

Opinion

Jihad and Just War

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In February 1998, long before the September 11 terrorist attacks on America, Osama bin Laden and four other leaders of radical Islamist groups in various countries issued a fatwa, or religious ruling, calling for jihad against “the crusader-Zionist alliance” in the following language:

In compliance with God’s order, we issue the following 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 [Jerusalem] and the holy mosque [Mecca] from their grip, and in order for their armies to move out of the lands of Islam. . . . This is in accordance with the words of Almighty God, “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 God.”

While more examples of bin Laden’s thinking emerged after the September 11 attacks, this fatwa stands as a fundamental statement of his rationale for a campaign of violence against America and the West: an appeal to the Islamic tradition of defensive jihad by which every Muslim is obligated, as an individual duty, to take up arms against invaders. It lays out the justification not only for the attacks of September 11 but also for other terrorist attacks linked to bin Laden’s al-Qaeda group, notably, the bombings of the two American embassies in East Africa and of the U.S.S. *Cole*. It also provides a warrant for future attacks by “every Muslim who can do it in any country in which it is possible to do it”—in short, for a continuing war by terrorist and other means by Muslims against “Americans and their allies,” an ongoing clash of civilizations. How should this call be understood in relation to the Islamic tradition? And how does it compare to the just war tradition of Western culture?

The classical Islamic conception of jihad in the sense of warfare comes not from the Qur’an directly, where the term jihad is used to refer to the believer’s inner

struggle for righteousness, but from the jurists of the early Abbasid period (the late eighth and early ninth centuries A.D.), who developed it in the context of a general effort to clarify the nature of the Islamic community, the proper leadership of that community, and the community’s relations with the non-Islamic world. Central to this conception was a legal division of the world into two realms: the *dar al-Islam* or abode of Islam, and the remainder of the world, defined as the *dar al-harb* or abode of war.

The *dar al-Islam*, as the jurists understood it, had existed since its creation by the Prophet Muhammad himself, who had been its first head. It is a community at once religious and political, and thus its ruler, like the Prophet, was understood to be supreme in both spheres. There could be at any time only one right ruler, understood to be the successor of the Prophet and inheritor of his authority. Because of its character—its essential unity, its rule by a successor of the Prophet, its governance according to divinely given law—the *dar al-Islam* is fundamentally different from the rest of the world, which is torn by perpetual conflict and is a constant threat to the peace of the *dar al-Islam*. A general, lasting, universal peace is impossible until the *dar al-harb* is no more, when the whole world has become the *dar al-Islam*, a place within which submission (*islam*) to God is the law of the land. Until then war between the two realms is the normal state. Yet at the same time extended periods of peace are possible by means of treaties between the *dar al-Islam* and non-Islamic societies.

This conception formed the background for the jurists’ conception of the idea of jihad as warfare. As they described it, this warfare could take two forms: that of the *dar al-Islam* as a body under the authority of its legitimate ruler, the caliph for the Sunni tradition, the imam for the Shi’ite—a conception that encompassed offensive war against the general threat and organized collective defense against attack—and an emergency form of defensive jihad against a direct attack on the *dar al-Islam* by a force from some part of the *dar al-harb*. In the former case the duty to take part in jihad was conceived as a collective one, with some Muslims fighting and others playing other roles, including simply going about their normal lives; in the latter case, though, to fight was an individual duty, incumbent on all Muslims who were able to do so in the immediate area of the aggression.

These were significantly different forms of warfare. The collective jihad was a thoroughly rule-governed activity, from the requirement of the caliph/imam’s authority to that of a declaration of hos-

tilities and a call for peace to a form of combatant-non-combatant distinction to extensive discussion of the disposition of spoils by the ruling authority. The jurists clearly understood this as the norm for the warfare of the *dar al-Islam*. This form of jihad drew upon the religious unity of the Islamic community even as it depended on the social and institutional relationships that comprised the Islamic state; the proper exercise of jihad on this model strengthened the *dar al-Islam* and the role of its ruler both religiously and politically.

The jihad of emergency defense was another matter entirely. It assumed an acute emergency in which normal religiously and socially prescribed relationships and structures were erased. The model the jurists had in mind was simple: a direct attack across the border of the *dar al-Islam* by a force from the *dar al-harb* in some particular place remote from the *dar al-Islam's* center of authority and power. Against this attack Muslims in the area were to rise up in arms, on their own authority, as a kind of *levée en masse*. The individual duty to take up arms crossed and eliminated all the usual divisions: not only healthy men of fighting age but women, children, the aged, and the infirm were to fight to the limit of their ability to do so. Correspondingly, the rules of collective jihad did not apply: the enemy was the invading army, so noncombatants were not present and thus played no part in the conflict. While the jurists admitted this form of jihad in time of dire emergency caused by overt aggression, there was an inherent tension between it and the collective jihad of the *dar al-Islam* under the authority of the caliph/imam. In practical terms, local leaders on the frontiers might (and did) use the excuse of the jihad of emergency to challenge the legitimacy of the central authority. However, this form of jihad was originally meant to be an exceptional response to an exceptional circumstance, not the norm for Muslim warfare.

It is generally agreed within Islam that jihad of the first sort is impossible today, as there is no central caliph or imam. This gives new importance to what was originally considered to be an exceptional case: the idea of jihad as an individual duty in the face of external aggression. In the Islamic mainstream this conception has developed along lines compatible with international law to allow Muslim heads of state to organize and execute defense collectively, though on the juristic model they do so on the basis of the individual responsibility of all their people to respond to aggression. The historical model for such action is the medieval hero Saladin, who though only a regional commander (not the caliph) organized and led a successful defense against the armies of the second Crusade. In theory, this mainstream conception of defense respects the patterns of relationships within the society as well as the limits to be observed in fighting, the most important of

which are understood to come from the Prophet Muhammad himself.

However, the last hundred years or so have seen the development of another line of interpretation of jihad. First appearing in North Africa as an ideology for resistance against colonialism, by 1960 it was being used as a justification for terrorist attacks against Israel, and in the 1970s and 1980s it was adapted to justify armed struggle by terror and assassination in such states as Iran, Egypt, and Algeria against rulers who were nominally Muslim but were judged to be tools of the West. It is out of this tradition that bin Laden's fatwa has emerged.

This radical form of jihad makes several critical assumptions not found in the traditional conception or in the mainstream theory. First, the *dar al-Islam* is conceived as any territory whose population is mainly Muslim and which was once part of the historical *dar al-Islam*. By this reasoning any non-Islamic state existing within the territory of the historical *dar al-Islam*, as well as all non-Islamic presence within that space, must be resisted and subdued or eliminated. Further, the "aggressors" are deemed to be all those who support such states or non-Islamic presence, so that the usual lines of distinction between combatants and noncombatants are erased, with the result that all individuals are considered acceptable targets. Further, because of its origins in an "emergency," there are no limits on means in this struggle. Finally, all Muslims are faced with the duty to take part in this struggle, so that it ultimately becomes one involving individuals rather than politically organized communities; anyone who accepts this duty—men of fighting age, women, children, or the aged or infirm—becomes a combatant in the war.

This extreme interpretation of the idea of defensive jihad implicitly rejects much of the actual history of Muslim societies and the Muslim faith. It leaves scant room for toleration of "people of the book," as prescribed in the Qur'an, because it treats the simple presence of Christians and Jews in dominantly Muslim societies as an act of aggression. It also leaves no room for differences of interpretation as to what Islam requires; its reading of Islamic law is narrow and unyielding on doctrine and behavior alike. Social developments identified with modernity are rejected as un-Islamic, even if large numbers of Muslims have accepted them without losing their faith.

Bin Laden's fatwa reflects all these assumptions. The United States is deemed an aggressor against all Islam because of the presence of U.S. troops in Saudi Arabia, despite the fact that they are there by agreement, and despite the fact that their purpose is to protect Saudi Arabia, not to dominate it. Likewise, the "protracted

blockade" against Iraq is viewed as an assault on the Iraqi people, despite the fact that Saddam Hussein's diversion of resources for his own purposes is the real cause of their suffering. The same could be said of bin Laden's hostility to U.S. support for "the Jews' petty state" and "its occupation of Jerusalem and murder of Muslims." In other words, the United States has become the embodiment of the *dar al-harb*, engaged in aggression against Islam, despite the fact that millions of Muslims live and enjoy freedom of religion within its borders. But bin Laden's fatwa takes the radical line of jihad to new extremes when it calls for any and all Muslims to kill any and all Americans—"civilians and military" alike—"in any country in which it is possible to do it." No longer a defensive war, this is jihad on the offensive.

Bin Laden and his associates in the fatwa of course lack the religiously mandated authority to wage such war, as they do not bear the mantle of succession to the Prophet. That is why they try to describe the war against America as a defensive one. By painting the entire nation of America as guilty of "aggression," the fatwa can set aside the limits imposed on warfare by normative Islamic tradition, which includes no direct, intended killing of noncombatants and no use of fire, which is prohibited among Muslims because it is the weapon God will use in the last days. Bin Laden's jihad not only pits Islam against America, the West as a whole, and ultimately the rest of the non-Islamic world; it also seeks to overthrow the contemporary Muslim states and mainstream views of Islamic tradition among the great majority of contemporary Muslims.

To be sure, the early Abbasid jurists also thought the relation of the Islamic and non-Islamic worlds to be one of inherent conflict, and their notion of the collective warfare aimed at ensuring the eventual submission of the entire world to God reflected this. Yet they never defined this eschatological goal as one that could be achieved only by war or even primarily by war. And in the absence of any universal Muslim ruler bearing the mantle of authority of the Prophet, Muslim tradition and Muslim life have found ways of pursuing this goal by other, nonmilitary means. The radical ideology of jihad changes this, making the use of violent means, indiscriminately and without principled limits, a binding obligation for all Muslims.

While the idea of just war is deeply rooted in Western culture, it is perhaps more strongly institutionalized today in international law, in American military doctrine and practice, and even in political culture than at any time since the age of Vitoria. Though the just war tradition has important Christian roots, it differs from the Islamic juristic tradition in that it can be employed without explicitly religious premises. Similarly, in Western political thought and theology more gen-

erally, the nature of the political community, the role of government, and the use of armed force are conceived in secular rather than religious terms. All these features differentiate just war tradition from the juristic tradition of jihad by the *dar al-Islam* on the authority of the caliph/imam.

Yet there are also significant points of contact, which reveal important common interests. I have already suggested this by noting that mainstream Islamic thought and political practice have developed in a way compatible with international law and orderly, peaceful interaction with non-Muslim nations. More specifically, both traditions link the right to use armed force to the exercise of legitimate governing authority for the protection and common good of the governed community. That common good, moreover, is defined normatively in terms of high ideals of value and behavior, not in terms of repression and intolerance. Both traditions recognize that even the use of force justified in this way is not without limits when it comes to the question of who may be targeted and the means that may be used against aggressors. These are all matters on which there can and should be a pursuit of common cause. The radical doctrine of jihad advanced as the justification for contemporary terrorism is a challenge to both of these traditions, and people of good will from both communities have reason to reject it.

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The Very American Stanley Hauerwas

Stephen H. Webb

David Tracy was my advisor at the University of Chicago Divinity School at the time he was developing the idea of the analogical imagination. The way he wove together all aspects of religious thought into an intricate fabric inspired me, even though my evangelical Protestant instincts kept me from embracing it entirely. Perhaps I was intimidated to find that Tracy had managed to weave even my own dialectical predilections into his multicolored coat, making my theology look patched and worn by comparison. I kept