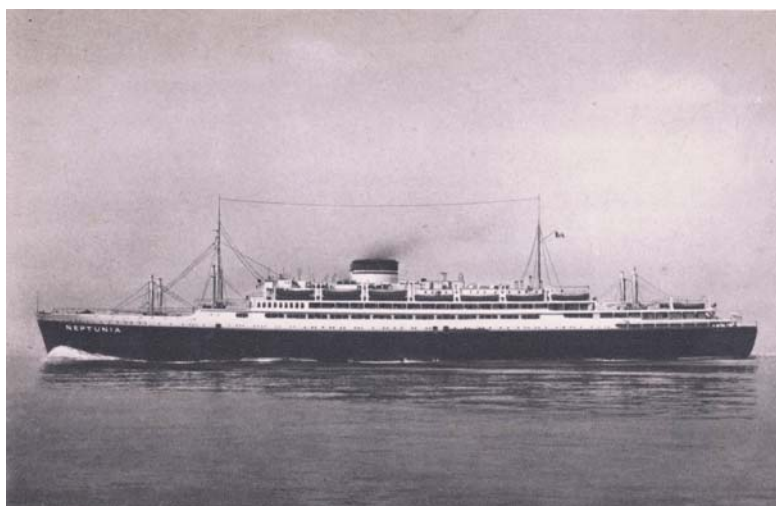


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## JIHADIST ISLAM AND ITS RATIONALE

### El islamismo yihadista y sus razones

### L'islamisme djihadiste et ses raisons

Cesáreo GUTIÉRREZ ESPADA<sup>1</sup>

I.- CONTEMPORARY RADICAL ISLAMISM DEFENDS THE *JIHAD* OR “HOLY WAR” AS ONE OF THE PILLARS OF ISLAM. II. NEITHER MUSLIM “REFORMISM” OR THE SO-CALLED “NEO-REFORMISM” HAVE MANAGED TO ERADICATE THIS CONCEPT. III.- IT IS STILL HERE, AMONGST US, TODAY. IV. -WHAT NOW?

**ABSTRACT:** The jihadist Islamism is not Islam. Not all Islam is jihadist or participates in its conception of the same. Many Muslims do not believe that jihad (non-defensive) against the infidel is one of the pillars of Islam. The World must speak with these Muslims and try to reach agreements with them that serve everyone, the People of the Book and others.

**KEYWORDS:** Jihadism, Jihadism and reformism in Islam, Islamic law and the use of force.

**RESUMEN:** El islamismo yihadista no es el Islam. Ni todo el Islam es yihadista ni participa de su concepto del mismo. Muchos musulmanes no creen que el yihad (no defensivo) contra el infiel sea uno de los pilares del Islam. El Mundo debe hablar con estos musulmanes e intentar llegar con ellos a acuerdos que sirvan a todos, a las Gentes del Libro y a los demás.

**PALABRAS CLAVE:** Yihadismo, Yihadismo y Reformismo en el Islam, Derecho islámico y uso de la fuerza.

**RÉSUMÉ:** L'islamisme djihadiste n'est pas l'islam. Tout l'islam n'est pas djihadiste ou participe à sa conception de même. Beaucoup de musulmans ne croient pas que le djihad (non défensif) contre les infidèles est l'un des piliers de l'islam. Le monde doit parler avec ces musulmans et essayer de parvenir à des accords avec eux, au service de tous, des gens du livre et des autres.

**MOTS CLÉS:** Djihadisme, djihadisme et réformisme dans l'islam, loi islamique et usage de la force.

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## **I. CONTEMPORARY RADICAL ISLAMISM DEFENDS THE JIHAD OR “HOLY WAR” AS ONE OF THE PILLARS OF ISLAM**

1. To some extent, the precursor of Islamic fundamentalism, which took shape in some Muslim countries starting from the appearance in Egypt, in 1928, of the Muslim Brothers, was, without doubt the Imam, Taqqi al-Din Ahmad Ibn Abdelhalim Ibn Taymiyya (1263-1328). His work had an enormous influence on contemporary Islamic thinkers, such as the Egyptian, Sayyid Qutb (1906-1966), the Pakistani, al-Maududi (1903-1979) and the Palestinian, Abdullah Yusuf Azzam (1941-1989).

Based on some passages in the Quran<sup>2</sup>, Ibn Taymiyya understood that

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<sup>2</sup> The Legal system rests on Islam. Essentially, on the Quran and the Sunnah: 1) The Quran (*al-qur'an*, “reading”, “recitation”) is the Holy Book, which includes the revelations made to Mohammed (Mahoma) by God, through the angel Gabriel, over a twenty year period in Mecca and Medina (612-632 AD). The Book is divided into 114 surahs, (suras, *al-sura*) or chapters, with more than 6,200 verses or ayahs (*al-aya*, “signal”, “sign”, “miracle”) in order of decreasing size. (“Glosario de términos islámicos” [Glossary of Islamic terms], Islamic Cultural centre, Valencia, <<http://arabespanol.org/islam/glosario.htm>>). Muslims consider the Quran to be infallible, but, in Islam, there is no single source for a true and official interpretation of it. 2) The Sunnah contains the deeds and sayings of the prophet (*hadith* [*al-hadith*]), being narrations compiled by his contemporaries, textually citing what the Prophet said, or implied, without commentary on the various matters. The *hadith* consists of an *isnad* (declaration of authenticity specifying the chain of reporters from the nearest up to Mohammed himself) and the text in the strictest sense (*matn*). After selection took place, the AL-BUKHARI (d. 869 AD) collection, with around 8,000 *hadiths* is the most well known and influential, and is considered to be the authoritative version. It should be pointed out, at any event, that the *hadiths* are not infallible and caused considerable differences in substance and interpretation between the Sunnis and the Shiites (“Introducción histórica”, RIOSALIDO, J. [ed., translation and annotation]: *Compendio de Derecho Islámico (Risala fi-l-Fiqh)*. Ibn Abi Zaid *Al-Qayrawani*, Trotta, Madrid, 1993, pp. 24-25; see also ABU-SAHLEH, Sami A.A.: *Il Diritto Islamico (Fondamenti, fonti, istituzione)*, Carocci Editore, Rome, 2008, pp. 183 ss., 191-197).

Where unresolved by the Quran or the Sunnah, Muslim law calls upon a third source (*ijmā* or general consensus of the community) which requires unanimous consent from the *mujtahid*, legal scholars with great expertise and moral prestige, so that the ruling made as a result of that consensus is valid. When these three sources do not provide an answer, a *mujtahid* may resolve the problem by resorting to deductive analogy (*qiyas*) based on the Holy Book, or on the sayings of the Prophet. The legal scholars, due to their wisdom and integrity, have *ijtihad* (the power to create the rule destined to become a legal regulation). Their opinion or legal ruling (*al-fatwa*, fatwa in English) which may be made as a response to a consultation by any Muslim, makes *Sharia* applicable. The fatwa does not, in principle, have further value

*jihad* was one of the most significant obligations of Islam<sup>3</sup>, and maintained that God himself imposed the obligation on all Muslims to fight all those who, being aware of Mohammed's call to Islam, did not become converts<sup>4</sup>. Ibn Taymiyya even maintained that a governor who did not apply *Sharia* (Islamic law, *al-sbar'ia*, "path to follow", "straight path")<sup>5</sup> rigorously, in all its aspects, would lose their right to govern<sup>6</sup>.

What is the true meaning of *Jihad*? How has it evolved, if at all? What, then, is its reality?

2. Although the term *jihad* cannot be limited to one of its meanings - the "holy war" - there is no doubt that this is the one that has clearly been imposed.

The specific, precise development of the doctrine of *jihad* as a holy war was based on elements going back to the 7th century onwards. Based on the Prophet's military experience, who fought and often in armed combat, the foundation was laid for a doctrine built on four phases, a design which has traditionally been followed by Islamic law scholars: non-confrontation; solely

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outside the moral authority issuing it, although it can become compulsory if it is approved by the majority of the legal schools.

<sup>3</sup> Therefore it became the second most important "pillar". Islam considers it essential that all its members practice the so-called five "pillars" (*arkan al-islam*): 1) the profession of faith (*shabada*): "there is no God other than Allah and Mohammed is his prophet"; 2) the ritual prayers (*as-salat*) which must be said five times a day after the relevant ablutions; 3) pay the legal charitable donation, or zakat (*az-zakat*); 4) fasting during the month of Ramadan (*al-saum*) from sunrise to sunset; and 5) the pilgrimage to Mecca (*al-hajj*), which is an obligation on all adult Muslims, who are physically able and have enough money, at least once in their lives. There are Islamic groups, going back several centuries but which have re-emerged today, which add an obligation to these called the "sixth pillar" which, for those believing in it, as pointed out already, is the second most important, after the profession of faith: *jihad*, or the "holy war".

<sup>4</sup> AL-CHARIF, Maher: "La evolución del concepto de *jihad* en el pensamiento islámico", pp. 11-12, (conference given in 2008, originally written in Arabic and translated by Magda Makki, <<http://www.casaarabe-islam.es>>).

<sup>5</sup> For a detailed synthesis of the position of *Sharia* in today's Muslim states, see ABIAD, N.: *Sharia, Muslim States and international human rights treaty obligations: a comparative study*, British Institute of International and Comparative Law, London, 2008, pp. 34-58.

<sup>6</sup> Cited by STREUSAND, D.: "What does Jihad mean?", *Middle East Quarterly*, September 1997. <<http://www.meforum.org/article/357>>; and by SHAH, Niaz A.: *Self-defense in Islamic and International Law (Assessing Al-Qaeda and the invasion of Iraq)*, Palgrave McMillan, New York, 2008, p. 24.

defensive armed fighting; conditional offensive fighting; and, finally, the offensive fight against the infidels to spread Islam<sup>7</sup>. The doctrine is, of course, used to incite and justify the political and military expansion of Islam and is based on passages of the Quran, the Sunnah and the Sira<sup>8</sup>.

Islamic law, which takes shape through reasoning, using the Holy Book and the Prophet's Sunna, sets out in detail exactly what the obligation of *jihad* against the infidel consists of, how often and how it should be carried out.

Ultimately, *jihad*, in its classical conception, consisted of one of the *joint or collective duties* (*fard kifaya*), that is to say, those whose performance by some exempted others from doing them, in contrast to *personal or individual duties* (*fard ayn*) which fall to each individual personally<sup>9</sup>. During its evolution, later on *jihad* was classified as an individual duty required of all male Muslims and this is the belief of contemporary radical Islamists.

It is true, therefore, that in Muslim law the term *jihad* developed and acqui-

<sup>7</sup> BOURLARD, J.: *Le jibâd. Les textes fondateurs de l'Islam face à la modernité*, Studia Arabica VI, Éditions de Paris, Versailles, 2008, p. 81.

<sup>8</sup> There is also the Sira, a chronological presentation of tales which record the life of the Prophet, drawn up one century after his death, reflects the clear evolution of *jihad* up to the 9th century, when the Sira was written, in its most warlike expression. Jean FLORI states categorically that it is the Sira, more than the Quran itself or the Sunnah, that describes more clearly an evolution of the Prophet and the *umma* from the peaceful Mecca period and the self-defence of Medina, moving on to ever more warlike positions when those fleeing Mecca re-conquered it later on (*Guerra santa, yihad, cruzada. Violencia y religión en el cristianismo y en el Islam*, translation into Spanish, Universities of Granada and Valencia, Granada, 2004, pp. 99-102). On the Sira, see SARDAR, Z. and DAVIES, M.W.: *Inshallah. Comprendre el Islam*, Fundación Intermón-Oxfam, Barcelona, 2005, pp. 23 ss.

<sup>9</sup> In *Risala fi-l-Fiqh* by Abu IBN ZAYD, already cited, chapter XXX ("the holy war") says, "The holy war (*jihad*) is an obligation under Divine Law which is waged by some people for all others (...)" (edition by RIOSALIDO, J.: *Compendio de Derecho islámico...* cit. [note 2], p. 105). They were *collective duties* under classical Islamic Law: Concern oneself with knowing, teaching and promoting religious law; keep the root of evil far away from Muslims; perform the duties of judge; give evidence in court; accept imamship (whether to run the state or take prayers); order the good (and prohibit the bad); carry out the most important trades (those essential for the life of the group, such as farmer, tailor, weaver, builder and tradesman, etc); respond to greetings; give the last rites to the deceased; rescue captive Muslims from the hands of the enemy. *Personal duties* are prayer, fasting, the ritual offering of money (...). (MAÍLLO SALGADO, F.: "La Guerra Santa según el Derecho malikí. Su preceptiva, su influencia en el Derecho de las comunidades cristianas del medioevo hispano", at <<http://www.vallenajerilla.com/berceo/maillo/guerrasanta.hym>>).

red other meanings, with the most significant being the so-called “major” *jihad*, or “great *jihad*”, as against the “minor” or “small *jihad*” (the effort on the path of God and combat against the infidel). Although this spiritual, non-war-like meaning of the term appears (maybe “influencés par le monachisme chrétien”)<sup>10</sup> around the same time, or maybe at the end of it, as the theory of *jihad* was set as a doctrine, it was marginalised under classical Islamic law, so that the concept of fighting on the path of God to expand Islam amongst the “kaffirs” (non-believers) was, as already pointed out, its main meaning. For example, in two most famous compendia of classical Islamic law written in Al-Andalus, the chapter on *jihad* only deals with the latter meaning<sup>11</sup>.

Finally, under the Islamic law which was shaped based on the Quran and the Sunnah from the 9th century onwards, *jihad* was basically understood to be the “Holy War” against non-Muslims. It was a collective obligation which, later on, was preached to all good male Muslims and was a permanent obligation, remaining in force until the Islamic faith was imposed globally<sup>12</sup>. It has been recently written that this Islamic law, the *fiqh*, as it was called, “est toujours enseigné aujourd’hui dans les universités islamiques”<sup>13</sup>.

3. In summary, Islamic fundamentalism is based, therefore on the superiority of the Islamic community and the Muslim religion. Islam’s aim is to spread over the world to save humanity from its unbelief, structuring society on new foundations for civilisation within the framework of an Islamic state. This train of thought bases its message on certain passages in the Quran.

<sup>10</sup> BOURLARD, J.: *Le jihad*... cit. (note 7), p. 98.

<sup>11</sup> The first is *Risala fî-l-Fiqh* by Abu IBN ZAYD (one of the most popular compendia of classical Islamic law, written in the middle of the 10th century by a faqih, an expert scholar of *fiqh*, of the Maliki school, born in Spain. Abu Muhammad Abd Ibn Abi Zayd, was known as al-Qayrawani because he lived for most of his life in the Tunisian village of Qayrawan. Ibn Abi Zayd’s book (*Risala fî-l-Fiqh*) was very famous in its day, it was even said of it, “that the *Risala* had miraculous powers and that it was even capable of castigating those who made fun of it” [prologue by the editor and translator, RIOSALIDO, J.: *Compendio de Derecho Islámico*... cit. [note 2], p. 11]. The second of the Manuals is *Qidwat al-gâzi* (*The combatant’s guide*) by Ibn Abi Mamman, the legible text of which is conserved in manuscript 5349 at the National Library in Madrid (according to GUILLÉN ROBLES: *Catálogo de los manuscritos árabes existentes en la Biblioteca Nacional de Madrid*, 1989, pp. 234-235).

<sup>12</sup> Along the same lines, BOURLARD: *Le jihád*... cit (note 7), p. 92.

<sup>13</sup> *Ibidem*, p. 92.

However, fundamentalists forget other passages with contradictory<sup>14</sup> meanings, which means that, inevitably, doubt arises about which should prevail.

4. Ultimately, fundamentalist interpretations are based on the theory of abrogation. According to the abrogation theory (or *naskh*), the ayahs revealed in an era which was chronologically later on would abrogate the previous ones<sup>15</sup>.

<sup>14</sup> Because in the Holy Book, the ayahs relating to the attitude to be taken by Islam to the unbelievers can, according to the FLORI, be divided into various groups (*Guerra santa...* cit. [note 8], pp. 88-96).

There are eight *peaceful ayahs*. Four were revealed in Mecca, before the hegira, when Muslims were a minority amongst idolaters and polytheists. These verses advise the faithful to be prudent and proclaim their faith with patience and wisdom. The other four, which were proclaimed in Medina when the Prophet had allied himself with Jewish tribes who he expected to convert, appeal for tolerance and pardon of the infidels as God himself, at the final judgment, would castigate them for their unbelief (chapter 2, ayahs 115-137; chapter 5, ayah 10; chapter 29, ayahs 46-55 and chapter 42, ayah 16).

The *ayahs against the reluctance to go to war*, and destined to overcome the objections of some believers to the orders to fight given by the Prophet, or extinguish the scruples which arose in respect to some pre-Islamic traditions, along with some which, although they are more generic by nature, are anti-pacifist (chapter 2, ayahs 190-191, 194, 218; chapter 3, ayahs 165-169; chapter 4, ayahs 66-97; chapter 9, ayah 36; and chapter 33, ayahs 13-25).

The *warlike ayahs*. The most well-known of which come from chapter 2. There are some which establish beyond doubt the legality of defensive *jihad*:

“Fight in the cause of God those who fight you but do not commit aggression. God does not love aggressors” (chapter 2, ayahs 186-190; also, chapter 2, ayahs 187-191 and 188-192).

Other verses order fighting the impious until the cult of the one God is established in all parts. In all parts? It is probable that the Prophet was not thinking about any other territory than Arabia, as, in all certainty, he was alluding to the pre-Islamic idolaters or polytheists (FLORI: *Guerra santa...* cit. [note 8], p. 93). Therefore:

“Fight them until there is no oppression and worship becomes devoted to God alone. If they cease, then let there be no more hostility except against the oppressors” (chapter 2, ayah 193).

Furthermore, other verses can be read in the Holy Book which clearly encourage combat on a permanent basis, not for defence, but to expand Islam, the true faith, as Muslims believe, which will save the world (chapter 2, ayahs 215-218; chapter 9, ayah 29; and chapter 47, ayahs 4 and 5), for example:

“Fight those who do not believe in God or in the Last Day, who do not prohibit what God and his Messenger prohibit, those do not practise the true religion amongst those who were given the Book! Fight them until they pay the capitulation with their own hands and they are humiliated”.

<sup>15</sup> *Vid.* “*nasj*” in the *Diccionario de Islam e Islamismo*, de GÓMEZ GARCÍA, L., Espasa-Calpe, Madrid, 2009, p. 246.

Therefore, in as far as the belligerent, or warlike, verses are, because of the time they were revealed, all in an era after the peaceful or tolerant ones, the former would annul the latter. This theory rests on the understanding that the Prophet received his revelations depending on the historic needs of his mission. At the beginning, taking the isolation of the new faith into account, God advised him to avoid fighting (the peaceful *ayahs*). Later on, when the community settled in Medina, the revelation incited the believers to defend themselves from attacks by anyone harassing them with arms, or by those intending to forcibly reconvert the people who had embraced Islam. Finally, when the whole of Arabia was Islamised, the Prophet announced the holy war against non-Muslims who did not convert to the call of God<sup>16</sup>.

Its critics within the Islamic world, or scholars of it, consider it to be based on an ambiguous interpretation of some verses, in which it is not always pinpointed which verse abrogates which other and that, at any event, forgets that when the Quran wishes to abrogate a rule it always states this clearly, which is not what happens in this case, as, “there is no indication in the Quran with respect to the abrogation or revelation of a different rule on legitimate defence”<sup>17</sup>.

5. That is to say, contemporary radical Islamism defends the concept of *jihad* as a “holy war”. It classifies it as the duty of all Muslims and perceives that any attack (including terrorism) against Christians and Jews, or their interests, (in other words, western civilisation) is legitimate in any part of the world, and even against the governments of certain Muslim countries who have become *takfir*, that is to say, consider themselves to be apostate.

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<sup>16</sup> On the theory of abrogation, or *naskh* (which means “copy a book” and is applied to the Quran in the sense of “remove” or “annul”) see the version of one of its defenders, AN-NA’IM, A.: “Islamic ambivalence to political violence: Islamic Law and international terrorism”, *German Yearbook of International Law*, 31 (1988), pp. 307-336 (pp.324 ss.), but also its critics: FLORI, J.: *Guerra santa...* cit. (note 8), pp 87-88; SHAH, Niaz A.: *Self-defense in Islamic and International Law (Assessing Al-Qaeda and the invasion of Iraq)*, Palgrave MacMillan, New York, 2008, pp. 35-42.

<sup>17</sup> The author of the sentence refers to the one which only permits Islam to use force to defend itself (SHAH, N.A.: *The self-defense...* cit., p. 39). *Vid.* Also ASAD, M.: *The message of the Quran*, Dar Al-Andalus, Gibraltar, 1997, p. 41; WALI, Ullah S.: *Al-Foʻzul Al-Kabir*, translation into English, Al-Faisal Nashran, Lahore (Pakistan), 2005, pp. 39-50.



## **II. NEITHER MUSLIM “REFORMISM” OR THE SO-CALLED “NEO-REFORMISM” HAVE MANAGED TO ERADICATE THIS CONCEPT.**

6. *Jihad* as a “holy war” for defence against the infidel, but also as a means of propagating the Muslim religion, formed, therefore, part of the most orthodox Islamic faith from, at least, the 8th and 9th centuries.

“Islamic Reformism” in the first half of the 19th century and the beginning of the 20th saw the dominant concept of *jihad* (the “holy war” not just as a defence but also as an offensive, to propagate the true faith) to be the result of a misunderstanding of it and the fruit of a misguided interpretation of the Quran’s texts, in particular certain verses in the Quran, by the ancient commentators who, otherwise, were only being true to the prevailing intellectual and cultural climate in bygone eras, which were very different to the years in which reformism preached its doctrine. More specifically, the reformists dissented on the interpretation given to the chapter on Repentance (chapter 9 of the Quran), and, in particular, verse 123: “Oh, you who believe! Fight those of the disbelievers who attack you. Let them find severity in you and know that God is with the righteous”.

From the 5th century of the Hegira (10th century AD), some commentators on the Quran defended the theory that verse 123 of chapter 9 established the duty on Muslims to fight against the infidels wherever they were to be found. Their interpretation was based on the fact that the chapter on Repentance was revealed to the Prophet in Medina, that is to say, after the revelation received in Mecca, for which reason it annulled all the previous ones that contradicted it (the abrogation theory, or *naskh*). The Tunisian, Abdelaziz al-Thaalibi (1874-1944), one of the Islamic reformists, recognised that chapter 9 was revealed in Medina, but insisted on the need to take the historical context in which it occurred into account. He referred to a situation where Muslims defended themselves from the infidels, that is to say, it reflected a temporary situation after which the believers should, within the framework of the Mecca revelations, go back to the previous state of peace and reconciliation<sup>18</sup>.

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<sup>18</sup> Analysis by the Palestinian professor AL-CHARIF of the thinker’s doctrine, includes a statement by the latter which is truly strange. The Tunisian al-Thaalibi called on his brothers to make “an interpretation of the Quran which coincided with the principles of the French Revolution which are shared by the holy book” (“Evolución del concepto de *jihad*...” cit.

The attempts at secular, liberal reform, stimulated by the new political and social structure in many Islamic countries, with a tolerant stance towards “the others” and an assertion of the strictly defensive nature of *jihad*, could not completely prevent the radical revisionism gestating in some of those countries driven by a process incubated after the First World War (1914-1918) and originating from the combination of various factors<sup>19</sup>. In some of them, a trend towards acute religious fundamentalism arose, with political Islamic activists appearing who, above all in the last decades of the 20th century, went back to the practice of armed violence against their external and internal enemies, based on the *jihad* of classical Islamic law.

These fundamentalist theses are contested by other Islamic authors or scholars, who understand that the interpretation they read into the Holy Book - being the authorisation to use force offensively to propagate Islam - is contrary to a contextual interpretation of it, contrary to the rules within it which provide for a non-coercive propagation of Islam and, ultimately, contrary to the Quranic code regulating armed fighting based on the so-called neutrality principle. That is to say, that Islam should only fight against those fighting against it. According to this train of thought, the Quran only legitimises the use of force for what, today, we call legitimate defence, or to save the lives of persecuted Muslims. We will leave the latter subject for later on and, for the moment, concentrate on strictly defensive *jihad*.

In this respect, Al-Zuhili states that *jihad* is only lawful when it is needed to repulse an aggression, but conversion to Islam is not a reason to justify it or its purpose. The professor of Islamic Law (*fiqh*) at the University of Damascus also states: “According to the majority of Muslim legal scholars, the reason for going to war is to respond to an attack or aggression”<sup>20</sup>.

According to Niaz A. SHAH, supported by other authors<sup>21</sup>, the Holy Book

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[note 4], p. 21).

<sup>19</sup> Increase in the colonial offensive in the Western World, disintegration of the Ottoman Empire and abolition of the Caliphate, increase in the influence of secular educational institutions, with the subsequent fight with groups vigorously defending the strict application of *Sharia* (...).

<sup>20</sup> AL-ZUHILI, Sheikh Wahbeh: “Islam and International law”, *International Review of the Red Cross* (“Humanitarian debate: Law, policy, action. Religion”), 87, number 858, June 2005, pp. 269-293 (pp. 279, 280).

<sup>21</sup> Such as ALI, Y.: *The meaning of the holy Qur’ an*, Amana Corporation, Maryland, 1989 (pp.

only allows Muslims to use armed force to defend themselves when attacked, but not to commit aggression: “Permission is given to those who are fought against to go to war” (chapter 22, verse 39).

Legitimate defence must cease once the attack has been stopped: “Fight them until there is no oppression and worship becomes devoted to God alone. If they cease, then let there be no more hostility except against the oppressors” (chapter 2, ayah 193).

SHAH maintains that the Quran also allows legitimate collective defence: “And why would you not fight in the cause of God and the helpless men, women and children who cry out, ‘Our Lord, deliver us from this town whose people are oppressive!’ ” (chapter 4, ayah 75).

He also believes that the Quran itself establishes the requirements for legitimate collective defence to be possible - it must be serious, significant persecution.

Ultimately, NIAZ A. Shah maintains that the Quran allows self-defence in the face of imminent attack (“If you fear treachery on the part of a people, break off with them in a like manner. God does not like the treacherous” [chapter 8, ayah 58]). He cites the battle of Badr<sup>22</sup>, led by Mohammed as the first example of legitimate anticipatory defence<sup>23</sup>.

7. However, it is, in particular, the incursion of the new reformists into Islamic thinking that offers a glimmer of hope on this subject. Following this school of thought, armed violence has shown itself to be a failure. Armed force is only legitimate in the case of self-defence against foreign aggression. Neo-reformism maintains that Islam rejects offensive armed fighting (even

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78, 423, 832); DARYABADI, A.M.. *The glorious Quran: Text, translations & commentary*, The Islamic Foundation, Leicester, 2002 (pp. 68, 603); MOHAMMAD, N.. “The doctrine of Jihad: An Introduction”, *Journal of Law and Religion*, 3 (1985), pp. 391-398; ASAD, M.: *The message of the Quran*. cit. (note 17), p. 512.

<sup>22</sup> SHAH, Niaz.A.: *Self-defense in Islamic...* cit. (note 16), pp. 15-17, 21.

<sup>23</sup> In this battle, 300 Muslims commanded by Mohammed defeated 1,000 Quraysh who had gone to help the caravan that the Prophet intercepted and also to attack Medina. The Messenger promised his followers victory and Paradise for those dying in combat and gave them, according to a revelation from God, a fifth of the spoils. This fifth was divided into three parts, one for the Prophet, another for his family and the third for the poor, orphans and travellers (*Quran*, chapter 8, ayah 41).

in the case of apostasy) and self-sacrifice (suicide terrorism)<sup>24</sup>, as Islam's relations with other communities should be founded on peace, with war being an accidental, temporary, exceptional event.

Neo-reformism emphasises the need for freedom from the fetters of the medieval ideas written during the first years of the Abbasid dynasty, when Islam dominated half the world, which was divided by the House or Land of Islam (*Dar al-islam*) and the House or Land of the Infidels (*Dar al-barb*).

Ultimately, the neo-reformists state that Muslims need a true religious reform, to reconsider their legal legacy, to establish new foundations of Islamic law and legislation and construct a modern theory of State and society which ensures the authority of the community over itself.

Perhaps it is appropriate to go into these ideas in more depth at this point.

Those I have called the new reformists, to distinguish them from those who, in the 19th century and early 20th century, instigated a reform of Islam, are a generation of men, and some women, in several Muslim countries who believe that Islam as a whole needs to be “rethought”. A scholar of Religion, with a capital R, has called them “the new Islamic thinkers”<sup>25</sup>, but in as far as they advocate a new legal interpretation of their sacred texts and the *fiqh* (classical Islamic Law), the democratisation of their societies and full freedom of thought for all individuals, they are better classified as reformers or reformists. There are those who even know them as “the Islamic Lutherans”.

The Muslim past is not, for them, a type of sacred and untouchable history but, instead, more simply, a part of the history of the human race based on a diversity of social, economic, political and legal factors which evolve. The interpretation of what Islam is, including its religious texts, should be done taking into account the state that such factors had reached in each era. When studying Islam and studying and interpreting its fundamental texts, they call on, and use, modern sciences, from linguistics and semiotics to the comparative histories of religions or sociology.

<sup>24</sup> *Vid. ad ex.* AKTAN, Hamza: “Acciones terroristas y ataques suicidas a la luz del Corán y la Sunna”, Ergün Çapan (editor): *Una perspectiva islámica. Terrorismo y ataques suicidas*, translated by Ali Larakí, Ediciones La Fuente, Somerset (New Jersey, USA), 2008, pp. 25-42; ÇAPAN, Ergün: “Los ataques suicidas y el Islam”, Ergün Çapan (editor): *Una perspectiva islámica. Terrorismo y ataques suicidas*, translated by Ali Larakí, Ediciones La Fuente, Somerset (New Jersey, USA), 2008, pp. 97-113.

<sup>25</sup> BENZINE, R.: *Les nouveaux penseurs de l'Islam*, Éditions Albin Michel, Paris, 2008, 2nd edition).

Therefore, the neo-reformists demand an in-depth review of the founding texts of Islam, which rests on two closely related demands: abandon the *taqlid*, the imitation, or uncritical, acceptance of already established doctrines, the traditional position of the Sunni scholars, and throw the doors open to *ijtihad*, a rational interpretation system, based on *qiyas*, or analogical reasoning<sup>26</sup>. *Qiyas*, used for the first time when the conquered countries had to integrate local laws and customs into the Quran and the Sunnah, was considered dangerous once Islam was consolidated. Its use was restricted, but resurfaced at the hand of the religious reformism at the end of the 19th century and the so-called neo-reformists. For example, in direct relation to the matter in hand, the jihad, the Sudanese, Mahmud Taha (1909-1985) proposed inversion of the traditional doctrine of abrogation, or *naskh*, in such a way that the abrogating verses, according to that doctrine (the Medina, warlike revelations), would become those abrogated, with the others (the pacifist Mecca revelations) becoming the abrogates. In this way, the Islamic message of peace and conversion by example, dialogue and conviction (from Mecca) would have universal, eternal coverage, while the Medina message would be temporary and relative and only valid for the historical era it was dictated in<sup>27</sup>.

So who are these brave men and women confronting a secular tradition? There are not just a handful of them and they are not all from the same country - they come from South Africa, Algeria, Egypt, the USA, India, Iran, Malaysia, Morocco, Pakistan, Syria, Sudan and Tunisia<sup>28</sup>. Not all of them think alike or, on religious, political or social matters, reach exactly the same conclusions. However, all of them have the conviction in common that reflection on, and interpretation of, the Quran and the Sunnah and, in general, Islamic traditions, must be done from the point of view of the demands of reason and modern science, in its various forms.

The appearance of the neo-reformist movement is, without doubt, a window of hope, which contrasts with radical Islamism in many sectors of the

<sup>26</sup> On these Arabic terms, see GÓMEZ GARCÍA, L.: *Diccionario de Islam e Islamismo* cit. (note 15), pp. 326-327 (*taqlid*), 148-150 (*ichtihad*) y 271 (*qiyás*).

<sup>27</sup> *Vid.* OEVERMANN, A.: "Tahâ, Mahmûd Muhammad", *Encyclopédie de l'Islam*, vol. X (2002), pp. 104-105 (second edition, Brill, Leyden, 12 volumes, 1960-2005).

<sup>28</sup> About some of them and their ideas (Esack, Arkoun, Abû Zayd, al-Khûli, Khalafallâh, Rahman and Charfi), *vid.* Rachid BENZINE: *Les nouveaux penseurs...* cit. (note 25), pp. 59 ss., 89 ss., 121 ss., 149 ss., 181 ss., 215 ss., 247 ss.

*umma*. However, the hope of a reformed Islam from a religious, political, legal and cultural point of view is very faint because the calls of the new reformers do not seem to have a great chance of success. This is because their proposers are outside the educational and communications organisations in the Arab countries and are, in many cases, suffering the animosity of political powers and religious authorities who are, by nature, conservative. They are also, of course, facing hostility from the Islamic militants who do not appreciate their liberalism or their claim that the concept of the Islamic state is the result of an interpretation that distorts the fundamental Islamic texts. Ultimately, they will not, and do not, have a broad social base within the believers as a whole.

Islamic fundamentalism is not just represented by jihadist terrorism. There is ethical and religious fundamentalism, tinted with pragmatism in its relationship with the West, it can be said, but which constitutes the fuel for the profound Islam that calls the faithful to prayer and, as a great expert on the subject has written, manages “a medieval-style, anachronistic world view”<sup>29</sup>. It is this fundamentalism, far removed from the subject according to which the Shiites (10% of Islam) are the extremists par excellence while the Sunni (85%) are the moderates, which is inspired by ayah 110 in chapter 3 of their Holy Book: “You are the best community that ever emerged for humanity: you advocate what is moral, and forbid what is immoral, and believe in God”.

### III. IT IS STILL HERE, AMONGST US TODAY.

#### 1. FROM AL QAEDA

8. Radical Islamic thought, which is defended today by thinkers such as the Egyptian, Qutb, the Pakistani, Al-Maududi, or the Palestinian, Abdullah Yusuf Azzam<sup>30</sup>, springs from a doctrinal construction based on an interpretation of the holy texts of Islam given in the 9th and 11th centuries. However, their ideas have not remained at the level of pure intellectual debate. Islamic terrorist organisations, such as Al-Qaeda, have justified their armed, acts of violence and terrorism by invoking the *jihad* doctrine. The question is whe-

<sup>29</sup> PARADELA ALONSO, N.: “Belicismo y espiritualidad: una caracterización del yihad islámico”, ed. digital “arabismo.com”, 2002, pp. 1-22, p. 20.

<sup>30</sup> About his ideas, see my analysis “Radicales y reformistas en el Islam (sobre el uso de la violencia)”, *Revista Española de Derecho Internacional*, LXI (2009), number 1, pp. 13-37.

ther they do so on the basis of duty of all Muslims to propagate the faith, as commented on, or whether they have other reasons.

9. The so-called Ladenese Epistle is a message from Osama bin Laden, head of Al-Qaeda, addressed, in general, to all Muslims worldwide and, in particular, to those on the Arabian Peninsula demanding the expulsion of the heretics from it and an armed fight against them, everywhere and by all means, as a way of putting pressure on them to leave the Holy Places.

Signed on Friday, 23 August 1996, the text sets out the attacks suffered by Muslims in various parts of the world (for example, in Bosnia), the presence of the American Crusaders in lands he calls Islamic Gulf (better known as the Persian Gulf), who threaten oil reserves and, in particular, American troops being stationed in Saudi Arabia which, in the opinion of the Epistle's author, reveals that its rulers have turned their back on Islam. The Epistle calls for *jihad* against the American-Israeli alliance and against the Saudi regime itself, until the infidels are expelled from the Holy Places and Muslims see that their rights are respected<sup>31</sup>. In this fight, the Epistle endorses any means of armed combat, including terrorist attacks and attacks on innocent people.<sup>32</sup>

Although on occasions the language of the Epistle is ambiguous, and, on others, cryptic, it seems that it claims *jihad* as a defence against the aggressions that Islam was suffering for the reasons noted. It sits, therefore,

<sup>31</sup> "We wish to study the means that we could follow to return the situation to its normal path. And to return to the people their own rights, particularly after the large damages and the great aggression on the life and religion of the people (...)". Further on, it continues, "Today your brothers and sons, the sons of the Two Holy Places, have started their jihad in the cause of Allah, to expel the occupying enemy from the country of the Two Holy Places. And there is no doubt that you would like to carry out this mission too, in order to re-establish the greatness of this Ummar and liberate its occupied sanctuaries." (*Ladenese Epistle: Declaration of War: "Expel the infidels from the Arab Peninsula"*, <<http://www.washingtonpost.com/wp-dyn/articles/A4342-2001Sep21.html>>).

<sup>32</sup> "Nevertheless, it must be obvious to you that, due to the imbalance of power between our armed forces and the enemy forces, a suitable means of fighting must be adopted, ie, using fast moving light forces that work under complete secrecy. In other words, to initiate a guerrilla warfare where the sons of the nation, and not the military forces, take part in it. And as you know, it is wise, in the present circumstances, for the armed military forces not to be engaged in a conventional fighting with the forces of the Crusader enemy (...) unless a big advantage is likely to be achieved; and great losses induced on the enemy side (that would shaken and destroy its foundations and infrastructures) that will help to expel the defeated enemy from the country." (*Ladenese Epistle...*, p. 15).

on a defensive approach to *jihad* as it does not appear to justify itself with the intention of propagating of Islam. As one Islamic author recently wrote, “The Manifesto does not state that Al-Qaeda wants to Islamise the West or convert the United States, the United Kingdom or other western countries into Islamic States.”<sup>33</sup>

A very different matter is that, when the Epistle was written (1996), none of the Arabian countries were being subjected to armed attack by the West. The accusations thrown at the Saudi Arabian regime also appear to be unfounded. At any event, the *jihad* on which Al-Qaeda sought to ground its actions clearly exceeds the limits imposed by Islamic law itself on the use of force in legitimate defence, quite apart, from the perspective of Islamic law, from probably lacking the powers to do so.

10. On 23 February 1998, the radical World Islamic Front, made up of Al-Qaeda and other organisations in Egypt, Pakistan and Bangladesh, published a new statement, or Manifesto (“Jihad against the Jews and Crusaders”) with the same ideas as the Ladenese Epistle and the same arguments. The only difference, otherwise, between the Manifesto and the Epistle, which is politically significant, is that the former confirms that bin Laden’s message had reached other radical Islamic organisations<sup>34</sup>.

The Manifesto’s authors issued a fatwa to all Muslims:

The ruling to kill the Americans and their allies—civilians and military—is an individual duty for every Muslim who can do it in any country in which it is possible to do it, in order to liberate the al-Aqsa Mosque and the holy mosque [Mecca] from their grip, and in order for their armies to move out of all the lands of Islam, defeated and unable to threaten any Muslim. This is in accordance with the words of Almighty Allah, “and fight the pagans all together as they fight you all together,” and “fight them until there is no more tumult or oppression, and there prevail justice and faith in Allah.”<sup>35</sup>

Later events, such as the Israeli attack on Hamas in Gaza, in December 2008<sup>36</sup>, prompted the leaders of Al-Qaeda, in the case of Osama bin Laden

<sup>33</sup> SHAH, Niaz A.: *Self defense-in Islamic...* cit. (note 16), p. 50.

<sup>34</sup> *Ibidem*, pp. 52-53.

<sup>35</sup> <<http://www.washingtonpost.com/wp-dyn/articles/A4993-2001Sep21.html>>; also at <<https://fas.org/irp/world/para/docs/980223-fatwa.htm>>.

<sup>36</sup> On the Israeli army’s “Operation Cast Lead” in Gaza *vid.* NORTON, A.R.: “The Gaza War:



and Aymal Al-Zawahiri, and the director of the terrorist organisation for the Islamic Magreb, Abu Musab Abdelwadoud, to release various messages and communiqués. These came from first two on 14 (recording) and 6 and 21 January and from the latter on 2 and 15 of the same month. They are also useful to clarify what kind of jihad these modern Islamists advocate and, what is more important, practice today. Their proclamations state,

“I say to my Islamic nation: being merely satisfied to consider the governors and clerics to be responsible, but then abstaining from acting does not absolve you from responsibility. This is another way of evading our duty. In the sacred Quran, Allah’s mandate is clear: participation in the jihad for the cause, by possessions or yourselves must continue until it becomes a collective duty” (Osama bin Laden, recording of 14 January 2009).

“¡Oh Muslims wherever you are, fight against the Zionist-Christian campaign and strike their interests wherever you may find them.” (al-Zawahiri, message of 6 January 2009).

“Lions of Islam everywhere [you must] strike the interests of Islam’s enemies, that is to say the Christians and the Jews, wherever you can and however you can.” (Osama bin Laden, recording of 14 January).

“Hold out your hands to your Mujahedeen brothers and slam the Jewish and Christian interests in your countries shut. Without compassion or indulgence. Whip the targets with precision. Give information to your brothers. Make plans securely. Resort to secrecy and silence.” (Call to “our people in the Magreb” by Abu Musab Abdelwadoud on 15 January 2009).

The rulers of Muslim countries such as Egypt, Saudi Arabia, Yemen and Iraq, with Abu Musab adding those of Algeria and Mauritania, were also classified as traitors and renegades, and the *jihad* should also be unleashed on them. They were accused of forming “a satanic alliance consisting of antecedents and consequences”, *ARI* number 21/2009, 03/02/2009, pp. 1-9 <<http://www.realinstitutoelcano.org>>; AMADO CASTRO, V.M.: “Israel y la Guerra de Gaza”, *ARI* number 16/2009, 22/01/2009, pp. 1-6; KARMON, E.: “Hamás en Gaza, una plataforma de Irán para la desestabilización del mundo árabe”, *Athena Assessment* number 1/2009, 2 January 2009, pp. 1-12 <<http://www.athenaintelligence.org>>; FIGHEL, J.: “Hamas, Al-Qaeda and the Islamisation of the Palestinian cause”, *ARI* number 19/2009, 30/01/2009, pp. 1-10; ALVÁREZ-OSSORIO ALVARIÑO, I.: “Gaza: el paisaje después de la batalla”, *ARI* number 13/2009, 20/01/2009, pp. 1-7. *Visd.* also the analysis by F. REINARES “¿Qué dicen los líderes de al-Qaeda sobre la operación militar israelí en Gaza?”, *ARI* number 14/2009, 21 January, pp. 1-6 <<http://realinstitutoelcano.org>>.

Jews, Christians and renegades” (message on 15 January from the director of Al-Qaeda en the Magreb).

## 2. TO THE ISLAMIC STATE (ALSO KNOWN AS DA’ESH)

11. Without doubt, the most significant and far reaching feature of the self-proclaimed Islamic State are its intended targets. The Caliphate does not (like Al-Qaeda) simply want to expel the infidels from current “Muslim soil”. Da’esh, in 2017, wanted to expand Islam and its concept of Islam with the aim of creating a universal Caliphate.

That is to say, in 2017, the Islamic State defended what the erudite, religious Muslim Ibn Jaldún wrote in the 14th century and which a German historian reminded us of in 2006: “In Islam, jihad is prescribed by Law, because it [Islam] has a universal mission which concerns all humanity, which freely, or by force, must convert to Islam.”<sup>37</sup>

12. Salafist extremism (see paragraph 24 below) definitely seeks to establish the universal Caliphate, ie, humankind as a community, exclusively governed under Islamic law and the protection of Allah. This is not mere rhetoric, but a recurring pretence in the propaganda distributed by Da’esh strategists. According to its believers, it is a fight demanded by divine mandate, and they cite one of the sayings (hadiths) of the Prophet:

I have received the order to combat the people until they confess that there is no other divinity than Allah. Whoever confesses this has nothing to fear from me, their person or property may not be attacked unless it is in a way that accords with Islamic Law and it is God who will be responsible for them.<sup>38</sup>

It should be remembered that *jihad* (the holy war) is, for this radical approach, one of the pillars of Islam and, furthermore, the second most important one after the profession of faith<sup>39</sup>. The radicals’ world is divided into two:

<sup>37</sup> FLAIG, E.: “Der Islam Hill die Welteroberung” <<http://www.faz.net/Rub475F682/E3F-C26868A8A5276D4FB91607/Doc%7EE2671621C119>, FAZ, 15.09.2006>; and its translation into English: “Islam wants to conquer the World” <<http://www.westernresistance.com/blog/archives/003067.html>>.

<sup>38</sup> Paragraph 102 of the chapter on jihad in the al-Bujari collection (*supra* note 2)

<sup>39</sup> *Vid. supra* note 3.

- The House of Peace (*Dar al-Islam*) that lives in accordance with Sharia - Islamic law, and
- The House of War (*Dar al-Harb*), which is the rest of the world with which is at permanent, latent war that is reactivated ever so often and which will only end once *Dar al-Islam* occupies the entire world.

Although this division of the world is not expressly mentioned in the Quran (but it does include the distinction between the territory of the believer and that of who is not), it was established by later scholars.<sup>40</sup>

This is a fight against non-Muslims, and even against Muslims who do not follow the dictates of Allah. For jihadists, who today seek a universal Caliphate, the most pressing thing is to conquer (or re-conquer, as they understand it, in certain cases) the following regions of the world for Islam:

- The Iberian Peninsula, as part of the concept of Al-Andalus which reaches as far as the south of France.
- The Magreb, understood to be the north east and west of Africa, the Sahel, or Sahara region, from coast to coast, and central and eastern Africa, with all the countries included in these areas.
- The Middle East, ie, Egypt, Syria, Iraq, Israel, Palestine, Jordan, Lebanon, the Arabian Peninsula, Iran and Turkey.
- Vienna, Greece, the Balkans, southern Russian and Central Asia are also included<sup>41</sup>.

13. We are all threatened. All of us. By a terrorist organisation which, moreover, does not have any red lines it must not cross in achieving its aims. Anything goes. From alliances with other groups (terrorists, subversives and criminal organisations) and using computer hackers, or mercenaries, to using commercial airlines full of passengers as bombs, driving HGVs to run over crowds of people (Nice and Berlin 2015) or 4x4s to do likewise, into the

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<sup>40</sup> COOK, D: *Understanding Jihad*, University of California Press, Los Angeles, 2005, p. 8 (and in more detail in pp. 30-44). Mohammed considered that the work of Jesus (Jesus Christ) was incomplete as he did not manage historically to found a community that was strong enough to impose, if necessary, the will of God, because humankind is divided into those who are subservient to Allah (dar-al-Islam) and the infidels (dar al-harb), with Allah having the right to subservience from the world (MARTÍNEZ FRESNEDA, F: *La paz. Actitudes y creencias*, publicaciones del Instituto Teológico Franciscano, Editorial Espigas, Murcia, 2002, pp. 213-214).

<sup>41</sup> MARTÍN DE POZUELO, E.; BORDAS, J.; YITZHAK, E.: *Objetivo: Califato universal. Claves para comprender el yihadismo*, La Vanguardia Ediciones S.L., Barcelona, 2015, pp. 69-78.

pedestrians on the footpaths of a bridge (London, Wednesday 22 March 2017), strafing people indiscriminately in a disco, and using chemical weapons against civilians.

The excesses of the Islamic State, extreme radicalism which often appears in time of crisis, which has led it to be compared to the German Nazis<sup>42</sup>, manifest themselves in the most horrible way in this ferocious terrorism which stops at nothing. A terrorism, furthermore, which is a calculated strategy, seeking to ensure the submission of the infidel to the will of God. A clearly radical Pakistani general explains it as follows: “(...) Quranic military strategy demands that we prepare ourselves for war with the utmost effort, to strike fear into the heart of the enemies (...). In this strategy (...) filling enemy hearts with terror is the ‘Effect’”<sup>43</sup>.

14. Even the United Nations Security Council, having resisted facing up to the matter for so long, has ended up recognising that the Islamic State is, today, the main worry for the international community. I will not go into details, but I would say that, in the words of the Council in 2015: “the Islamic State in Iraq and the Levant (ISIL, also known as Da’esh), constitutes a global and unprecedented threat to international peace and security...”<sup>44</sup>.

15. The United Nations Security Council has not just limited itself to urge the organisation’s 193 member states to prevent and suppress the flow of foreign terrorist fighters to Iraq and Syria (resolution 2178 [2014]), to prevent and suppress financing the Islamic State (resolution 2253 [2015]) or to “condem-

<sup>42</sup> CALVO ALBERO, J.: “Capítulo segundo: respuesta militar”, *Cuadernos de Estrategia 180. Estrategias para derrotar al Daesh y la reestabilización regional*, Instituto Español de Estudios Estratégicos, Ministerio de Defensa, Madrid, 2016, pp. 63-96, p. 65.

<sup>43</sup> MALIK, S.K.: *The Quranic concept of war*, Adam Publishers, Nueva Delhi, 1992, p. 58.

<sup>44</sup> Resolution 2249 (2015), unanimously approved on 20 November 2015, paragraph 5 of its preamble. As follows:

- its violent extremist ideology,
- its terrorist acts,
- its continued gross systematic and widespread attacks directed against civilians,
- abuses of human rights and violations of international humanitarian law, including those driven on religious or ethnic ground,
- its eradication of cultural heritage and trafficking of cultural property, but also its control over significant parts and natural resources across Iraq and Syria and its recruitment and training of foreign terrorist fighters whose threat affects all regions and Member States, even those far from conflict zones.

ning” the abuses committed by Da’esh and to “reaffirming”,

“that those responsible for committing or otherwise responsible for terrorist acts, violations of international humanitarian law or violations or abuses of human rights must be held accountable”<sup>45</sup>.

It also “calls upon” all member States that have the capacity to do so to: “take all necessary measures, in compliance with international law, in particular with the United Nations Charter, as well as international human rights, refugee and humanitarian law, on the territory under the control of ISIL also known as Da’esh, in Syria and Iraq, to redouble and coordinate their efforts to prevent and suppress terrorist acts committed specifically by ISIL (...) and to eradicate the safe haven they have established over significant parts of Iraq and Syria.”<sup>46</sup>

The Security Council, therefore, seems to be telling us to use everything necessary and stop Da’esh for once and for all, defeat it and expel it from Iraq and Syria.

16. So that is what we are doing. In Iraq, an International Coalition of almost 70 States, including Spain and led by the USA, has, at the request of the Iraqi government, been carrying out military attacks on the Islamic State since 8 August 2014. From 23 September, the Coalition expanded its attacks on the Islamic State to Syria, although its government had not requested it. In September 2015, the Syrian regime asked Russian to initiate military intervention in the country against the groups (including the Islamic State) who were against the Damascus Government. For 20 months (between 2013 and 2015), the Islamic State took the lead in Iraq and Syria, “they decide what, when, how and where to attack. They are more concerned with the next attack than in the defence of their territories”<sup>47</sup>.

<sup>45</sup> Resolution 2249 (2015), paragraphs 4 and 3.

<sup>46</sup> Resolution 2249 (2015), paragraph 5. On this resolution and, in particular, its paragraph 5, *vid.* GUTIÉRREZ ESPADA, C.: “Choque de civilizaciones” (el autoproclamado Estado Islámico). Respuesta de la comunidad internacional. ¿una ‘alianza de civilizaciones’ contra el Estado Islámico?”, *Anuario de los cursos de Derechos Humanos de Donostia-San Sebastián. Vol. XVI (2016)*, Aranzadi, Cizur Menor (Navarra), 2017, pp. 111-213 (*vid.* paragraphs 42-46; also POZO SERRANO, P.: “El uso de la fuerza contra el estado Islámico en Irak y Siria: problemas de fundamentación jurídica”, *Anuario Español de Derecho Internacional*, issue 32, 2016, pp. 141-188 (pp. 183-186).

<sup>47</sup> BALLESTEROS, M.A.: *Yihadismo*, La Huerta Grande, Colección de Ensayos, Madrid, 2016, p.

However, from the middle of 2015, Da'esh retreated and lost ground in both countries. Then the Iraqi and Syrian government forces took the lead. In March 2017, Mosul, the Iraqi city where Abu Bark Al-Bagdadi proclaimed himself Caliph and Imam to the believers on 29 June 2014, was on the point of being repossessed by the Iraqi army with the help of the International Coalition. Raqqa, the capital of the Islamic State in Syria was in a similar position.

For the Islamic State, the loss of territories, apart from the symbolic and media impact on the military plan that their retreat implies, involves a significant drain on its resources. For example, we can look at the factor providing Da'esh with its greatest income. According to a high-ranking Russian official, since 30 September 2015, the date of the Russian intervention in Syria, the number of fuel tankers belonging to the Islamic State has been drastically reduced, 32 oil refinery complexes, 11 refineries, 23 pumping stations and more than 1,000 fuel tankers have been destroyed. Since October 2014, around twenty of the 160 oil fields under Da'esh's control have been attacked by the International Coalition. Their oil production has fallen from 100,000 barrels per day to 40,000. Furthermore, the need for fuel to feed their war and sustain everyday life in the Caliphate has meant that the Islamic State has had to refine crude oil in a very rough manner, which makes it a very low quality, poorly performing product. This is an interesting fact because, as General Ballesteros states: "it undermines the moral of the people and is a dissuading factor in recruiting followers."<sup>48</sup>

The "territorial" retreat of the Islamic State in Iraq and Syria, with the actions of the International Coalition supporting the Iraqi forces, and the attacks on it in Syria by the coalition and the Russian forces, after the military intervention in that country in (requested) support of the Damascus Government, demonstrates that its finances, as a whole, are significantly diminished. So much so that, since the start of the Russian intervention in 2015, Da'esh began to pass a huge number of documents relating to new security measures, military mobilisation and obtaining new resources.

It is no exaggeration to stress the importance of complete eradication of the Islamic State from the territory they control in Iraq and Syria, as its power

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<sup>48</sup> *Ibidem*, p. 140.

comes, for the most part, from its foothold on the territory.

17. At any event, the Caliphate will be eradicated because the international community has adopted many and various responses, that is to say, it is facing up to the Islamic State in various fields or aspects.

It is doing so at political level, within the framework of an action in the states by the antiterrorist security forces and bodies (including, of course, a response to prevent and fight against radicalisation)<sup>49</sup>, in the field of propaganda, computers and cyber security and also, but not on its own, at military level with the use of the armed forces<sup>50</sup>.

Only a global, comprehensive response of this kind will enable achievement of the defeat of the self-proclaimed Islamic State. I fully share the idea that, “Military response, although it is necessary to wear down and halt the expansion of Da’esh, is insufficient on its own and may end up creating even bigger problems.”<sup>51</sup>

In other words, as a general rule, the end of all armed conflict does not come from the use of military power, but this forms a part, also as a general rule, of the solution.<sup>52</sup>

18. The response from the international community should, at any event, be in accordance with Law and, specifically, International Law.

I will not go into the matter here, but I can mention that the military response by the international community to the Islamic State, particularly in Syria, is not free from doubts when it comes to its strict legality. It is, rather, and in the best case scenario, walking on the proverbial knife edge.

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<sup>49</sup> On radicalisation, its factors and environment, particularly in Spain *vid.* REINARES, F. y GARCÍA-CALVO, C.: *Estado Islámico en España*, Real Instituto Elcano, Madrid, 2016, pp. 1-81 (pp. 35-46) <<http://www.realinstitutoelcano.org>>.

<sup>50</sup> There is an extremely interesting analysis of the international community’s response on all these fronts by a Working Party at the Spanish Institute of Strategic Studies, coordinated by Professor Javier Jordán Enamorado, with contributions from the military and professors, F.J. Berenguer Hernández (pp. 21-61), J.L. CALVO ALBERO (pp. 63-95), M. NAVARRETE PANIAGUA (pp. 97-123), and Manuel R. TORRES SORIANO (pp. 167-194). Their contributions can be consulted in the book *Cuadernos de Estrategia 180. Estrategias para derrocar al Dáesh y la reestabilización regional*, Ministry of Defence, Madrid, 2016.

<sup>51</sup> JORDÁN ENAMORADO, J.: “Introducción”, *Cuadernos de estrategia 180. Estrategias...* cit., pp. 9-19 (p. 14).

<sup>52</sup> CALVO ALBERO, J.: *op. cit.* (note 42), p. 78.

Do desperate times need desperate measures? Should these be in line with the nature of the threat? You may draw your own conclusions.

19. It may be that the Islamic State is militarily defeated in Syria and Iraq, which appears to have been achieved (February 2018), as all the territory lost has been re-conquered by the Iraqi army, with help from the International Coalition, and, in Syria, it has been expelled from the areas it conquered. Its leader, Abu Bakr Al-Baghdadi, proclaimed Caliph (Caliph Ibrahim) in June 2014 in the Great Mosque in Mosul (Iraq) and who, on 16 June 2017, was believed (probably) to be dead, according to sources in the Russian forces in Syria, in a Russian bombing of Raqqa (the capital of the Caliphate in that country). However, he is not dead but is, according to a high-ranking official at the Iraqi Home Office (Abu Ali Al-Basri, Director General of Intelligence and Counterterrorism, quoted on Monday 12 February 2018 by the government daily paper *As Sabah*), “injured, has diabetes, and fractures to his body and legs which prevent him from walking without help” and, according to the same source, is in hiding, “in (the region of) al-Jazira” (a large desert plain in north east Syria and on the border with Iraq)<sup>53</sup>.

Nevertheless, defeat has not meant that the two elements sustaining and explaining the phenomenon of this extreme manifestation of radical Islamism have vaporised:

- Jihadism itself, on the one hand, born of the frustration of one part of Muslim society, and
- On the other, the Sunni problem. The Sunnis, previously dominant in Iraq and Syria, today consider themselves to be marginalised and alienated by the Shiites<sup>54</sup>.

Until these fundamental matters are resolved, they will continue to create instability and conflicts within the Muslim world and fuel terrorism against the Western World.

### 3. A NEW CALIPHATE IN SAHEL?

<sup>53</sup> “The Iraq Government confirms that the leader of the Islamic State is alive, but injured”, AFP, Baghdad (Iraq), Monday 12 February 2018 <<https://www.elpais.com.uy/mundo>>. The Iraq government official who made the news public stated that his government had based it on “unquestionable information and documents from the heart of the terrorist organisation”.

<sup>54</sup> CALVO ALBERO, J.: *op. cit.* (note 42), p. 78.



20. Three international missions are taking action in the Sahel region of Mali, in West Africa. One is French (Operation Barkane), which fights alongside the Mali government in the struggle against the Tuareg and Jihadist rebellion in the north of the country, which began in 2012. Another is from the United Nations, and the third is the European Union Mission in Mali (EUTM Mali) which is made up of 580 soldiers from 27 EU member states.

21. Spain took command of EUTM Mali at the beginning of this year (2018), at its most critical moment, as five years have already passed since the above-mentioned French and international missions arrived in the country and the conflict has significantly worsened. The Spanish Brigadier General, Enrique Millán Martínez, has been in charge of the Mission since January 2018.

Military intelligence sources reveal that fighters from Syria and Iraq, countries in which the Islamic State has been defeated, are arriving at the conflict zone, as well as from Afghanistan (Taliban), ie, fighters with military training and experience of war. General Millán Martínez, who now commands the EU Mission in Mali, has expressly stated that Da'esh, repelled in the Middle East, "is seeking a place to anchor. They have one foot firmly placed in the desert and want to reinforce on the banks of the river Niger"<sup>55</sup>. Military experts explain that Da'esh intends to reconstruct the Caliphate in Sahel, as the heart of Mali is a strategic passageway between the jihadist groups in the Sahara and Boko Haram, in northern Nigeria.

Furthermore, the various jihadist bands and groups within Al Qaeda are coordinating their activities and have even formed an organisation they call the Group to Support Islam and Muslims (JNIM).

22. It goes without saying that the collusion of jihadist terrorist organisations such as Al Qaeda and Da'esh in the zone, with Libya being a failed state on the doorstep of the European Union, could be very, very dangerous factors.

#### **IV. WHAT NOW?**

23. "We shall not be moved".

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<sup>55</sup> GONZÁLEZ, M.: "España toma el mando de la misión europea para evitar que Mali sea el nuevo Califato", *El País*, 31 January 2018, <<https://politica.elpais.com/politica/2018/01/31/actualidad/1517401742-402628.html>>).

24. Preventing the radicalisation of Muslims living amongst us is vital. Three articles recently published in France (KAPEL, G.: *Terreur dans l'Hexagone. Genèse du djihad français*, 2016), the USA (NEUMANN, P.: *Radicalized: New jibadists and the Threat to the West*, 2016) and in Belgium (SÛRETÉ DE L'ÉTAT: *Salafisme en Belgique: mécanismes et réalité*, 2018), alert us to the dangers of Salafism and its spread amongst Muslims living in the West.

Salafism, “a doctrine propagated and financed by the mullahs of the oil kingdoms in the Gulf”<sup>56</sup>, preaches a complete break with the values of democracy, human rights and gender equality. Its followers delegitimise the societies they live in, setting themselves up in closed communities, which voluntarily and consciously exclude themselves from the society around them. This makes it extremely difficult for the second generation to take root in that society as they are shrouded by an environment of exacerbated Islamism which drives them to a militant commitment to *jihad*.

All the resources and efforts we dedicate to preventing radicalisation are highly important, not to mention crucial.

25. Islam is a great civilisation. It has its dark side, like all civilisations do and have done throughout history, but it also has its bright side.

The West should cooperate. The West should talk to the true Islam. I believe that in the struggle to keep alive the hope that the appearance of neo-reformism entails, at this time, we must engage the Muslims themselves.

It is the Muslims themselves who, in the second half of the 19th century and even in the second half of the 20th century, have shone a light on ideas for reform which proclaim peace, pardon and fruitful, sincere dialogue amongst civilisations. These civilisations must bring to light that this radical terrorism, which we call fundamentalism, in an attempt to legitimise its barbarism merely invokes hypothetical justifications, based on an irrational, anachronistic reading of their holy texts. Put another way, the professor of Police and Criminal Investigation at the University of Lancashire (UK), Syed Manzar Abbas Zaidi, in a lucid reflection on the problem, says that fundamentalism distorts the true message of Islam<sup>57</sup>, or, as the Moroccan historian

<sup>56</sup> REINARES, F.: “Advertencias sobre el salafismo”, <<https://blog.realinstitutoelcano.org/>> (read on Wednesday 21 February 2018).

<sup>57</sup> “The fundamentalist distortion of the Islamic message”, *Athena Intelligence Journal*, vol. 3, number 4 (2008), pp. 59-75 (<http://www.athenaintelligence.org>).

Abdullah Laroui maintains:

“Relating violence with the ideology of Islam (...) is dishonest on both sides, both from the Muslim side and the non-Muslim side. I know enough about history to know that all political movements, at some time, fall into the trap of resorting to violence. Throughout history there has been Puritan terrorism, Jacobean terrorism, anarchistic terrorism, Zionist terrorism, Hindu terrorism and Confucian terrorism. I could make a longer list and show that the men who made this into a thoroughly worked out theory, such as Bakunin or Georges Sorel, were not, at any time, thinking of Islam.”<sup>58</sup>

There is another Islam and there are other Muslims. We should talk to them and agree with them. These are the Muslims who begin their most heartfelt prayers with the invocation: “In the name of God, the Merciful, the Compassionate”.

Murcia, thursday 2018-04-19

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<sup>58</sup> “La modernización de Marruecos: la palabra y el objeto”, Text from Casa Árabe, <<http://www.casaarabe.es>> (read on Monday 19 February 2018).

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