
- A definite benefit may not be abandoned because of a doubtful harm

The above maxims embody prioritisation. For instance, the elimination of a bigger harm is prioritised above a smaller one and the elimination of general harm should come before a specific one. Muslim scholars' decision-making frameworks of *Maqasid Syar'iah*¹³⁶, *Dharuriyat*¹³⁷, *Hajiyat*¹³⁸, *Tahsiniyat*¹³⁹ and various other concepts also illustrate how extensive prioritising is in Islam.

This is again a matter of judgment (*ijtihad*) by the Muslim scholars in which differences in opinion may be inevitable.

For example, while the protection of Muslim's life requires Muslim to avenge thousands of Muslims' life in various lands as claimed by Imam Samudra, there are also thousands of other Muslims' life that are loss from poverty, poor living condition and under development such as in Somalia which one must admit, also requires urgent attention and Muslims' care.

The question that need to be raised here is, "is prioritising armed *jihad* above other *fardhu ain* an absolute rule on all Muslims in all parts of the world without give due consideration to each Muslim community's context? Is armed *jihad* as a means of liberating Muslims' lands an absolute or the only option to all Muslims with no regard to their context or circumstances vis-à-vis other Islamic obligations?"

It is argued here that the answer is no. Islam requires its followers to give due consideration to context in practicing the religion. This means Islam takes into account the reality of the time, environment, individual and other factors in determining rules and in practising the religion. Hence, the ruling for a certain matter may be different due to differences in reality. This applies whether the

rule is a general policy for society, or specific to an individual or a particular group only.¹⁴⁰

A good Muslim is not only one who is able to uphold the fundamentals of the religion, but also able to contextualise the teachings when the need arises and where necessary. This is based on the following arguments:¹⁴¹

1. Islam was revealed gradually to Prophet Muhammad over 23 years.

The main reason behind this incremental approach was to ensure that the revelation catered to the context and the development of the Muslim society then.

A good example would be the implementation of alcohol prohibition in Islam. Consumption of alcohol was a deeply entrenched habit among the pre-Islamic Arabs. It would have been difficult to immediately and totally prohibit them from drinking alcohol.¹⁴² Consequently, Islam started by criticising the habit first.¹⁴³ Later on, it prohibited Muslims from consuming alcohol when they wanted to perform prayer.¹⁴⁴ Only after 15 years of the revelation, did Islam finally prohibit Muslims from consuming alcohol totally.¹⁴⁵

During the first thirteen years after the prophethood of Muhammad, before the migration to Medina, most of the revelation was on matters pertaining to faith and good morals. This was to suit the context of the Muslims who were weak and under persecution in Mecca. Much of the revelation on criminal justice and business transactions started only after the migration to the Medina. By then, Muslims had already established their political power, and had the need and the authority to implement those social aspects of justice.

2. Abrogation in Islam.

Islam allows for abrogation. Some of the *syariah* laws were abrogated due to the changing circumstance of the Muslim society. The prohibition of alcohol as mentioned above is an example – *syariah*'s earlier stance of mere dissuasion was abrogated in favour of complete prohibition.¹⁴⁶

3. The application of *rukhsah* in Islamic jurisprudence

Rukhsah refers to concessionary law based on extenuating circumstances; a provision in the *syariah*, which allows concession from a general rule, in the event that the rule involves or causes a debilitating difficulty. The concession is specific to the need.¹⁴⁷

Islam has various check-and-balance systems to ensure convenience in practising it. One of these is *rukhsah*. The Quran says:

“And, behold, with every hardship comes ease” (The Quran, 94:5)

The prohibition against drinking alcohol may be used to illustrate *rukhsah*. Consider the case of a stranded traveler who has lost his way and cannot find any water to drink except for alcohol. If his situation is so critical that he will die if he does not drink that alcohol, then he is allowed a concession to drink the alcohol to preserve his life. In fact, the rule of drinking alcohol in his case has changed from prohibited to compulsory, because Islam does not allow a human being to endanger himself and cause destruction to his body. In Islam, the obligation to preserve one’s life must be prioritised above the prohibition of alcohol. The same goes in a situation where alcohol is used for the treatment of a particular ailment when there is no other alternative to it.

Rukhsah is a part of the principle of *syariah* applied to cater to the varying contexts faced by man. It provides flexibility for Muslims when they face different situations.

4. Context is always part of Muslim scholars’ consideration in issuing *fatwa* or religious ruling.

One who studies the opinion of Muslim scholars will find that they changed their *fatwa* with reference to the place, time, and person affected by it. In essence due consideration to different situations vis-à-vis space, time and person goes hand in hand when formulating a *fatwa*. This could be further elucidated by what Ibn Qayyim wrote:

“The existing laws are of two types. One, which will not change from its original form, whether due to time, place or *ijtihad* of the ulama; such as the ‘*wajib*’ ruling on various obligations, the ‘*haram*’ ruling on various prohibitions, the *hudud* rulings decreed by ‘*syara*’ for various crimes and the like. These rulings are not open to change or *ijtihad*. The second type are those that may change with the current needs, based on time, place and situation, such as the ruling on *ta’zir*, its varieties and characteristics.”¹⁴⁸

Another well-known illustration was a report that during a famine, Umar the

second Caliph after Prophet Muhammad, suspended the implementation of the *hudud* rule, which required the hands of convicted thieves to be cut off. He feared that the offences could have been committed due to hunger caused by the famine. Umar knew that *hudud* could not be implemented if there were any doubts, and that particular context cast serious doubts on the malice behind that act

In Singapore, the *Fatwa* Committee of the Islamic Religious Council issued a *fatwa* disallowing organ transplants in 1973. The *fatwa* was later changed in 1986 because the advancements in medicine have changed the basis of the *fatwa*.¹⁴⁹

5. Various maxims in Islamic jurisprudence.

The existence of the abovementioned maxims of *fiqh* (Islamic jurisprudence) is also testimony to the practicality and flexibility of Islam.

Yusuf Al-Qardhawi writes that among the blessings from God is the existence of some verses in the Quran that are ambiguous, and hence allows for various interpretations and understanding. These give a wide opportunity to anyone who needs to make various considerations, or choose an opinion that he feels is closer to the truth and the objectives of *syara*'. Certain opinions may be suitable at a certain time, or a certain situation but not in another.¹⁵⁰

6. Practice Islam within one's own capacity.

The Quran says:

“God does not burden any human being with more than he is well able to bear: in his favour shall be whatever good he does, and against him whatever evil he does” (The Quran, 2:286)

‘To the extent of its ability’ implies that Islam recognises constraints faced by Muslims in practicing the religion. Islam acknowledges that human beings may be inherently limited in their capacity. Thus, Muslims are only obliged to strive and give the best that they can.

To demand from Muslims beyond what is realistic and practical, is against the principle of justice, a fundamental attribute of Islam and Allah Himself. This is

the essence of contextualism in Islam.

In conclusion, even if Muslims agree that the Palestinian's struggle against the Israeli occupation is a legitimate *jihad* and armed *jihad* in Palestine has fall in the category of *fardhu ain*, this does not mean that every Muslim should adopt similar approach, strategy or means like the Palestinians or occupy themselves with the issue only until the occupied territory is liberated regardless of the priority or constraint determine by their specific contexts.

Imam Samudra and his like may argue that individual Muslim and Islamic groups are justified to wage armed *jihad* by attacking the enemy wherever they could be found like in the Bali bombing based on their own *ijtihad* because all Muslim rulers are corrupted or fall into the influence of the enemy. Since jihad is *fardhu ain* like *solat* (prayer) and fasting, one need not wait for Muslim rulers to perform the obligation if he can perform it on his own.

Here is where the understanding of the principle of practicing Islam within one's own capacity is again important because failure to adhere or accept such a principle will cause negative effects such as inflexibility towards a changing situation and environment, upholding impractical and unrealistic expectationa or viewpoints and causing waste of valuable resources due to inappropriate priorities.

This will cause difficulty for Muslims to practice the religion, which is in contradiction with the very essence of Islam as an easy religion. The Quran says:

“..and has laid no hardship on you in [anything that pertains to] religion..” (The Quran, 22: 78)

“God wills that you shall have ease, and does not will you to suffer from hardship...” (The Quran, 2: 185)

Prophet Muhammad has said;

“Give good tidings and do not make them turn away, make it easy and do not make it difficult.” (Narrated by Muslim)

In another *hadith* (Prophet's tradition), he has also said;

“Verily the religion is simple and person should not make it difficult lest he is defeated by it.” (Narrated by Al-Bukhari)

It has been mentioned in the previous section that in any case where Muslim rulers as the *Ulii Amri* have failed to play their part based on authority, and neglect their responsibility, then individuals and Islamic groups do not have a choice, in areas which do not fall under their respective authority or jurisdiction, but to commit to preventive efforts via the tongue, and work patiently within those limitations.

Being patient with the weaknesses of such rulers is enjoined in the *hadith*:

“Anyone who sees something he despised in his leaders should be patient. Verily, anyone who leaves the *jemaah* [Muslim community] for a short distance will die a *jahiliyah* [disbelieving] death.” (Narrated by Al-Bukhari & Muslim)

Corrupt Muslim rulers are not new in the history of Muslim society. The history of Islam has recorded many such instances, one of which was the adoption of Muktazilite school of thought by some Abbasid rulers. During that period, there was a crackdown on Sunni scholars. Yet, Muslim scholars did not resort to arms. Instead, they persisted in their efforts to correct wrongs through unrelentingly patient dialogue and good counsel.

Muslims should look to the Prophet as the best example for them to emulate. The Prophet established Medina without any use of arms or bloodshed. Unfortunately, some Muslims’ lack of patience lead them to act rashly to the detriment of not only the general public, but also to the Muslims and the Islamic cause they claim to be fighting for.

In the effort of enjoining good and forbidding evil or upholding and defending the interest of Islam and Muslims, it should not be forgotten that Islam lays down some principles for its followers to abide with. One of the principles is that such action should not cause or spark off a greater evil or a bigger detriment, or wipe out greater benefits.¹⁵¹ Muslim scholars have ruled that efforts to prevent or overcome evil such as aggression against Muslims must observe the following precepts:

- a. Harm is avoided according to the capacity to do so.¹⁵²

- b. A specific harm is maintained to avoid a general harm.¹⁵³
- c. Should not do something that may lead to something *haram* (impermissible in Islam), even though it was originally allowed.¹⁵⁴
- d. Harm may not be eliminated with similar harm.¹⁵⁵
- e. A greater harm is eliminated using a lesser harm.¹⁵⁶
- f. When there is conflict between two harms, beware of the greater harm than the lesser one.¹⁵⁷
- g. Avoiding harm is more important than acquiring benefit.¹⁵⁸

As a conclusion for this section, it is asserted here that *jihad* in upholding and defending Islam should not necessarily mean waging an armed struggle against the enemy. The wide meaning of Islam offers Muslims various options in fulfilling such a duty. This option is chosen after due consideration to priorities and constraints determined by the context in which Muslims live in and the balance between benefits and detriment of the choice.

Is Bali a Place for Armed *Jihad*?

Imam Samudra observes that globalisation has changed the nature of conflict between Muslims and the non-Muslims with America and Israel as the main protagonist. The attack on Islam is no more limited to specific area or zone of conflict. Islam is currently being attacked at a global scale and everywhere. Therefore, Muslims' response to the hostility should be similar and not restricted to the occupied territories only, for example, Palestine, Chechnya and Iraq.

Imam Samudra suggests that such a position is supported by the command of Allah that enjoin Muslims to "slay those who ascribe divinity to aught beside God wherever you may come upon them, and take them captive and besiege them, and lie in wait for them at every conceivable place".¹⁵⁹

He alleges those who criticised his Bali bombing act as naïve and failing to understand the changing world.

This section will argue why the choice of Bali for an act of armed *jihad* is not legitimate in Islam.

It is true that in today's globalised world a struggle against one's enemy is not fought at the conflict zone only. Warring parties will use all available means: Psychological, economic, political and social, to weaken and defeat the enemy. Such notion is not new and well accepted by scholars in strategic studies,

UNLICENSED TO KILL

neither does it necessarily contradict any international convention of war. Holistic approach towards war has resulted in the known concept of total defence.

In principle, this notion does not contradict the teaching of Islam. Islam enjoins Muslims to develop deterrence against potential enemy. The Quran says:

“Hence, make ready against them whatever force and war mounts you are able to muster, so that you might deter thereby the enemies of God, who are your enemies as well, and others besides them of whom you may be unaware, [but] of whom God is aware; and whatever you may expend in God’s cause shall be repaid to you in full, and you shall not be wronged.” (The Quran, 8:60)

Muslim scholars interpret the word “quwwah” in the verse, translated as “force” as anything that can deter or frighten the enemy from committing any act of hostility against Muslims, which is not restricted to arms or fighting weapons only.

The concept also falls in line with a verse of the Quran that says:

“..Thus if anyone commits aggression against you, attack him just as he has attacked you – but remain conscious of God, and know that God is with those who are conscious of him.” (The Quran, 2:194)

This verse commands Muslims to offer equal or similar response to the enemy in order to defeat them.

While Islam enjoins Muslims to take up a holistic approach in matters of defence and security, it is argued that Islam only allows the use of arms against the enemy in a proper area of conflict, in the battle zone or inside the enemy’s country at war against the combatants and military installations.

On the issue of place for the use of arms against the enemy or the choice of Bali for bomb attack, the Quran says:

“And if those who ascribe divinity to aught beside God seek protection, grant him protection, so that he might [be able to]

hear the word of God [from thee]; and thereupon convey him to a place where he can feel secure: this, because they [may be] people who [sin only because they] do not know [the truth].” (The Quran, 9:6)

It is important to note that the above verse like a large part of the ninth chapter of the Quran where the verse is located, is connected with the conditions prevailing at Medina before the Prophet’s expedition to Tabuk in the year 9 Hegira. There is hardly any doubt that almost the whole of the chapter was revealed shortly before, during and immediately after the campaign. This was towards the end of the Prophet’s life and the verse suggests that it is permissible to offer protection or grant permission even to members of a community at war with Muslims to enter Muslims’ territory so they can listen to the other side of story; “till he hears the word of Allah”, and witness how Muslims live in their country. Those who receive the protection or permission should not be harmed until they return safely to their respective places.

In explaining the verse, Al-Qurtubi wrote that it means if a member of the Arab pagans whom Allah commanded the Prophet to fight seeks protection or security, Muslims should grant him the request so he can listen to the Quran and understand its teachings. If he still refuses to accept Islam, he should be allowed to return to his place safely. Al-Qurtubi then cited Malik (founder of Maliki school of jurisprudence) who says that if a *harbi* (non-Muslim who is an inhabitant or citizen of the country that is at war with Muslim state) is found on the way to a Muslim country and says “I come to seek protection” in such a doubtful situation, he should be repatriated to his country.¹⁶⁰ In other word, it is not permissible to kill him at once just because he is a *harbi* going to a Muslim country. His status as a citizen of a hostile country does not automatically make it legitimate to accuse him of participating in the war and therefore deserving of being killed.

Although the verse states that the reason for granting security and protection is “till he hears the word of Allah”, Muslim scholars are of the view that other reasons that benefit or do not cause detriment to Muslims such as for business or social visits are also acceptable.¹⁶¹

Muslim conduct of state: The concept of Al-Aman (security and protection) in the works of classical Muslim scholars

Al-Aman is a promise of protection and security given to an individual. Such a promise

can be offered by individual Muslim in a society or a community or a state. Permits for entry, stay or residence or visa can be considered as a modern application of this concept. Therefore, non-Muslims who enter Muslim country with legal permits or visas should be considered to come under the guarantee of *Al-Aman*.

They are people who are under the protection of the country. Islam guarantees the sanctity of their life and property from any violation¹⁶² until the period of the protection expired or the promise is retracted. In such case, the person should be repatriated safely.

As-Sarkhasi wrote

“If Muslims entered into a covenant with the idolaters, then it is not permissible to take their properties, except with their permission, because of the covenant established between us and them. The covenant functions similarly as Islam in protecting the sanctity of property and life. As it is not permissible to take something from a Muslim’s property except with their permission, so it is with the property of the people of covenant. This is because taking something without the permission of the owner is considered cheating and treachery. The Prophet has said, “In all contracts, (there is) obligation to fulfill (them). Treachery is prohibited.” It may also be deduced from the *hadith* related by Abu Tsalabah Al-Khasyni (may Allah be pleased with him) that a group of Jews with whom the Prophet had a covenant, came to the Prophet (pbuh) during Battle of Khaibar. They said, “Your companions have entered our farm and taken from them some vegetables and onions.” The Prophet (pbuh) then assigned Abdul Rahman bin `Auf (May Allah pleased with him). He announced to the people “The Prophet has said, “It is not permissible for you all to take properties of the people of covenant except with rightful manner.””¹⁶³

It is obligatory for all Muslims in that country to honour the security and protection guarantee to non-Muslims, whether they are citizens or non-citizens of any Muslim country.¹⁶⁴

Even if it was an ordinary Muslim citizen who has guaranteed protection to a

non-Muslim, it should be honoured by other Muslims.¹⁶⁵ The Prophet once said that Muslims bear a common responsibility in honouring the protection given by any member of the community.¹⁶⁶

In the case of formal war between a Muslim and non-Muslim country, Islam provides rules in dealing with citizens of hostile non-Muslim countries (*harbi*). These people are usually termed as *musta'man* or *mu`ahid*.¹⁶⁷

Messengers and officials who enter the Muslim country officially are protected also,¹⁶⁸ so are the businessmen who have legal business with citizens of the Muslim country.¹⁶⁹ If they are caught for spying or committing any act that contradicts the agreement of security and protection, they should be arrested and put on trial. Evidence should be put forth and they should be allowed to defend themselves like any other accused person.

Islam prohibits extra-judicial treatment of the *harbis* because Islam considers fulfillment of agreements as an obligation. The Quran says:

“O you who have attained to faith! Be true to your covenants!” (The Quran, 5:1)

“But excepted shall be – from among those who ascribe divinity to aught beside God – [people] with whom you [O believers] have made a covenant and who thereafter have in no wise failed to fulfil their obligations towards you: observe, then, your covenant with them until the end of the term agreed with them. Verily, God loves those who are conscious of Him.” (The Quran, 9:4)

“[As for the latter,] so long as they remain true to you, be true to them: for, verily, God loves those who are conscious of Him.” (The Quran, 9:7)

“And be true to your bond with God whenever you bind yourselves by a pledge, and do not break [your] oaths after having [freely] confirmed them and having called upon God to be witness to your good faith: behold, God knows all that you do. Hence, be not like her who breaks and completely untwists the yarn which she [herself] has spun and made strong – [be not like this by] using your oath as a means of deceiving one

another, simply because some of you may be more powerful than others. By all this, God puts you to a test – and [He does it] so that on Resurrection Day He might make clear unto you all that on which you were wont to differ.” (The Quran, 16:91-92)

“...And be true to every promise – for, verily, [on Judgement Day] you will be called to account for every promise which you have made!” (The Quran, 17:34)

Islam requires Muslims to inform the other party before terminating an agreement, even if the other party is not strictly observing the terms.¹⁷⁰ The Quran says:

“or, if thou hast reason to fear treachery from people [with whom thou hast made a covenant], cast it back at them in an equitable manner: for, verily, God does not love the treacherous.” (The Quran, 8:58)

Violation of such a guarantee is a serious and grave sin in Islam. The Prophet said:

“Whoever offers security to a man then kills him, I am free from any association with him even if the killed person is a disbeliever.” (Related by Al-Bukhari and An-Nasa’i)

At this juncture, it can be concluded that Imam Samudra’s act of Bali bombing is not legitimate in the *syariah* viewpoint.

The fact that the verse says, “*ablighhu ma’manahu*” (translated to ‘make him attain his place of safety’)¹⁷¹ points that the use of arm against a *harbi* is only allowed at the appropriate place, when he is a combatant. The verse is thus considered to provide the limit or condition or restriction to the verse that says “slay those who describe divinity to aught beside God wherever you may come upon them, and take them captive, and besiege them and lie in wait for them at every conceivable place”.¹⁷² This is how the classical Muslim scholars like Al-Qurtubi, Al-Hasan Al-Basri and Mujahid interpreted the verse. The scholars rejected claims that the latter abrogated the former verse. Al-Qurtubi reported from Said bin Jubair that an Arab pagan came to Ali, the Prophet’s son-in-law and the fourth caliph of Islam, and asked if he came to the Prophet after the

four-month period lapsed to listen to the words of Allah or for other need, will he be killed. Ali's answer was 'No' and cited the former verse.¹⁷³

If it is feared that the presence of foreign non-Muslims in a Muslim country can cause a security threat or does not provide any benefit to Muslims or they are simply not welcome, they should not be allowed to enter the country in the first place. Once they are allowed, their security should be honoured.

Imam Samudra might argue that the guarantee of protection is not valid because the Indonesian government is not an Islamic government. Therefore, Muslims are not obliged to obey the leader or honour his rule.

Such argument is insufficient to legitimise targeting Westerners in Bali because as mentioned before, an individual member of a Muslim country can give a promise of protection.

In line with this, the Westerners in Bali during the bomb attack could be assumed to have been accorded the promise of security by individuals who host them. The very least one can deduce that there is obscurity on their actual status. In such a situation, Malik, as mentioned before, advised that such *harbis* should best be returned back to their country safely and to avoid from mistakenly killing a life illegitimately.

If the Westerners were deemed to have breached the security agreement by publicly engaging in vices that Islam prohibits, they should be repatriated back accordingly and not by punishing them with a bomb attack.

Can Place of Vices be Bombed?¹⁷⁴

Imam Samudra argues that Paddy's Bar and Sari Club were places of vice. They have no value in Islam. Therefore, they can be put into "waste". He has no doubt that activities that were taking place in Paddy's Bar and Sari Club such as the consumption of alcohol are prohibited in Islam.

He dismisses the argument of bad economic implication caused by Bali bombing. Imam Samudra views that those kind of economic activities, which involves alcohol consumption and promiscuity in Bali, cannot be condoned by Islam and Muslims. Muslim scholars have agreed about the prohibition of such acts.

Imam Samudra also claims that Bali is used as a place of spreading apostasy

among Muslims, although he does not elaborate on what he means by “permurtadan” (act of causing apostasy) and how it happens.

He argues that Islam commands Muslim to consume what is only *halal* and good. He cites prophet Muhammad’s saying that if a Muslim consumes a scoop of *haram* (forbidden) food, his deed will not be accepted by Allah for forty days (Narrated by Ibn Mardawaih). He argues that if only a scoop of *haram* (forbidden) food receives such punishment, Islam surely condemns those who have made what is prohibited in Islam as their livelihood. Islam does not recognise the benefits of such activities although it might be profitable from a business perspective. Islam as a mercy to mankind does not mean it should tolerate such activities. Such activities do not bring *rahmat* (mercy) to mankind but *laknat* (curse).

He also dismisses the legitimacy of some business activities, which originally is not prohibited in Islam such as handicraft. He offers two points:

- a. The core business in Sanur, Kuta, Jalan Legian and the vicinities are prohibited in Islam. Others like the handicraft business are peripheral only.
- b. There are close symbiosis between business that are prohibited and those that are not. Both are supporting each other.

In he context of Bali, the operators of handicraft businesses are still seen as guilty for their association with the core activities. Imam Samudra argues that Islam not only prohibits alcohol consumption but also condemns those who are associated with alcohol related activities such as the seller, the deliverer and the waiter.

He concludes that all income derived from activities that have a relationship with Sari Club and Paddy’s Pub and any activities that help to support both clubs are considered *haram* (forbidden) in Islam; any activities that help to support both clubs should be considered likewise.

All these activities are *fitnah* – any affliction that may cause people to go astray from the religion. *Fitnah* on religion is describe by the Quran as:

“Hence fight against them until there is no more oppression (*finah*) and all worship is devoted to God alone; but if they desist, then all hostility shall cease, save against those who [willfully] do wrong.”(The Quran, 2:193)

There is nothing to feel for “the economic loss” of Bali bombing I because essentially there is none at all. In fact, Imam Samudra hopes that by his act, God would replace what was destroyed with something better.¹⁷⁵

Munkar (Evil) cannot be eliminated with another munkar (evil)

It is true that Islam encourages Muslims to act against evil deed ‘with the hand’. Prophet Muhammad has said:

“Anyone among you sees disobedience to God (munkar), should change it with his hand. If he is not able to, then with his tongue. If he is not able to, then change it in his heart. That is the weakest of faith.” (Narrated by Muslim)

However, Muslim scholars interpret ‘hand’ to denote person of authority. Every type of evil deed has its own person of authority who can legitimately exercise the power to change it ‘with the hand’. For example, the person of authority for acts of evil in a family is the father and the mother; those who are not the person of authority in that family does not have the power to prevent evil with the ‘hand’. At school, the person of authority is the headmaster of the school.¹⁷⁶

In preventing evil with the ‘hand’, a person has different power and authority in different situations. For example, although the person of authority in a family is authorised to act against evil deed in his family ‘with the hand’, they are not authorised to carry out *hudud* (Islamic penal code) on their families for consuming liquor, because only the rulers have the authority to do so via the judicial system.

In social life, offences related to nightclubs and brothels are to be handled by the rulers who are responsible for the society.

Therefore, rulers should be the ones striving against nightclubs and brothels. No individual or Islamic group has the authority to attack such places by damaging them or attacking the operators.

For individuals or Islamic groups, the means that they are allowed to use in preventing *munkar* (vice) is via the tongue, through the act of enjoining good and forbidding evil, as well as effective counsel, not with aggression. A concrete action ‘with the hand’ may only be carried out if they have a specific

authority, like arranging more acceptable employment for those who work in such places.

As mentioned before, if the rulers do not play their part based on the authority they have, and neglect efforts to overcome evils in society, then individuals and Islamic groups do not have a choice but to commit to preventive efforts via the tongue, and work patiently within those limitations. After all, preventing evil is only obligatory according to one's capacity and ability. This is stated in the Quran:

“God does not burden any human being with more than he is well able to bear.....” (The Quran, 2:286)

Abdul Karim Zaidan, a known expert in Islamic law in the University of Baghdad, in his book, *Usul Ad-Da'wah* (The Principle of Islamic Propagation) wrote:

“If the people of authority that we mentioned do not carry out this duty, then it may be permissible or obligatory for Muslims to carry out corrective action, by preparing enforcement officers and sponsoring them to carry out their duties, which is limited to reminding and showing the way only, without the use of violence, so that it will not cause havoc or trouble, and so that people may not take the opportunity to smear the corrective measure taken and the officers and cause action to be taken by the government against the officers.”¹⁷⁷

Such aggressive act is also not consistent with the objectives of doing *dakwah* gently as commanded by Islam. Prophet Muhammad has said

“Verily, Allah is kind and gentle, loves the kind and gentle, and confers upon the kind and gentle that which he does not confer upon the harsh.” (Narrated by Muslim)

It also does not augur well with the nature of human beings. Indeed man, is by nature, better able to accept advice and warning when delivered in a gracious and gentle manner, with words that are pleasant to hear rather than harsh ones.

In fact, harshness may push him to continue with the disobedience and to show his obstinacy by being rebellious. Effective corrective action is one that makes

the person accept corrective action willingly, convinced of the importance of that action, and it spurs in him a resolve not to fall into that error again. All these may only be achieved if the correctors are gentle, not angry or harsh, and conduct discussions in a calm and satisfying manner.

Unknowingly, such aggressive action may cause greater harm or disobedience, instead of eliminating evil. Islam teaches that efforts to enjoin good and forbid evil must observe some precepts such as evil is eliminated according to the capacity to do so, eliminating evil should not cause a worse evil and evil cannot be eliminated with similar evil, more so by an act of bombing.

Robbery/Theft in the Name of *Jihad*¹⁷⁸

Imam Samudra was alleged to have committed robbery to raise fund for his Bali operation. Elita Gold Shop in Serang, West Java was the target of the robbery. There were various reports stating that he admitted committing the robbery.¹⁷⁹ Information on the robbery also appeared in transcript of Indonesian police's interview with him. The following is an excerpt interview:

“[Q] Where did the funds for the Bali bombing come from? Please tell us!

[A] In relation to the provision of funds to carry out the Bali bombing, I got Rp. 30,000,000 (thirty million rupiah) from ABDUL RAUF alias SAM. The funds were put into an account belonging to IDRIS. IDRIS accessed the funds.

[Q] Where did ABDUL RAUF alias SAM get these funds, and who was responsible? Who gave the orders? Explain.

[A] The funds were obtained by means of fai. The term is to carry out fai (to take back the rights of the Islamic community) stolen by the infidels. In Indonesia, this means particularly by the Chinese infidels.

[Q] Are you willing to accept that the fai you carried out (according to Point 15 above), is called robbery in Indonesian law? Explain.

[A] In my religion, it is called *fai*, and it is legitimate if done in the interests of Moslems, and not to serve one's own interests, or the interests of particular parties. To prove [that this was *fai*], after I got the money from ABDUL RAUF alias SAM, I handed it over to IDRIS, who used it to fund the Bali bombing. So in terms of my religion it wasn't robbery."¹⁸⁰

In his book, Imam Samudra alludes to denying such act.¹⁸¹ Neither does he mentioned *fai* as religious justification for taking (robbing) non-Muslims' money to raise fund for his activities.

Nevertheless, Imam Samudra's attitude toward non-Muslims' property is exposed when he writes about hacking and carding in his book. He encourages Muslim youth to learn and master hacking techniques, which include carding. Carding is a form of hacking by breaking the code of a credit card to allow the hacker to use its credit facility. This will allow credit card cloning or the fraudulent payment of online purchases.¹⁸²

Imam Samudra calls upon Muslims to practice hacking and carding against Americans as part of the Muslims' fight against America's imperialism, arrogance and oppression. He reminds them to use it for the purpose of jihad and not for personal interest. Other than knowing the technical aspect of hacking and carding, Imam Samudra also writes that one must know and understand the justification of the act from the Islamic point of view so he will be able to do it with full conviction.¹⁸³

It is noted that Imam Samudra does not elaborate how hacking and carding could be permissible in Islam. Thus, it is not clear in his book how he relates this act with *fai* in Islam. Nevertheless, based on the above transcript, it could be said that Imam Samudra's misunderstood concept of *fai* from the Islamic jurisprudence perspective could be the basis for committing theft through fraudulent credit card transaction.

In traditional Islamic jurisprudence (*fiqh*), *al-fai*¹⁸⁴ means booty taken from the enemy in war (*harbi*) through means other than combat. Booty acquired through combat is called *ghanimah*, which can be literally translated as war booty.¹⁸⁵ Examples of *al-fai* are assets that a country confiscates from its enemies, or ships with economic goods belonging to a country at war being seized in international waters. *Al-Fai* is considered as part of the state's treasury and is to be used for public interest. It was first mentioned in the Quran:

UNLICENSED TO KILL

“Yet [remember:] whatever [spoils taken] from the enemy God has turned over to His apostle, you did not have to spur horse or riding-camel for its sake: but God gives His apostles mastery over whomever He wills – for God has the power to will anything. Whatever [spoils taken] from the people of those villages God has turned over to His Apostle – [all of it] belongs to God and the Apostle, and the near of kin [deceased believers], and the orphans, and the needy, and the wayfarer, so that it may not be [a benefit] going round and round among such of you as may [already] be rich. Hence, accept [willingly] whatever the Apostle gives you [thereof], and refrain from [demanding] anything that he withholds from you; and remain conscious of God: For, verily, God is severe in retribution.” (The Quran, 59:6-7)

The verses were revealed when one of the Jewish tribes in Medina, the Nadhir tribe¹⁸⁶, committed treason and violated the terms of the Medina Charter,¹⁸⁷ an agreement signed between the tribe and the Prophet.

Al-Fai as basis for committing robbery was admitted by many former Darul Islam members. In one interview by Noor Huda, a visiting analyst with the Institute of Defence and Strategic Studies in Singapore, Tajul Arifin, a former member of Darul Islam military wing, admitted committing robbery of Bank Central Asia in 1999 on the basis of *fai* and was jailed for five years for the act. He was made to believe by the group leaders that it was legitimate because the bank was not an Islamic institution due to its interest-based operation.

In 1979, elements of Darul Islam launched series of operations known as “Terror Warman”. It involved a “*fai* robbery of the State Islamic Institute in Yogyakarta and attempted the same a few weeks later in Malang, East Java, holding up the vehicle delivering salary money to the State Teacher Training Institute” in March that year. In 9 April 1979, a gold store called Sinar Jaya in Tasikmalaya was robbed by them also. They were also responsible for the robbery of a savings and loan cooperative in Sikijang, Majalengka in April 1980, robbery of salaries for the local education and culture office in Banjarsari on 5 May 1980 and robbery of a gold store in Subang on 9 July 1980.¹⁸⁸

The use of *al-fai* as a basis for committing robbery was also confirmed by former Darul Islam members, Fauzi Isman and Umar Abduh.¹⁸⁹

The extremists argue that all goods and assets belonging to all non-Muslims can be considered as *al-fai*. They can be confiscated and taken away as long as they are to be used for the interest of general Muslims, not for personal gain.

The idea of carding proposed by Imam Samudra as something that can be justified in Islam and the act of robbery on the basis of *Al-Fai* show that while terrorist groups have long been associated with various criminal acts such as robbery, drug trafficking and counterfeiting, the perceived ideological legitimacy and motivation the Muslim terrorist groups fall back upon set them apart from the others.

Misconception of Al-Fai

There is one serious problem with this warped thinking. There is no justification in Islamic jurisprudence (*fiqh*) for robbing corporations, which are run by non-Muslims or on “unIslamic principles” such as *riba* (interest). On the contrary, Islam regards non-Muslims in Muslim states as protected people (*zimmis*).¹⁹⁰ They are people who are guaranteed protection by the Islamic state in which they reside. Here, the Islamic law guarantees the sanctity of their life and property from any violations.

Islam provides the *zimmis* with the freedom to practise their own laws and religious beliefs once they have pledged allegiance to the country and have agreed to serve in the military in defence of the country or, alternatively, pay a poll tax. This freedom extends to all their affairs such as civil, penal and other matters. They are allowed to solemnise marriages according to their own customs and religion. They are also permitted to do what Muslims are not allowed to, such as the consumption and sale of alcohol and pork.¹⁹¹

Non-Muslims living in a Muslim country as citizens cannot be considered as *harbi* (enemy at war). The same rule applies to non-Muslims who enter a Muslim country with proper permits such as visas and work permits.¹⁹²

Islam views that violation of such a security guarantee as a serious and grave sin. With regards to it, the Prophet has said:

“Whoever offers security to a man then kills him, I am free from any association with him even if the killed person is a disbeliever.” (Narrated by Al-Bukhari and An-Nasai)

Yusuf Al-Qaradhawi writes:

“The Maliki jurist, Shahab Ad-Deen Al-Qarafi states: The covenant of protection imposes upon us certain obligations toward *Ahl Adh-Dhimmah*. They are our neighbors, under our shelter and protection upon the guarantee of Allah, His Messenger (peace and blessings be upon him) and the religion of Islam. Whoever violates these obligations against anyone of them, by damaging his reputation, or by doing him some injury, has breached the Covenant of Allah, His Messenger, and his conduct run counter to the teachings of Islam. (*Al-Furuq*, by Al-Qarafi.)

And the Zahiri jurist, Ibn Hazm, says: If a *Dhimmi* is threatened by an enemy, it is our obligation to fight the enemy with soldiers and weapons. With this, we will be honoring the Covenant of Allah and His Messenger. To hand him over to the enemy would mean to betrayal to the Covenant of Allah and His Messenger. (*Maratib Al-Ijma'*, by Ibn Hazm)¹⁹³

A question was posed to *IslamOnline* on the permissibility of stealing non-Muslims' property in the West with the assumption that the country is considered as *Dar Al-Harb* (Land of War). The following was part of the long answer to it:

“When a Muslim enters a non-Muslim country, it is as if he is entering into a peaceful agreement with them – via the visa which is given to him to enable him to enter the country – so if he takes their wealth unlawfully, then he is breaking that agreement, in addition to being a thief.

The wealth that he steals from them is *haram*. It was narrated that al-Mughirah ibn Shu`bah kept company with some people during the jahiliyyah (pre-Islamic) period. He killed them and took their wealth, then, he came and embraced Islam. The Prophet (peace and blessings be upon him) said: “As for your Islam, I accept it, and as for the wealth, I have nothing to do with it.” According to the version of Abu Dawud, “As for your Islam, we accept it, and as for the wealth it is obtained through

treachery, and we have no need of it.” (Reported by al-Bukhari and Abu Dawud)

Al-Hafiz Ibn Hajar said: The phrase “and as for the wealth, I have nothing to do with it” means, I will not touch it because it was obtained through treachery. What we learn from this is that it is not permissible to take the wealth of non-Muslims by treachery when they have trusted you and granted you safety, because when people accompany one another (when travelling), they do so on the basis of mutual trust, and that trust should not be betrayed, whether the other person is a Muslim or a non-Muslim. The wealth of non-Muslims is only permissible in the case of combat and war. (*Fath al-Bari*, vol. 5, p. 341)

Ash-Shafi`i (may Allah have mercy on him) said: When a Muslim enters *Dar al-Harb* on peaceful terms, and finds himself in a position to take something of their wealth, it is not permissible for him to take it, whether it is a little or a lot, because if he is safe from them, they should be safe from him, and because it is not permissible for him to take anything from them when they have given him safety except what it is permissible for him to take from the wealth of the Muslims and *ahl adh-dhimmah* (non-Muslims living under the protection of the Muslim state). (*Al-Umm*, vol. 4, p. 284)

As-Sarkhasi, the famous Hanafi scholar, said: It is not right for a Muslim who is on peaceful terms with them to betray them, because betrayal is *haram*. The Prophet (peace and blessings be upon him) said: “Every betrayer will have a banner by his backside on the Day of Resurrection, by which his betrayal will be known.” If he betrays them and steals their wealth, and brings it to the Muslim lands, it is not right for a Muslim to buy from him if he knows about that, because he has obtained it in an evil manner, and buying from him is encouraging him in that, which it is not right for the Muslim to do. (*Al-Mabsut*, vol. 10, p. 96).¹⁹⁴

In many *hadiths*, the Prophet reminded Muslims to take a good care of the *zimmis*.

“He who hurts a *zimmi* hurts me, and he who hurts me annoys Allah.” (Narrated by At-Tabarani)

“Whoever hurts a *zimmi*, I am his adversary, and I shall be an adversary to him on the Day of Resurrection.” (Narrated by Al-Khatib)

“On the Day of Judgment I will dispute with anyone who oppresses a person from among the People of the Covenant, or infringes on his right, or puts a responsibility on him which is beyond his strength, or takes something from him against his will.” (Narrated by Abu Dawud)

Thus, committing robbery against a *zimmi* clearly contradicts the *hadiths*.

Wrongful Implementation of Al-Fai

In principle, *Al-Fai* is part of the law of war in Islam. It has been argued in the previous sections that the implementation of the laws of war in Islam can only be administered and executed by the *Ulil Amri*, persons of appropriate authority.

In the case of the alleged robbery linked to Bali bombing I, there is no doubt that it was purely criminal act and not the acquisition of *al-fai* according to Islamic jurisprudence (*fiqh*) because they are not in a position to decide on matters pertaining to *al-fai*.

If any citizen, Muslim or non-Muslim, of a Muslim country, betrays his country by supporting or cooperating with the enemy, he should be dealt with properly according to the law by being given a fair trial. In this respect the charges against him must be made through a competent authority and in a court of law. He is also given the opportunity to defend himself before a judge. All these fall under the jurisdiction of the government. Islam does not allow individuals or groups to take the law into their own hands no matter how well intended they may be.

To better understand the view held by the terrorists, it is important to know the principle behind it. It involves one main important issue, which is, the basis of the relationship between Muslims and non-Muslims. Related to it also are the issue

of *Dar Al-Islam* (Land of Islam) and *Dar Al-Harb* (Land of War). Both issues have been discussed in previous sections.

SUICIDE OR MARTYRDOM OPERATION & THE KILLING OF CIVILIANS

Inference To Admission

It was reported that, at least, one of the bomb that exploded in Bali bombing I was in the form of a human bomb in which the operator intentionally blew himself up by detonating the bomb he was carrying or wearing.

Imam Samudra does not make a clear admission in his book whether Bali bombing I involved a “human bomb”. Nevertheless, there are two inferences to admission. Firstly, Imam Samudra deliberates lengthily on the issue of the permissibility of such an operation in Islam.¹⁹⁵ Secondly, one of the sub-topics in his book is, “Bali martyr’s bombing, why it should happen?” He writes that suicide bombings as have happened in Kenya, Tanzania and Aden (USS Cole bombing) are considered as *jihad* and legitimate acts against hostile enemy in revenge for the death of Muslim civilians and the rationale behind Bali martyr’s bombing was similar to those incidents.¹⁹⁶

Imam Samudra rejects the use of the word “suicide” for such operation. Instead, he prefers to name it as “*amaliyat istisyhadiyah*” or martyrdom operation, a term that is popularly used by those who permit or support such act.¹⁹⁷

He considers such act as an act of *jihad* carried out by an individual in pursuit of martyrdom with utmost sincerity and willingness.

Although, Imam Samudra admits that Muslim scholars are in disagreement on the permissibility of “martyrdom operation”. Nevertheless, he inclines towards those who permit it because of their arguments and because it is supported by contemporary “*Ahluts Tsughur*”.¹⁹⁸

“*Ahluts Tsughur*” refers to those who participated in real armed *jihad* and have experienced it in a real battlefield. This topic of “*Ahluts Tsughur*” will be touched in a section by itself.

Martyrdom & “Martyrdom Operation”

Topics related to *jihad* need to be evaluated from the *syariah* point of view in order to determine their religious rulings. As such martyrdom operations (*amaliyat istisyhadiyah*), or at times referred to as suicide operations should be discussed along these lines so as to clarify some of the misconceptions that shroud it when the two terms are used interchangeably, giving the impression that they are synonyms.

Hoping and working towards achieving the status of a martyr is something that is found in several authentic and explicit *hadiths*. Al-Bukhari, a scholar of *hadith* even allocated a specific chapter with the title “Chapter on aspiring to be a *syahid* (martyr).”¹⁹⁹

As for the “martyrdom operation” that is the subject of the discussion here, where a religious ruling is urgently needed, it is a new phenomenon. It’s ruling has no precedent in the works of classical Muslim scholars.

In a “martyrdom operation”, a Muslim fighter fills his bag or car with explosives or places the explosives on his body in order to attack the enemy at their place of assembly or it is done by colliding airplanes againsts intended target. Still, other variation of attack could be in feigning surrender before blowing oneself close to the intended target, which could inflict many casualties and damages. The perpetrators believe that such operation is effective in instilling fear among the enemy and leaves a deep impact on their psychology.

“Martyrdom operation” had been carried out by group like Hamas to force the Israeli government to reconsider their occupation of Palestinian land.

However, the validity of the operation from the *syariah* perspective still remains unclear, inviting Muslims to doubt its legitimacy. As stated by Imam Samudra, Muslim scholars are not in agreement on the issue. Two issues are related to “martyrdom operation”. Firstly, its use as a military tactic put it on par with suicide. Secondly, the contemporary practice is closely associated with the death of innocent people, which is against the war ethics prescribed by Islam.

The following section is an attempt to provide the readers with a summary of Muslim scholars’ perspective on the issue. This hopefully will help the readers to have a better understanding on the issue.

Early Manifestation of Martyrdom Act

In the discussion of “martyrdom operation”, it is important to understand its original manifestation during the two periods in Muslim history: The time of the Prophet and the rightly guided caliphs (*Khilafah Rasyidah*).

In examining the historical records available on its manifestations, the whole act could be summarised as below:

1. Muslim fighters immersed into the enemy with little chance of escape in order to overcome a deadlock situation in battle to achieve victory. This could be seen in the action of Muslim fighters in the ‘Battle of Yamamah’ as well as in the ‘Battle of Al-Jisr’.²⁰⁰
2. Several companions used their own bodies to shield the Prophet from the enemy’s attack and in doing so they were exposed to death.²⁰¹

The acts were committed to achieve two objectives – the destruction of the enemy and death as a martyr.

In this respect the intention (*niat*) of the perpetrator was important factor, which determines whether it was lawful or unlawful. Such act was considered *haram* (forbidden) if it was motivated other than in defence of religion -- for example, the desire to be remembered for his bravery, to display pride, to be reputable or just plain enthusiasm.²⁰²

Guiding such an act also was the underlying principle that human life belongs to God which He entrusts to man. As long, it is expended in God’s path, a Muslim is deemed as having fulfilled his obligation with regards to this gift from God. On the other hand, if it is expended other than in God’s path, then he has violated the trust and therefore deserves God’s punishment.²⁰³

Classical Scholars’ Views On Attacking The Enemy Without Any Hope Of Coming Out Of It Alive

Classical Muslim scholars deliberated three concepts for consideration in coming to a decision on the issue.

1. *At-Tahlukah* (throwing oneself into destruction)

Islam forbids act of throwing oneself into destruction. The Quran says:

“And spend [freely] in God’s cause, and let not your own hands throw you into destruction (*At-Tahlukah*); and persevere in doing good: behold, God loves the doers of good.” (The Quran, 2:195)

Ibn Al-Arabi concluding on the various commentaries of the verse gave five meanings of *At-Tahlukah*:

1. Refusal to spend in God’s cause.
2. Carrying out *jihad* without any provision.
3. Abandoning *jihad*.
4. Losing hope of God’s forgiveness.
5. Attacking the enemy without having the necessary means to launch the attack.

Muslim scholars are in agreement that the first four items are forbidden in Islam. Ibn Al-Arabi highlighted that the scholars remain in disagreement over the last item.²⁰⁴

2. *Al-Izzah* (honour)

The honour of the religion is above the life a Muslim. Although protection of human life is sacred in Islam, it can be sacrificed for a greater good. That is why armed *jihad* which brings with it loss of life is permissible for the defence of the religion. In such a situation, deserting battle is considered a cardinal sin in Islam.

However, according to Al-Izz bin Abd As-Salam, the ruling changes when the individual knows that remaining in battle will only cause his death without significant loss on the enemy. Such a situation makes it compulsory for him to run away. The risk of death can only be taken if the honour of the religion could be established possibly by inflicting significant loss on the enemy. Otherwise, it is not permissible.²⁰⁵

But some scholars allowed such acta during battle even if it could do no tangible damage or destruction to the enemy but only managed to motivate other Muslims to carry on fighting or instill fear in the enemy’s mind. These factors are sufficient to deem it permissible. These scholars gave greater weightage to

the honour of the religion rather than the preservation of human life.²⁰⁶

3. *Al-Ithar* (giving preference to others than oneself)

Islam enjoins *Al-Ithar*. But the legitimacy of the action of an individual who sacrificed himself in order to protect others according to *Asy-Syathibi* remains disputed amongst the scholars. Accordingly, act of sacrificing oneself to save others may or may not be permissible. Although the basis of argument can be traced back to the action of the Prophet's companion, Abu Thalhah, who sacrificed himself to shield the Prophet from the enemy's attack in the 'Battle of Uhud', the argument still remains inconclusive to allow all martyrdom operation to be viewed in the same manner. *Al-Ithar* is only acceptable when the benefit derived from such action is greater than before it was carried out.²⁰⁷

From the debate of classical Muslim scholars, two perspectives can be concluded on the issue of attacking the enemy without any chance of survival.

One perspective viewed that such an act is of two types:

1. If the attack does not inflict any losses on the enemy, the majority of classical scholars forbade it. Only *Al-Qurtubi* differed and considered it permissible on the condition that the action is carried out to achieve martyrdom and with sincere intention.
2. If the attack inflicts significant losses on the enemy then all the classical scholars were in agreement that it is permissible.

The scholars offered two conditions that must be satisfied to deem such act permissible: Sincerity and inflicting significant loss to the enemy.

Second perspective viewed that such an act is none other than suicide. Anything that causes death if attempted is ruled as attempting suicide. Indirectly causing other people's death is the same as killing someone directly to which the guilty party is still liable for *qisas*.²⁰⁸

Similarities Between Suicide And "Martyrdom Operation"

"Martyrdom operation" here refers to the present phenomena where a person sacrifices himself using his own weapon, an attribute that is shared with suicide, in order to inflict damage on the enemy. This is different from the classical

scholars understanding of a “martyrdom operation” discussed above where a person is killed by the enemy as a result of his action in an ongoing battle and when the odds are against him.

According to the *syariah*, suicide is defined as the intentional killing of oneself for failing to obtain one’s ambition or killing oneself because of anger and despair.²⁰⁹

Muslim scholars unanimously agree on the prohibition of committing suicide and to believe that suicide is permissible is an act of apostasy because such view contradicts a clear injunction of the Quran:

“...and do not destroy [kill] one another: for, behold, God is indeed a dispenser of grace unto you! And as for him who does this with malicious intent and a will to do wrong – him shall We, in time, cause to endure [suffering through] fire: For this is indeed easy for God.” (The Quran, 4:29-30)

Al-Qurtubi in his commentary of the verse mentioned the consensus among scholars on the prohibition of killing which also includes killing of oneself. Likewise exposing oneself to risk that leads to self-destruction.²¹⁰

In the *hadith* (the Prophet’s tradition), reported by Jundub bin Abdillah, the Prophet said,

“Before your time, there was an injured man. He was moaning and complaining [as a result of the injury he sustained], then took a knife and severed his artery and finally bled to death. God says [in reference to this incident], “My servants had preceded Me in deciding upon his life therefore I forbid him to enjoy paradise.”(Narrated by Al-Bukhari and Muslim)

It is clear from the *hadith* that a person who ends his life to alleviate his suffering is condemned. There are in fact several *hadiths* condemning the act of committing suicide and with these textual proofs (*nash*) Muslim scholars rule committing suicide to be unlawful.

In contrast, a martyr is a person killed by the enemy or found killed in battle. A “martyrdom operation” according to the classical scholars is one where a Muslim combatant attacks the enemy forces during battle knowing the odds are against him. His action is motivated by his sincere desire to exalt God’s word

and inflict damage on the enemy combatants. At times, it is a reference made to the act of sacrificing oneself in shielding or protecting someone whose life is of greater value such as the act of the Prophet's companion in shielding him from the enemies' attacks. It is along this line that any "martyrdom operation" was held in high esteem by the classical scholars and considered as a praiseworthy act, which resulted in a noble death as a martyr.

Contemporary Scholars' Views On "Martyrdom Operation"

The contemporary scholars, like their predecessors, make a clear distinction between "martyrdom operation" and suicide. Taking into consideration the state of the Muslim *ummah* and the conditions they are in, they contemporarised the concept of "martyrdom operation" and examined closely its manifestations in the Israeli-Palestinian conflict to arrive at a religious ruling. They view Israelis' occupation of Palestine as unlawful and assert the rights of the Palestinians to resist the occupation and do whatever is within their means to free their country. Since Israel now, is firmly established as a state with all the apparatus to preserve its existence in the region, the Palestinians according to them are left with a limited choice to pursue their rights effectively. In view of the imbalances in military capabilities between the two conflicting parties, the following views were forwarded.

Al-Azhar Scholars' on the legitimacy of these operations

They are of the view that Israel status as the aggressor and illegal occupier of Palestine caused them to lose any form of immunity from attacks carried out by the Palestinians to repel their occupation. There is no difference between civilians and military personnel in this respect. All Israelis are considered as active contributors to the aggression. This can be seen, as an example, from the desecration of the sanctity of the Al-Ibrahimi Mosque in Hebron by Goldstein²¹¹ who was later glorified by the Israelis. Although Goldstein was a civilian, he demonstrated the deep hatred the Jews had against the Palestinians. Israel, under the disguise of peace, continues to acquire Palestinian lands gradually.²¹²

Scholars from the University of Damascus

Muhammad Az-Zuhaili, the Dean of the Syariah Faculty in his reply to questions on the operations carried out in Palestine against the Zionist Jews consented to "martyrdom operation" aimed at defeating the enemy by creating instability, agitation, panic and fear in their minds. He views it as a contribution

to *jihad* in general, provided it is carried out with sincere intention to attain Allah's pleasure, freeing the homeland, establishing justice, the *syariah* and Islam.²¹³

Reiterating the same view, Wahbah Az-Zuhaili explains that the "martyrdom operation" directed against enemy at war is permissible if it is consented by a legitimate government and capable of instilling fear in the enemy or repelling its intimidation.²¹⁴

Muhammad Said Ramadhan Al-Buti from the same university adds that it is mandatory for such act to be committed with the intention to defeat the enemy and not to seek death.²¹⁵

Scholars from the University of Jordan

Ali Muhammad Ash-Shawwa before giving his opinion on "martyrdom operations" points out four things that must be observed. One, the situation and condition that exist in Palestine are different from those where the military operations were discussed by the earlier jurists. To compare both by analogy is a mistake and not acceptable from the *syariah* point of view.

Two, the accuracy of a *fatwa* (religious decree) is dependent on the precise information pertaining to the action, incident and factor that warrant such action. The best person to pass a religious decree on the matter is the scholar who is the source of reference and trusted by the *Mujahideen*.

Three, to judge all "martyrdom operations" in Palestine as suicide or to say that the operators and those supporting them are involved in terrorism is naïve and ignorant. He views such a judgement as a propaganda to curtail the "martyrdom operations" and as an excuse to condemn the operator or his supporter while at the same time, strengthening the aggression and illegal seizure of Palestinian lands.

Four, the Jews control over Palestine is obtained by military might. They are supported by the imperialist power and the Arab states under the shadow of force.

In the final analysis, he opines that the Palestinians' fight to reclaim their rights is legitimate.²¹⁶

Hammam Said in response to questions on the operations carried out by the *Mujahideen* in Palestine points out that there is clear difference between suicide and “martyrdom operations” in their motivation and objective.²¹⁷

Scholars from the University of Kuwait

Ajil Jasim An-Nasyami after quoting classical jurists like Asy-Syaibani and As-Sarkhasi concludes that a man who sacrifices himself by placing explosives on his body or car or any other means in a “martyrdom operation” in Palestine is not committing suicide unless his sole intention is to kill himself. However according to him, this ruling cannot be applied universally and must fulfill certain conditions to qualify the person’s death as a martyr.

Abd Ar-Razzaq Asy-Syayaji another scholar from the same university agrees with the classical scholars on this and their conditions that a “martyrdom operation” must be carried out with sincere intention and must be of benefit to the Muslims or inflict some loss on the enemy.

Other Muslim scholar

Yusuf Al-Qaradhawi rejects the idea of equating “martyrdom operations” with suicide. To him it is an act of sacrifice, patriotism and *istisyhadiyah* (seeking martyrdom). It is a tactic used by the *mustadhafin* (helpless/oppressed) against arrogance, tyranny and dictatorship. It is legitimate resistance against those who colonise their lands, drive them out of their homeland, deprive them of their rights, cause them to have a bleak future and are arrogant towards the *ummah* and the religion. In his analysis the Israeli society is a military society. Their men and women are attached to a military force that could be mobilised at any time. It is not the intention of the operator in a martyrdom operation to target children and old people but in a war situation collateral damage is unavoidable and thus, must be appropriated accordingly.

It is important to note that majority of the contemporary scholars view the permissibility of “martyrdom operations” in the context of Palestine-Israel conflict. Particularly on this issue is Yusuf Al-Qaradhawi whose view on the permissibility of “martyrdom operations” is strictly for operation in Palestine against Israeli targets only.

Muslim scholars who are against martyrdom operation and consider it suicide

There is no doubt that the opinions on the permissibility of contemporary “martyrdom

operations” are not unanimous. Sheikh Abd Al-Aziz Al Sheikh opposes such action:

“As for the question on killing [blowing] oneself in the middle of the enemy or what I term as “by way of committing suicide”, this method, I do not know of any viewpoint from the perspective of the *syariah* allowing it. It is also not accepted as jihad in the path of God. I am afraid it is another form of killing oneself. Yes, killing the enemy and fighting them is required and at times even becomes a personal obligation but it must be done in a manner that does not contradict the *syariah*.”²¹⁸

The Council of Senior Scholars that he heads unanimously condemns the bombing incidents in the city of Riyadh.²¹⁹ The council argues that it is prohibited and has no validity in Islam. This could be seen from numerous angles:

1. This action is a transgression upon the sanctity of the land of the Muslims, and frightening those who are guaranteed security and safety therein.
2. It involves the killing of lives that the *syariah* protects.
3. It is a form of *fasad* (destruction) on earth.
4. It contains destruction of properties and belongings that are protected.

Blowing oneself up in this case is similar to killing oneself, and thus, falls into the general prohibition mentioned in a *hadith*:

“Whoever killed himself in the world with anything, then God will punish him by the same thing on the day of judgement.” (Reported by Abu Uwaanah in his *Mustakhraj* from Thabit bin Ad-Dhahak)

The action is also forbidden because it is against one of the five fundamental objectives of the *syariah*, which is the protection of life.²²⁰

In Islam, the end does not justify the means. Thus, Muslims must ensure purity of both the intended objective and method used to achieve the said objective. The objective as well as the way in achieving it must not contravene any teaching of Islam. When performing good deeds, Muslims must always fulfill God’s commands as well as emulate the Prophet Muhammad (follow the *sunnah*).²²¹ The contemporary act of suicide bombing was never practiced by the Prophet

and the *Salaf* (pious predecessors) who came after him. Neither is there any recorded statement that can be deduced to justify it. In fact, there is evidence that suggest otherwise like the *hadith* mentioned above. Even the noble objective of *jihad* cannot be used to justify suicide bombing.

Concluding Remark on the Issue

The earlier scholars of Islam did not have the knowledge of contemporary “martyrdom operations” in their current-day form; hence they did not specifically address them. However they did address similar issues, such as the act of attacking the enemy single-handedly where one’s own death is certain. They also deduced general principles under which contemporary “martyrdom operations” could fall.

Comparing the contemporary “martyrdom operations” with its classical precedent, differences between them can be ascertained as follows:

1. In the present practice, the person is killed by his own hand, whereas in the other he was killed by the enemy.
2. The classical cases of “martyrdom operations” were more close to contemporary commando-like daring raids, which are high risk in nature.
3. The classical cases of “martyrdom operations” were committed generally during on-going battles or in the conflict zone whereas the contemporary practice is used more widely as in the case of 911 attacks and bombings in London, Madrid and Bali.

Therefore, it is not accurate to make an analogy of the contemporary “martyrdom operation” with the classical cases deliberated by classical Muslim scholars to derive same ruling.

Since Muslim scholars differ on the permissibility of “martyrdom operations” as a military tactic against the enemy’s military target, in such situation, one can apply principles of *tarjih* (preponderance) to identify the closest opinion to the truth based on the arguments given. But such a move will not stop the differences or stop others to opt for alternative views. The implication is that the view that permits contemporary “martyrdom operations” will remain available as an option for those who are convinced with the arguments or wish to justify such act.

In the present context, such differences in Islamic jurisprudence can only be

resolved if all contemporary Muslim scholars come to a consensus (*ijma'*) on the impermissibility of “martyrdom operations” but the chances of it happening are very slim.

Nevertheless, “martyrdom operation” as a military tactic against legitimate military targets is not the real issue in the context of combating terrorism, neither is it the real concern of the international community.

During World War II, Japanese army launched Kamikaze operations against American forces in its bid to repel attacks on Japan. The operations involved specially designed fighter jet loaded with bomb deliberately crashing into American navy ships. In many battles, armies were also known to employ “suicide tactics” like human waves against an entrenched enemy in order to win.

Such tactics could be viewed as irrational and rejected by many conventional armies but none of the scholars argued that such practices, if they were used against military targets, are considered as against international law of armed conflict.

For those in support of the view on the permissibility of “martyrdom operations” against legitimate military targets, two points need to be weighed:

1. Islam prohibits suicide and considers it is a grave sin. The permissibility of contemporary “martyrdom operations” held by some is an exception not the rule. It is based on *ijtihad* (deduction), which is not absolute. One should bear in mind that this is not a case of an original ruling of *mubah* (permissible) being changed to *fard* (obligatory) due to circumstances or a rule of *makruh* (discouraged) being changed to *haram* (prohibited). The consequences in these circumstances do not have serious or grave implication if the *ijtihad* is wrong. In the case of “martyrdom operation” against military targets, it is totally different as the *ijtihad* involves a shift of ruling from *haram* (prohibited) to permissible in which one risk committing a grave and serious sin in Islam. Furthermore, the negative effect (*dharar*) of contemporary “martyrdom operations” does not only affect the perpetrator alone but also the lives of others. In this situation, it would be better to consider a maxim from Islamic jurisprudence that says “*Al-Khuru'j min al-khilaf mustahab*” – (Getting out of a disagreement is encouraged).²²² Muslim scholars have agreed that suicide is prohibited but disagree on the permissibility of “martyrdom operations”. Since upholding the rule of permissibility of “martyrdom operations” carries the risk of falling into a

grave sin, the contrary is a safer option. Therefore, opting for the safer opinion which the Muslim scholars have agreed, in this case the impermissibility of suicide is better than opting for what the scholars are in disagreement. The rule of *wara'* (a more pious option) is suitable for serious consideration in this issue.

2. As mentioned before, there are clear differences between cases of classical and contemporary “martyrdom operations”. As such, the comparison and the analogy (*qiyas*) done cannot be said to be comparing apples with apples.

As for the second aspect of “martyrdom operations” which involves the issue of killing civilians and non-combatants a section has been devoted for its detailed discussion.

Delegitimising “*Ahluts-Tsughur*” Argument

Ahluts Tsughur refers to those who participated in real armed jihad and experienced life in battlefield. According to Imam Samudra, the scholars among “*Ahluts-Tsughur*” are the most authoritative in giving *fatwa* on matters related to armed *jihad*.

Imam Samudra views that the authority of the “*Ahluts-Tsughur*” to discuss and deliberate opinions related to armed *jihad* far outweigh those given by the “sitters” -- those who remain passive by sitting and do not participate in armed *jihad* as it is a specialised field. Only those who have physically participated in armed *jihad* and lived amongst the *Mujahideen* in the battlefronts will truly understand its intricacies and therefore are qualified to provide the *Mujahideen* with appropriate and accurate advice.

The belief that armed *jihad* is the noblest and most difficult obligation made compulsory upon Muslims dictates that only the selected few who are blessed and guided by God will come forward to carry out this duty. The state of blessedness and guidance from God enjoyed by the *Mujahideen* will, as argued by Imam Samudra, contribute to the views of the scholars amongst them being closer to truth. Imam Samudra in forming this opinion cites a classical Muslim scholar, Sufyan bin Uyainah, who reportedly said that when there are differences of opinion amongst the scholars, one should follow the opinion supported by the “*Ahluts-Tsughur*”. Imam Samudra also cites a verse:

“Such of the believers as remain passive – other than the disabled – cannot be deemed equal to those who strive hard in God’s cause with their possessions and their lives: God has exalted those who strive hard with their possessions and their lives far above those who remain passive. Although God has promised the ultimate good unto all [believers], yet has God exalted those who strive hard above those who remain passive by [promising them] a mighty reward.” (The Quran, 4:95)

Since the contemporary “*Ahluts-Tsughur*” decree that suicide bombing is legitimate in Islam, the suicide operation in Bali was accepted as legitimate and the criticism directed towards it by the scholars from amongst the “sitters” fell on deaf ears.²²³

Imam Samudra offers his understanding of the “*Ahluts-Tsughur*” and goes a step further by mentioning the names of those he considers the “*Ahluts-Tsughur*” of today.

Here, the accuracy of Imam Samudra’s opinion on “*Ahluts-Tsughur*” will not be discussed. Instead, the writer choose to use Imam Samudra’s understanding of “*Ahluts-Tusghur*” to delegitimise his argument for the Bali bombing.

Imam Samudra’s view towards “*Ahluts-Tsughur*” assumed that they are a homogeneous group and they hold unanimous supportive view for an act like the Bali bombing.

It is argued that there are sufficient indications to show that such an unanimous view does not exist among contemporary “*Ahluts-Tsughur*”.

Although Hamas founded by Ahmad Yasin does endorse “martyrdom operations” and uses these against Israeli civilians, it is also important to note that up till now Hamas has never launched any military operation, whether in the form of “martyrdom operations” or others, outside the conflict area – Palestine. Hamas activists, operatives or sympathisers are known to be in many parts of the world. It is not difficult also to comprehend that if Hamas wishes to, it could send its members from Palestine or activate its members overseas to launch military operations against Israeli targets, which are abundant outside Palestine, but no such case have been so far reported.²²⁴ Hamas also has not launched any military attacks against the Palestinian Authority, despite the ideological differences between Islamist Hamas and the largely secular PLO

which dominates the Palestinian Authority.²²⁵

Abdullah Azzam, known as “the Father of Mujahideen” for his contribution during Afghan *jihād* against the Russians, and the founder of Maktab Al-Khidmat, which is the catalyst for Al-Qaeda, has had never been known to launch military operations outside the conflict zone – Afghanistan – or against civilians. Targeting civilians is not a post-Afghan *jihād* phenomenon. Prior to Afghan *jihād*, many groups had committed plane hijacking or targeted civilians against their enemies for political objectives. Nevertheless, Abdullah Azzam did not resort to such tactics in his *jihād* against the Russian.²²⁶

The Egyptian Al-Gamaah Islamiyah, which has fought an armed *jihād* against the Egyptian government long before the establishment of Al-Qaeda as the organisation of the International Mujahideen as described by Imam Samudra, issued a statement condemning the 911 attacks.²²⁷ After the bitter experience of armed *jihād*, its leaders then issued statement retracting the policy of armed *jihād* against the Egyptian government and called upon its members to opt for peaceful struggle.²²⁸

In many incidents, the so-called “*Ahluts-Tsughur*” are not united in one opinion. In the case of the beheading of Nick Berg, Hamas and Hezbollah issued condemnation of the act even though it was committed by “*Ahluts-Tsughur*” in Iraq.²²⁹ Ahmad Yassin, founder of Hamas, also denounced 911.²³⁰

Based on the above facts, not all “*Ahluts-Tsughur*” would agree to and endorse the Bali bombing I. Therefore, Imam Samudra’s claim of legitimacy for the suicide attack in Bali based on the opinion that “when there are differences of opinion among the scholars, one should follow the opinion supported by “*Ahluts-Tsughur*” cannot stand because those opposing it are also qualified “*Ahluts-Tsughur*” by definition.

Why couldn’t Imam Samudra opt for the position of “*Ahluts-Tsughur*” like Hamas, Abdullah Azzam or the Egyptian Al-Gamaah Al-Islamiyah, instead?

Killing Civilians and Non-combatants

Imam Samudra does admit that Islam prohibits the killing of certain categories of people. But in the case of Bali bombing I, Imam Samudra argued that the concept of civilians does not apply to the victims because the targets are:

1. Conscripted military personnel, whether in active duty or on reservist status;

2. Citizens of hostile countries who are guilty for voting and paying tax to the government, acts he considered as contributions to war against Islam and Muslims;
3. Citizens of “colonialist countries” who have caused the death of thousands of Muslim civilians in Iraq, Afghanistan, Kashmir, Chechnya and many other places.
4. Unlikely to be civilians because they still travel to Bali despite various threat of attacks.

Imam Samudra only admits his mistake for the death of local Muslims and offers his apology to the victims’ families.

This section will try to locate the meaning of civilians in Islam and International Humanitarian Law. Imam Samudra’s view of “non-immunity” of Bali bombing I’s victims from military attack will then be examined based on both sources.

Civilians and Non-combatants Immunity in Islam

Civilians and non-combatants are two terms that are not explicitly mentioned in the Quran and the *hadiths*, two primary sources of Islamic jurisprudence, and are not popularly used by classical Muslim scholars because both are literally modern vocabularies.

Nevertheless the concept of civilians and non-combatants could be inferred from the sources of Islamic law and likewise in the discussion amongst the classical scholars. There is no doubt that Islam prohibits the killing of certain category of people during war. All of them are mentioned in the *hadiths* and historical reports of the rightly guided first four caliphs of Islam.

To comprehend the concept of civilians and non-combatants in Islam, one should study the list of people whom Islam forbids the killing of during war. These people are:

1. Women and children.

Abdullah bin Umar reported, “During some of the battle of the Prophet, a woman was found killed, so Allah's Prophet forbade the killing of women and children.” (Narrated by Al-Bukhari)

In another *hadith*, it was reported that, “a woman was found killed. Allah's Apostle disapproved the killing of women and children.” (Narrated by Al-Bukhari and Muslim)

Similar meaning could also be found in *hadiths* reported by Malik and Ibn Majah.

2. *Asif* (Hired servant)

Rabah bin Rabi' reported:

“When we were with the Prophet (peace be upon him) on an expedition, he saw some people gathering together over something and sent a man and said: ‘See, what are these people gathering around?’ He then came and said: ‘They are gathering around a woman who had been killed.’ He said: ‘She was not fighting [How then she came to be killed?].’ Khalid bin Al-Walid was in charge of the van; so he sent a man and said: Tell Khalid not to kill a woman or a *hired servant* [emphasis added].” (Narrated by Abu Daud)

Asif here refers to a category of people who are not part of the army, but were present in battlefield to help the army in non-combat jobs such looking after the animal, materials or food.

3. Old men

Anas bin Malik reported:

“The Prophet (peace be upon him) said: ‘Go in Allah's name, trusting in Allah, and adhering to the religion of Allah's Apostle. Do not kill a *decrepit old man* [emphasis added], or a young infant, or a child, or a woman; do not be dishonest about booty, but collect your spoils, do right and act well, for Allah loves those who do well.’” (Narrated by Abu Daud)

Malik also reported in his book *Al-Muwatta* that Umar bin Abdul Aziz (the eighth Umayyad caliph, 717-720CE) wrote to one of his governors:

“It has been passed down to us that when the Messenger of Allah, may Allah bless him and grant him peace, sent out a

raiding party, he would say to them, 'Make your raids in the name of Allah in the way of Allah. Fight whoever denies Allah. Do not steal from the booty, and do not act treacherously. Do not mutilate and do not kill children.' Say the same to your armies and raiding parties, Allah willing. Peace be upon you." (Narrated by Malik)

4. People devoting their lives in service to the monasteries

Yahya bin Saad reported:

"Abu Bakar [the first caliph] advised Yazid, 'You will find a group of people who claim to have totally given themselves to Allah. Leave them to what they claim to have given themselves [Christian monks]. You will find a group of people who have shaved the middle of their heads, strike what they have shaved with the sword. I advise you ten things: Do not kill women or children or an aged, infirm person. Do not cut down fruit-bearing trees. Do not destroy an inhabited place. Do not slaughter sheep or camels except for food. Do not burn bees and do not scatter them. Do not steal from the booty, and do not be cowardly.'" (Narrated by Malik)

The prophet also reportedly said, "Do not kill people who have devoted themselves in service of the monasteries" (Narrated by Ahmad and Ibn Syaibah).

Although many of the *hadiths* on this category of people were classified as weak (*dha'if*) or less authentic, classical Muslim scholars chose to apply the prohibition of killing them because of the significant number of reports available. Each was strengthened by the others.²³¹

5. Merchants

Jabir bin Abdullah was reported saying, "They [Muslims during the time of the Prophet] did not kill merchants of the Arab pagans." (Narrated in Musannif, Ibn Syaibah)

Ibn Hazm rejected this view. He said the statement merely says, "did not kill". In his view, this does not necessarily mean that they cannot be killed. The statement does not contain any prohibition. It only shows preference. Thus,

it is still permissible to kill them, according to Ibn Hazm.

6. Prisoners of war.

On the treatment of the prisoners of war, the Quran says:

“Now when you meet [in war] those who are bent on denying the truth, smite their necks, until you overcome them fully, and then tighten their bonds;²³² but thereafter [set them free,] either by an act of grace or against ransom²³³, so that the burden of war may be lifted: thus [shall it be]. And [know that] had God willed, He could indeed punish them [Himself]; but [He wills you to struggle] so as to test you [all] by means of one another.” (The Quran, 47:4)

“[The truly virtuous are] they [who] fulfil their vows, and stand in awe of a day the woe of which is bound to spread far and wide, and who give food – however great be their own want of it – unto the needy, and the orphan, and captive, [saying, in their hearts,] “We feed you for the sake of God alone: we desire no recompense from you, nor thanks: behold, we stand in awe of our Sustainer’s judgement on a distressful, fateful Day!” (The Quran, 76:7-10)

It was reported in a *hadith* from Abdullah bin Umar:

“The Prophet sent (an army unit under the command of) Khalid bin Al-Walid to fight against the tribe of Bani Jadhima and those people could not express themselves by saying, “Aslamna [We accept Islam]” but they said, “Saba'na! Saba'na!” Khalid kept on killing some of them and taking some others as captives, and he gave a captive to everyone of us and ordered every one of us to kill his captive. I said, “By Allah, I shall not kill my captive and none of my companions shall kill his captive!” Then we mentioned that to the Prophet and he said, “O Allah! I am free from what Khalid bin Al-Walid has done, “and repeated it twice.” (Narrated by Al-Bukhari)

As prisoners of war are no longer in the position to fight, Islam requires Muslims to treat them well.²³⁴

The Prophet treated prisoners of war very generously and often freed them, as in the case of prisoners from the Battle of Hunain. Some prisoners from the Battle of Badr were ransomed; others were asked to teach Muslim children in exchange for their release.²³⁵

Muslims are also taught to treat vanquished people with kindness and generosity. During the conquest of Mecca, Prophet Muhammad showed magnanimity to its people despite their previous prolonged ill treatment of him. He said to them “O Quraish, what do you think I am going to do with you?” They replied “Good. You are a noble brother, son of a noble brother.” He said, “This day let no reproach be cast on you. God will forgive you. Go your way, for you are freed.”²³⁶

Many classical Muslim scholars ruled that prisoners of war should not be killed, except in exceptional cases. The power to decide or policy to guide such practices rests with the Muslim ruler.²³⁷

Based on the above, there is no doubt that in Islam there are laws ensuring the safety and protection of the non-combatants – laws pertaining to civilians during war. This is based upon the teaching of Islam that views human life as sacred and the unwavering commitment to preserve human rights.

Nevertheless, the above categories do not cover the whole spectrum of civilians and non-combatants in today’s context. This requires another level of analysis, which is to identify the common *illah* (reason) behind the prohibition.

Classical scholars differed in determining those among the *harbis* (non-Muslims at war) that killing them is forbidden. They fall into two categories – the group that the scholars have unanimously agreed that killing them is forbidden and the group their status as civilians or military personnel is still debatable and inconclusive.

In the first group are women and children who are non-participants of war. However if they participate in war, then the majority of the scholars permitted their killing.

In the second group are the old men, those devoted to the worship of God, the blind, the incapacitated and workers namely employee, farmers, slaves and those who fit their description of non-involvement in war. The classical scholars differed in their ruling on the permissibility of killing this group of people. Majority of the scholars were of the view that they must not be killed as

long as they do not participate in war or extend their help either with words or actions. However some jurists from the Asy-Syafi`ii school ruled that killing them is permissible because of their status as citizens of the *Dar Al-Harb* (Land of War) who are not accorded immunity enjoyed by women and children which had been specified by the *hadiths*.²³⁸

The reason behind the differences is their disagreement in determining the *illah* (reason) of the ruling. Asy-Syafi`ii was of the view that there was no *illah* behind the prohibition, thus no analogy can be made to those who are not mentioned such as the blind, sick and mentally handicapped. Asy-Syafi`ii viewed that it is permissible to kill any non-Muslim members of *Dar Al-Harb* (Land of War), unless it is stated otherwise by the Quran or the *hadith*.²³⁹ But the majority of the scholars were of the view that the *illah* (reason) of the prohibition is their status as non-combatants -- non-involvement in combat in general. They based their view on the *hadiths* in which the Prophet was reported, upon seeing a woman corpse in a battlefield, saying, "She was not fighting [How then she came to be killed?]"²⁴⁰ Such a statement indicates that the reason why the Prophet disapproved of the act was due to non-involvement in fighting.²⁴¹

This argument was supported by other *hadiths*, which report the killing of woman in the battlefield during the Prophet's time.

Al-Hasan Al-Basri was reported as saying, "If a woman came out fighting, she should be killed."²⁴²

In a *hadith* reported by Samurah bin Jundub, the Prophet said "Kill the old men who are polytheists, but spare their children."²⁴³ This statement seems to contradict the *hadith* mentioned above that prohibits the killing of old men. But Asy-Syaukani said that there is no contradiction. The *hadiths* that reported the killing of old men and the prohibition of the killing can be reconciled. Those who were killed were those who had contributed to the war even by giving ideas as in the case of Duraid bin As-Sammah. He was about 100 years old and killed by one of the Prophet's military platoons for his contribution of ideas during the preparation for the Battle of Hunain. The Prophet upon hearing of it approved the act.²⁴⁴

Traditionally, any actions by civilians that could be interpreted as having contributed to the war even by motivating or offering help both materially and spiritually in the form of providing weapons or ideas will disqualify them from

their status as civilians. In view of their involvement the scholars ruled that they have lost their immunity and therefore killing them is permissible.²⁴⁵

In instances where civilians cannot be differentiated from military personnel, then any attack, which results in their death, is viewed as something unavoidable, which in today's terms is referred to as collateral damage.²⁴⁶

Classical Muslim scholars also held different opinions on what constitutes participation or contribution in war that justify the killing. This is because of conflicting deduction from the *hadiths* which prohibit the killing of *`asif* (hired servant) and the *hadiths* which permitted the killing of women and old men for their contribution in war.

In the case of *`asif* whose task does not involve direct fighting, the killing was prohibited although he was present in battlefield and in the case of old man and woman, the killing was permissible even if the contributions were in the form of ideas and encouragement – not direct fighting.

Thus, the primary source of Islamic jurisprudence – the *hadiths* – and the interpretation of classical Muslim scholars of the *hadiths* are not definitive in providing a concrete understanding of the concept of civilians and non-combatants in today's context. Nevertheless, a few important points are still useful to help Muslims in determining who the civilians and non-combatants that are not allowed to be killed in war:

1. Despite its non-definitiveness, the *hadiths* lay down important principles in relation to Muslim conduct of war. During war, Muslims do not have unlimited power to kill and Islam propagates a principle of discrimination in killing. This provides the fundamental basis for limiting the targets of war.
2. All classical Muslim scholars agreed that the Muslim ruler has the power to limit the category of people not allowed to be killed in war, even if there are no specific prohibitions on it in the *hadiths*. Muslim rulers have the power to exclude certain types of combatants or people who contribute in war from been targeted. The decision should be made based on context, which suits the best interests of Muslims in accordance with the broad principles of Islam.²⁴⁷
3. The principles of Islamic jurisprudence recognize customs and conventions

as secondary sources of law as long as they do not contravene any principles of *syariah* and fulfill all conditions of valid customs in Islam.²⁴⁸ There are various Islamic jurisprudence maxims pertaining to the use of customs as source of law:

- *Al-`Adah muhkamah* – Custom is a binding law.
 - *Ats-Tsabit bi al-`urf ka ats-tsabit bi asy-syara'* – What is established by custom is similar to what is established by *syar'ii* proof (The Quran, *hadiths* and other recognised source of law).
 - *Al-Ma'ruf `urfan ka al-masyrut syartan* – Validity of an accepted custom is similar to validity of a stipulated agreement.²⁴⁹
4. Islam recognises the importance of context in law formulation and implementation. Due recognition of customs as mentioned above is one example. It has also been agreed by all Muslim scholars that law should be tailored, adjusted and changed in accordance to changes of time and place.²⁵⁰ The maxim says “*La yunkaru taghayyuru fatwa wa ijihad wa hukm bi taghayyuri az-zaman wa al-makan*” - Change of *fatwa*, *ijihad* and rule is permissible with the change of time and place.²⁵¹

Certainly, there are conditions to be met which the scholars have discussed and written about in detail in various books of *Usul Fiqh* (Principles of Islamic Jurisprudence) but this is not a suitable place to discuss it.

The idea here is just to establish that context consideration has its place in Islamic jurisprudence.

Based on the above four points, it is argued that it is important to bring in the concept of civilians and non-combatants under International Humanitarian Law treaty and customs to the discussion here because these are current practices, customs and contexts that cannot simply be ignored by Muslims in their conduct of war. Due consideration has to be given to it as it is a legitimate practice and valid under Islamic jurisprudence because of the principles that have been mentioned above.

When International Humanitarian Law does not contradict Islamic principles, it could even provide the needed clarification on the meaning of civilians and non-combatants in Muslims conduct of war today.

Furthermore, all Muslim rulers from Muslim countries have ratified the Geneva Conventions, which is the basis of contemporary law of armed conflict. There are two main points which are relevant here. One, this is in line with the principle of Islam that provide Muslim rulers with power to decide on who can be killed in war and also in accordance with the teaching of Islam which commands Muslims to honour any agreement or contracts that they have entered into as explained in the previous section.

As previously mentioned also when the Prophet wished to send letters to other rulers, he was advised to include an official seal on them. It was the protocol of the time; otherwise, the receiving rulers would not accept his letters. So he sealed his letters using his ring, which was engraved with the word *Muhammad, The Messenger of Allah*.²⁵² From this, Said Hawwa inferred that the Prophet was deferring to international conventions.²⁵³

Civilians and Non-combatants Immunity in International Humanitarian Law

Underlying International Humanitarian Law is the idea to restrict the destructive nature of war. The law regulates parties at war by providing rules on methods employed and weapons used. It also seeks to protect those who are not or are no longer taking part in direct fighting and property affected or liable to be affected by the conflict. It has two important components: One is an international treaty such as the Geneva Conventions I-IV (1949) and another is customary law, which is an unwritten rule based on the customs and practices of armed forces, or states that regulate armed conflicts.²⁵⁴

Under International Humanitarian Law, civilians are:

1. “Persons taking no active part in the fighting”²⁵⁵ and “perform no work of a military character”²⁵⁶.
2. A civilian is any person who is not party to the conflict being members of the armed forces, militia, or volunteer corps forming part of such armed forces and resistance movements.²⁵⁷
3. “The civilian population comprises all persons who are civilians.”²⁵⁸

As for the term “non-combatant”, International Humanitarian Law does not define it clearly. But the meaning of “combatant” can be inferred from Article

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4A (1), (2), (3) and (6), the Geneva Convention III, which says about Prisoners of War:

“(1) Members of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces.

(2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfill the following conditions:
(a) that of being commanded by a person responsible for his subordinates;
(b) that of having a fixed distinctive sign recognizable at a distance;
(c) that of carrying arms openly;
(d) that of conducting their operations in accordance with the laws and customs of war.

(3) Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power.

(4) Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization, from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model.....

(6) Inhabitants of a non-occupied territory, who on the approach of the enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.”²⁵⁹

and Article 43, Additional Protocol I (1977) which says:

“Art 43. Armed forces

1. The armed forces of a Party to a conflict consist of all organized armed forces, groups and units which are under a command responsible to that Party for the conduct or its subordinates, even if that Party is represented by a government or an authority not recognized by an adverse Party. Such armed forces shall be subject to an internal disciplinary system, which, inter alia, shall enforce compliance with the rules of international law applicable in armed conflict.
2. Members of the armed forces of a Party to a conflict (other than medical personnel and chaplains covered by Article 33 of the Third Convention) are combatants, that is to say, they have the right to participate directly in hostilities.
3. Whenever a Party to a conflict incorporates a paramilitary or armed law enforcement agency into its armed forces it shall so notify the other Parties to the conflict.”²⁶⁰

Therefore, it can be deduced that “non-combatants” are those who do not fall under all the above articles.²⁶¹

The term non-combatant has a slight difference from civilian in International Humanitarian Law. Non-combatant could also refer to members of armed forces who are not taking part in fighting²⁶² such as medical personnel of armed forces²⁶³ and military religious personnel²⁶⁴ or can no longer take part in fighting (hors de combat)²⁶⁵ such as prisoners of war²⁶⁶, wounded persons and victims of shipwreck²⁶⁷. International Humanitarian law prohibits any military attack against them. It could be said then that all civilians are non-combatants but not all non-combatants are civilians because civilian refers only to non-member of armed forces.²⁶⁸

In summary, civilian and non-combatant may be defined as a person who does not take part in hostilities during an armed conflict and who does not have legal right to do so under the law of armed conflict.²⁶⁹

Among civilians, medical and religious personnel, journalist, humanitarian relief worker, women, children and members of civil defence organisations receive special attention and mention. Each category is accorded rights of protection

from military attack and other harm relevant to their own context.²⁷⁰

Although each category of civilians and non-combatants has special protection relevant to their circumstances, in general they all share common rights of violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture, taking of hostages, outrages upon personal dignity, in particular humiliating and degrading treatment, extra and improper judicial sentences and executions. The wounded and sick are entitled for proper care and treatment.²⁷¹ They should be protected from any danger of military operations, indiscriminate attack and reprisal and shall not be the object of attack or be used as shields from military attack.²⁷²

It is important to note that all civilians and non-combatants will lose their rights of protection if they participate in fighting²⁷³ and when in doubt, International Humanitarian Law requires a person to be considered as civilian.²⁷⁴

Although International Humanitarian Law could help to reduce the non-definitiveness of the concept of civilian and non-combatants in Islam it does not eliminate it totally because differences of opinion among scholars in interpreting the law²⁷⁵, similar to the differences of opinion among classical Muslim scholars.

Does the Concept of Civilian and Non-combatants in International Humanitarian Law Contradicts the *Syariah*?

The answer to the above question is a clear “No”. This is based on the following arguments:

1. The underlying values and spirit of International Humanitarian Law is similar to the *syariah* which seeks to limit the destructive nature of war by imposing a code of conduct in war which has been written in detail in various books of Islamic jurisprudence. This code also has a lot of similarities also with the Just War Theory,²⁷⁶ which was partly the basis for International Humanitarian Law.
2. The concept of civilians as being non-combatants and non-combatant as being non-participants in fighting or incapable of fighting is similar to the opinion of the majority of Muslim scholars who viewed that the *illah* of prohibition of killing in war is non-involvement in fighting.

3. Since the underlying principle of International Humanitarian Law does not contradict the *syariah* and concept of civilians and non-combatants still falls within the opinion of Muslim scholars, International Humanitarian Law on the protection of civilians and non-combatants can be considered as customary law recognised by the *syariah*.
4. Since the *syariah* has empowered Muslim rulers with powers to determine who the civilians and non-combatants are, the ratification of the Geneva Convention by them binds Muslims who are citizens of Muslim countries.²⁷⁷

Muslims in non-Muslim countries are also bound based on the points 1–3 above and also because Islam requires Muslims to abide by rules of their respective country as long these do not contradict the *syariah*.

5. Ignoring International Humanitarian Law on the basis that it does not originate from Islam or that it is part of non-Islamic institutions (for example the United Nations) does not align with the contextual character of Islam.

Today, failure to abide with international conventions will cast Muslim states, communities and Islam in a bad light in the eyes of international community. Muslim state risks itself being sanctioned, which is against the *maslahah* (benefit) of the *ummah*.

Furthermore, Islam does not prohibit Muslim from learning and gain benefit from others, so long they does not contradict with the *syariah*. The Prophet has said:

“*Hikmah* (wisdom/knowledge) is like something that was lost by the believers. Whoever finds it he is entitled to it.”²⁷⁸ (Narrated by At-Turmuzi & Ibn Majah)

Critical Perspective

Bali bombing I is not justified in the eye of the *syariah* because the attackers failed to adhere to the rule of discrimination in armed conflict. This rule burdens the party in conflict with responsibility to observe and take all necessary precaution not to cause harm to civilians and non-combatants and civilian property. The rule says:

“In order to ensure respect for and protection of the civilian

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population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.”²⁷⁹

The choice of place, Paddy’s Bar and Sari Club, negate this rule. It falls under prohibited indiscriminate attack category stated in the Additional Protocol:

“4. Indiscriminate attacks are prohibited. Indiscriminate attacks are:
(a) those which are not directed at a specific military objective;
(b) those which employ a method or means of combat which cannot be directed at a specific military objective; or
(c) those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol, and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.

5. Among others, the following types of attacks are to be considered as indiscriminate:

(a) an attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects; and
(b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”²⁸⁰

In principle, Paddy’s bar and Sari club does not fall under the characteristic of “those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage”²⁸¹, unless proven so. When in doubt, whether normally dedicated place for civilian purposes “is being used to make an effective contribution

to military action, it shall be presumed not to be so used.”²⁸²

In Islam, the burden of proof is on the person who make claim or allege. The Prophet has said:

“Proof/evidence is on person who allege and oath is on defendant.” (Narrated by Al-Baihaqi)

The facts are:

1. Paddy’ Bar and Sari Club were not military objectives.
2. There were women who are protected persons under International Humanitarian Law among the victims.
3. There were local civilians among the victims.

The problem is many of Imam Samudra’s claims were based on assumptions. Shedding others’ blood based on assumptions does not tally with the principle of justice and *ihsan* in Islam. The Quran says:

“Verily, Allah enjoins justice and ihsan, and giving help to kith and kin and forbids all evil deeds and munkar and oppression. He admonishes you, that you may take heed.” (The Quran, 16:90)

One example of false assumption made by Imam Samudra upon which he justifies the attack is the allegation that citizens from countries like America, Australia, Thailand and Singapore who patronised the clubs could not be considered as civilians because the countries conscript their civilian population. They, at any time, can be called up and mobilised for military purpose.²⁸³

The fact is America and Australia does not practice compulsory military service. Citizens from both countries join the military as active and reservist personnel on a voluntary basis.

Unlike Israel, only able-bodied male Singaporeans of 18 years old are required to perform 24 or 30 months national service duty.²⁸⁴ But national service duty in Singapore is not restricted to military service only. Significant numbers are enlisted to Singapore Police Force for law and order duty, and the Singapore Civil Defence Force.²⁸⁵ International Humanitarian Law clearly states that personnel of civil defence force are not considered as combatants, which can

be targeted for attacks.²⁸⁶

Another false assumption is the claim that it is illogical to think that those who were in Bali were normal civilians when there were many warnings issued on the possibility of terrorist attack in Indonesia. Furthermore, there were a few bombing cases reported taking place in a few towns. Only those who have been trained in military training would defy such threat and face the risk.²⁸⁷

In reality, there are thousands of people from other countries who are considered as civilians present in war zones, more hostile than the situation was in Bali for reasons such as humanitarian work or commercial opportunity.

Thus, Imam Samudra's claim was misplaced. It only proves that he did not make the decision based on proper study and sound judgment. The above claim, such as all Singaporeans are legitimate combatants, are against the rule of proper discrimination of target required by International Humanitarian Law.

An Islamic jurisprudence maxim says, "*al-asl baraah az-zimmah*" which means one should be considered as not guilty and free from any obligation and duty, until proven otherwise. Another maxim says "*al-hudud tasqutu bi asy-syubhat*", which means *hudud* should be dropped when there is doubt.²⁸⁸

Therefore, when in doubt, a person should be given the benefit of the doubt -- as "not guilty for being combatants against Muslims".

Yusuf Al-Qaradhawi said in an interview with *Al-Ahram*:

"In case it is difficult to make a distinction between military personnel and civilians, [people] should take caution not to kill a person unless they have definite proof this person is actually engaged in military action, because human life is sacred."²⁸⁹

In the case of foreigners found in the war in Iraq, Abdul Mu'ti Bayoumi, a member of the Islamic Research Academy, has said that Islam prohibits killing on speculative grounds. "I mean, we cannot tell for sure that every single US civilian in Iraq is engaged in combat or serving the coalition forces."²⁹⁰

No religion, Islam or otherwise will disagree that killing a human being is essentially evil unless there is an accepted and valid reason. That is why Islam limits the permissibility of killing in armed *jihad* to combatants only.

Guided by the spirit of the religion, Muslims should be very cautious about taking other human beings' lives. But Imam Samudra is taking the opposing path, stretching the original remit for killing, to include any person who contributes to war against Muslims. He quotes the general opinion of the classical Muslim scholars, but disregarding the spirit of the religion and the difference in contexts.

By this reckoning also, Imam Samudra regards all Americans as contributors to war against Muslims because they vote for their government which is deemed responsible for unfair policies against Muslims and pay taxes which are used to employ military personnel. The Americans are therefore guilty.²⁹¹

The fallacy of the argument is that, in practice, it eliminates any limitations on killing in war completely. This does not fit at all with the spirit of Islam. Muslim scholars agree that the fundamental aim of the *syariah* is the protection of religion, life, mind, property and family.²⁹² Hence, Imam Samudra's stand outrightly contradicts the very aims of *syariah*.

Imam Samudra criticises the West for not abiding to the Geneva Convention by causing the deaths of thousands of civilians through military operations and economic blockades. However, he conveniently defies it himself because he views the United Nations as a *kufir* (disbelieving) system. As such, he believes that true Muslims cannot be part of, nor submit to such a system, or they will risk apostasy.

In reality, Imam Samudra has extrapolated the ruling allowing killing in war to include everybody and does not feel obliged to follow any human-made convention. Thus, nothing limits Imam Samudra from killing. This only displays the vile thinking in his mind.

Indeed, Muslims should be the very people who uphold the Geneva Convention in putting limits to war. Although it is non-divine, it fits the spirit of Islam, which deems war to be essentially bad, and hence there must be rules to limit it.

Imam Samudra argues that the Bali bombing was also in retaliation to the

killing of thousands of Muslims in Iraq and Afghanistan caused by non-Muslim countries. Since the enemies have transgressed the lives of many Muslims, and policies that have caused injustices still continue, it is justified to kill their civilians as they have killed Muslim civilians.²⁹³

Such thinking does not fall in line with the Quran that says:

“O you who have attained to faith! Be ever steadfast in your devotion to God, bearing witness to the truth in all; and never let hatred of anyone lead you into the sin of deviating from justice. Be just: This is closest to being God-conscious, And remain conscious of God: Verily, God is aware of all you do.” (The Quran, 5:8)

As mentioned before, morality is one of the most important elements in Islam. Nothing, including war, can be detached from it. In fact, the Prophet was sent to uphold morals.

God made Prophet Muhammad as the best example. The Quran says:

“Verily, in the Apostle of God you have a good example for everyone who looks forward [with hope and awe] to God and the Last Day, and remembers God unceasingly” (The Quran, 33:21)

In another verse, God describes Prophet Muhammad as a person with the best morals:

“for, behold, thou keepest indeed to a sublime way of life.” (The Quran, 68:4)

Thus, Muslims are expected to always strive to emulate the Prophet, by perfecting their morals in all aspects of life: Individual, family, social, economic, political and so forth.

Muslims are required to maintain good moral conduct in all aspects of their life. The Prophet has said:

“The best of you are those who have the best manners/morals.” (Narrated by Al-Bukhari & Muslim)

“Among the Muslims the most perfect as regards his faith, is one whose character/morals is excellent.” (Narrated by At-Turmuzi)

As Islam encompasses all aspects of life, including politics and war, Muslims are obligated to adhere to a certain code of conduct in war.

The failure of others to observe justice or to abide with the internationally agreed rules in war cannot be used as reason for Muslims to transgress or commit similar wrongdoing.

Opinion of Contemporary Scholars on Killing Civilian in Armed Conflict

Yusuf Al-Qaradhawi says that shedding blood of civilians, even if they are non-Muslims, is *haram* (forbidden), prohibited by God, and cannot be carried out under any pretext whatsoever.²⁹⁴ It is a heinous crime in Islam to kill civilians who have nothing to do with the decision-making process and are striving hard to earn their daily bread.

Al-Qaradhawi argues that, in the Farewell Pilgrimage, the Prophet delivered a sermon in which he was reportedly declared, “people's lives, property, and honor are inviolable until the Day of Judgment.” This does not only apply to Muslims; it also includes non-Muslims who are not fighting Muslims.

He cites a *hadith*, “A woman (was made to) enter (Hell) Fire because of a cat which she tied, neither giving it food nor setting it free to eat from the vermin of the earth.” (Narrated by Al-Bukhari)

He then says, “If this is the ruling applied in protecting animals, no doubt, aggression against human beings, deserves greater protection, for human beings are honored by Allah Almighty and are His vicegerents on earth?”²⁹⁵

On the 911 attacks, Faisal Mawlawi says:

“Then comes the issue of hijacking civilian planes on board of which are women, the elderly, children, Muslims and non-Muslims. This act is completely forbidden in Islam. It is a form of terrorism. It is rejected in Islam unless staged against combatants during warfare. Allah says:

“And if any of those who ascribe divinity to aught beside God seeks thy protection, grant him protection, so that he might [be able to] hear the word of God [from thee]; and thereupon convey him to his place where he can feel secure: this, because [may be] people who [sin only because they] do not know [the truth].” (The Quran, 9:6)

If this is the ruling governing the non-Muslim combatants, what about the non-combatant ones? Shouldn't they enjoy more protection?

In addition to that, the point of using the WTC in New York as the target of their criminal act is in itself heinous. It was the workplace of thousands of employees who can never be termed combatants, including women, the elderly, Muslims and non-Muslims. This act greatly runs counter to the Islamic principles of warfare, and makes it one of the most grave criminal acts that deserves severe punishment.”²⁹⁶

Muzammil Siddiqui says:

“It is to be emphasized that terrorism against innocent civilians, whether through aggression or suicidal means, is under no circumstances permissible in Islam. Islam encourages the oppressed people to struggle for their liberation and it commands other Muslims to help those who are oppressed and suffering, but Islam does not allow, under any circumstance, terrorism against non-combatants and innocent people.

Terrorism is not *jihad*, it is *fasad* (mischief). It is against the teachings of Islam. There are some people who use their twisted arguments to justify terrorism for their causes, but it has no justification. Allah says:

“When it is said to them: 'Make not mischief on the earth,' they say: 'Why, we only want to correct things.' Indeed they are the mischief doers, but they realize (it) not.” (The Quran, 2:11-12)²⁹⁷

Harun Yahya writes in his book *Islam Denounces Terrorism*:

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“Killing a person for no reason is one of the greatest sins related in the Quran:

“... if someone kills another person - unless it is in retaliation for someone else or for causing corruption in the earth - it is as if he had murdered all mankind. And if anyone gives life to another person, it is as if he had given life to all mankind. Our Messengers came to them with Clear Signs, but even after that many of them committed outrages in the earth. (The Quran, 5:32)”

“..those who do not call on any other deity together with God and do not kill anyone God has made inviolate, except with the right to do so, and do not fornicate; anyone who does that will receive an evil punishment. (The Quran, 25:68)”

As the verse suggests, a person who kills innocent people for no reason is threatened with a great torment. God informs us that killing even a single person is as evil as murdering all mankind on earth. A person who observes God's limits can do no harm to a single human, let alone massacre thousands of innocent people. Those who assume that they can avoid justice and thus punishment in this world will never succeed, for they will have to give an account of their deeds in the presence of God. That is why believers, who know that they will give an account of their deeds after death, are very meticulous to observe God's limits.”²⁹⁸

This was posed on the *IslamToday* website:

“Some people are declaring the prohibition regarding the killing of civilians during war to be inapplicable to democratic countries. They argue that the policies of those countries are enacted by the governments they themselves choose through their votes. It is not like the days when kings were authorities unto themselves and their actions did not reflect the will of the people. Therefore, in today’s democratic world, it is right to assume that the nation’s policies have the sanction of public at large. Is there any validity to this line of reasoning?”

The question was answered by a panel chaired by Abdul Wahab At-Turayri:

“The argument being advanced by these people is false. This should become obvious to us if we consider the circumstances in which the rulings prohibiting the killing of civilians came about.

These rulings are from the Prophet (peace be upon him) when he was battling the pagans of Mecca and their allies among the pagan tribes of Arabia. The pagans of Mecca were a tight-knit community and their tribal leaders made their decisions together at their tribal councils. They were more like a very large and squabbling family than a burgeoning and impersonal nation. Moreover, the population of Mecca – indeed of all Arabia – was small and the region’s social organization was tribal. The average person in such a society had more personal access to the decision makers and had far greater influential on policy than an individual American or British person today has with respect to his country’s foreign policies, which are determined largely by big corporations and powerful lobbies.

Indeed, there was solidarity among the pagan Arabs as to their purposes against the Muslims. During the Battle of Uhud, the women went out to the battlefield, led by Hind, to lend moral support to the soldiers. Before the battle, they sang the following song to inspire their men:

”If you go forth, we will embrace you, And spread out the cushions.
But if you retreat we shall leave you, And do so without affection.”

It has been said by historians that their singing had a maddening affect on the menfolk and that this influenced their performance on the battlefield.

In spite of all this, Allah's Messenger (peace be upon him) stressed the need to protect the weak and the non-combatants during war and was very considerate of them.

Ibn `Umar (may Allah be pleased with him) said: "I saw the body of a slain woman during one of the battles of the Prophet (may the peace and blessings of Allah be upon him), so he forbade the killing of women and children." [Sahih al-Bukhari *and* Sahih Muslim]

Rab`ah b. Rabi' said: "We were with Allah's Messenger (may the peace and blessings of Allah be upon him) during a battle and we saw people gathered together. He dispatched a man to find out why they were gathered. The man returned and said: 'They are gathered around a slain woman.' So Allah's Messenger (may the peace and blessings of Allah be upon him) said: 'She should not have been attacked!' Khalid b. al-Walid was leading the forces, so he dispatched a man to him saying: "Tell Khalid not to kill women or labourers'." [Sunan Abu Dawud]

It is also related that Allah's Messenger (may the peace and blessings of Allah be upon him) said: "Tell him not kill children or labourers." [Sunan Ibn Majah]

Labourers are not to be attacked deliberately, even if they are present during the battle, as long as their activities are not directly connected with the fighting. Workers who are not present at the battlefield are definitely not to be treated with aggression, regardless of the fact that they are in the enemy country. Allah's Messenger (peace be upon him) would say the following words to his troops before sending them to war: "Go forward in the name of Allah. Do not kill an elderly person, nor a small child, nor a woman, and do not exceed the bounds." [Sunan Abu Dawud]"

Salman Al-Oadah also comments: "These people today, just like those at the time of the Prophet (peace be upon him) are the ones to whom the message of Islam must be conveyed."²⁹⁹

In reply to a question on the permissibility of attacking civilian targets in *jihad*, Salman Al-Oadah wrote:

“Islam prohibits targeting innocent people such as women, children, and others like them even when there is actually a war being waged between Muslims and the disbelievers. Disbelief, in and of itself, is not a justification to kill someone. Allah’s Messenger (peace be upon him) and the Rightly Guided Caliphs who came after him stressed the need to protect the weak and the non-combatants, and were very considerate of them.”³⁰⁰

This was written in a joint statement issued by Yusuf Al-Qaradhawi, Tariq Al-Bishri, Muhammad S. Al-Awa, Haytham Al-Khayyat, Fahmi Huwaidi and Taha Jabir Al-Alwani:

“All Muslims ought to be united against all those who terrorize the innocent, and those who permit the killing of non-combatants without a justifiable reason. Islam has declared the spilling of blood and the destruction of property as absolute prohibitions until the Day of Judgment.”³⁰¹

Jamal Badawi, Imam Munir El-Kassem and Ahmad Kutty, endorsed statements from the Canadian office of the Council on American-Islamic Relations (CAIR CAN) and the Canadian Muslim Civil Liberties Association (CMCLA):

“Islam respects the sacredness of life, and rejects any expressed statement or tacit insinuation that Muslims should harm innocent people. Despite our disagreement with certain American policies, we must never abuse the concept of jihad to target innocent civilians.

Jihad, which literally means ‘struggle’, has an internal, societal and combative dimension. The internal dimension of jihad encompasses the struggle against the evil inclinations of the self, and the spiritual project to adorn the self with virtues such as justice, mercy, generosity and gentleness. The societal dimension includes struggling against social injustice and creating a communal identity based on charity, respect and

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equality. Finally, the combative aspect of jihad is only to be used as self-defense against aggression or to fight oppression, and, even then, to be observed with strict limits of conduct that preserves the life of innocents and the sanctity of the environment. Moreover, this latter type of jihad can only be declared by a legitimate, recognized religious authority.

Using the concept of jihad to justify harming the innocent is contrary to the letter and spirit of Islam. We condemn any violence that springs from this misguided interpretation.”³⁰²

Hamza Yusuf describes terrorist who kills civilians and innocents, as “mass murderers, pure and simple” not martyrs. They are “enemies of Islam”. He was quoted as saying:

“You can't kill innocent people. There's no Islamic declaration of war against the United States. I think every Muslim country except Afghanistan has an embassy in this country. And in Islam, a country where you have embassies is not considered a belligerent country.

In Islam, the only wars that are permitted are between armies and they should engage on battlefields and engage nobly. The Prophet Muhammad said, “Do not kill women or children or non-combatants and do not kill old people or religious people,” and he mentioned priests, nuns and rabbis. And he said, “Do not cut down fruit-bearing trees and do not poison the wells of your enemies.” The *Hadith*, the sayings of the Prophet, say that no one can punish with fire except the lord of fire. It's prohibited to burn anyone in Islam as a punishment. No one can grant these attackers any legitimacy. It was evil.”³⁰³

CONCLUSION

It can be concluded that Imam Samudra's view that Muslims are obliged to constantly wage war against non-Muslims, which underlies Bali bombing I is inconsistent with the spirit of Islam that calls for peace and peaceful co-existence. The view that he holds is not absolute and could easily be challenged by referring to the views held by classical Muslim scholars, which is abundant

in their written works.

In contradiction to Imam Samudra's view, this book asserts that the original foundation of relationships between Muslims and non-Muslims is that of peaceful coexistence. This is primarily because Islam does not instruct Muslims to harbour prejudice, hatred and animosity towards non-Muslims just because they do not share the same religion. Islam acknowledges and allows the existence of different forms of relationships and bonds amongst people, besides the bond of religion.

Differences in religions and beliefs alone cannot be used as the basis for war and hostility between Muslims and non-Muslims. Differences in religions and beliefs also do not mean Muslims cannot have positive feelings of love, care and concern for others.

Having the perception that all non-Muslims are anti-Islam and that Muslims must hate them and wage war against them, is not an attitude that is appropriate and acceptable for the objective of sharing the message of the Islam with others. Prejudice such as this is no different from the misconception amongst some non-Muslims that all Muslims are terrorists and fundamentalists. Both these parties are actually closer to extremism than moderation.

A corollary to the idea of perpetual war between Muslims and non-Muslims is the concept of *Dar Al-Islam* and *Dar Al-Harb*. This book asserts that such a binary classification of countries did not originate from the Quran. It was a product of scholarly opinions based on the social and political context of a particular time in history.

Muslim scholars have never been in agreement on the actual meaning of *Dar Al-Islam* and *Dar Al-Harb*. Such a disagreement signifies that this is a peripheral issue in Islam, not a central principle. The fundamentals of Islam are those issues, which are agreed upon, such as the obligation of prayers, five times a day.

The binary classification system drawn up by some Muslim scholars did not necessarily translate into or indicate a state of war between the two types of states. There was peaceful coexistence between the Islamic caliphate and the Abyssinian kingdom for many years, without any payment of taxes or attempts at subjugation. The content of the Prophet's letters to rulers did not contain any sign of hostility towards peoples of other faith. There was no ultimatum to

them to either embrace Islam or face *jihad* (war).

Imam Samudra's concept of the four stages of *jihad* in which the fourth stage is claimed as the final one that abrogated the others could not stand as an absolute rule used to ostricise those who disagree with him today, because there is no authentic *hadith* that supports the claim. The claim was based on quotes of classical scholars, which were disputed by others.

There are various justifications for war in Islam, primarily for the purpose of self-defence against aggression, oppression or the threat of an invasion. A difference in faith alone is not an acceptable justification. The code of conduct in war in Islam also proves that Muslims do not kill others merely because of difference in faith.

Therefore, it can be concluded that the original basis of inter-state relationships in Islam is peaceful coexistence, similar to inter-personal relationships between Muslims and non-Muslims as discussed above. This is because inter-state relationships are none other than an extension of inter-personal relationships.

The basis of peaceful relations is not contradictory to the ruling of *jihad*, which can only be done if there is a threat of war and for the primary purpose of restoring justice, peace and security for all.

The Quran says:

“Hence, fight against them until there is no more oppression and all worship is devoted to God alone, but if they desist, then all hostility shall cease, save against those who [willfully] do wrong.” (The Quran, 2:193)

The lesson to be learned from the above discourse is simply that one should be extremely careful when quoting the basic Islamic sources of the Quran and the *hadith* and applying Muslim scholars classical thought. This would not only help one to avoid any misrepresentation but would also help one attain a better understanding of classical Muslim scholars' perspectives and their relationship to modern thinking and institutions in the field of international relations.³⁰⁴

Another fallacy that can be found in Imam Samudra's thinking is the idea that the Christians, Jews and other non-Muslims are in perpetual conspiracy against

Islam and Muslims. While there is no doubt that there are non-Muslims who are hostile against Muslims and Islam, to state that all of them are so does not concur with various statements of the Quran related to non-Muslims. This book argues that such thinking contradicts with the notion of plurality and diversity, which are inherent in God's creations.

Inherent in Imam Samudra's thinking is over-reliance on generalities (*`am*) found in the Quran and the *hadiths* and failure to observe the rule of *takhsis* (specification). The effect is often over-generalisation in making a rule and judgement. The rule of *takhsis* held by classical Muslim scholars is "*la `ama illa wa huwa makhsus*" (there is no generality without exception). For prudence, classical Muslim scholars suggested that no generalities (*`am*) in the Quran and the *hadiths* should be applied as basis of a ruling or judgment until efforts have been made and exhausted to look for *takhsis*.

This provides general Muslims with one important point - to be careful with ideas that contain generalisation or tend to see a phenomenon as monolithic or homogenous. Often also, such ideas are reflected in a form of binary vision, which sees a complex phenomenon as a black-and-white or us-versus-them perspective only, with no room for other colours or shades of white and blacks.

Generalisation also produces stereotypical thinking that all non-Muslims are being inherently hostile, which does not blend with Muslims' rejection of non-Muslims' stereotyped perception of Muslims as militants, fundamentalist or terrorist. It is highly questionable when Muslims argue against non-Muslims' stereotyped perception towards Muslims but at the same time are guilty of stereotyping all non-Muslims as bad and villainous. Such double standards will not only expose Muslims to criticism, but more importantly, this attitude and thinking negate the very principles of justice and equity in Islam.

In the context of Imam Samudra, he generalises by assuming that all Americans, Australians and Singaporeans are combatants because they are conscripted in the armed forces of their countries.

Relying on assumption to justify an act that negates the sanctity of life held by the religion and risking oneself by committing a grave sin is not acceptable in Islam. Muslims are warned in general to avoid assumptions in making decisions. The Quran says:

“...and [since] they no knowledge whatever thereof, they

follow nothing but surmise; yet, behold, never can surmise take the place of truth.” (The Quran, 53:28)

If surmise or conjecture is not acceptable in matters that only affect oneself such as one’s faith and belief, it is only logical for it to be more unacceptable when it affects the rights of others.

The end result of Imam Samudra’s thinking about who can be killed in armed *jihad* could lead to unlimited killing in the name of *jihad*. His classification of who the combatants are needs to be corrected. In his understanding, all civilians of enemy states are legitimate target because they contribute to the government of enemy states by paying tax, casting vote or as conscripts. As for those few amongst the civilian population of the state such as children who do not pay tax, are not eligible to vote yet and have not served military service they can also be killed under pretension of collateral damage and the greater good. In this respect, even Muslims are not spared as what had happened in Bali. By admitting the mistake he committed with regards to their killing and felling it was sufficient to say “sorry” publicly and repent – this very act makes human’s life cheap and such logic is against the very tenet of Islamic teaching, which sanctifies life to all extents.

Jihad as *fardhu ain* (personal obligation) in Imam Samudra’s mind negates the concept of proper authority in *jihad* held by classical Muslim scholars, as it gives the impression that every Muslim is required to carry arms. Under this circumstance there is no need for respect of the established authority or law. The sovereignty of God above His creations, in the mind of Imam Samudra, means Muslims can do anything for His sake and for the greater good of Islam. The end result of this thinking is simply encouraging Muslims to take the law into their own hands wherever they may be. This does not conform to the teaching of Islam, which teaches orderliness.

Bali as a choice to carry out military operation can be argued as illegitimate in Islam because it is not within a recognised conflict zone. The fact that Bali is a place of vice and its economy relies on immoral activities described by Imam Samudra does not justify the choice of the place, as Islam does not condone such approach to eradicating vice and enjoining goods.

On the issue of “martyrdom operation”, it is important to note that the contemporary practice of “martyrdom operation” has been associated closely with the killing of civilians. This has been the source of condemnation by the international community. It

is in this context that “martyrdom operation” receives a negative perception and is discredited and because of that its implication on the image of Islam and Muslims cannot be denied. The book views that the contemporary form of “martyrdom operations” is not permissible. It is suggested that the practice be revisited again by Muslim scholars who support it in the light of the following *hadith*:

“Amr reported, “I heard Jabir bin Abdullah says, we were with the Prophet in a battle.” He says “They say it is the battle of Bani Al-Mustaliq.” A man from the Muhajirin (emigrants) hit a man from the Ansar (helpers). The man from Al-Ansar (helpers) then cried ‘O people of Ansar [seeking for help]’ and the man from Muhajirin also cried ‘O people of Muhajirin (emigrants)’. The Prophet heard the calls and said “Why is this call of Jahiliyah [tribal fanaticism].” A man among the Muhajirin (emigrants) said, “A man from the Ansar (helpers) hit a man from the Muhajirin (emigrants).” The Prophet said, “Stop it. This is destructive.” Jabir said, “When the Muhajirin (emigrants) first arrived to Madinah, their number were less than the Ansar (helpers). But later, they outnumbered the Ansar (helpers). [The hypocrites among the Muslims who were largely natives of Madinah were furious with this development]. The incident was told to Abdullah bin bay (leader of the hypocrites), he [was furious and] said, “They have done it. By Allah, when return to Madinah the most honourable [himself] will expel the meanest (Muhammad and the Muhajirrin) out of it.” Umar overheard the statement. He came to the Prophet and said, “O Prophet, allow me to smack the neck of this hypocrite.” The Prophet said, “Leave him, Umar! So people will not say that Muhammad kills his companions.”³⁰⁵ (Narrated by Ahmad)

In this *hadith* (Prophet’s tradition), the Prophet took into consideration the perception of people before making a decision or taking action. Thus, making due consideration of other people’s perspectives and perceptions is required in Islam, even though the Muslims believe that they are on the side of truth. The *hadith* also teaches that Muslims should avoid doing something, which can cause negative perceptions or a *fitnah* (detriment) towards the religion, even in cases where the act is permissible.

In the context of “martyrdom operations”, Muslims must not be indifferent and dismissive towards the negative effect arising from the act. On the contrary, they must reassess the damage that it has caused to Islam and Muslims in ensuring a conducive environment for *dakwah* to non-Muslims.

The introduction of this book highlights the importance of multi-pronged approach in the fight against terrorism, which includes counter-ideological work against terrorist ideology and propaganda. Nevertheless, at the closing of the book, the author would like to highlight that it is important that the ideas behind extremism and terrorism be understood within their cultural and contextual milieu before attacking the underlying values of the act and its ideological motivations.³⁰⁶

People who join terrorist organisations may adopt its ideology and belief system for a variety of reasons. Some do it only after careful study and analysis, while a few adopt it as a powerful tool for organizing and manipulating other people. “But some are filled with so much anger and frustration that they jump on the first bandwagon that comes along.”³⁰⁷

The problem of terrorism is two-fold; the misinterpretation of the text and the opportunity and context that provide for such misinterpretation. Understanding the real cause helps to foster understanding of terrorism’s roots.

Winning “the battle of ideas” will be an uphill task as long as some of the root causes of global Muslim grievances are not addressed. “Four years after Sept 11, one issue that still sticks out like a sore thumb is the uneven foreign policy of the United States in the Middle East, especially vis-à-vis Israel and Palestine, the occupation of Iraq and the continued American ‘support’ for undemocratic regimes in the region. Muslims all over the world share a deep sense of frustration with the injustices experienced across Muslim societies.”³⁰⁸

John E. Mack wrote on the proximate cause of terrorism and that it could not be checked, much less eradicated, if the affliction of millions of people in the Middle East who perceive themselves as victims of the policies of a superpower and its allies are not addressed. “This will require at the very least a reexamination of the U.S government policies that one-sidedly favor Israel in relation to the Palestinians,”³⁰⁹ he said.

Major powers must put an end to their practice of creating, nurturing and supporting criminals, dictators and terrorists. It is not unknown to many the support

given to Saddam Hussein in the past that caused grave misery to his people.

Today, the practice has not stopped. Parties within the Northern Alliance in Afghanistan suddenly become good allies against the evil of terrorism in which they are also guilty of.³¹⁰ Authoritarian governments in the Middle East continue to receive support from Western countries in the form of credit and military assistance.³¹¹ Some of this is used to suppress the democratic voice of the people.

In the case of Imam Samudra, he mentions in length about the sad state of affairs that has befallen Muslims in the world, caused by the ruling powers. While one can argue that not all his claims of injustices are valid, it is equally inappropriate to dismiss all of them because the grievances are not only raised or point out by Muslims, but also by non-Muslims alike.

Clark McCauley wrote, "It is important to recognize that it is not only Arab and Muslim countries in which U.S policies are seen as responsible for terrorist attacks against the United States." He mentioned an IHT/Pew poll of 275 "opinion makers" in twenty-four countries on the issue of whether the U.S policies and actions in the world were a major cause of the September 11 attack. In twenty-three countries, an average of 58 percent of the respondents answered "yes". Seventy-six percent from Islamic countries and 36 percent from Western European countries said "yes".³¹²

In the case of the Chechen people for example, they are of the view that they are in a state of all-out war against an enemy that is continuing its oppression, wanting nothing less than total domination, and possibly extinction of the Chechens. Such a view is not baseless if one looks at the long history of oppression by the Czarist Empire, the Soviet Union communist regime and the current Russian government against the Chechen.³¹³

Also, whether the grievances influenced Imam Samudra or he is using them to influence others for his cause, both point out the role of grievances in providing context for deadly ideas and action. Terrorist leaders may be so committed to their ideas that nothing can change their minds. But they will be less successful in gaining support from the people if there is no context for their ideas to blossom.

As long as there is a precedent for the use of terror and attacking non-combatants by the powers that be, the militants will reciprocate in the same manner. These will then provide them with the justification to invoke the '*Quranic* injunction'

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of an eye for an eye. If the international community continues to be ineffective in addressing these grievances, people will empower themselves.

The answer therefore requires the political will of governments to address the root causes of the grievances that terrorist groups seize upon and exploit in the name of avenging Islam.³¹⁴

APPENDICES

**STATEMENTS OF MUSLIM CONDEMNATION OF
BALI BOMBING AND SIMILAR ACTS OF TERRORISM**

FATWA ON PROHIBITION OF BALI BOMBING

Details of Fatwa³¹⁵

Title of Fatwa: Bali Attacks: Juristic Approach

Question

We have heard about the bloody incident that took place in Bali Island where a great number of foreign tourists were killed. What I want to say is that such an incident will be automatically blamed on both Islam and Muslims. My question is: In case it is proven that those who masterminded the Bali attacks were Muslims, then what is the Shari`ah stance on this?

Name of Scholar

Sheikh Yusuf Al-Qaradhawi

Content of Reply

In The Name of Allah, Most Gracious, Most Merciful.

All praise and thanks are due to Allah, and peace and blessings be upon His Messenger.

Dear questioner, thank you very much for having confidence in us, and we hope our efforts, which are purely for Allah's Sake, meet your expectations.

First, it should be stressed that Islam not only prohibits attacking non-Muslims who do not launch attacks against Muslims, but it also urges Muslims to treat those non-Muslims with due respect and kindness, especially non-Muslims who live along with Muslims within the Islamic territories. This ruling is agreed upon among Muslim jurists.

In his response to the question, the prominent Muslim scholar, Sheikh Yusuf Al-Qaradawi, states the following:

“It goes without saying that the tragedy that occurred in Bali, in which a bomb blast claimed the lives of more than hundred tourists, is actually a heinous crime. It is even an act of spreading mischief in the land or *Hirabah* in juristic term; a crime in Islam for which a severe punishment is specified, without discrimination as to race, color, nationality or religion of the culprit. For this crime, the punishment is clarified in the verse that reads: “The only reward of those who make war upon Allah and His messenger and strive after corruption in the land will be that they will be killed or crucified, or have their hands and feet on alternate sides cut off, or will be expelled out of the land. Such will be their degradation in the world, and in the Hereafter theirs will be an awful doom.” (Al-Ma’idah: 33)

In fact, there are two things that made this tragic incident a terrible shock to me: first, it targeted innocent civilians and, secondly, it occurred in a country that has the largest Muslim population. Such countries should offer the best example of peaceful co-existence, maintaining security with due regard to the preservation of lives, honor and property. Islam is based on maintaining the sanctity of five things that are regarded as prime objectives of Shari`ah: religion, life, property, lineage and intellect. It places a deterring punishment for any person who dares to violate the sanctity of such faculties.

All Muslims are thus required to stand hand in hand to wage war on oppression and transgression low and high, regardless of who happens to be the target of such oppression; regardless of nationality of victims, be they innocent Australian tourists or wronged Palestinian citizens or any other person in the world. Islam makes it clear that peace and justice should be the etiquette governing relations between people. Needless to say that facing oppression and combating transgression serve as the key to maintaining peace.”

Making it clear that assessing people’s conduct should not be at the expense of their religion, Sheikh Yusuf Al-Qaradawi adds:

“Even if it is proved that the Bali attacks were masterminded by Muslims, still logically Islam is not to blame for these attacks. A clear separating line is to be drawn here between the teachings of Islam, which prohibit such attacks, and the acts of some Muslims who possess a narrow-minded view of Islam.

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I would like here to recall that along the history of Islam some of its adherents (i.e. Muslims) used to act in a way that violate the Islamic teachings and put them at stake. Indeed, those people hurt Islam and Muslims with the wrong behavior they do; as the threat they pose to Islam is much more than that of the enemies of Islam who fight it tooth and nail, both in darkness and broad daylight. That is why they say that ‘a wise enemy is better than a fool friend.’ Also, the Arab poet reiterated this saying:

For every disease there is a cure, but foolishness has no cure.

It is also known that the rights stated for those non-Muslims living under the protection of the Islamic State are not just a mere ink on paper. Rather they are considered ‘inalienable rights’ laid down by the Islamic Shari`ah, and these rights should be given due regard. Every committed Muslim, who worships Allah faithfully, acts in accordance with Allah’s Ordinances, should never violate those rights. The whole Muslim society should respect these rights.

Islam does not permit aggression against innocent people, whether the aggression is against life, property, or honor, and this ruling applies to everyone, regardless of his post, status and prestige. In Islam, as the state’s subject is addressed with Islamic teachings, so is the ruler or Caliph; he is not allowed to violate people's rights, lives, honor, property, etc.

In the Farewell Pilgrimage, the Prophet, peace and blessings be upon him, declared the principle that people's lives, property, and honor are inviolable until the Day of Judgment. This ruling is not restricted to Muslims; rather, it includes non-Muslims as well, as long as they don’t wage aggression against Muslims. Even in case of war, Islam does not permit killing those who are not involved in fighting, such as women, children, the aged, and the monks who confine themselves to worship only.

This shouldn’t raise any wonder, for Islam is a religion that prohibits aggression even against animals. Ibn `Umar, may Allah be pleased with them both, quote the Prophet, peace and blessings be upon him, as saying: “A woman is qualified to enter (Hell) Fire because of a cat which she tied, neither giving it food nor setting it free to eat from the vermin of the earth.” (Reported by Al-Bukhari)

If such is an Islamic ruling concerning aggressive acts against animals, in fortiori, the punishment is bound to be severe when human being happens to be the

victim of aggression, torture and unjust killing.

This has driven objective historians in the West to state that along the history, Muslim conquests were very just and merciful. In Islam, the notion “End justifies the means” has no place at all. For us Muslims, it is not allowed to attain good aims through evil means. By the same token, alms collected from unlawful avenues are not Halal (lawful). In this context, the Messenger of Allah, peace and blessings be upon him, is reported to have said, “Surely, Allah is Good and never accepts but what is good.”

This may explain why the righteous predecessors stipulate a condition that for any act to be religiously accepted, it should be done solely for Allah’s Sake, and it should be according to the Prophetic Sunnah. Thus, it can never be deemed permissible for a Muslim to use religiously prohibited means to attain a certain goal he himself deems noble while in fact it may be void of nobility.

Again, in realizing his self-assumed noble goals a Muslim is not permitted to use prohibited means that is based on humiliating people, terrorizing them and shedding their blood unlawfully.

What adds fuel to the flames is the claim of responsibility assumed by people who mastermind such attacks, saying that they do it in the name of Islam. With this, whatever crimes they do is automatically blamed on Islam, which is wrong and unacceptable.

Islam considers attacks against non-Muslims, who do not launch war against Muslims, as a form of injustice that is both prohibited and abhorred by the Qur’an, the Prophetic Sunnah and the noble teachings of the Prophet’s Companions, may Allah be pleased with them all.

Not only that, but the pure understanding of Muslim jurist, the true spirit of the Muslim civilization, and the main moderate stream of this Muslim Ummah all categorically deny such heinous crimes against humanity, which is no more than a total barbarism that is void of morality and human feeling as well. Such barbaric actions require Muslim scholars who possess a clear and well versed view of Islam to exert double and concerted efforts to help the baffled masses understand the truth.

True are the words of Allah and He Almighty guides to the Straight Path.”

SINGAPORE MUSLIM ORGANISATIONS' LETTER OF CONDOLENCE ON BALI BOMBING³¹⁶

15th October 2002

His Excellency Mr Eddi Hariyadi,
Deputy Chief of Mission,
Embassy of the Republic of Indonesia,
7 Chatsworth Road,
Singapore 249761.

Your Excellency,

It is with a deep sense of horror that we learn of the bomb blast in Bali that had taken a death toll of more than 180 people and injured hundreds of others.

We unreservedly condemn such outrageous acts of atrocity and violence on innocent civilians.

This tragedy reminds us that terrorism cannot be taken lightly and for granted, and that even a peaceful resort island like Bali can be attacked. There is a need to take the security of civilians seriously, and to remind ourselves to be vigilant. It is with this in mind that we hereby pledge our support for all efforts directed at bringing about greater social harmony and goodwill amongst the different communities.

We also recognize there is a pressing need to determine and address the underlying causes of the hatred and bitterness that has led to an increasing number of acts of extremism and violence in the world. Not enough has been done in this respect.

We are confident that the Indonesian authorities will spare no effort in taking swift and stern actions against all persons that were responsible for the planning and execution of these bomb blasts, and to ensure that justice is done for the victims and their families.

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We offer our deepest condolences to the injured victims and the families of those who have died as a result of the bomb blasts. Our prayers are with them. In addition, we remember, in our prayers, the majority of the people of Indonesia who are innocent, but have become unnecessarily implicated because of the acts of crime and terror of a fanatic minority.

The letter was jointly signed with PERDAUS, MUHAMMADIYAH, Islamic Fellowship Association and Centre for Contemporary Islamic Studies.

JOINT STATEMENT OF MUSLIM LEADERS CONDEMNING LONDON BOMBING ON 7 JULY 2005³¹⁷

In the name of Allah, the all-Merciful, the most Compassionate

A special meeting of imams (leaders) and ulama (scholars) held at the Islamic Cultural Centre, Regents Park, London on 15th July 2005 endorsed the following declaration:

Along with all Londoners and the people of Britain, we are deeply shocked and saddened by the bombing attacks of 7 July 2005 that caused the loss of at least 52 innocent lives, wounded hundreds and disrupted the peace and order of the civic and community life of the metropolis. We regard these acts as utterly criminal, totally reprehensible, and absolutely un-Islamic.

On behalf of our communities and congregations, we express heartfelt sorrow and extend condolences to the families and friends of the victims. We pray for the speedy recovery of the injured. We extend our sympathy to the entire British public, a nation to which we all belong by the Grace of God.

There can never be any excuse for taking an innocent life. The Qur'an clearly declares that killing an innocent person was tantamount to killing all mankind and likewise saving a single life was as if one had saved the life of all mankind. (The Qur'an, Al-Maidah 5:32) This is both a principle and a command.

We are firmly of the view that these killings had absolutely no sanction in Islam, nor is there any justification whatsoever in our noble religion for such evil actions. It is our understanding that those who carried out the bombings in London should in no sense be regarded as martyrs.

It is incumbent upon all of us, Muslims and non-Muslims - to help the authorities with any information that may lead to the planners of last week's atrocity being brought to justice. The pursuit of justice for the victims of last week's attacks is an obligation under the faith of Islam.

Islam is the middle path and the Qur'an designates Muslims as the *ummatan wasata* -- the middle community. Any form of extremism is to be utterly and completely rejected. What we need, therefore, in our troubled world, more than ever before is to stick to the middle and balanced way of Islam.

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We need also to remind ourselves, young as well as old, that the solution to our problems and concerns lies in following and adhering to the noble discipline of Islam and to the way of the Prophet, peace be upon him, and not falling prey to a culture of conflict and discord. The social culture of Islam is based on the principle of inviting people towards good, courteously and wisely - with *Hikmah* and *mawizah Hasana*. (The Qur'an, Al-Nahal, 16:125) The Prophet Muhammad, peace be on him, was sent as a mercy to mankind and that is the ideal and norm that we ought to be following all the time.

The tragedy of 7th July 2005 demands that all of us, both in public life and in civil and religious society, confront together the problems of Islamophobia, racism, unemployment, economic deprivation and social exclusion - factors that may be alienating some of our children and driving them towards the path of anger and desperation. Islam prohibits both anger and desperation. Anger and desperation are *haram* (forbidden) and may lead to some people being targeted by people with a sinister and violent agenda. There is, therefore, a great deal of positive work to be done together with everyone in our own and wider community in order to channel the energy and talent of our youth particularly into constructive avenues, serving God and society for the common good. The youth need understanding, not bashing.

We do naturally feel deeply for the sufferings, injustices and oppression the world over. Yet we also remind ourselves of the verse of the Qur'an, "O you who believe! Be steadfast witnesses for Allah in equity and let not abhorrence of any people make you swerve from justice. Deal justly, that is nearer to God-fearing. Fear Allah. Allah is aware of what you do." (Al-Maidah, 5:8)

We also call on the international community to work towards just and lasting peace settlements in the world's areas of conflict and help eliminate the grievances that seem to nurture a spiral of violence. We also urge the media to refrain from character assassinations of our reputable scholars and denigration of the community.

We reiterate our resolve and commitment to work towards nurturing an identity that is true to its faith and its rights and responsibilities of British citizenship. Finally, we pray to God Almighty to bless all the people of the world with His Peace and Mercy. *Wa akhiru da'wana ani-Ihamdulillahi rabbil-alameen.*

The meeting was convened by The Muslim Council of Britain with the British Muslim Forum and other leading national and regional organisations from across

the country. Signatories to the Declaration included:

- Shaykh Ali Ahdash, Muslim Cultural Heritage Centre, London.
- Dr. Manazir Ahsan, The Islamic Foundation, Leicester.
- Maulana Jomshed Ali, The Council of Mosques, Tower Hamlets.
- Hussain Ali, The Council of Mosques, Tower Hamlets.
- Mufti Muhammad Aslam, Jamiat Ulama-e-Britain.
- Khateeb Muhammad Iqbal Awan, UK Islamic Mission, Luton.
- Muhammad Azim, Kashmir Forum UK.
- Mufti AbdulKader Barkatulla, Senior Imam, Finchley Mosque.
- Imam Driss Boumzough, Imam, Moroccan Muslim Community of London.
- Abdal Choudhury, British Muslim Action Front.
- Maulana Abdal Choudhury, The Council of Mosques, Tower Hamlets.
- Shaykh Ahmed Dahdorh, Muslim Cultural Heritage Centre, London.
- Dr. Ahmed Dubyan, Islamic Cultural Centre & London Central Mosque.
- Abdel Shaheed EI-Ashal, Muslim Association of Britain.
- Shaykh Muslehuddin Faradhi, Islamic Forum Europe.
- Shaykh Rached Ghannoushi.
- Maulana Moudood Hasan, Uleman Council of Da'watullslam.
- Shaykh Suhaib Hasan, Islamic Shariah Council.
- Dr. Usama Hasan, Imam, Masjid Al-Tawhid, Leyton.
- Maulana Mahmoodul Hassan, Da'watullslam.
- Hafiz Shamsul Hoque, Imam, Eshatullslam Mosque, Ilford.
- Hafiz Maulana Shamsul Hoque, The Council of Mosques, Tower Hamlets.
- Aboochitar Khaled, International Muslim Committee.
- Dr. Abddul Karim Khalil, Muslim Cultural Heritage Centre, London.
- Maulana Masood Alam Khan, Jamia Islamia, Birmingham.
- Shaykh Hokei Majouli, Muslim Welfare House Trust.
- Professor Sayyid Fadhil Milani, International College for Islamic Studies.
- Ahmed Sheikh Mohamed, Muslim Association of Britain.
- Hasan Mueenuddin, Da'watullslam UK & Eire.
- Maulana Gul Muhammad, British Muslim Forum.
- Maulana Farooq Mulla, Lincoln Mosque.
- Professor Dawud Noibi, Nigerian Muslim Community & Imam, Old Kent Road Mosque.
- Maulana Muhammad Imdad Hussain Pirzada, Jamia-al-Karam, Nottingham.

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- Maulana Bostan Qadri, Confederation of Sunni Mosques, Midlands.
- Shaykh Abdul Qayoom, Imam, East London Mosque.
- Maulana Muhammad Shahid Raza, The World Islamic Mission & Imam, Leicester Central Mosque.
- Maulana Sayyid Mohammad Sabzwary, Al Asr Community & Education Centre
- Maulana Ismail Ali Shah, Jamiat Ulama-e-Britain.
- Maulana Muhammad Akram Khan, UK Islamic Mission, Luton.

Messages of support were received from other ulama including Dr MusharrafHussain, Karimia Institute, Nottingham, and Maulana Ismail, Birmingham Central Mosque.

STATEMENT OF INTERNATIONAL ASSOCIATION OF MUSLIM SCHOLARS ON SHARM EL-SHEIKH BOMBING, EGYPT ON 23 JULY 2005³¹⁸

In the Name of Allah, Most Gracious, Most Merciful.

All praise and thanks are due to Allah, and peace and blessings be upon His Messenger.

All thanks and praise are due to Allah, and peace and blessings be upon the Messenger of Allah who was sent as a mercy to the whole world. Peace and blessings be upon the rest of the prophets and messengers, and those who honorably followed them until the Day of Judgment.

The International Association of Muslim Scholars (IAMS) was really appalled to see the bloody incidents both inside and outside the Muslim world such as those that took place in Egypt, London, Turkey, and other countries. Such grisly incidents left behind great numbers of innocent civilian casualties who were killed in cold blood without any sin committed on their part. The IAMS, which is keen to clarify Islam's stance concerning these grisly bombings, decides the following for the whole Muslim Ummah and other nations:

1. All divine religions in general and Islam in particular assert the sanctity of human life and strongly prohibit aggression against it. All divine religions clearly state that the blood of all human beings is sacred and unlawful to shed unless the human being himself committed a criminal act or caused corruption in the land or transgressed against the lives of others. The Qur'an, along other divine scriptures, states that, "Whosoever killeth a human being for other than manslaughter or corruption in the earth, it shall be as if he had killed all mankind, and whoso saveth the life of one, it shall be as if he had saved the life of all mankind." (Al-Ma'idah 5:32).
2. Islam considers killing others and taking their lives as one of the gravest of sins in the sight of Allah. Such heinous sin and abominable crime lead to Allah's curse in this world and His severe punishment in the Hereafter. In addition, committing such a crime is a strong support for the application of retaliation or *qisas* on the perpetrator and it makes no difference whether the one they killed is a Muslim or a non-Muslim. Allah Almighty says, "Whoso slayeth a believer of set purpose, his reward is Hell for ever. Allah is wroth against him and He hath cursed him and prepared for him an awful doom." (An-Nisaa' 4:93). The above divine warning encompasses

all those who utter the Shahadatayn (Two Shahadahs)—testifying that there is no God but Allah and that Muhammad is the Messenger of Allah. The Prophet (peace and blessings be upon him) strongly condemned `Usamah ibn Zayd when he killed a man in one of the battles after the man had uttered the Shahadatayn. The Prophet addressed `Usamah saying, “Have you killed him after he uttered the Shahadatayn, `Usamah!” To this `Usamah responded, “Prophet of Allah, he uttered the Shahadatayn for fear of the sword (that is, in order to save himself from being killed).” The Prophet (peace and blessings be upon him) then said, “Have you split his heart into two pieces?” Thus, we are to deal with people as Muslims as long as they are apparently known to be Muslims. The above ruling also applies to those who have a permanent pledge with Muslims. This category of people is named by Muslim jurists as *Dhimmi* or non-Muslims living under the protection of the Muslim state. This category is protected by the covenant of Allah, His Prophet, and the whole Muslim Ummah. They are known, according to all jurists, as *ahl dar al-Islam* or the people belonging to the abode of Islam; they are citizens who enjoy the same rights and bear the same responsibilities as Muslims.

There is another category of people who have an interim pledge with Muslims, such as those who enter Islamic territories through the state authorities or any other recognized body such as travel agencies, etc. The individual pledge of security of a single person is as effective as the state pledge, and it prohibits any violation or cancellation of this individual pledge.

With this in mind, Islam considers the act of issuing an entrance visa to a tourist to be a pledge of security given to this tourist, and hence it categorically prohibits transgressing the security given to tourist. The Prophet (peace and blessings be upon him) is reported to have said, “Anyone who kills a *Dhimmi* will not smell the fragrance of Paradise” (Al-Bukhari).

3. Islam, which prohibits killing innocent civilians, also prohibits terrorizing the secured and terrifying the peaceful. Islam considers it a basic right that everyone enjoys security regarding himself, his family, his property, his religion, and all other special rights that man strives to protect. Islam ranks safety as one of the top blessings Allah favored man with, and it considers committing any violation against this safety as an act that entails Allah’s curse in the Hereafter and His punishment in this world. It is no wonder that Islam stresses the punishment of theft and highway robbery, as such

crimes threaten the security of people.

Islam also prohibits terrorizing the Muslim even if it is done jokingly. The Prophet (peace and blessings be upon him) stressed this when he said to a Muslim who jokingly terrorized his brother, "It is not permissible for a Muslim to terrorize another Muslim." In this hadith, the Prophet did not intend terrorizing Muslims in particular, but the word *Muslim* was mentioned in the above hadith because the context of the situation was that a Muslim terrorized another Muslim and not somebody else (that is, a non-Muslim). With all this in mind, the Prophetic hadith assures "The believer is the one to whom people feel secured regarding their blood and property."

4. The Islamic Shari`ah basically asserts openly that every man is responsible for his own actions, mistakes, and crimes. A person is not responsible for mistakes or crimes done by others unless he is personally sharing in them. Allah Almighty says, "Each soul earneth only on its own account, nor doth any laden bear another's load." (Al-An`am 6:164).

Moreover, the Qur'an declares that this ruling is shared by all divine scriptures, as Allah Almighty says, [Or hath he not had news of what is in the books of Moses. And Abraham who paid his debt. That no laden one shall bear another's load] (An-Najm 53:36-38).

Based on this, it is not permissible to punish the innocents because of an act committed by the guilty or to punish the group for a sin committed by a handful of its individuals. Taking the rough with the smooth, as far as the issue in point is concerned, is an erroneous judgment that does not belong to the Shari`ah. The Islamic Shari`ah has nothing to do with the acts of those few deviated people who follow its teachings but change them from their proper contexts. They claim to punish people because of injustices done by their rulers.

Reality bears witness that the victims of those crimes are the peaceful citizens such as those who were killed in London bombings recently while going to their work in the morning or going to their schools, universities, etc. The same are those victims killed in the bombings that hit the Egyptian Red Sea resort of Sharm El-Sheikh. Those innocent victims are peaceful Egyptians and tourists given the pledge of security as clarified above.

5. The ethical constitution of legitimate war in Islam dictates that it is prohibited to kill anyone except those who are fighting. In this legitimate war, fighting is restricted to face-to-face confrontation between Muslims and the army of the aggressors. Upon seeing a woman killed in the battlefield, the Prophet (peace and blessings be upon him) renounced the act and said, "That woman shouldn't have been killed anyway!"

Moreover, the Prophet (peace and blessings be upon him) forbade killing women, children, the aged, monks in their hermitages, farmers in their lands, and traders. This ruling of prohibition is stressed by the Qur'anic verses, the Prophetic hadiths, as well as the directives given by the Rightly-Guided Caliphs.

How come that people who neither carry a weapon nor participate in war against Muslims practically or verbally are killed?

6. The IAMS has previously issued a fatwa related to the prohibition of kidnapping innocents who have nothing to do with war. Even if it happened that an innocent is kidnapped, then he should be dealt with honorably, as he enjoys the same honorable status of treatment that should be rendered to the prisoners of war (POWs) whom the Prophet ordered his followers to treat kindly, as Allah Almighty says regarding them: [and afterward either grace or ransom till the war lay down its burdens] (Al-Ahqaf 47:4).

For the above, the IAMS has asked the kidnapers to fear Allah regarding those who kidnapped them, and to treat them honorably until they set them free. The IAMS took part in releasing the French and Italian hostages in Iraq, and it has condemned the killing of the head of the Egyptian diplomatic mission in Iraq, too, and these days it calls for the release of the Algerian diplomat in Iraq and those kept with him.

7. Indeed, the IAMS condemnation of all these bombings and devastating acts that aim at killing others, demolishing their infrastructure, and terrorizing them, doesn't mean that we justify the injustices and tragedies against Muslims in Palestine, Iraq, Afghanistan, and other Muslim countries. As Muslims, we should resist these injustices and tragedies using legitimate means. It is not permissible to take the occurrence of such injustices as a

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pretext to perpetrate criminal acts. The IAMS calls for mutual cooperation between the rulers and the ruled to stand together to face these immense threats imposed on the whole Muslim Ummah. Such threats require concerted efforts to be done in order to achieve mutual aims.

I am writing this declaration from my sick bed as a response to the covenant Allah took on the scholars to clarify the truth to mankind and not to hide it. This will help free Islam from the baseless accusations ascribed to it among which are torture, killing, displacement, exemplary punishment, suppression, and violation of the sanctity of others. This will also help us refute the claims of those who are deviating from the straight path of Islam and are changing its teachings from their proper contexts so that, [those who perish might perish by a clear proof and those who survive might survive by a clear proof] (Al-Anfal 8:42).

Our final supplication is to thank and praise Allah, the Lord of the worlds.

**ISLAMIC RELIGIOUS COUNCIL OF SINGAPORE CONDEMNATION STATEMENT
OF LONDON AND SHARM EL-SHEIKH BOMBING**

8 July 2005

The Islamic Religious Council of Singapore expresses its sadness and sorrow for the lost of innocent lives and injuries of many as a result of the series of bomb blast that rocked London.

We strongly condemn this act of inhumanity and denounce the perpetrators who have no regard for the sanctity of human life, which we hold in the highest possible regard.

Let us raise our hands in prayer for the families and relatives of those who perished and injured, victims of nothing of their own doing. May they, and the people in London, be given the comfort and strength in the face of this difficult and troubled time.

25 July 2005

The Islamic Religious Council of Singapore (Muis) views with outrage at the merciless killings of innocent people over the bomb attacks in Sharm Al-Sheikh. We stand by our statement early this month in connection with the London bombings that such terrorist acts that do not sanctify the value of human life need to be condemned in the harshest term possible.

On behalf of the Muslim community in Singapore, Muis would like to convey our deepest condolences to the people of Egypt. We raise our hands in prayers for the families of the victims of this horrific act and may they given the patience and fortitude to overcome this tragedy.

FATWA AGAINST TERRORISM BY U.S. MUSLIM RELIGIOUS COUNCIL³¹⁹

The Fiqh Council of North America wishes to reaffirm Islam's absolute condemnation of terrorism and religious extremism.

Islam strictly condemns religious extremism and the use of violence against innocent lives. There is no justification in Islam for extremism or terrorism. Targeting civilians' life and property through suicide bombings or any other method of attack is haram – or forbidden - and those who commit these barbaric acts are criminals, not “martyrs.”

The Qur'an, Islam's revealed text, states: “Whoever kills a person [unjustly]...it is as though he has killed all mankind. And whoever saves a life, it is as though he had saved all mankind.” (Qur'an, 5:32)

Prophet Muhammad said there is no excuse for committing unjust acts: “Do not be people without minds of your own, saying that if others treat you well you will treat them well, and that if they do wrong you will do wrong to them. Instead, accustom yourselves to do good if people do good and not to do wrong (even) if they do evil.” (Al-Tirmidhi)

God mandates moderation in faith and in all aspects of life when He states in the Qur'an: “We made you to be a community of the middle way, so that (with the example of your lives) you might bear witness to the truth before all mankind.” (Qur'an, 2:143)

In another verse, God explains our duties as human beings when he says: “Let there arise from among you a band of people who invite to righteousness, and enjoin good and forbid evil.” (Qur'an, 3:104)

Islam teaches us to act in a caring manner to all of God's creation. The Prophet Muhammad, who is described in the Qur'an as “a mercy to the worlds” said: “All creation is the family of God, and the person most beloved by God (is the one) who is kind and caring toward His family.”

In the light of the teachings of the Qur'an and Sunnah we clearly and strongly state:

1. All acts of terrorism targeting civilians are haram (forbidden) in Islam.
2. It is haram for a Muslim to cooperate with any individual or group that is

involved in any act of terrorism or violence.

3. It is the civic and religious duty of Muslims to cooperate with law enforcement authorities to protect the lives of all civilians.

We issue this fatwa following the guidance of our scripture, the Qur'an, and the teachings of our Prophet Muhammad – peace be upon him. We urge all people to resolve all conflicts in just and peaceful manners.

We pray for the defeat of extremism and terrorism. We pray for the safety and security of our country, the United States, and its people. We pray for the safety and security of all inhabitants of our planet. We pray that interfaith harmony and cooperation prevail both in the United States and all around the globe.

Fiqh Council Of North America

Members

1. Dr. Muzammil H. Siddiqi
2. Dr. Abdul Hakim Jackson
3. Dr. Ahmad Shleibak
4. Dr. Akbar Muhammad
5. Dr. Deina Abdulkadir
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8. Dr. Jamal Badawi
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12. Dr. Salah Soltan
13. Dr. Taha Jabir Alalwani
14. Shaikh Yahya Hindi
15. Shaikhah Zainab Alwani
16. Dr. Zulfiqar Ali Shah
17. Dr. Mukhtar Maghraoui
18. Dr. Nazih Hammad

Endorsed By:

145 Muslim organizations, mosques and imams have endorsed the preceding fatwa as of July 28, 2005 (see below). [Individual signatories not included here]

1. Council on American-Islamic Relations (CAIR)
2. Islamic Society of North America (ISNA)
3. Islamic Circle of North America (ICNA)
4. Muslim Public Affairs Council (MPAC)
5. Muslim American Society (MAS)
6. Muslim Student Association of the US & Canada (MSA)
7. Canadian Council on American-Islamic Relations
8. American Federation of Muslims of Indian Origin
9. American Muslim Alliance
10. Canadian Council on American-Islamic Relations
11. Council of Shia Muslim Scholars of North America
12. Islamic Networks Group & Affiliates
13. Muslim Public Affairs Council
14. Muslim Student Association of the US & Canada
15. USA Halal Chamber of Commerce, Inc & The Islamic Center for Halal Certification
16. Islamic Center of America
17. Islamic Sharia Advisory Institute of North America
18. Islamic Resource Group
19. Islamic Schools League of America
20. Kashmiri American Council
21. Minaret of Freedom Institute
22. Project Islamic HOPE
23. United Muslims of America
24. Muslim Ummah of North America
25. Islamic Shura Council of Southern California
26. Islamic Center of Northeast Florida
27. Islamic Center of South Florida
28. Islamic Foundation of South Florida
29. Islamic Movement of Florida
30. Islamic Society of Central Florida
31. Islamic Society of Tampa Bay Area
32. The Council of Islamic Organizations of Greater Chicago
33. Islamic Center of New England
34. Islamic Center of Maryland
35. Islamic Society of Washington Area
36. Muslim Federation of New Jersey
37. Islamic Council of Ohio
38. Islamic Foundation of Central Ohio
39. Virginia Muslim Political Action Committee

40. Islamic Association of West Virginia
41. Islamic Center of Little Rock
42. Greenway Islamic Center
43. Afghan Cultural Center
44. Al Nur Islamic Center
45. American Muslim Voice
46. Blossom Valley Muslim Community Center
47. Dar As-Salaam, Islamic Society of San Francisco
48. Elmhurst Islamic Center
49. Hidayah Foundation
50. Indian Muslim Relief & Charities
51. Islamic Center Of Fremont
52. Islamic Center of Pleasanton/Dublin
53. Islamic Center Of Reseda
54. Islamic Education Center
55. Islamic Learning and Practicing
56. Islamic Society of Orange County
57. Long Beach Islamic Center
58. Masjid Al-Rasul
59. Masjid Al-Taqwa
60. Muslim Community Association of the Peninsula
61. Muslim Community Association of the San Francisco Bay Area
62. Muslim Community Center of San Francisco
63. Muslim Community Services, Inc.
64. South Bay Islamic Association
65. South Valley Islamic Center
66. Yaseen Foundation and the Muslim Community Center
67. Masjid Al-Kauthar
68. Assadiq Islamic Educational Foundation
69. Bay County Islamic Society Inc
70. Islamic Center of Boca Raton
71. Islamic Center of Tampa
72. Islamic Jaffaria Association
73. Islamic Society of Pinellas County
74. Masjid Al-Ansar
75. Masjid Al-Faizal
76. Masjid Al-Hijrah
77. Masjid Al-Ihsan
78. Masjid Al-Nahl
79. Masjid An-Noor

80. Masjid Jama Al Mumineen
81. Masjid Miami
82. Masjid Muttaqeen
83. Masjid Sahmsuddin
84. Miami Gardens Masjid
85. Muslim Community of Palm Beach County
86. Nur Ul Islam
87. Palm Beach Mosque
88. Dalton Islamic Center
89. Islamic Center of Marietta
90. Masjid Al Muminun
91. Islamic Center of Des Moines
92. Masjid Dar-ul-Argum
93. Belleville Mosque and Islamic Education Center
94. Masjid Centralia
95. The Mosque Foundation
96. The Muslim Community Center
97. Islamic Society of Michiana
98. Islamic Center of Somerset
99. Islamic Association of Greater Shreveport
100. Masjid Abu Bakr Al Siddique
101. Islamic Society of Boston
102. Howard County Muslim Council
103. Islamic Society of Annapolis
104. Islamic Society of Baltimore
105. Mecca Learning Center
106. Muslim Community Center
107. Islamic House of Wisdom
108. Kalamazoo Islamic Center
109. Al-Mu'minun Islamic Center
110. Daar-ul-Islam Masjid
111. Islamic Center of Cape Girardeau
112. Islamic Society of Greater Kansas City
113. Masjid Al Heyder
114. Masjid Mohammed
115. Islamic Association of Cary
116. Islamic Association of Raleigh
117. Islamic Center of Raleigh
118. American Islamic Academy
119. Islamic Center Passaic County

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120. Islamic Center Old Bridge
121. Islamic Educational Center North Hudson
122. Islamic Society Essex County
123. Muslim Center of Middlesex County
124. Siddiquia Jamia Masjid
125. Umar Mosque
126. Islamic Center of New Mexico
127. First Cleveland Mosque
128. Islamic Center of Cleveland
129. Islamic Society of Greater Columbus
130. Masjid Saad Foundation
131. Uqbah Mosque Foundation
132. Islamic Center of Portland, Masjid As-Saber
133. Foundation for Islamic Education
134. Muslim Community of Knoxville
135. Muslim Community of North East Tennessee
136. Masjid Al-Noor
137. Islamic Society of Greater Houston
138. Muslim Children Education & Civic Center
139. Islamic Society of Salt Lake City
140. All Dulles Area Muslim Society (ADAMS)
141. Darassalam
142. Islamic Center of Virginia
143. Masjid Darul Huda
144. Muslim Association of Virginia
145. Mustafa Center
146. Islamic Center of Blacksburg VA

NOTES

¹ Muhammad Haniff Hassan, *Key Considerations in Counter-Ideological Work Against Terrorist Ideology*, M.Sc. diss., Institute of Defence and Strategic Studies, Nanyang Technological University, 2005, pp. 3-9, 14.

² *Ibid.*, pp. 15-6.

³ Collection of Prophet Muhammad's deeds, statements and concessions – as defined by Abdul Rahman b. Yusuf, *The Science of Hadith: An Introduction*, available at <http://www.sunnipath.com/resources/Questions/qa00002867.aspx> (19 July 2005).

⁴ The science of source methodology of Islamic jurisprudence. It has been defined “as the aggregate, considered per se, of legal proofs and evidence that, when studied properly, will lead either to certain knowledge of a Shari'ah ruling or to at least a reasonable assumption concerning the same; the manner by which such proofs are adduced, and the status of the adducer. As its subject matter, this science deals with the proofs in the Shari'ah source-texts, viewing them from the perspective of how, by means of Ijtihad, legal judgements are derived from their particulars; though after, in cases where texts may appear mutually contradictory, preference has been established.” See Tahir Jabir Al-`Alwani, *Usul Al-Fiqh Al-Islami, Source Methodology for Islamic Jurisprudence: Methodology for Research and Knowledge*, Chapter One, available at http://www.usc.edu/dept/MSA/law/alalwani_usulalfiqh/ch1.html (19 July 2005). Hashim Kamali, *Introduction to Usul Fiqh*, available at http://www.bysiness.co.uk/kitaabun01/introduction_to_usul_al.htm (19 July 2005).

⁵ Also known as *Ulum Al-Quran*. It is the science of interpretation of Al-Quran. See Ahmad Von Denffer, *Ulum Al-Quran: An Introduction of Sciences of Al-Quran*, available at <http://www.islamworld.net/UUQ/> (18 July 2005).

⁶ Also known as *Mustalah Al-Hadith*. It is the science in the study of *hadith*. Its objective is to determine the authenticity of a *hadith* and how rulings can be deduced from it. See Suhayb Hasan, *An Introduction to the Sciences of Hadith*, available at <http://www.sunnahonline.com/ilm/sunnah/0008.htm#2> (19 July 2005); Abdul Rahman b. Yusuf, *The Science of Hadith: An Introduction*, available at <http://www.sunnipath.com/resources/Questions/qa00002867.aspx> (19 July 2005).

⁷ Muhammad Haniff Hassan, *Key Considerations in Counter-Ideological Work Against Terrorist Ideology*, p. 12.

⁸ Thomas R. Mockaitis, “Winning hearts and minds in the war on terrorism”, *Grand Strategy; In the War Against Terrorism*, edited by Thomas R. Mockaitis and Paul B. Rich, Frank Cass, London, 2003, pp. 28-9.

- ⁹ Muhammad Haniff Hassan, *Key Considerations in Counter-Ideological Work Against Terrorist Ideology*, p. 13.
- ¹⁰ The information in this section is extracted from Bali bombing I attack profile developed for terrorism database of International Centre for Political Violence and Terrorism Research, Institute of Defence and Strategic Studies. Published here with permission.
- ¹¹ Yuli Ismartono, "Terror in Paradise", *TEMPO*, No. 06/III, 15-21 October 2002.
- ¹² "Nirvana after the blast", *TEMPO*, No. 07/III, 22-28 October 2002.
- ¹³ *Ibid.*
- ¹⁴ Australian Federal Police, *Operation Alliance: Investigating the Bali Bombing of 12 October 2002*, available at <http://www.afp.gov.au/afp/page/News/OperationAlliance.htm> (6 June 2005).
- ¹⁵ Cindy Wockner, "DNA reveals bomber died in blast", *The Sunday Telegraph (Sydney)*, 12 January 2003.
- ¹⁶ Australian Federal Police, *Operation Alliance: Investigating the Bali Bombing of 12 October 2002*, available at <http://www.afp.gov.au/afp/page/News/OperationAlliance.htm> (6 June 2005).
- ¹⁷ Yuli Ismartono, "Terror in Paradise", *TEMPO*, No. 06/III, 15-21 October 2002.
- ¹⁸ Australian Federal Police, *Operation Alliance: Investigating the Bali bombing of 12 October 2002*, available at <http://www.afp.gov.au/afp/page/News/OperationAlliance.htm> (6 June 2005).
- ¹⁹ *Ibid.*
- ²⁰ "Nirvana after the blast", *TEMPO*, No. 07/III, 22-28 October 2002.
- ²¹ Imam Samudra, *Aku Melawan Teroris*, Jazera, Solo, 2004, p. 22.
- ²² *Ibid.*; "Imam Samudra: Aku kenali Ba`asyir dan Hambali", *Sinar Harapan*, 26 November 2002.
- ²³ *Ibid.*, p. 23.
- ²⁴ Transcript of Imam Samudra police interview (English translated version) held on 29 November 2002.
- ²⁵ Imam Samudra, *Aku Melawan Teroris*, pp. 24-31.
- ²⁶ *Ibid.*, pp. 27-9.
- ²⁷ *Ibid.*, pp. 32-3.
- ²⁸ *Ibid.*, pp. 34-5, 38.
- ²⁹ *Ibid.*, pp. 41-4; "Imam Samudra: "Demi Allah, tak akan selesai"", *Tempo Interaktif*, 19 October 2003, available at <http://www.tempointeraktif.com/hg/narasi/2004/09/10/nrs.20040910-08.id.html> (7 July 2005).
- ³⁰ "Imam Samudra: Aku kenali Ba`asyir dan Hambali", *Sinar Harapan*, 26 November 2002.
- ³¹ Transcript of Imam Samudra police interview (English translated version) held on 29 November 2002.
- ³² "The Bali bombing suspects", *BBC News*, 24 August 2004, available at <http://news.bbc.co.uk/1/hi/world/asia-pacific/2385323.stm> (8 July 2005); "Chief planner of Bali bombing", *Laksamana.net*, 17 November 2002.

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- ⁴³ *Ibid*, pp. 115–6.
- ⁴⁴ *Ibid*, pp. 116–9.
- ⁴⁵ *Ibid*, pp. 120–2.
- ⁴⁶ *Ibid*, pp. 123– 34.
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- ⁵⁸ Ibid, p. 1588-91.
- ⁵⁹ The Quran, 5:9.
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- ⁶⁵ Ibid, pp. 171-2
- ⁶⁶ Sheikh Faisal Mawlawi, *Al-Mafahim Al-Asasih Li Ad-Da`wah Al-Islamiah Fi Bilad Al-Gharb*, available at <http://www.mawlawi.net/Kutub.asp?cid=109&cc=aaa> (9 May 2005).
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⁷⁰ Muhamamad bin Ali Asy-Syaukani, *Irsyad Al-Fuhul Ila Tahqiq Al-Haq Min Ilm Al-Usul*, Dar Al-Kutub Al-Ilmiyah, Beirut, 1999, vol. 1, pp. 532-4; Abu Ishaq Asy-Syatibi, *Al-Muwafaqat Fi Usul Al-Fiqh*, vol. 3, pp. 97-8, pp. 233-5.

⁷¹ Ibid, vol. 1, p. 475; Abu Hamid Al-Ghazali, *Al-Mustasfa Min Ilm Al-Usul*, vol. 2, p. 48.

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⁷⁵ Muhammad bin Jarir At-Tabari, *Jami` Al-Bayan `An Takwil Ayi Al-Quran*, vol. 6, part 10, pp. 62-3; Muhammad b. Ahmad Al-Qurtubi, *Al-Jami` Li Ahkam Al-Quran*, vol. 4, part 8, p. 50-1; Maulana Muhammad Ali, *The Religion of Islam*, Pustaka Perkim, Malaysia, date not cited, pp. 555-6.

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- ¹¹⁸ This "unity in diversity" is frequently stressed in other Quranic verses, see 2:148, 21: 92-93 and 23:52.
- ¹¹⁹ The Quran, 2:217
- ¹²⁰ Muhammad b. Ahmad Al-Qurtubi, *Al-Jami' Li Ahkam Al-Quran*, vol. 3, part 3, p. 32; Muhammad bin Jarir At-Tabari, *Jami' Al-Bayan `An Takwil Ayi Al-Quran*, vol. 2, part 2, p. 354.
- ¹²¹ *Lafaz `Am* is defined as "a word, which applies to many things. Not limited in number, and includes everything to which it is applicable. An example is the word '*insan*' (human being) in the verse "Verily, the human being is in loss." (The Quran, 103:1)" In this example the word '*insan*' (human being) includes every human being without any limitation. "*Am*" is basically a word that has a single meaning, but which applies to an unlimited number without any restriction." See Mohammad Hasan Kamali, *Principles of Islamic Jurisprudence*, Ilmiah Publishers, Selangor, 1999, p. 104.

¹²² Asy-Syaukani, *Irsyad Al-Fuhul Ila Tahqiq Al-Haq Min Ilm Al-Usul*, vol. 1, pp. 446; Al-Ghazali, *Al-Mustasfa Min Ilm Al-Usul*, vol. 2, p. 36; Mohammad Hasan Kamali, *Principles of Islamic Jurisprudence*, p. 104, 111.

¹²³ Ibid, vol. 1, p. 465.

¹²⁴ See Muhammad Haniff Hassan, *Muslim... Moderate... Singaporean*, Al-Khair Mosque and Perdaus, Singapore, 2003, pp. 8-10.

¹²⁵ Safiur Rahman Al-Mubarakpuri, *Ar-Raheeq Al-Makhtum*, p. 346.

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¹³⁰ Abdullah Azzam, *Defence of Muslim Lands: The First Obligation After Iman*, available at http://www.religioscope.com/info/doc/jihad/azzam_defence_1_table.htm (30 June 2005).

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¹³⁴ Abdullah Azzam, *Defence of Muslim Lands: The First Obligation After Iman*, available at http://www.religioscope.com/info/doc/jihad/azzam_defence_1_table.htm (30 June 2005).

¹³⁵ Each of these maxims requires detailed explanations as to its basis, application and exceptions. As it is not the objective of this book to discuss the maxims, the explanations are not included here. It is important not to use the maxims literally. Detailed explanations on these maxims may be found in these references:

- Jalal Ad-Din As-Suyuti, *Al-Asybah Wa An-Nazair*, Dar Al-Kutub Al-`Arabiyah, Indonesia, date not cited.
- Yusuf Al-Qaradhawi, *Fi Fiqh Al-Awlawiyat Dirasah Jadidah Fi Dhau' Al-Quran Wa As-Sunnah*, Maktabah Wahbah, Cairo, 1995, pp. 28 – 30.
- Mukhtar Yahya & Fatchurrahman, *Dasar-dasar Pembinaan Hukum Fiqh Islami*, PT Al-Maarif, Bandung, 1993.

¹³⁶ This means the general objectives of the *syariah*, which are to;

- Safeguard the religion
- Safeguard the life
- Safeguard the mind
- Safeguard the lineage
- Safeguard the property

See Abu Ishaq Asy-Syatibi, *Al-Muwafaqat*, Dar Al-Makrifah, Beirut, 1997, vol. 2, p. 324-7; Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, pp. 397-9.

¹³⁷ It refers to something that is required as a necessity in life. Its absence will cause damage and destruction to life. See Abu Ishaq Asy-Syatibi, *Al-Muwafaqat*, vol. 2, p. 324.

¹³⁸ It refers to something that is required as a convenience in life. Its absence will cause hardship, but not destruction. See Abu Ishaq Asy-Syatibi, *Al-Muwafaqat*, vol. 2, p. 326.

¹³⁹ It means something that is good or complementary to have, but its absence will not cause hardship or destruction. See Abu Ishaq Asy-Syatibi, *Al-Muwafaqat*, vol. 2, p. 327.

¹⁴⁰ See Wahbah Az-Zuhaili, *Usul Fiqh Al-Islami*, Dar Al-Fikr, Damascus, 1986, vol.2, p. 1116. See also Yusuf Al-Qaradhawi, *Al-Khasais Al-`Ammah Li Al-Islam*, Maktabah Wahbah, Cairo, 1977, pp. 233 – 7.

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¹⁴² Yusuf Al-Qaradhawi, *Al-Khasais Al-`Ammah Li Al-Islam*, pp.170-3.

¹⁴³ See The Quran, 16:68 and 2:219

¹⁴⁴ Ibid, 4:43

¹⁴⁵ Ibid, 5:90

¹⁴⁶ Wahbah Az-Zuhaili, *Usul Al-Fiqh Al-Islami*, vol. 2, pp. 936-7.

¹⁴⁷ Abu Ishaq Asy-Syatibi, *Al-Muwafaqat*, vol. 1, p. 268; Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, pp. 339-40.

¹⁴⁸ Ibn Qayyim Al-Jauzi, *Ighatsah Al-Lahfan Fi Ma`abid Asy-Syaitan*, Al-Maktab Al-Islami, Beirut, 1987, vol. 1, p. 488.

¹⁴⁹ See MUIS Fatwa Committee, *Fatwa on Permissibility of Organ Transplant (in Malay language)*, available at www.muis.gov.sg/rservices/oom_files/1.doc (7 May 2005).

¹⁵⁰ Yusuf Al-Qaradhawi, *Al-Khasais Al-`Ammah Li Al-Islam*, pp. 231–2.

¹⁵¹ Jum`ah Amin Abdul Aziz, *Fiqh Da`wah; Prinsip Dan Kaidah Asasi Da`wah Islam (Translation of Ad-Da`wah: Qawa`id Wa Usul)*, Citra Islami Press, Bandung, 1997, pp. 147-52.

¹⁵² Ibid, p. 158.

¹⁵³ Ibid.

¹⁵⁴ Ibid, p. 150.

¹⁵⁵ Ibid, p. 86.

¹⁵⁶ Ibid, p. 87.

¹⁵⁷ Ibid.

¹⁵⁸ Ibid.

¹⁵⁹ The Quran, 9:5.

¹⁶⁰ Muhammad bin Ahmad Al-Qurtubi, *Al-Jami' Li Ahkam Al-Quran*, vol. 8, p. 49.

¹⁶¹ Ibid.

¹⁶² Abdul Hamid A. Abu Sulayman, *Towards an Islamic Theory of International Relations: New Direction for Methodology and Thought*, p. 26.

¹⁶³ As-Sarkhasi, *Syarh As-Siyar Al-Kabir*, available at <http://feqh.al-islam.com/Display.asp?DocID=14&MaksamID=1&ParagraphID=82&Sharh=0> (5 July 2005).

¹⁶⁴ See the concept of *Al-Aman* (Peace Agreement) in Wahbah Az-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuhu*, vol. 6, pp 429-37 and *Aqd Az-Zimmah* (Contract of *Dhimmah*) in Ibid, pp. 441-51.

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¹⁶⁶ Ibid.

¹⁶⁷ Wahbah Az-Zuhaily, *Al-Fiqh Al-Islami Wa Adillatuhu*, vol. 6, p. 433.

¹⁶⁸ Ibid, p. 428.

¹⁶⁹ Ibid, p. 433.

¹⁷⁰ Afzalur Rahman, *Muhammad as a Military Leader*, p. 285; Wahbah Az-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuhu*, vol. 6, p. 44; Abdul Hamid A. Abu Sulayman, *Towards an Islamic Theory of International Relations: New Direction for Methodology and Thought*, p. 25; Muhyuddin An-Nawawi, *Mughni Al-Muhtaj*, vol. 4, p. 238.

¹⁷¹ The Quran, 9:6.

¹⁷² Ibid, 9:5.

¹⁷³ Muhammad bin Ahmad Al-Qurtubi, *Al-Jami' Li Ahkam Al-Quran*, vol. 4, part 8, p. 50.

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¹⁷⁹ "Imam Samudra akui kenal Ba'asir dan Hambali", *Sinar Harapan*, 26 November 2002; "A profile of Imam Samudra chief suspect in the Bali bombing", *Radio Singapore International*, 10 January 2003, available at http://archive.rsi.com.sg/en/programmes/ind_med_wat/2003/01/10_01_01.htm (25 July 2005); "List of people involve in Bali bombing and convicted", *Australian Federal Police website*, available at <http://www.afp.gov.au/afp/raw/Bali/SummaryBaliPOIs.pdf> (25 July 2005).

¹⁸⁰ Transcript of Imam Samudra police interview (English translated version) held on 29 November 2002.

¹⁸¹ Imam Samudra, *Aku Melawan Teroris*, p. 268.

¹⁸² *Ibid*, pp. 264-6.

¹⁸³ *Ibid*, p. 266.

¹⁸⁴ The use of the term was later expanded to *any money / property collected by Muslim government from non-Muslims through rightful taxes, duties or fines*. See Wahbah Az-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuhu*, vol. 6, p. 455.

¹⁸⁵ Wahbah Az-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuhu*, vol. 6, p. 455; Ibn Qudamah, *Al-Mughni*, Dar Al-Fikr, Beirut, 1984, vol. 7, p. 296; Abu Al-Hasan Al-Mawardi, *Al-Ahkam As-Sultaniyah*, p. 126; Ibn Taimiyah, *As-Siyasah Asy-Syariyah Fi Islah Ar-Ra'ii Wa Ar-Ra'iyah*, available at <http://feqh.al-islam.com/Display.asp?DocID=28&MaksamID=8&ParagraphID=10&Sharh=0> (22 July 2004).

¹⁸⁶ Safiur Rahman Al-Mubarakfuri, *Ar-Raheeq Al-Makhtum*, pp. 301-5; See also Full text of Medina Charter, available at <http://www.constitution.org/cons/medina/macharter.htm> (22 July 2004); see also text taken from A. Guillaume, *The Life of Muhammad — A Translation of Ishaq's Sirat Rasul Allah*, Oxford University Press, Karachi, 1955; pp. 231-3, available at http://www.constitution.org/cons/medina/con_medina.htm (22 July 2004)

¹⁸⁷ *Ibid*, pp. 197-8.

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¹⁹¹ “Ahl al-Dimmah”, *Glossary of Islamic Terms*, available at <http://www.islam101.com/selections/glossaryA.html> (22 July 2004); “Ahl Az-Zimmah (Dhimmis)”, *Al-Qamus Al-Islami*, available at <http://dictionary.al-islam.com/Arb/Dicts/SelDict.asp?TL=1&DI=17&Theme=11> (22 July 2004); Wahbah Az-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuhu*, vol. 6, p. 445; As-Sarakhsi, *Syarh As-Siyar Al-Kabir*, available at <http://feqh.al-islam.com/Display.asp?DocID=14&MaksamID=1&ParagraphID=82&Sharh=0> (22 July 2004); Abdul Hamid A. Abu Sulayman, *Towards an Islamic Theory of International Relations: New Direction for Methodology and Thought*, p. 28.

¹⁹² Wahbah Az-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuhu*, vol. 6, p. 433.

¹⁹³ “Scope of amicable dealing with non-Muslim”, *IslamOnline*, 12 May 2005, available at <http://www.islamonline.net/fatwa/english/FatwaDisplay.asp?hFatwaID=50130> (21 July 2005).

¹⁹⁴ “Stealing from non-Muslims in the West”, *IslamOnline*, 29 May 2005, available at <http://www.islamonline.net/fatwa/english/FatwaDisplay.asp?hFatwaID=8619> (20 July 2005); see also “Robbing Jewish banks”, *IslamOnline*, 20 April 2004, available at <http://www.islamonline.net/fatwa/english/FatwaDisplay.asp?hFatwaID=113492> (20 July 2005).

¹⁹⁵ Imam Samudra, *Aku Melawan Teroris*, pp. 171-90.

¹⁹⁶ *Ibid*, p. 188.

¹⁹⁷ *Ibid*, pp. 175-84.

¹⁹⁸ *Ibid*, pp. 173, 184-7.

¹⁹⁹ Ibn Hajar Al-Asqalani, *Fath Al-Bari’ Bi Syarh Al-Bukhari*, Beirut, Dar Al-Fikr, 1993, vol. 6, p. 93.

²⁰⁰ Nawaf Hayil Takruri, *Al-Amaliyat Al-Istisyhadiyah Fi Al-Mizan Al-Fiqhi*, Dar Al-Fikr, Damascus, 2003, p. 66

²⁰¹ Safiur Rahman Al-Mubarakpuri, *Ar-Raheeq Al-Makhtum*, pp. 269-74.

²⁰² Nawaf Hayil Takruri, *Al-Amaliyat Al-Istisyhadiyah Fi Al-Mizan Al-Fiqhi*, p. 69.

²⁰³ The discussions of the earlier Muslim scholars on martyrdom are in the context of an on going war.

²⁰⁴ Muhammad b. Ahmad Al-Qurtubi, *Al-Jami’ Li Ahkam Al-Quran*, vol. 2, part 2, pp. 364 –5.

²⁰⁵ Dr Nawaf Hayil Takruri, *Al-Amaliyat Al-Istisyhadiyah Fi Al-Mizan Al-Fiqhi*, p. 74

²⁰⁶ *Ibid*, p. 73-4.

²⁰⁷ *Ibid*, p. 75

²⁰⁸ *Ibid*, p. 7. *Qisas* literally means just retribution. It is a punishment fixed by the Islamic law but can be remitted by the person offended against, or, in the case of a murdered person, by his heirs. In the Quran, it is stated: “O you who have attained to faith! Just retribution is ordained for you in cases of killing: the free for the free, and the slave for the slave, and the woman for the woman. And if something [of his guilt] is remitted to a guilty person by his brother, this [remission] shall be adhered to with fairness, and restitution to his fellow-man shall be made in a good manner. This is an alleviation from your Sustainer, and an act of His grace. And for him who, none the less, willfully transgresses the bounds of what is right, there is grievous suffering in store: for, in [the law of] just retribution, O you who are endowed with insight, there is life for you, so that you might remain conscious of God!”(The Quran, 2:178-179)

²⁰⁹ Muhammad b. Ahmad Al-Qurtubi, *Al-Jami' Li Ahkam Al-Quran*, vol. 3, part 5, p. 157.

²¹⁰ Ibid, vol. 3, part 5, p. 156-7.

²¹¹ A Jew who killed more than 35 people performing the early morning prayer at the Al-Ibrahimi Mosque on Friday, 25 February, 2005.

²¹² Nawaf Hayil Takruri, *Al-Amaliyat Al-Istisyhadiyah Fi Al-Mizan Al-Fiqhi*, p. 120-1.

²¹³ Ibid, pp. 122-3.

²¹⁴ Ibid, p. 124.

²¹⁵ Ibid.

²¹⁶ Ibid, pp. 125-7

²¹⁷ Ibid, pp. 127-8

²¹⁸ The Council of Senior Scholars held a special sitting in Riyadh, Wednesday the 13th of Rabiul Awwal, 1424 (Muslim calendar), regarding what took place of the killing, destruction, terrorizing, and damage inflicted upon people, both Muslims and non-Muslims. The translation of it is available at <http://www.fatwa-online.com/news/0030518.htm> (6 July 2005).

²¹⁹ Ibid.

²²⁰ The five fundamental objectives of the *syariah* or known as *maqasid asy-syariah* are to;

- safeguard the religion
- safeguard the life
- safeguard the mind
- safeguard the lineage
- safeguard the property

See Abu Ishaq Asy-Syatibi, *Al-Muwafaqat*, vol. 2, p. 324-7; Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, pp. 397-9.

²²¹ "Aggression against innocent people", *IslamOnline*, 2 May 2005, available at <http://www.islamonline.net/fatwa/english/FatwaDisplay.asp?hFatwaID=49341> (21 July 2005).

²²² Jalal Ad-Din As-Suyuti, *Al-Asybah wa An-Nazair*, p. 94-5.

²²³ Imam Samudra, *Aku Melawan Teroris*, pp. 173, 184-7.

²²⁴ Donna Abu Nasr, " Hamas leader: US should ponder why it is hated", *The Jerusalem Post*, 30 September 2001; "International reactions to the September 11, 2001 attacks in New York city and the Pentagon in Washington", *september11news.com*, available at <http://www.september11news.com/InternationalReaction.htm> (27 June 2005).

²²⁵ “Profile of Hamas”, *Intelligence and Terrorism Information Centre at the Centre for Special Studies*, 1 September 2004, available at http://www.intelligence.org.il/eng/sib/9_04/hamas.htm (27 June 2005); “Who are Hamas”, *BBC News*, 19 October 2000, available at http://news.bbc.co.uk/1/hi/world/middle_east/978626.stm (27 June 2005); Barbara Plett, “Hamas rises from the PA’s ashes”, *BBC News*, 6 November 2002, available at http://news.bbc.co.uk/1/hi/world/middle_east/2401671.stm (27 June 2005).

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²²⁹ “Hezbollah, Hamas denounce beheading”, *MSNBC*, 13 May 2004, available at <http://www.msnbc.msn.com/id/4971314/> (27 June 2005); “Powell: Arabs too quiet over Berg”, *CBS News*, 16 May 2004, available at <http://www.cbsnews.com/stories/2004/05/11/iraq/main616842.shtml> (27 June 2005).

²³⁰ “Leaders of 46 Islamic groups, movements condemn attacks on US”, *Al-Sharq Al-Awsat*, 15 September 2001; see also *Al-Quds Al-Arabi*, 14 September 2001, p. 2; Donna Abu Nasr, “Hamas leader: US should ponder why it is hated”, *The Jerusalem Post*, 23 September 2001.

²³¹ Muhammad Khair Haykal, *Al-Jihad Wa Al-Qital fi As-Siyasah Asy-Syariyah*, vol. 2, p. 1250.

²³² According to almost all the commentators, the expression, “*Fa syuddu al-wathaaq*” translated as “then tighten their bonds” denotes the taking of prisoners of war. In addition, it may also refer to any sanctions or safeguards which would make it unlikely that the aggression could be resumed in the foreseeable future.

- ²³³ Az-Zamakhsari, quoting an opinion of Asy-Syafi`i took the term “ransom” to include a mutual exchange of prisoners of war
- ²³⁴ Wahbah Az-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuhu*, vol. 6, pp. 474-5.
- ²³⁵ Afzalur Rahman, *Muhammad as a Military Leader*, p. 286; see also “Islam’s stance on prisoners of war”, *IslamOnline*, available at <http://www.islam-online.net/fatwa/english/FatwaDisplay.asp?hFatwaID=55158> (20 June 2005) also “War ethics in Islam”, *IslamOnline*, 1 June 2003, available at <http://www.islamonline.net/fatwaapplication/english/display.asp?hFatwaID=79793> (20 June 2005).
- ²³⁶ Afzalur Rahman, *Muhammad As a Military Leader*, p. 287.
- ²³⁷ Ibn Rusyd Al-Qurtubi, *Bidayah Al-Mujtahid Wa Nihayah Al-Muqtasid*, Dar Al-Fikr, place not cited, date not cited, vol. 1, p. 279; Majid Khadduri, *The Islamic Law of Nations: Shaybani’s Siyar*, pp. 100-2.
- ²³⁸ Nawaf Hayil Takruri, *Al-Amaliyat Al-Istisyhadiyah Fi Al-Mizan Al-Fiqhi*, pp. 227 – 37.
- ²³⁹ Muhammad Khair Haykal, *Al-Jihad wa Al-Qital fi As-Siyasah Asy-Syariyah*, vol. 2, pp. 1251-6.
- ²⁴⁰ Narrated by Abu Daud and Ibn Majah.
- ²⁴¹ Ibn Rusyd Al-Qurtubi, *Bidayah Al-Mujtahid Wa Nihayah Al-Muqtasid*, vol. 1, p. 280-2.
- ²⁴² Ibn Syaibah, *Musannif, Bab Jihad, Fasl Ma Yunha `An Qatlihi Fi Dar Al-Harb*, available at <http://feqh.al-islam.com/Display.asp?DocID=4&MaksamID=4468&ParagraphID=4872&Sharh=0> (20 June 2005).
- ²⁴³ Narrated by Abu Daud
- ²⁴⁴ Safiur Rahman Al-Mubarakpuri, *Ar-Raheeq Al-Makhtum*, pp. 403-4; Muhammad bin Ismail As-San`ani, *Subul As-Salam*, Maktabah Dahlan, Indonesia, date not cited, vol. 4, p. 50; Sa`id Hawwa, *Al-Asas Fi As-Sunnah (As-Sirah An-Nabawiyah)*, vol. 2, pp. 947-8. The *hadith* about the execution of Duraid was narrated by Al-Bukhari and Muslim.
- ²⁴⁵ Nawaf Hayil Takruri, *Al-Amaliyat Al-Istisyhadiyah Fi Al-Mizan Al-Fiqhi*, pp. 238 – 41.
- ²⁴⁶ *Ibid*, pp. 241-4.
- ²⁴⁷ Muhammad Khair Haykal, *Al-Jihad Wa Al-Qital fi As-Siyasah Asy-Syariyah*, vol. 2, p. 1274.
- ²⁴⁸ Muhammad Hashim Kamali, *Principles of Islamic Jurisprudence*, pp. 283-95.
- ²⁴⁹ Jalal Ad-Din As-Suyuti, *Al-Asybah Wa An-Nazair*, p. 63-7; Muhammad Sidqi b. Ahmad Al-Burnu, *Al-Wajiz Fi Iidhah Qawa`id Al-Fiqh Al-Kulliyah*, Muassasah Ar-Risalah, Beirut, 1996, pp. 270, 306.
- ²⁵⁰ Ibn Qayyim Al-Jauzi, *Ighatsah Al-Lahfan Fi Ma`abid Asy-Syaitan*, vol. 1, p. 488.

- ²⁵¹ Muhammad Sidqi b. Ahmad Al-Burnu, *Al-Wajiz Fi Iidhah Qawa'id Al-Fiqh Al-Kulliyah*, p. 310.
- ²⁵² Safiur Rahman Al-Mubarakpuri, *Ar-Raheeq Al-Makhtum*, p. 350.
- ²⁵³ Said Hawwa, *Al-Asas Fi As-Sunnah (As-Sirah An-Nabawiyah)*, vol. 2, p. 800.
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- ²⁵⁵ Common article 3, the Geneva Conventions, 12 August 1949.
- ²⁵⁶ Article 15(b), the Geneva Conventions IV, 12 August 1949.
- ²⁵⁷ Article 50, Additional Protocol I, 8 June 1977; Article 4, Additional Protocol II, 8 June 1977.
- ²⁵⁸ Ibid.
- ²⁵⁹ See also Article 13, Geneva Convention I, 12 August 1949.
- ²⁶⁰ Article 43, Additional Protocol I, 8 June 1977.
- ²⁶¹ Article 50, Additional Protocol I, 8 June 1977.
- ²⁶² Article 4, para 1, Additional Protocol II, 8 June 1977.
- ²⁶³ Article 8(c), Additional Protocol I, 8 June 1977; Article 9, Additional Protocol II, 8 June 1977.
- ²⁶⁴ Ibid, Article 8(d); Article 24, Geneva Convention I, 12 August 1949.
- ²⁶⁵ "A person is hors de combat if: (a) he is in the power of an adverse Party; (b) he clearly expresses an intention to surrender; or (c) he has been rendered unconscious or is otherwise incapacitated by wounds or sickness, and therefore is incapable of defending himself, provided that in any of these cases he abstains from any hostile act and does not attempt to escape." See Ibid, Article 41.
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- ²⁷¹ Ibid, Common Article 3, 12 August 1949.
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