

## A Commentary Upon the Fatwa Issued Concerning the Permissibility of Muslims Participating in Military Operations Against the Muslims in Afghanistan

Sheikh Salah as-Sawi  
Sha'ban 1422, November 2001

Courtesy of [MinhajAlMuslim.com](http://MinhajAlMuslim.com)

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The Fatwa states:

*"The Muslim soldier must perform his duty in this fight despite the feeling of uneasiness of fighting without discriminating. His intention must be to fight for enjoining the truth and defeating falsehood. It is to prevent aggression on the innocents or to apprehend the perpetrators and bring them to justice. Its not his concern what other consequences of the fighting that might result in his personal discomfort, since he alone can neither control it nor prevent it. Furthermore, all deeds are accounted (by Allah) according to the intentions"*

*"To sum up, it's acceptable, Allah willing, for the Muslim American military personnel to partake in the fighting in the upcoming battles against whomever their country decides has perpetrated terrorism against them. Keeping in mind to have the proper intention, as explained earlier, so no doubts would be cast about their loyalty to their country, or to prevent harm to befall them as might be expected."*

O my brothers ! This is a summary and the details are more bitter.

It was not conceivable among the observers in the Islamic world or in their deepest imaginations that a fatwa of this sort would be issued. A fatwa that allows for the army of the crusaders, under the leadership of the arrogant world powers , to wage a war against a group of the Ummah of Muhammad [ sallallahu alayhi wa sallam ] and prepare a pulverizing bombardment of others. And a group of Muslim soldiers in the united states military have been issued a fatwa that declares it permissible to take part in these wars and to give help and assistance to them. In this, they have destroyed the last fortress from the fortresses of piety in their hearts- that fortress being the feeling of sin upon the commitment of this evil act.

We do not want to relax and feel at ease with these gross errors for verily the situation is serious without any joking. Certainly, the drums of war are beating and thousands of bombs and missiles are being rained down upon a land from the lands of Islam to destroy crops and offspring as well as to spread destruction and demolition in the land. This is simply the beginning as they themselves[ the disbelievers] have said. And they shall follow this up in other places as has been planned by the oppressors- and it is said to those that choose to close their eyes to that day- tomorrow you will be the fuel of their fire.

*"I was eaten the day that the white bull was eaten"*

## **Matters that should be presented before the refutation:**

### **1. The sanctity of blood and the severity of punishment upon the people who shed it unjustly.**

This is something which is firmly established in the purified Shari'ah and confirmed in the two revelations: the Qur'an and the Sunnah . The servant does run out of (fashah) goodness in his deen so long as he does not shed blood that is forbidden for him to shed. Every sin may be forgiven by Allah except the sin of a man who died as a disbeliever or a man who intentionally killed a believer. And it is because of this the laws of retribution is in the Shari'ah. These laws serve to protect the blood of human beings and guard them from those who sow corruption on the earth. It should also be mentioned that the punishment for highway robbery (the most severe of punishments in Islam ) is a type of protection for the society from the evil of the rebellious criminals and an emphasis upon the sanctity of nations in the purified Shari'ah. Allah the most high said:

**"And whoever killed a believer intentionally his recompense will be hell to abide therein and the wrath and curse of Allah are upon him and a great punishment is prepared for him."(4:93)**

And he said, **"and there is life for you in qisaas (the law of equality in punishment) o men of understanding so that perhaps you may become pious." (2:179)**

The sanctity of blood in Islam is a general legislation . In its essence, it does not differentiate between the Muslim and non Muslim. So killing does not become permissible in the Islamic State (the abode of the Muslims) except by one of three things:

Intentional killing out of transgression or adultery after marriage, or apostasy after iman. The Prophet (sallallahu alayhi wa sallam) said:

***"The blood of a Muslim is not lawful except in one of three cases: a soul for a soul (retribution), the married adulterer, and the one who leaves his deen and separates from the community."***

The shedding of blood does not become lawful outside of the Islamic State except in a legislated war that is for the sake of defending against transgression. This aggression may be aggression against the lands of Islam , or aggression against Islam itself either by placing trials, barriers or punishments upon those who wish to accept Islam so as to prevent them from choosing it as a religion. Allah said:

**"and fight in the path of Allah those who fight you but do not transgress. Verily Allah does not love the transgressors." (2:190)**

And he said:

**"And what is wrong with you that you do not fight in the path of Allah and for those weak , ill treated and oppressed among man, woman, and children whose cry is: "our lord rescue us from this town whose people are oppressors and raise for us from you one who will protect and raise for us from you one will help." (4: 75)**

So one must make a distinction between the legislated war as is defined in our Islamic jurisprudence and history, and the so-called 'holy war' that is propagated by the west. What the west defines as holy war is the forced conversion of a people to Islam under the shade of swords. But there is no likeness of this in Islam - which takes this ayah as an eternal fundamental principle:

**"There is no compulsion in religion, verily the right path has become distinct from the wrong path. (2:256)**

This legislated war has conditions and etiquettes that must be observed. The legislated nature of this war is only with the fulfillment of these conditions. From these conditions is the abandonment of treachery. For whoever has an agreement between himself and a people, he is obligated to complete the agreement until its appointed time and it is not allowed for him to violate his treaty in any way or form. However, if he feared that they will not fulfill the agreement, he may terminate the agreement and inform them of the continuation of hostilities.

The sacred texts concerning this are explicit and clear. Allah the most high said:

**"If you fear treachery from any people throw back their covenant to them so as to be on equal terms with them. Certainly Allah does not like the treacherous." (8:58)**

The meaning of the ayah, **"so as to be on equal terms with them"** means: inform them that they have violated their treaty so there is clear knowledge that you are at war with them and that they are at war with you. **"inform them"** that you are both on equal terms not having any treaty between them and you. (Tafseer Ibn Katheer: 578).

Imam Ahmad and others narrated on the authority of Salim ibn Aamir that he said, "Mu'aawiyah (radhi Allahu anhu) once traveled through the lands of Rome with a long distance between them and Him. He desired to battle them after the distance between them was shortened. Upon this an old man riding on a beast of burden proclaimed : Allahu Akbar!! Fulfillment and not treachery ( i.e. the treaty should be fulfilled and no treachery should be shown.)

Verily the Messenger of Allah (sallallahu alayhi wa sallam) said:

"Whoever has an agreement between a people let him not annoy them or harm them in anyway until the treaty is expired or it is thrown back to them so as to be on equal terms (as referred to in the ayah in Surah al anfaal). So when this narration reached Mu'awiyah (radhi Allahu anhu) he immediately withheld and went back. And the old man referred to here was Shaykh Umar Ibn Absah'.

And from it (the manners of legislated war in Islam ) - turning away from intentionally transgressing against those who are non combatants. It is from the Shari'ah of Muhammad (sallallahu alayhi wa sallam) to avoid and not intentionally harm non combatants from the women, children, elderly, and those who are devoted to worship from the priests in the monasteries and churches.

The textual evidence in support of this is authentic, numerous and extremely clear. There is no exception except when non combatants and combatants intermingle and there is an inability to distinguish between them, as in the case when the enemy uses the above mentioned as human shields (women children and elderly).

## **2. Allegiance and disavowing is only established on the foundations of Islam and nothing else.**

Islam has freed mankind from bigotry based upon color, family roots, or language and made their allegiance for the truth that Allah has sent down. Islam has commanded the people to stand up firmly for justice and be witnesses for Allah even if it be against their own selves or parents or close relatives. And in this, Islam does not differentiate between the one residing in the Islamic state and the one residing outside of it. That because this Shari'ah is general and it addresses the Muslim wherever he may be upon every earth and under every sky. The Muslim does not help anyone in falsehood even if the one being helped is a Muslim or a non Muslim, whether he is alone or a part of a political group, in the east or the west.

Allah the most high said:

**"You will not find any people who believe in Allah and the last day, making friendship with those that oppose Allah and His Messenger even though they were their fathers or their sons or their brothers or their kindred. For such he has written faith in their hearts and strengthened them with Ruh (proof and true guidance) from himself. And We will admit them to gardens (Paradise) under which rivers flow to dwell therein forever. Allah is pleased with them, and they with Him. They are the Party of Allah. Verily, it is the Party of Allah that will be the successful." (58:22)**

This means: they do not love those who oppose Islam even if they are the closest of relatives.

Allah the most high said:

**"Say: if your fathers, your sons, your brothers, your wives, your kindred, the wealth that you have gained, the commerce in which you fear a decline and the dwellings in which you delight...are dearer to you than Allah and His Messenger and Jihad in His cause then wait until Allah brings about His decision and Allah guides not the people who are rebellious and disobedient to Allah." (9:24)**

So Allah has ordered the abandonment of the one who has opposed the truth and exceeded the bounds. The one who has preferred blindness over guidance **"even if they are the closest of relatives"**.

Therefore, the issue is not a position that the Muslim takes against the west in general or against the United States in particular, rather it is a general methodology and the west and east are equal with respect to it. So if a person from a particular tribe transgressed and committed a crime, assisting him in this case would be to strike him on his hand and to prevent him from oppression. Helping him is not to take part with him in the act or to assist him in it. For the one who assists his people in falsehood is like the camel that had fallen into a well and is being pulled out by its tail! Just as the Messenger of Allah (sallallahu alayhi wa sallam) had said and we have no equal in comparison to his words. And we have certainly witnessed many amazing things in Islamic history that testify to this. We have seen how Islam liberated its true followers from the malaise of blind bigotry for the sake of tribes or families even with the deepest of bonds and the womb and close ties when these things go against the truth.

Indeed, the battle of Badr was the source of a test in the souls of the believers. The

reality of Iman destroyed all connections not based on it.

And do not forget the history of what took place in Samarqand when its inhabitants called upon Umar ibn Abdul Azeez concerning the Muslim military leader that took over their land. That is because they entered into their lands and took over before calling them to Islam . So Umar ordered his judge to make a judgment in the issue . And in this, the judge decreed that the victory and conquering of Samarqand was invalid and ordered the troops to leave the area until they fulfilled all of the conditions of conquering as appears in the sacred texts of the Shari'ah . The Muslim army pulled out and that was the cause of the people of Samarqand embracing Islam.

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After this introduction, we shall now begin commenting on the most important points raised in this fatwa and what it contains from gross errors both in the realm of knowledge and action. All the while we ask Allah to return those who have followed (the fatwa) to the truth, before the coming of the day in which there will be no selling no friendship and no intercession -- on the day in which every soul shall find what it has done of good directly in front of it as well as of evil , while wishing that there would be a great barrier between it (the evil) and itself.

### **The most serious of errors contained in the fatwa:**

**1. The fatwa is being established on the presumption that the Taliban movement was responsible ... and placing the responsibility of the events of September 11 upon it.** In all this, neither America nor anyone else possess irrefutable evidence (adillah qat'iyyah) supporting such formation of alliances and 'coalitions' and calling for the unleashing of the worlds military forces for the destruction of a small impoverished nation that has been ripped apart by wars and destroyed by poverty and need.

All of this despite the fact that one who was seeking the fatwa stated in his introduction that the goal behind the military operations was .. "retaliation against those who are suspected of participating in the planning and financing of the suicide operations that were executed on 11th of September, and as a deterrent and as a means of intimidation for those who supported it."

This means that the one seeking the fatwa was looking at the one who issued the fatwa with the opinion that the revenge for the attacks was based upon conjecture, and that those who gathered the troops and organized the coalitions do not have evidence supporting this action. However, the fatwa feigns ignorance in all of this. It is mentioned at the end of the fatwa - "verily it is binding upon the Muslims to be as one hand united against those who bring fear and harm to the innocent and make lawful the shedding of the non combatants blood without any legislated reason."

In this manner, the fatwa raced side by side with the Jewish media in blaming the Taliban as well as Osama bin Laden- and calling upon the Muslims in the American military to take part in fighting in this fierce war. In doing so, having no qualms about it and finding no feelings of denunciation about it in their chests.

**2. Describing the events of September 11th as being from highway robbery (hiraba) which necessitates killing, crucifixion, or the amputation of the arms**

**and legs from opposite sides or banishment from the land (as a punishment).**

And from that which the fatwa mentioned :

"if the terrorist acts that were perpetrated in the United States were dealt with in light of the Shari'ah texts and according to the principles of Islamic jurisprudence, the ruling of the criminal act of highway robbery would be applied to it- the act referred to in Surah al Ma'idah- "the recompense of those who wage war upon Allah and his Messenger and do mischief in the land is only that they shall be killed or crucified or their hands and feet be cut off from opposite sides, or be exiled from the land. That is their disgrace in this world and a great torment is theirs in the hereafter."

I say: "How much tonight resembles last night!"

One is called to remember the total fabrication of what happened in Manshiyyah' (an area in Alexandria Egypt where the former President Jamal Abdul-Naasir would give speeches) that some of the tyrants coordinated in order to remove the leadership of the Islamic work in those days ( and this event is referring to what was coordinated with some informants in which the Ikhwaan al Muslimoon movement were framed with the attempted assassination of president Jamaal Abdul Naasir so as to be taken as a legitimate reason to punish and contain them.

Thus, a large multitude of them thereafter were hung from the gallows. And some evil scholars gave sermons upon the pulpits mentioning the verse about highway robbery found in Surah al ma'idah, so as to present to the tyrants and executioners a legitimate legislated excuse for what they were doing against the d'awah and its men on that day from punishment and torment.

Verily the highway robbery that is mentioned in Surah al Ma'idah, the details of which is adorned in the books of jurisprudence, is called the greater theft. It is the crime that comes from the sinful desire to shed blood, and terrorizing the well traveled roads and pathways and the plundering of wealth at gun point. The perpetrators have no grievance nor have they an adulteration or mistaken understanding of a text (taweel). So perhaps going back to the books of jurisprudence and tafseer will help make clear this issue

It has been narrated in Bukhari and Muslim on the authority of Anas ibn Malik (radhi Allahu anhu) that he said:

"Verily a group from 'Akl came to the Messenger of Allah (sallallahu alayhi wa sallam) and embraced Islam . Soon they became sick due to the new climate in Madinah so they complained to the messenger of Allah (sallallahu alayhi wa sallam) . The Messenger (sallallahu alayhi wa sallam) said, "Go out with our shepherd and drink from the camel urine and milk ( a remedy used in that time). They went out and drank from the milk and urine. They then killed the shepherd and released all of the camels. When this news reached the messenger of Allah (sallallahu alayhi wa sallam), he sent a group to apprehend them and they were caught. Thereafter, the Messenger of Allah (sallallahu alayhi wa sallam) ordered that their hands be cut off and their eyes be pierced with hot nails. They were then placed in the sun until they died.

This hadith has been narrated with different wordings. In some of the narrations it is mentioned that they apostated from Islam and committed rape and gouged out the eyes of the shepherd, so the Messenger of Allah (sallallahu alayhi wa sallam) ordered (their death). Thus, they were killed and their eyes were gouged out as a complete and

perfect justice!

And what is indeed amazing is that Anas ibn Malik (radhi Allahu anhu) -and he is the narrator of the hadith- regretted mentioning this hadith to Hajjaaj ibn Yusuf ath Thaqafi- who took this as a way to allow for his oppression and tyranny. It has been narrated from Ibn Mardawaih on the authority of Anas from numerous routes of transmission that he said:

"I have not regretted from a hadith like I have regretted about the hadith that Hajjaaj asked me about. He asked me, " inform me of the most severe punishment that the messenger of Allah (sallallahu alayhi wa sallam) ever punished someone with."

He said: "And when Al-Hajjaaj would climb the pulpit he would say: 'Indeed the Messenger of Allah [sallallahu alayhi wa sallam] has cut the hands and feet of a group. Then he placed them in the intense heat until they died, all as a result of the urine of a camel.'" Thus Al-Hajjaaj used this hadeeth as a justification to the people.

I say: Then, what about the one who goes beyond this by instigating a global Crusade declaring a general war against a weakened group from this Ummah , despite the fact that until now there has been no considerable proof brought forth linking this group to the event.

And with regard to the books of jurisprudence, they are abundant in clarifying the reality of hiraba, in distinguishing between it and what may be confused with it from other crimes, such as the crime of transgression and revolting against the true Imam without right, and so on.

Furthermore, Imam Malik has distinguished between the crime of transgression and the crime of hiraba when he said: "Criminal transgression is when the revolt is based upon an interpretation that is not clearly corrupt or unsound, while those engaged in Hiraba revolt based upon clear injustice and blasphemy, without any adulterations." (Al-Zarqani: 8/192)

And man-made laws indeed distinguish between a criminal offense and a politically motivated offense, and it gives each one its suitable ruling taking into account the intents and motives in each case.

And the question that now arises:

Are we currently facing an absolute criminal offense, the perpetrators of which had no intent but to steal money and spill blood, so that we can consider it a case of hiraba?

Indeed the ones who carried out this action were dedicated to what they have put forth, and they were the first casualties in this attack that would surely cost them their lives. Thus, this fact certainly negates the possibility that their goal was to steal money in any way, shape, or form!

Now it should be asked:

What were the driving forces that caused this group to choose sacrificing their lives in such a terrifying manner? Certainly these people have died, and their secrets have died with them. And only Allah alone remains, being the All-Knowing, All-Aware. And nothing has been left for humans except for fortune-telling, fabricating stories, attempting to analyze various connections and circumstances, and investigating in



every direction - that perhaps they may uncover something in the confusion of this grave event.

And what is of interest to us in this context:

**Suppose** that this event is truly related and linked to the Al-Qaeda Network, and at head Osama Bin Laden - as the American media has widely spread. Then, will it be accurate to portray him as one engaged in hiraba as the fatwa attempts to portray him, and rushes to present this image to the decision-makers of the United States?!

Indeed the Al-Qaeda Network - as is well known amongst the observers of the affairs of the Islamic world, from East and West - is a Jihad movement, that originated to support the Afghani Jihad during the war with the Soviet Union. They were afflicted during this time with a goodly trial. This was according to the observation of the entire world. The first people to be aware of this were the decision-makers of the United States.

Eventually those days of Jihad ended with the defeat of the Russians and their withdrawal from Afghanistan, leaving behind them millions of mines. They were military mines that one of their soldiers said concerning them: "They were planted in Afghani territory in order to combat Afghanistan for the next twenty years." They were mines of dispute and turmoil amongst the mujahideen that mutilated the face of this blessed Jihad and made it a morsel for the mouths of the malicious parties! They were mines of concealment and threat between the mujahideen of the Islamic awakening, who raced to give victory to their mujahideen brothers in Afghanistan, and between the governments of their respective countries. These governments portrayed the returning fighters from Afghanistan as time bombs, bound to detonate at any moment at the foundations of the buildings of Arab organizations! This went to the extent that merely returning from Afghanistan was considered a great crime from every aspect, deserving nothing less than execution or lifetime imprisonment in some countries.

This is how the paths became entangled, and the circle strengthened amongst the youth of Jihad, who had no other choice. This is truly the case - butto be tied to the Jihad lifestyle for the rest of their life - an inevitable choice with no alternative and no escape. A tie that made them view themselves as the troops of Jihad for the Islamic Ummah . And thus whenever a banner of Jihad was raised, or a leader for it was appointed, they rushed to it.

Then their scope widened from being local to being global. They stopped seeing the local communists as their primary enemy - despite their ferociousness in combating them- for they have become deeper in view, and farther in vision after their long experience in Afghanistan. They realized that their primary enemy was -- one that hides behind the scenes; one that manipulates many of the local leadership, as puppets in a puppet show are manipulated; one that stresses the enmity toward the Islamic Jihad in every location; one that favors tumult within the Islamic Ummah in every place and in every situation; one that plans to create from Islām a common enemy that the whole Western world would unite against in aggression and would stand together in controlling, and would strive together in tearing down it's banner. This enemy [to them] is indeed represented by a strong, mighty, and global power, being led by the United States.

He [Osama bin Laden] opened up his eyes and saw the "children of the rock" being killed in Palestine with American weapons and American support. The pictures of Mohammad Al-Durra and others like him did not cease to engrave deep wounds in his

heart! He saw in Israel, the spoiled child backed by the United States, its feet trampling on the heads of the entire population of Arabs and Muslims alike. What was illustrated to him from this military dominance was that it suffices to portray the whole region as a pile of ashes. On top of that it became obvious to him, from the political support of the United Nations and other national assemblies, that nothing changes from a mere statement of condemnation or disapproval, which does nothing but cover up for the shortcomings of these organizations.

He also saw more than a million of the children of Iraq dying due to U.S. sanctions and U.S. cunning, during the time that it was defending the head of the regime that led its citizens to the bottom of the pit, while justifying its military settlement in the Gulf and other places with the excuse that it is protecting the region from his dangers.

He also saw Sudan being subjected to the afflictions from the South, led by the rebellious Crusader John Garang and supported and defended by the United States. This is not to mention the economic sanctions and the labeling of this over exhausted country as a nation that sponsors terrorism, simply because it has a government that links itself with Islam , and tries to uphold some of its laws.

In addition, he saw what dawned upon Libya from oppressive and unjust sanctions upon the Libyan citizens lasting several years. And indeed they had to pay a burdensome price due to its severity and continuity. Meanwhile, not a single hair strand of the Libyan regime was touched.

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He also saw the tragedy of the Muslims in the Balkans, and he heard about the gang rapes committed against the believing women, and the mass graves of the Muslim men in that region and its neighboring areas. All the while, the devious American hands remained stained and soiled with blood: the hot blood and the cold!

He also saw what happened in the separation of the territory of East Timor in Indonesia, and America rushing to congratulate and support this separation.

Thus no matter where, East or West, the deceit of day and night was seen! The enmity was apparent, while its reasons remained undisclosed.

So is it wrong for a person to ask: Can there be any blame on the Al-Qaeda Network or other organizations for demanding on its list of demands, and prioritizing on its list of priorities the opposition to this overwhelming injustice?! Especially since the organization did not enter into any contracts or agreements that would prevent it, Islamically, from this opposition?

Do you not read the words of Allah the exalted: " And whosoever takes revenge after he has suffered wrong, for such there is no way (of blame) against them. The way (of blame) is only against those who oppress men and wrongly rebel in the earth, for such there will be a painful torment" (42: 41-42).

Is not the entire Islamic Ummah one Ummah ?

Is not an attack on one part of it considered an attack on all of it, and is not a transgression upon its sanctity considered a transgression upon all?

If there was any justification for the Islamic or Arab countries in condemning this attack and still continue to maintain a relationship with the United States [considering that these Islamic countries are deemed subjugated within the international community] then as the term "subjugated" may be applied to single individuals and organizations, it may also be applied to what may be named an independent country that has leadership! As some of the politicians have stated: "Just as there is a source of authority in marital life, there is also a source of authority on the level of international relations!" **If this was the case** concerning governments [that they are indeed weak and subjugated], then the likes of these organizations do not have what it takes to make it obligated to carry out such measures . For you may see - regardless of whether this decision [condemnation of the attacks] is right or wrong - it [the organization] is solely the one to be questioned about its decision, and it is solely the one responsible for the consequences. **And here, we are only explaining and not**

***justifying!***

Perhaps in the story of Abu Baseer about his killing of one of the messengers who was delegated to return him to the people of Makkah, his fleeing to the shores of the sea, his raiding of the caravan of Quraysh, and the lack of any disapproval from the Prophet (sallallahu alayhi wa sallam) ---- there may be an example of an Islamic precedent that can be copied by many of these organizations to their current stances. Although using this story as a justification for their action has its doubts (has to be looked into).

***And it may be proper to state*** that if such an act was proper during the Jihad against Russia due to the variety of banners that were raised at the time, and the lack of a leader that the Muslims were united under, it is definitely not proper now after general approval has been given to the Taliban, or at least after Al Qaeda has entered under their authority. And the conclusion is that, these people -- assuming that they were linked to this event, and this is merely an assumption that has not been proven by any evidence - through this action certainly have no connection with the act of hiraba that the fatwa is trying to imply.

**The fatwa cannot be given validity in any way, for the following reasons:**

- This organization indeed has dedicated themselves to Jihad a long time ago, based on the observations of the entire world. Also, the Ummah has never known from them any robbery or plundering, and they were never known to be linked to any lewdness or immorality.

- Each of the individuals that executed this event was the first on the list casualties, an end result that did not come as a surprise. Indeed they knew the end result of their actions in advance, as it is known that tonight will arrive before tomorrow. This clearly negates that the intention behind these actions was worldly gain or attachment to this fleeting world!

- The targeted party is intense in its enmity toward the Ummah 's affairs, being at war with it in Palestine, killing its children in Iraq, obvious in its aggression toward it in every place: Sudan, Chechnya, the Balkans, Bosnia, Kashmir, Indonesia, and so on.

- It is for one of them (of Al-Qaeda, etc.) to say: Do you not claim that the issue of Al-Aqsa and the issue of Palestine is the primary issue that concerns the Muslim Ummah ? And hasn't it been agreed upon to bring down the perpetrators by all of the Ummah - its Sunnis (followers of the sunnah) and its innovators - on the same note? And haven't they united unanimously on this issue in a way never experienced before with any other issue? Isn't the United States the one endorsing our expulsion and endorsing the killing of our children in this occupied land? Are not the American weapons and the American technologies the factors that allow our enemy to overpower us militarily and allow them to terrorize our lands as they wish? Did not the United States, with this issue alone, become one that has waged war with Allah and his Messenger? And that it is allowed from America what is allowed from the combating enemy (her blood)? And even if some governments from the Islamic countries had entered into agreements and treaties with America, then that is their concern, and we are not bound by that in any way!

- In the case of killing innocent civilians, one of them may say: We did not intend these people as our targets originally; so what results as a consequence and without an original intent, then that is at a level of the forgiven matters, or at least at a level of Ijtihad (interpretation). We did not intend but to hit the centers of power of this

oppressive country, military and economic. For the weapon and the dollar are what make nations rise and fall. Especially when no other way has been made easy for us to defeat (the enemy), considering the major setback resulting from the large imbalance in (military) strength between the two parties. And some of them may use as proof what has been narrated in the Sunnah regarding night attacks, and attacking with catapults: such as what occurred when catapults were used against the people of Ta'if during the time of the Prophet [ sallallahu alayhi wa sallam ]; and what occurred when catapults were used against the people of Alexandria during the time of Amr Ibn Al-'as; and the permissibility of killing the human shields, the Muslims that the Disbelievers would use as human shields during war, and likewise. And one of them may also say: These civilians are the financiers of these crimes - that the United States has committed in its opposition to this Ummah - by what they pay the United States in taxes.

Rather one of them may even say: The mentioned fatwa has given a Muslim the permission to kill Muslims under the American flag, and does not find it wrong to extend the calamities of this operation to the Muslim civilians.

Therefore, if the necessities of war - according to the ones issuing this fatwa - permit the non-Muslim fighters and those Muslims who assist them in their armies to unintentionally harm civilians in their operations, then why is it impermissible to apply the very same rationale when judging the operations that are carried out by the Jihad groups against the most oppressive world power?!

•It is not a secret that all of these arguments may be open for interpretation, however, they do not justify the action in any way. This is because the argument of night attacks, catapult attacks, and killing human shields may be expounded upon further in this situation. All of them occurred during an existing battle that had erupted by action, and they were within the shari'ah's consent.

Thus, war had been declared, the ranks were distinguished, and each side attacked the other side on equal terms. And the targets by default were all combatants, and whoever was afflicted other than combatants, was an exception to the rule.

However in our current situation, the targets were non-combatants - at least in the case of the World Trade Center attack - because by default anyone there was a non-combatant. If any combatants were afflicted, then that was an exception to the rule.

So, the situations are on the contrary, and thus the analogy fails.

With regards to the United States being an aid to the atrocities occurring to the Muslims in Palestine, the ones responsible for this are the political and military leaders, and not the general citizens and their likes, for the general citizens are unaware of many things that go on at the upper levels of government. And in terms of them paying taxes to their government, this is an involuntary obligation paid by Muslims and non-Muslims alike and when they pay taxes they do not intend to aid the aggression against Muslims or non-Muslims, etc.

And once again, we reassure that the intent here is to display the existence of an interpretation that would negate the possibility that this was an act of hiraba -- in the case that there is a proven link to these individuals in any of what has occurred -- and to show the fault of the fatwa by oppressively rushing to make it seem as such a crime (i.e. Hiraba).

### **Allowing the killing of Muslims under the flag of the transgressors**

Indeed this fatwa has allowed the Muslims in the American army to kill their Muslim brothers, wherever their country directs them! (It allowed this) whether in Afghanistan, or in any other place in the world, in order (for them) to be loyal to their citizenship and in no way neglect it! So it was stated in the middle of the fatwa that it was in agreement "with the permissibility of Muslim soldiers in the U.S. army participating in the military operations and the rest of what the army demands in Afghanistan and other Muslim countries."

Also, the end of the fatwa stated:

"And in summary: that there is no harm, in sha Allah, upon the Muslim soldiers in participating in the upcoming (expected) battles against those whom their country decides as engaged in terrorist acts against them (America), or the ones who harbor those engaged in terrorism, or the ones who allow them to train and deploy from their countries."

Based on this logic, it can be deduced that the United States is the one who decides who their enemies are from amongst the Muslims! Their intelligence technologies are also considered trustworthy witnesses! Whenever it decides that this or that party is the enemy, it becomes obligatory for them (Muslims in the army) to fight it! And for them not to have any ill-feeling in their heart from doing so!

And the fatwa adds that: "the Muslims should disregard the extensive effect of their destructive operations on the innocent Muslim civilians, who have nothing to do with what is occurring!" And that they should not feel guilt from the Islamic texts that make the blood of the Muslim upon another Muslim forbidden, and the ones that threaten the Muslim who faces another Muslim with his weapon with the Hellfire, whether he be the killer or the killed, with the claim that these texts are not describing a situation like this - a situation where the Muslim is a soldier in an organized military who has no say in its leadership - and that they (these Islamic texts) are describing the individual situations where the Muslim is in control of his affairs, where he can choose to fight or withdraw.

So we now have before us, as those who legitimized this would say, a blank check that may be filled by the American military as it pleases, and the people behind this fatwa have signed it, with no problem.

This fatwa encompasses many dangers summarized in the following:

**•Giving permission for aiding the Disbelievers against the Muslims, whenever the disbelievers decide that the Muslims are the transgressors!** And it is known by necessity of merely being a Muslim the invalidity of this. For it is forbidden forever, and the likes of these undisputed matters are in no need of collecting proofs and evidences, and it suffices for us the saying of Allah the Most Exalted:

**"O you who believe! Take not My enemies and your enemies (i.e. disbelievers) as friends, showing affection toward them, while they have disbelieved in what has come to you of the truth" (60:1).**

And this verse and what is after it was revealed for a circumstance much

more trivial than this one, concerning a letter that was written by Hatib bin Abee Balta'ah, during a moment of human weakness, to the people of Makkah, informing them that the Prophet [ sallallahu alayhi wa sallam ] was planning on combating them. Then, what about the one who goes against a group from his Ummah with a weapon and participates by action in what is being waged against it (the group from his Ummah ) from a destructive and all-encompassing war?!

•Giving precedence to the testimony of the disbelievers in the matter of blood (killing), money, and materials over the testimony of the Muslims. So whenever these disbelievers decide upon destroying any group, their allegations have automatically been proven, and their punishment has become rightfully deserved, even if the entire world was forced into this, including the Muslims.

Again, realize the fatwa mentioned: "that there is no harm, in sha Allah, upon the Muslim soldiers in participating in the upcoming (expected) battles against those whom their country decides as engaged in terrorist acts against them (America), or the ones who harbor those engaged in terrorism, or the ones who allow them to train and deploy from their countries."

Yet, it is well known merely from being a Muslim the invalidity of this path. The corruption of which suffices to prove its invalidity, notwithstanding the corruption that would result from such an argument. Thus, no one from the Muslims justified such an argument throughout these long centuries. Rather, its invalidity is understood from logic and the nature of things. For how can the accusations of the enemy become an acceptable testimony. And this enemy then becomes both the judge and the one who carries out the judgment. Thus it will gather between the accusation, testimony, judgment, and its implementation?!!

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## **A Commentary Upon the Fatwa Issued Concerning the Permissibility of Muslims Participating in Military Operations Against the Muslims in Afghanistan**

Sheikh Salah as-Sawi  
Sha'ban 1422, November 2001  
Courtesy of MinhajAlMuslim.com

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Indeed, the testimony of a non-Muslim against a Muslim is not accepted except in the context of a will while on a journey if the person is afflicted with the disaster of death and he finds no one to bear testimony for him except a non-Muslim . This is a purely civil matter in which there is no gain involved for the other party or conflict and the effects of enmity or the lack thereof would not manifest itself. The Most Exalted says:

**"O you who believe! When death approaches any of you, and you make a bequest, then take the testimony of two just men of your own folk or two others from outside, if you are traveling through the land and the calamity of death befalls you. Detain them both after As-Salât (the prayer), (then) if you are in doubt (about their truthfulness), let them both swear by Allâh (saying): "We wish not for any worldly gain in this, even though he (the beneficiary) be our near relative. We shall not hide Testimony of Allâh, for then indeed we should be of the sinful." (5:106)**

This is in addition to the agreement of the people of knowledge that clear enmity prevents the testimony from being accepted. Thus, the testimony of one enemy against another is not accepted. This is especially the case if the subject of the testimony is the subject of the conflict whereas it becomes both an accusation and a judgment at the same time.

- Removes the pain that exists in the Muslim's heart due to the increasing impact of the retaliatory operations that are currently being carried out by the armies of the disbelievers against the innocent Muslims and civilians, be they women, children, sick or the like.

The fatwa stated: "There is no burden upon a Muslim as long as he has intended by these operations to cause the truth to triumph and show the falsehood of that which is false, because he is unable to prevent this destruction or lessen it. That which a Muslim is incapable of will be lifted from him and he will not be burdened with it."

I believe that this is the first time that it has been written down that causing the truth to triumph and showing the falsehood of that which is false can be achieved through fighting the Muslims under the banner of the disbelievers! And that fighting under the banner of the crusaders lifts the sin from the fighter of the extended impact of his fighting to encompass non-combatants from the Muslims.

Then, what is it that justifies all of this? The fatwa declares that it is to dispel any doubt that may be attributed to him in his allegiance to his nation, America!



- To give precedence to allegiance on the basis of nationality or citizenship over allegiance on the basis of Islam .

Whenever there is a conflict, national allegiance is given precedence over religious allegiance. Thus, blood becomes cheap and all the destruction becomes forgivable. The fatwa stated that in its wholesale justification in fighting the Muslims under the banner of the disbelievers, it is: "forgivable from the perspective of the general harm that befalls the group of Muslims in the American army, rather in the entire United States in the general sense if they are seen as doubtful in their allegiance to their nation whose citizenship they hold and enjoy its rights, they must give this citizenship its due right."

There are plenty of texts from the two revealed sources, the Qur'an and the Sunnah, that the basis of allegiance and disavowal is Islam alone. And that:

**"Let not the Believers take for friends or helpers Unbelievers rather than Believers: if any do that, in nothing will there be help from Allah." (3:28)**

And that:

**"You shall not find a people who believe in Allah and the Last Day loving those who oppose Allah and His messenger, even though they be their fathers or their sons or their brethren or their kindred." (58:22)**

This has been addressed in detail in the introduction.

- The claim that the texts that prohibit fighting the Muslims do not include the situation in which they are fought under the banner of the disbelievers when the one fighting them is a citizen in their country and a soldier in their official army, that fighting Muslims under the banner of the disbelievers will not enter into the sphere of the prohibition of fighting amongst Muslims.

If it is deeper in prohibition and more deserving of harsh reprimand to prohibit a Muslim in fighting his Muslim brother alone or with a group of Muslims, then with greater reason it is prohibited upon him to kill them under the leadership of the disbelievers and under the banner of their heavily armed armies!

This is because such a situation gathers two types of proof in its prohibition. The first of them is the texts that prohibit fighting between the Muslims on one hand, while the second proof is the texts that prohibit assisting the polytheists against the Muslims.

To further explain, Allah criticized the Jews in His book for their fighting under the banners of Al-Aws and Al-Kazraj (two tribes in Madina.) One group allied with Al-Aws and the other group allied with Al-Kazraj. Fighting would occur between the two camps. The Jew allied with Al-Aws would fight the Jew allied with Al-Kazraj. When the fighting ended they would ransom the prisoners from each group. Thus, Allah criticized them for this and described it as belief in part of the book and disbelief in other parts. This is expressed in the statement of the Most Exalted:

**"And remember We took your covenant (to this effect): Shed no blood amongst you, nor turn out your own people from your homes. and this ye solemnly ratified, and to this you can bear witness. After this it is you, the same people, who slay among yourselves, and banish a party of you from their homes; assist (Their enemies) against them, in guilt and rancor; and if they come to you as captives, you ransom them, though it was not lawful for**

**you to banish them. Then is it only a part of the Book that you believe in, and do you reject the rest? But what is the reward for those among you who behave like this but disgrace in this life?- and on the Day of Judgment they shall be consigned to the most grievous penalty. For Allah is not unmindful of what you do.) (2:84-85)**

Allah criticized the Jews for fighting under the banners of Al-Aws and Al-Kazraj and did not make their presence under these banners a valid excuse for them that would prevent them from the sin of their actions or from deserving punishment in this world and the hereafter!

The great scholar Ibn Katheer says in his tafseer:

"The Most Blessed and Exalted says in condemnation of the Jews in Madina during the time of the Prophet [sallallahu alayhi wa sallam] and that which they used to experience from war with Al-Aws and Al-Kazraj, the Ansar. They (the Ansar) were in the time of ignorance (Jahiliyya) idol worshippers and had many wars between them. The Jews in Madina were three tribes: Banu Qaynuqa, Banu Al-Nadheer - the allies of Al-Kazraj - and Banu Quraizha, the allies of Al-Aws. When war would break out amongst them each group would fight with their allies. Thus, the Jew will fight his enemies and the Jew may kill another Jew from another group. This was prohibited upon them in their religion and in the text its book. They would expel each other from their homes and they would take whatever they contained from furniture, goods and wealth. Then, when the battle ended they would free the prisoners from the defeated group in accordance to the law of the Torah. Because of this the Most Exalted said: "Then is it only a part of the Book that ye believe in, and do ye reject the rest?"

It is narrated upon the authority of Ibn Abbas, may Allah be pleased with him, that he said: Allah rebuked them with this because of their actions. For it was made prohibited for them in the Torah to spill each other's blood and made obligatory upon them to ransom their prisoners. So they were two groups: a group of them, Banu Qaynuqa, were allied with Al-Kazraj and Al-Nadheer and Quraizha were allied with Al-Aws. If there were war between Al-Aws and Al-Kazraj, Banu Qaynuqa would fight with Al-Kazraj, while Al-Nadheer and Quraizha would fight with Al-Aws. Each one of the two groups would assist their allies against their brothers until their blood was spilled between them. They did this and the Torah was in their hands and they knew from it their obligations and rights. On the other hand, Al-Aws and Al-Kazraj were people of disbelief who worshipped idols, they knew of no paradise, hell, resurrection, Day of Judgment, book, permissible or impermissible. So when the battle ended the Jews would ransom their prisoners - in confirmation to what is in the Torah and acting upon it - one from another. Banu Qaynuqa would ransom its prisoners in the hands of Al-Aws and Al-Nadheer and Quraizha would ransom those who were in the hand of Al-Kazraj from them. And they would call for their blood that was shed and the dead from those who were killed from them in the fighting that occurred between them, while assisting the polytheists against them. Allah, the Most Exalted, says in reference to it when he criticized them about this: "Then is it only a part of the Book that ye believe in, and do ye reject the rest?" In other words, you ransom them by the law of the Torah and you fight them. While it is also in the law of the Torah that your brother should not be killed, expelled from his home and that you should not assist those who associate with Allah and worship statues instead of Him desiring vanities of the world against your brother. According to what reached me this story was revealed in reference to their actions with Al-Aws and Al-Kazraj.) (Tafseer Ibn Katheer: 85)

There remains a matter that must be mentioned at the end of the commentary upon this point: that it may be excusable in some cases for a Muslim not to give victory to

his Muslim brother if he did not migrate to the community of the Muslims and his disagreement is with a people with whom he has a treaty. The Most Exalted says: **"And those who believed but did not migrate, you have no duty to protect them till they migrate; but if they seek help from you in the matter of religion then it is your duty to help (them) except against a folk between whom and you there is a treaty. Allah is Seer of what you do."** (8:72)

Thus, those who do not migrate to the community of the Muslims are like the bedouins of the Muslims, the law of Allah applies to them just as it applies to the believers but they will receive no portion of the spoils of war unless they fight with the Muslims. Nevertheless, they have the right to be assisted if they seek our aid in religion upon fighting an enemy of theirs whom we have no treaty with. Yet, if they seek our aid upon a people from the disbelievers whom we have a treaty with, then we do not support them in this case because of the statement of the Most Exalted:

"if they seek help from you in the matter of religion then it is your duty to help (them) except against a folk between whom and you there is a treaty." Ibn Katheer says: "In other words, a cessation of hostilities for a specified period of time. So do not bring shame to yourselves in violating your agreement and do not violate your oaths with those that you make a covenant with."

But that which is not excusable in any circumstance is for him to give assistance to the polytheists against his brother and to join with the disbelieving soldiers to fight him with them. For we do not know any of the scholars of the Ummah who allowed such a thing or a single line in a volume from the volumes of Islam !

#### •Justification of Retaliation based upon Suspicion

It was mentioned in the fatwa that the goal from these military operations is retaliation against those who are suspected of participating in the planning and financing of the suicide operations that were executed on the 11th of September and as a deterrent and a means of intimidation for those who supported it. It was mentioned in the fatwa - as was mentioned previously - (that there is no harm, if Allah wills, upon the Muslim soldiers from participation in the expected battles against those who their nation ascertains that they practice terrorism against them or shelter those who practice it and they give them the ability to train and launch operations from their nation.)

It is well established in all laws, both divine and man-made, the impermissibility of retaliation based upon suspicion. For the accused is innocent until proven guilty and Islamic punishments are repelled by doubts. No judge, be he a Muslim or non-Muslim, has the right to enforce punishment upon a person accused of a crime until it is proven that he committed the crime in question. Thus, blood will not become lawful and destruction widespread upon mere suspicion and obsessions. Whoever does such a thing has transgressed and exceeded the limit and it becomes the duty of the entire world to stop him and to abstain from assisting him upon his tyranny and desire for retaliation in any circumstance.

With this we do not deny the right of people to drive back oppression. But this must take place in the framework of the regulations of truth and justice that are agreed upon by both divine and man-made laws. On the other hand, to oppress a group of people and to make wholesale accusations against them in order to settle old vendettas or to unjustly expand, then this will improve neither one's worldly life nor religion! In this tragedy specifically, the United States did not produce any proof, convincing or non-convincing, to justify this assault against the innocent and non-

combatants of Afghanistan and that which it does in various places in the Islamic world. Rather, the matter is contrary to that. All of the signs point the implication of other parties in this occurrence. It is not far to conceive that those responsible for the attack are from inside the United States government itself when one takes into account the precision and skill with which these operations were carried out.

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## A Commentary Upon the Fatwa Issued Concerning the Permissibility of Muslims Participating in Military Operations Against the Muslims in Afghanistan

Sheikh Salah as-Sawi — Sgborn  
Sha'ban 1422, November 2001 @ AOU  
Courtesy of MinhajAlMuslim.com

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It is narrated upon the authority of Ibn Abbas, may Allah be pleased with him, that he said: Allah rebuked them with this because of their actions. For it was made prohibited for them in the Torah to spill each other's blood and made obligatory upon them to ransom their prisoners. So they were two groups: a group of them, Banu Qaynuqa, were allied with Al-Kazraj and Al-Nadheer and Quraizha were allied with Al-Aws. If there were war between Al-Aws and Al-Kazraj, Banu Qaynuqa would fight with Al-Kazraj, while Al-Nadheer and Quraizha would fight with Al-Aws. Each one of the two groups would assist their allies against their brothers until their blood was spilled between them. They did this and the Torah was in their hands and they knew from it their obligations and rights. On the other hand, Al-Aws and Al-Kazraj were people of disbelief who worshipped idols, they knew of no paradise, hell, resurrection, Day of Judgment, book, permissible or impermissible. So when the battle ended the Jews would ransom their prisoners - in confirmation to what is in the Torah and acting upon it - one from another. Banu Qaynuqa would ransom its prisoners in the hands of Al-Aws and Al-Nadheer and Quraizha would ransom those who were in the hand of Al-Kazraj from them. And they would call for their blood that was shed and the dead from those who were killed from them in the fighting that occurred between them, while assisting the polytheists against them. Allah, the Most Exalted, says in reference to it when he criticized them about this: "Then is it only a part of the Book that ye believe in, and do ye reject the rest?" In other words, you ransom them by the law of the Torah and you fight them. While it is also in the law of the Torah that your brother should not be killed, expelled from his home and that you should not assist those who associate with Allah and worship statues instead of Him desiring vanities of the world against your brother. According to what reached me this story was revealed in reference to their actions with Al-Aws and Al-Kazraj.) (Tafseer Ibn Katheer: 85)

There remains a matter that must be mentioned at the end of the commentary upon this point: that it may be excusable in some cases for a Muslim not to give victory to

his Muslim brother if he did not migrate to the community of the Muslims and his disagreement is with a people with whom he has a treaty. The Most Exalted says: **"And those who believed but did not migrate, you have no duty to protect them till they migrate; but if they seek help from you in the matter of religion then it is your duty to help (them) except against a folk between whom and you there is a treaty. Allah is Seer of what you do."** (8:72)

Thus, those who do not migrate to the community of the Muslims are like the bedouins of the Muslims, the law of Allah applies to them just as it applies to the believers but they will receive no portion of the spoils of war unless they fight with the Muslims. Nevertheless, they have the right to be assisted if they seek our aid in religion upon fighting an enemy of theirs whom we have no treaty with. Yet, if they seek our aid upon a people from the disbelievers whom we have a treaty with, then we do not support them in this case because of the statement of the Most Exalted:

"if they seek help from you in the matter of religion then it is your duty to help (them) except against a folk between whom and you there is a treaty." Ibn Katheer says: "In other words, a cessation of hostilities for a specified period of time. So do not bring shame to yourselves in violating your agreement and do not violate your oaths with those that you make a covenant with."

But that which is not excusable in any circumstance is for him to give assistance to the polytheists against his brother and to join with the disbelieving soldiers to fight him with them. For we do not know any of the scholars of the Ummah who allowed such a thing or a single line in a volume from the volumes of Islam !

#### •Justification of Retaliation based upon Suspicion

It was mentioned in the fatwa that the goal from these military operations is retaliation against those who are suspected of participating in the planning and financing of the suicide operations that were executed on the 11th of September and as a deterrent and a means of intimidation for those who supported it. It was mentioned in the fatwa - as was mentioned previously - (that there is no harm, if Allah wills, upon the Muslim soldiers from participation in the expected battles against those who their nation ascertains that they practice terrorism against them or shelter those who practice it and they give them the ability to train and launch operations from their nation.)

It is well established in all laws, both divine and man-made, the impermissibility of retaliation based upon suspicion. For the accused is innocent until proven guilty and Islamic punishments are repelled by doubts. No judge, be he a Muslim or non-Muslim, has the right to enforce punishment upon a person accused of a crime until it is proven that he committed the crime in question. Thus, blood will not become lawful and destruction widespread upon mere suspicion and obsessions. Whoever does such a thing has transgressed and exceeded the limit and it becomes the duty of the entire world to stop him and to abstain from assisting him upon his tyranny and desire for retaliation in any circumstance.

With this we do not deny the right of people to drive back oppression. But this must take place in the framework of the regulations of truth and justice that are agreed upon by both divine and man-made laws. On the other hand, to oppress a group of people and to make wholesale accusations against them in order to settle old vendettas or to unjustly expand, then this will improve neither one's worldly life nor religion! In this tragedy specifically, the United States did not produce any proof, convincing or non-convincing, to justify this assault against the innocent and non-



combatants of Afghanistan and that which it does in various places in the Islamic world. Rather, the matter is contrary to that. All of the signs point the implication of other parties in this occurrence. It is not far to conceive that those responsible for the attack are from inside the United States government itself when one takes into account the precision and skill with which these operations were carried out.

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## **A Commentary Upon the Fatwa Issued Concerning the Permissibility of Muslims Participating in Military Operations Against the Muslims in Afghanistan**

Sheikh Salah as-Sawi  
Sha'ban 1422, November 2001

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These operations exceed the capabilities of these dispersed groups based in remote war torn countries, weakened by distressed economies, lacking in technology, and in which a person from the general populace can barely find enough food to survive!

From another angle, it is indeed from the regulations of punishment in both Islamic and secular law that it should be just and not extend to those who are not guilty. Also, the one who enforces the punishment should not fall in that which it criticized the accused of, namely killing the innocent, terrorizing those who were at peace and spilling the blood of isolated non-combatants for the purpose of mere aggression, retaliation and terrorism. For by doing this it loses its basis carrying out such punishments and its justification becomes weakened!

Indeed all laws, heavenly and man-made, agreed upon the impermissibility targeting non-combatants with aggression. Thus, if it was impermissible for those who executed these operations, regardless of their identity, to target the innocent and non-combatants then it is also impermissible, on the same level, for the United States to destroy a nation in its entirety because of what it suspects from enmity of a group living within its borders. And it is merely a delusion that has no basis and no proof to support it, neither convincing nor else wise.

### **•Removing the final fortress from the fortresses of piety, condemnation by the heart:**

This is through the firmness of the fatwa upon removing the concern of prohibition that is found in the heart of the Muslim in fighting his Muslim brother under the banner of the polytheists, or the discomfort he finds when the effects of his military actions extend to non-combatants from the general body of civilians. The fatwa claims that this prohibition is lifted from him first, because the texts that forbid such actions do not apply to his situation and second, because of his righteous intention and his lack of ability in preventing these results. In addition to both of these points, it is further justified by the need to prevent the evil that would result from the lack of fighting. The lack of fighting would be considered a shortcoming in fulfilling the rights of citizenship!

Although, it is well known - as was mentioned previously - that if it is prohibited upon the Muslim to fight his Muslim brother alone or with a group of Muslims, it is more worthy of prohibition to fight him under the leadership of the disbelievers and under the banner of their heavily armed

armies! This is because a situation like this is prohibited based on two proofs: - as was mentioned previously - the first of them: the texts that prohibit fighting between Muslims from one perspective. The second: the texts that prohibit assisting the polytheists upon the Muslims from another perspective.

Likewise, it is well known that the evil that was mentioned multiplied many times does not permit killing or fighting a Muslim without right. The Prophet (sallallahu alayhi wa sallam) said in the farewell pilgrimage in what was narrated in Muslim and elsewhere: "Thus do not return to becoming disbelievers after me by striking the necks of one another." We have seen the agreement of the scholars of jurisprudence (fuqaha) that compulsion is not a valid excuse to kill, even if it leads to the death of the compelled because both lives are of equal sanctity, and that the permissibility of joining the armies of the disbelievers-- according to those who permitted it-- is conditional upon the fact that he will not be led to fight a Muslim, and that he will not be forced to draw his weapons against his Ummah (nation) or a group of them. Everyone who spoke of the permissibility of entering these armies made this a condition and stressed that one's allegiance should remain to Allah, His prophet [sallallahu alayhi wa sallam] and the community of the Muslims. (Your (real) friends are (no less than) Allah, His Messenger, and the (fellowship of) believers,- those who establish regular prayers and regular charity, and they bow down humbly (in worship)).

**"And whoever takes Allah and His messenger and those who believe for a guardian, then surely the party of Allah are they that shall be triumphant." (5:55-56)**

As for the principle of choosing the lesser of the two evils, this principle is without doubt correct but the deciding factor between success and loss is how it is applied and whether or not one takes into account its conditions and stipulations accurately. The two evils must be certain. If one of them is certain and the other is suspected or imagined then there is no opportunity to apply this principle. One of the evils must be greater than the other by the balance of Islamic law and not by the balance of desires or general benefit as interpreted by any person.

The question now is: which is more certain in its occurrence: what would result from the spilling of prohibited blood from these operations; or the expected psychological or material harm that may befall those who refuse to participate or others from the general body of the Muslims?!

The other question is: which is greater with Allah: making the blood of Muslims lawful without right, or some psychological or material discomfort that may befall those Muslim soldiers in the American army if they refuse to participate in fighting a group from their Ummah?!

In a nation whose constitution guarantees freedom of religion, freedom of choice, and the freedom for a soldier to abstain from fighting if it conflicts with his religious beliefs and fundamentals!? Is a job, civilian or military, more holy in the balance of Islam than the life of a Muslim? Is the American citizenship more sacred than the blood of the Muslims? May Allah forgive us! Even more surprising than this is the use of the argument that participation in these operations is excused to protect one's allegiance to

the nation whose citizenship he holds and in whose army he works!! This is truly a new basis for allegiance and disavowal; we have not heard anything similar to it except from these people and this type of fatwa!

- Weakening the inclination to switch from military operations to relief operations.

This is in reference to what the fatwa mentioned in response to the question: If it was in the capabilities of the Muslim soldiers in the American army to ask to serve temporarily in the back lines in relief work and that which is similar to it for the duration of these battles?

The answer was: that this is conditional upon (if it would not cause discomfort or harm, if so then this type of request should not be made.) It then gave an example of such harm as: casting doubt upon their allegiance, exposing them to negative suspicion, false accusations, harm in their future careers, or casting doubt in their nationalism and the likes. It stated that when such a situation exists it is impermissible to make such a request!

These are a sample of the types of harm that the fatwa considers as justification for assisting the polytheists upon the Muslims and joining the camp of the disbelievers in such extensive wars. The likes of which its own propagators explicitly stated that it was a long term war that would extend for ten years and they gathered in preparation for it armies and supplies that would be enough for the annihilation of the world!

Upon this there is no means to request to be switched to relief operations - according to those who released this fatwa - unless all of these warnings are avoided. It is as if each one of them alone is greater than the sanctity of the blood of the Muslims and greater in the elimination of that which is beneficial from removing oneself from the community of the Muslims and joining the camp of the disbelievers! It is well known merely from being a Muslim according to the people of knowledge, rather even the general community of the public, the enormity of matters involving blood and allegiance and disavowal. From this knowledge is that the cessation of the universe is less in the eyes of Allah than the unlawful death of a single Muslim and that the interest of protection of life, which is of the same level as the interest of protection of religion and put forth beyond the interest of protection of wealth and other things.

It is strange that the common soldiers would open a door to decrease the expected harm in this situation, and they are more informed in regards to the country and its military system than others, then some of the people of the fatwa stand in their faces to weaken this objective and close this door and pave the way for them to enter into the blood of the Muslims in this fierce war!

At the end of the journey I direct this sigh to all of those who carry the concerns of the Islamic work in this Ummah be they individuals or organizations: the morning has arrived for those who have eyes and all of the global forces of tyranny have themselves in a single ditch. These forces have not gathered against a nation of the nations or a people of the peoples, but specifically against the groups of the modern Islamic awakening. This is expressed in the list of organizations that they described as

terrorist organizations and they declared war against them. This is one of the most eloquent proofs upon this. Nations are not mentioned except as a consequence of accommodating these organizations or their support of them. Will the men of the Islamic movement understand this? Will this bring them to mend their rifts, gather their pieces, bound their wounds, make peace between each other and to take the focus of themselves even for a short while?!!

Lastly: we request from the leaders who skillfully wrote this fatwa and signed it to examine themselves and to realize their position and not to cause their struggle and their haste to do good deeds to be rejected. For from them are those who suffered for the sake of giving victory to Islam and protecting it for years. Indeed, returning back to the truth is better than entering at length into falsehood. The truth is eternal and nothing changes it!

We ask Allah to return us and them back to him in a beautiful manner and to carry us upon that which is the most praised with Him and the most beautiful in the end. We ask that He allows us to realize the truth as true and allow us to follow it and that He allow us to realize falsehood as falsehood and allow us to avoid it. Indeed He is the one capable of that. Oh Allah answer this prayer. (Allah says the truth and He guides to the path.) And our last prayer is that all praise is due to Allah the Lord of the worlds.

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