

Strategic Themes and Drivers in Islamic Law

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Revised: 21 March 2011

Strategic Themes and Drivers in Islamic Law

Purpose:

To describe the Strategic Themes and Drivers in Islamic Law

Strategic Themes and Drivers in Islamic Law

• Main Points

- Why Assess Islamic Law?
- Branches of Fiqh
- Strategic Environment
- Islam's Trinity
- Sources of Islamic Law
- The Koran
- Sunna (Sira and Haddith)
- Pillars of faith
- Jihad
- Association vs Dissociation
- World View
- Just War Principles
- Summary

Strategic Themes and Drivers in Islamic Law

- There was a nearly incomprehensible misconception about the nature of the military problem. Lacking a criteria for judgment, officials often misunderstood, and therefore often misstated, the issues.

Henry Kissinger, *Diplomacy*

- McNamara's Defense Department and Bundy's White House staff were gluttons for analysis. Both men were of extraordinary intelligence. What they lacked was criteria to assess a challenge so at variance with the American Experience and American Ideology.

Henry Kissinger, *Diplomacy*

Strategic Themes and Drivers in Islamic Law

Why Assess Islamic Law?

Strategic Themes and Drivers in Islamic Law

Motivations of Incidents Directed Against Government Facilities: Feb 1993 - Feb 2010

Date	Incident	Location	Killed	Injured	Perpetrator	Motive
23 Feb 1993	VBED	New York, NY	5	1040+	Six Suspects	Al-Jihad
11 Sep 2001	Aircraft as Weapon	NY/DC/PA	2900+	6000+	19 Suspects	Al-Jihad
8 Nov 2009	Shooting	Fort Hood, TX	13	32*	Lower Officer	Al-Jihad-Self Actualizing
1 Jun 2008	Shooting	Little Rock, AR	1	1	Lower Officer	Al-Jihad-Self Actualizing
25 Sep 2009	Planned VBED	Dallas, TX	None	None	Lower Officer	Al-Jihad-Self Actualizing
23 Sep 2009	Planned VBED	Springfield, IL	None	None	Lower Officer	Al-Jihad-Self Actualizing
20 May 2009	Planned VBED	Bronx, NY	None	None	Four Suspects	Al-Jihad-Self Actualizing
20 May 2009	Planned SAM Firing	Newburgh, NY	None	None	Four Suspects	Al-Jihad-Self Actualizing
7 May 2007	Planned Small Unit Attack	Fort Dix, NJ	None	None	Six Suspects	Al-Jihad-Self Actualizing
23 Jun 2005	Planned Small Unit Attack	Marine, FL	None	None	Seven Suspects	Al-Jihad-Self Actualizing
5 Jul 2005	Planned Small Unit Attack	Los Angeles, CA	None	None	Four Suspects	Al-Jihad-Self Actualizing
23 Mar 2006	Preparational Surveillance	Washington, DC	None	None	Two Suspects	Al-Jihad-Self Actualizing
23 Feb 2006	Hostage-Taking	Pittsboro, AZ	None	None	1 case Offender	Al-Jihad-Self Actualizing
4 May 2008	IED	San Diego, CA	None	None	Three Suspects	Al-Jihad-Self Actualizing
4 Jun 2010	Shooting	Las Vegas, NV	2*	6	Lower Officer	Al-Jihad-Self Actualizing
18 Feb 2010	Aircraft as Weapon	Austin, TX	2*	10	Lower Officer	Al-Jihad-Self Actualizing
19 Apr 1995	VBED	Oklahoma City	168	840*	Four Suspects	Al-Jihad-Self Actualizing
4 Mar 2010	Shooting	Panama	1*	3	Lower Officer	Al-Jihad-Self Actualizing
10 Jun 2009	Shooting	Washington, DC	1	3	Lower Officer	Al-Jihad-Self Actualizing
8 Mar 2008	IED	New York, NY	None	None	Unknown	Unknown
17 May 2009	Planned IED	Sacramento, CA	None	None	Four Suspects	Unknown
14 Mar 2005	Armed in Mail Facility	Washington, DC	None	None	Unknown	Unknown
2 Feb 2009	Planned Sabotage of Oilwell	Washington, DC	None	None	Unknown	Unknown
1	Detonated Pipebomb, Killed Marine	Unknown	None	None	Unknown	Unknown

68 Source: Multiple open sources

Motivations of Incidents Directed Against Government Facilities: Feb 1993 – Feb 2010

Date	Incident	Location	Killed	Motive
23/2/93	VBIED	New York, NY	6	Jihad
11/9/01	A/C as Wpn	NY/DC/PA	290	Jihad
5/11/09	Shooting	Fort Hood, TX	13	Jihad-Self Actualization
1/6/09	Shooting	Little Rock, AR	1	Jihad-Self Actualization
25/9/09	Planned VBIED	Dallas, TX	None	Jihad-Self Actualization
23/9/09	Planned VBIED	Springfield, IL	None	Jihad-Self Actualization
20/5/09	Planned VBIED	Bronx, NY	None	Jihad-Self Actualization
20/5/09	Planned SAM	Newburgh, NY	None	Jihad-Self Actualization
7/5/07	Planned Attack	Fort Dix, NJ	None	Jihad-Self Actualization
23/6/06	Planned Attack	Miami, FL	None	Jihad-Self Actualization
5/7/05	Planned Attack	LA, CA	None	Jihad-Self Actualization
23/3/06	Surveillance	Wash, DC	None	Jihad-Self Actualization
23/2/06	Hostage	Phoenix, AZ	None	Frustration, Legal
4/5/08	IED	San Diego, CA	None	Frustration, Legal
4/1/09	Shooting	Las Vegas, NV	2*	Frustration, Tax
18/2/10	AC as Wpn	Austin, TX	2*	Frustration, Tax
19/4/95	VBIED	Oklahoma City	168	Individual Retaliation
4/3/11	Shooting	Fortagon	1*	Right Wing Anti Govt
10/6/09	Shooting	Wash, DC	1	Anti-Semitism

	Madrid, Spain 11 March 2004	London, UK 7 July 2005	Mumbai, India 11 July 2008	German Trains 31 July 2006 (Unsuccessful)	India-Pakistan "Peace Train" 20 February 2007	Russia Nevsky Express 27 November 2009
Motive	Jihad	Jihad	Jihad	Jihad	Jihad	Jihad
Timing	Non-targeted	Multi-targeted	Event-based	Event-based	Multi-targeted	Multi-targeted
Tactics	Coordinated	Coordinated	Coordinated	Coordinated	Coordinated	Coordinated
Method of Concealment	Disguised	Disguised	Disguised	Disguised	Disguised	Disguised
Placement of Devices	On the floor	On the floor	On the floor	On the floor	On the floor	On the floor
Explosion Type	Green	Green	Green	Green	Green	Green

Strategic Themes and Drivers in Islamic Law

Branches of Fiqh

- Rituals and Liturgy:
 - Prayer, Fasting, Charity, Pilgrimage
- Domestic Relations
- Wills, Trusts, Estates, and Inheritance
- Contracts, Trade and Commerce
- Property
- Torts
- Criminal
- Evidence
- Administrative Procedure
- Taxation and Public Finance
- Constitutional
- International Relations
- Relations w/ Non-Muslims
- War
- Ethics

Strategic Themes and Drivers in Islamic Law

Branches of Fiqh

Rituals and Liturgy: Prayer, Fasting, Charity, Pilgrimage
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Strategic Themes and Drivers in Islamic Law

Rituals and Liturgy: Prayer, Fasting, Charity, Pilgrimage
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Strategic Themes and Drivers in Islamic Law


Example:
Relations with Non-Muslims

- Multiple Suras comprise the basis for legal holdings
- Analysts/Investigators should know the provisions of each branch of fiqh and how individual provisions violate US laws.

Strategic Themes and Drivers in Islamic Law


What motivates Jihad, then, becomes an issue for analytic focus.

- Jihad is motivated by the strategic themes and drivers in Islam
- This briefing identifies and addresses the strategic themes and drivers in Islam



Strategic Themes and Drivers in Islamic Law


Insurgency Environment
 (Iraq, Bosnia, Sudan, Indonesia, The Netherlands, England, France, Philippines, United States, etc.)
 Techniques: Al-Qaeda, Khatami, Khod'eh, Tanfih, Zakat, Jihad, Iconoclasm, Immigration, Enclaves, Disassociation, Muzzling, Co-option, Mosque Networks, Law Suits.




Strategic Themes and Drivers in Islamic Law

Sources of Islamic Law


- The Koran
- The Sunna
 - The Sira (Biography/Example of Mohammad)
 - The Haddiths (Short accounts of Mohammad's sayings and practices)



Strategic Themes and Drivers in Islamic Law


Sources of Islamic Law

- The Koran, Sunna (Sira and Haddiths)
 - Host the values characterizing and animating
 - Pillars of faith
 - Jihad
 - World View
 - Just War Principles



Strategic Themes and Drivers in Islamic Law

- The Koran
- Sunna (The Example of Mohammad)
 - Sira
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Strategic Themes and Drivers in Islamic Law

Major Goals of the Koran

- Teaching about Allah, His Oneness and Attributes
- Showing the Creation, the path and the way of Life that is Pleasing to Allah
- Creating the complete and balanced Islamic Individual
- Bring about an Islamic society
- Guiding Muslims in the ongoing struggle against the enemies of Islam


Source: Jamāl al-Dīn M. Zarabozo, *How to Approach and Understand the Qurān*, Al-Basheer Company for Publications and Translations, Boulder, CO, 1999, p. 118-119



Strategic Themes and Drivers in Islamic Law

Mohammad's Koran


- 111 verses devoted to jihad
- Three Chapters
 - War Treasure
 - Battle Array
 - War Steeds
- Nearly all of the verses devoted to jihad occur in the Medina portion of the Koran



Strategic Themes and Drivers in Islamic Law

Mohammad's Koran


- 2:191 Kill them where ever you find them, and drive them out of whatever place from which they have driven you, which is worse than murder.
- 9:123 Believers, fight the unbelievers who are near you and let them find you to be tough and hard.
- 8:12 Then your Lord spoke to His Angels and said, "I will be with you. Give strength to the believers. I will send terror into the unbelievers' hearts, cut off their heads and even the tips of their fingers."



Strategic Themes and Drivers in Islamic Law

Mohammad's Koran

- 9:29 Make war on those who have received the Scriptures (Jews and Christians) but do not believe in Allah or in the Last Day. They do not forbid what Allah and His Messenger has forbidden. The Christians and Jews do not follow the religion of truth until they submit and pay the poll tax (jizya) and they are humiliated.
- 2:193 Fight them until you are no longer persecuted and the religion of Allah reigns absolute, but if they give up, then only fight the evil doers.



Strategic Themes and Drivers in Islamic Law

Mohammad's Koran

- 5:33 The only reward for those who war against Allah and his messengers and strive to commit mischief on the earth is that they will be slain or crucified, have their alternate hands and feet cut off, or be banished from the land
- 47:4 When you encounter unbelievers on the battlefield, cut off their heads until you have thoroughly defeated them and then take the prisoners and tie them up firmly.

Strategic Themes and Drivers in Islamic Law

- The Quran is the unalterable word of God; the Sunna is similarly unalterable because it represents the statements and action of "Muhammad".
- A rule based on a clear Quranic tenant or an unambiguous statement of (Mohammad) cannot be changed by later interpretation; all else is the subject of legitimate scholarship and debate.

Nathan J. Brown, *Constitutions in a Non-Constitutional World: Arab Basic Laws and the Prospects for Accountable Government* (State University of New York Press, Albany: 2002) p. 171

Strategic Themes and Drivers in Islamic Law

- The Koran
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Strategic Themes and Drivers in Islamic Law

Mohammad's Example

- Businessman
- Significant physical symptoms
(heard voices; contemplated suicide)
- Cult Leader for a small inner circle
- Prominent Religious Leader
- Religious Leader with Political ambitions
- "Emperor" "King" (Supreme Leader) of Arabia
- Founder of a conquering world Religion

SOURCE: Prof V. Dr. Somet S. Dharma of Muhammadiyah, Indonesia, Jurn. et. Vol. 2, No. 8, February 2000, <http://www.muhammadism.com/teknologi/article/01/04/04020001.html>

Strategic Themes and Drivers in Islamic Law

Mohammad's Example

- About 75% of Mohammad's earliest biography is devoted to jihad (*The Life of Mohammad* by A. Guillaume)
- In 9 years, Mohammad personally led 27 raids
- 38 other battles not including lesser raids, assassinations and executions.

Strategic Themes and Drivers in Islamic Law

Mohammad's Example

- Muhammad says Allah orders him to fight ^[1]
- The first raid: on Waddan ^[2]
- Hamza's raid to the coast ^[3]
- Raid on Buwat ^[4]
- Raid on al-Ushayra ^[5]
- Raid on al-Kharrar ^[6]
- Raid on Safawan ^[7]
- Battle of Badr ^[8]
- Raid on B. Sulaym ^[9]
- Raid called al-Sawig ^[10]

Strategic Themes and Drivers in Islamic Law

Mohammad's Example

- Raid on Dhu Amarr ^[11]
- Raid on al- Furu ^[12]
- Attack on B. Qaynuqa ^[13]
- Raid on al-Qarada ^[14]
- Battle of Uhud ^[15]
- Raid of Dhatu'l Riqa ^[16]
- Raid on Dumatu'l-Jandal ^[17]
- Battle of the Ditch ^[18]
- Attack on B. Qurayza ^[19]
- Attack on B. Lihyan ^[20]

Strategic Themes and Drivers in Islamic Law

Mohammad's Example

- Attack on Dhu Qarad ^[21]
- Attack on B.al-Mustaliq ^[22]
- Raid on Muta ^[23]
- Khalid destroys al-Uzza ^[24]
- Battle of Hunayn ^[25]
- Capture of al-Ta'if ^[26]
- Raid on Tabuk ^[27]
- Destruction of al-Lat ^[28]
- Usama's Expedition to Palestine ^[29]
- Ghalib's raid on B. al-Mulawah ^[30]

Strategic Themes and Drivers in Islamic Law

Mohammad's Example

- Zayd's raid on Judham ^[31]
- Zayd's raid on B.Fazara ^[32]
- Abdullah b. Rawaha's raid to kill al-Yusayr ^[33]
- Abdullah b. Unays's raid to kill Khalid b. Sufyan ^[34]
- Uayyna's raid on B. al-Anbar ^[35]
- Ghalib's raid on B.Murra ^[36]
- Amr b. al-'As's raid on Dhatu'l Salasil ^[37]
- Ibn Abu Hadrad's raid on Idam ^[38]

Strategic Themes and Drivers in Islamic Law

Mohammad's Example

- His (Ibn Abu Hadrad) raid on Ghaba to Kill Rafea B. Qays al Jushami ^[39]
- Abdu'l Rahman's raid on Dumatu'l-Jandal ^[40]
- Abu Ubayda's raid to the coast ^[41]
- Salim b. Umayr's raid to kill Abu 'Afak ^[42]
- Umayr b. Adiy's raid to kill Asma d. Marwan ^[43]
- Alqama's raid ^[44]
- Kurz b. Jabir's raid on the Bajilis ^[45]
- Ali's raid on the Yaman ^[46]

Strategic Themes and Drivers in Islamic Law

The Example of Mohammad - Words

- “I am commanded by Allah to go and fight all the people of the world until they confess there is no God but Allah, and I am his messenger, and to pray five times a day and to give alms. And if they do that, their blood will be spared from me.”

Haddith (Bukhari)

Strategic Themes and Drivers in Islamic Law

The Example of Mohammad – Actions

- Mohammad ordered the assassinations and executions of critics
- Employed torture to extract information

Strategic Themes and Drivers in Islamic Law

The Example of Mohammad - Actions

- Assassinations and Executions
 - Osmah (Asma), daughter of Marwan,
 - Abdollah b. al-Khatal⁽¹⁾
 - Fartana (Slave):⁽²⁾
 - Qariba (Slave):⁽³⁾
 - Sara (Freed Christian Slave)⁽⁴⁾
 - Meqyas b. Sobaba.⁽⁵⁾
 - Ekreem b. Abi Jahl.⁽⁶⁾

Strategic Themes and Drivers in Islamic Law

The Example of Mohammad - Actions

- Assassinations and Executions
 - ol-Howayreth b. Noqaydh b. Wahb.⁽¹⁾
 - Ka'b ibn. al-Ashraf.⁽²⁾
 - Oqba b. Abi Mo'ayt.⁽³⁾
 - on-Nadr b. Ol-Hareth⁽⁴⁾
 - Nadr of Abd as Dar
 - Uqbah of Abdu Shams.⁽⁵⁾
 - Sallam b. Abi'l-Hoqaya.⁽⁶⁾

Strategic Themes and Drivers in Islamic Law

The Example of Mohammad – Actions

- Assassinations and Executions
 - Yosayr b. Rezam⁽¹⁾
 - Khaled b. Sofyan (Sufyan ibn Khalid)⁽²⁾
 - Refa'a b. Qays⁽³⁾
 - Abu 'Afaq⁽⁴⁾
 - Mo'awiya b. Moghira⁽⁵⁾
 - Abu 'Azza ol-Jomahi⁽⁶⁾
 - Ebn Sonayna⁽⁷⁾
 - Showaylem, et al (house burning)⁽⁸⁾
 - Huyay, Husband of Safiyya.⁽⁹⁾

Strategic Themes and Drivers in Islamic Law

The Example of Mohammad – Torture

Qur'an 5:33 "The punishment for those who wage war against Allah and His Prophet and make mischief in the land, is to murder them, crucify them, or cut off a hand and foot on opposite sides...their doom is dreadful. They will not escape the fire, suffering constantly."

Tabari VIII:122 & Ishaq:515 "The Prophet gave orders concerning Kinanah to Zubayr, saying, 'Torture him until you root out and extract what he has.' So Zubayr kindled a fire on Kinanah's chest, twirling it with his firestick until Kinanah was near death. Then the Messenger gave him to Maslamah, who beheaded him."

Strategic Themes and Drivers in Islamic Law

The Example of Mohammad – Torture

Tabari VII:133 & Ishaq:387

"When Muhammad saw Hamzah he said, 'If Allah gives me victory over the Quraysh at any time, I shall mutilate thirty of their men!' When the Muslims saw the rage of the Prophet they said, 'By Allah, if we are victorious over them, we shall mutilate them in a way which no Arab has ever mutilated anybody.'"

Strategic Themes and Drivers in Islamic Law

- The Koran
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Strategic Themes and Drivers in Islamic Law

Haddiths

A haddith, or tradition, is a brief story about what Muhammad did or said

Strategic Themes and Drivers in Islamic Law

Haddiths

- Identifies who can be killed
- Under what circumstances
- At what times
- What to do with prisoners
- Essentially a tactical manual for jihad

Strategic Themes and Drivers in Islamic Law

Mohammad in the Haddiths

- Recorded by Sahih Al-Bukhari, and narrated by Ibn Umar. Muhammad said,
- "I have been ordered (by Allah) to fight against the people until they testify that none has the right to be worshipped but Allah and that Muhammad is Allah's Apostle, and offer the prayers perfectly and give obligatory charity, so if they perform that, then they save their lives and property from me except for Islamic Laws and then their reckoning (accounts) will be done by Allah."

Strategic Themes and Drivers in Islamic Law

Haddiths (Bukhari)

- *Volume 1, Book 10, Number 505*: Narrated 'Abdullah:
- I asked the Prophet "Which deed is the dearest to Allah?" He replied, "To offer the prayers at their early stated fixed times." I asked, "What is the next (in goodness)?" He replied, "To be good and dutiful to your parents" I again asked, "What is the next (in goodness)?" He replied, "To participate in Jihad (religious fighting) in Allah's cause." 'Abdullah added, "I asked only that much and if I had asked more, the Prophet would have told me more."

Strategic Themes and Drivers in Islamic Law

Haddiths (Bukhari)

- *Volume 2, Book 26, Number 594*: Narrated Abu Huraira:
- The Prophet was asked, "Which is the best deed?" He said, "To believe in Allah and His Apostle." He was then asked, "Which is the next (in goodness)?" He said, "To participate in Jihad in Allah's Cause." He was then asked, "Which is the next?" He said, "To perform Hajj-Mabrur."

Strategic Themes and Drivers in Islamic Law

Haddiths (Muslim)

- *Book 020, Number 4655*: "It has been narrated on the authority of Abu Huraira that the Messenger of Allah (may peace be upon him) said: Of the men he lives the best life who holds the reins of his horse (ever ready to march) in the way of Allah, flies on its back whenever he hears a fearful shriek, or a call for help, flies to it seeking death at places where it can be expected. (Next to him) is a man who lives with his sheep at a hill-top or in a valley, says his prayers regularly, gives Zakat and worships his Lord until death comes to him. There is no better person among men except these two."

Strategic Themes and Drivers in Islamic Law

Haddiths (Bukhari)

- *Volume 4, Book 51, Number 28:* Narrated Abu Huraira:
- The Prophet said, "Avoid the seven great destructive sins." The people enquire, "O Allah's Apostle! What are they?" He said, "To join others in worship along with Allah, to practice sorcery, to kill the life which Allah has forbidden except for a just cause, (according to Islamic law), to eat up Riba (usury), to eat up an orphan's wealth, to give back to the enemy and fleeing from the battlefield at the time of fighting, and to accuse, chaste women, who never even think of anything touching chastity and are good believers."

Strategic Themes and Drivers in Islamic Law

Haddiths (Muslim)

- *Book 020, Number 4696:* "It has been narrated on the authority of Abu Huraira that the Messenger of Allah (may peace be upon him) said: One who died but did not fight in the way of Allah nor did he express any desire (or determination) for Jihad died the death of a hypocrite."

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Strategic Themes and Drivers in Islamic Law

Pillars of Faith

- Testimony of Faith (Kalikma)
- Prayer (Salat)
- Fasting (Sawm)
- Almsgiving (Zakat)
- Pilgrimage (Hajj)

Strategic Themes and Drivers in Islamic Law

Pillars of Faith

- Almsgiving (Zakat)
 - 8 Categories of Disbursements
 - The Poor
 - Those Short of Money
 - Zakat Workers
 - Those Whose Hearts are to be Reconciles
 - Those Purchasing their Freedom
 - Those in debt
 - Those Fighting for Allah
 - Travelers' Spending Money

Strategic Themes and Drivers in Islamic Law

Pillars of Faith - ZAKAT

- Those Fighting For Allah
 - Those engaged in Islamic military operations for whom no salary has been allotted in the army roster
 - Given enough to suffice the for the operation even if affluent of: weapons, mounts, clothing, expenses, and for the duration of the journey, round trip, and the time they spend there.
 - Current interpretation and practice has been to provide expenses in supporting such person's family during this period.

Source: Reliance of the Traveller, p. 272

Strategic Themes and Drivers in Islamic Law

- Pillars of Faith - Zakat (Charitable Alms Giving)
 - The obligatory disbursements for those fighting for Allah constitute a funding mechanism for
 - combat,
 - combat support and
 - combat service support operations.

Strategic Themes and Drivers in Islamic Law

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Strategic Themes and Drivers in Islamic Law Association vs Disassociation

- 20 categories of prohibited alliances
 - Contentment with Disbelievers
 - Reliance on Disbelievers
 - Agreeing on points of disbelief
 - Seeking the affection of Disbelievers
 - Inclining toward the disbelief

Source: Al-Wala' Wa-L-I'timad According to the Quran, Part 2, by Dr. Shaykh Muhammad Sa'eed al-Ghannay, Al-Farooq Publishers, London

Strategic Themes and Drivers in Islamic Law Association vs Disassociation

- 20 categories of prohibited alliances
 - Flattery of the disbelievers faith
 - Taking the disbelievers as friends
 - Obedience to the disbelievers
 - To sit with the disbelievers who ridicule the Koran
 - To give disbelievers authority over Muslims

Strategic Themes and Drivers in Islamic Law Association vs Disassociation

- 20 categories of prohibited alliances
 - Trusting the disbelievers
 - To express pleasure with the actions of disbelievers
 - To draw near to the disbelievers
 - To aid the disbelievers in wrong doing
 - To Seek the advice of disbelievers

Strategic Themes and Drivers in Islamic Law Association vs Disassociation

- 20 categories of prohibited alliances
 - To Honor the disbelievers
 - To live among the disbelievers
 - To collude with the disbelievers
 - To revile the Muslims and love the disbeliever
 - To support the ideologies of the disbeliever.

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Strategic Themes and Drivers in Islamic Law

Jihad

- Increasingly regarded as a Sixth Pillar of Faith
- Mohammad
 - commanded Jihad (Sura 8:39)
 - proclaimed a divine mandate
 - personally led 27 attacks
 - sent his armies out 47 more times against Non-Islamic communities
 - averaged about seven operations per year.

Strategic Themes and Drivers in Islamic Law

Jihad

- Mandated by the Koran and the Haddiths
- Elaborated on by Islamic Law
 - *Reliance of the Traveller: A Classic Manual of Islamic Sacred Law*, p. 599-605
 - *The Distinguished Jurists Primer* (Vol 1 and 2) p. 454-487
 - *Riyad-us-Saliheen*, p. 976-1016

Strategic Themes and Drivers in Islamic Law

Jihad

- Types
 - *Al-Jihad bi-al-Lisan - Jihad of the Tongue*
 - *al-Jihad bi-al-Qalam - Jihad of the Pen*, preaching and calling for *jihad*
 - *Jihad al-Nafs - Jihad of the Soul* - the personal struggle to avoid sin and adhere to Allah's commandment
 - *Al-Jihad bi-al-Nafs* - Self-sacrificing *Jihad* in the path of Allah
 - *Al-Jihad bi-al-Mal* - Financial *Jihad*: fundraising for needy Muslims and supporting the *jihad* fighters - the *muhibdeen*

Strategic Themes and Drivers in Islamic Law

<i>Distinguished Jurists Primer</i>	<i>Riyad-us-Saliheen</i>	<i>Reliance of the Traveller</i>
- Suras	- Suras	- Suras
- 2:190	- 2-216	- 2-216
- 2-216	- 4:95, 96	- 4:89, 95
- 4:95	- 9:36	- 9:29
- 8:1, 39, 41, 61, 66, 67	- 9:41	- 9:36
- 9:5, 29, 91, 122	- 9:111	- 9:41
- 17:15	- 61:10-13	- 911
- 40:25		- 61:10-13
- 47:4		
- 48:17		
- 59:6, 10		

Strategic Themes and Drivers in Islamic Law

Sura 002.216

- YUSUF ALI: Fighting is prescribed for you, and ye dislike it. But it is possible that ye dislike a thing which is good for you, and that ye love a thing which is bad for you. But Allah knoweth, and ye know not.
- PICKTHAL: Warfare is ordained for you, though it is hateful unto you; but it may happen that ye hate a thing which is good for you, and it may happen that ye love a thing which is bad for you. Allah knoweth, ye know not.
- SHAKIR: Fighting is enjoined on you, and it is an object of dislike to you; and it may be that you dislike a thing while it is good for you, and it may be that you love a thing while it is evil for you, and Allah knows, while you do not know.

Strategic Themes and Drivers in Islamic Law

Sura 004.095

YUSUFALI: Not equal are those believers who sit (at home) and receive no hurt, and those who strive and fight in the cause of Allah with their goods and their persons. Allah hath granted a grade higher to those who strive and fight with their goods and persons than to those who sit (at home). Unto all (in Faith) Hath Allah promised good. But those who strive and fight Hath He distinguished above those who sit (at home) by a special reward.



Strategic Themes and Drivers in Islamic Law

Sura 004.095

- **PICKTHAL:** Those of the believers who sit still, other than those who have a (disabling) hurt, are not on an equality with those who strive in the way of Allah with their wealth and lives. Allah hath conferred on those who strive with their wealth and lives a rank above the sedentary. Unto each Allah hath promised good, but He hath bestowed on those who strive a great reward above the sedentary.



Strategic Themes and Drivers in Islamic Law

Sura 004.095

- **SHAKIR:** The holders back from among the believers, not having any injury, and those who strive hard in Allah's way with their property and their persons are not equal; Allah has made the strivers with their property and their persons to excel the holders back a (high) degree, and to each (class) Allah has promised good; and Allah shall grant to the strivers above the holders back a mighty reward.



Strategic Themes and Drivers in Islamic Law

- Sura 2:216 obliges the fighter
- Sura 4:95 motivates the non-fighter.



Strategic Themes and Drivers in Islamic Law

- **Sunni Schools of Law**
 - Shafi'i
 - Hanafi
 - Hanbal
 - Malik
- **Shia Schools of Law**
 - Usuli
 - Akhbari
 - Shayki



Strategic Themes and Drivers in Islamic Law

Jihad

• The Scholars of Fiqh (jurisprudence) have agreed that jihad in Shara'ee terms means 'to fight in the Path of Allah or anything aiding this course.'

- A more detailed understanding of the term Jihad has been explained by the four major schools of Fiqh as follows.



Strategic Themes and Drivers in Islamic Law

Jihad

- Maliki Fiqh: "The Muslims are to fight with the Kuffar to advance Allah's religion."
- Shafi'ee Fiqh: "The meaning of Jihad in Shara'ee terms is to make utmost effort in fighting in the Path of Allah."

Strategic Themes and Drivers in Islamic Law

Jihad

- Hanbali Fiqh: "Jihad means to fight against the unbelievers." (Fadhail-e-Jihad).
- Hanafi Fiqh: "Jihad means to be involved in fighting in the Path of Allah by one's life, wealth and speech." It is further explained "to call the unbelievers towards the true religion of Islam and to fight against them, if they are unwilling to accept this true religion."

Strategic Themes and Drivers in Islamic Law

- The Koran
- Sunna (The Example of Mohammad)
 - Sira
 - Haddiths
- Pillars of faith
- Association vs Disassociation
- Jihad
- World View
- Just War Principles

Strategic Themes and Drivers in Islamic Law

World View

- Islam divides the world into two spheres:
 - dar al Islam
 - dar al Harb
- There can be no peace between the two until dar al Islam conquers and assimilates its adversary
- Accommodation and compromise are impermissible and fighting is obligatory

Strategic Themes and Drivers in Islamic Law

World View

- "Against states of the dar al-harb the legitimate ruler of the Islamic empire, in juristic theory, was justified in making war at any time; indeed to wage jihad in an effort to subdue the dar al-harb, and to incorporate it into the dar al-islam was seen as a religious duty of the imam/caliph."

Footnote: "The Source of Islamic Conceptions of War", in *Just War and Jihad: Historical and Theoretical Perspectives on War and Peace in Western and Islamic Traditions*, John Kelsey and James Turner Johnson, eds, Greenwood Press, New York (1991), 51.

Strategic Themes and Drivers in Islamic Law

World View

- The Eighth Duty of an Islamic Ruler
 - "and if the area has a border adjacent to enemy lands, an eighth duty arises, namely to undertake jihad against enemies, dividing the spoils of battle among combatants, and setting aside a fifth for deserving recipients."

Source: *Reliance of the Traveller*, Book O Justice, Section 025.9, p. 647

Strategic Themes and Drivers in Islamic Law

- The Koran
- Sunna (The Example of Mohammad)
 - Sira
 - Haddiths
- Pillars of faith
- Association vs Disassociation
- Jihad
- World View
- Just War Principles

Strategic Themes and Drivers in Islamic Law

Just War Traditions

- Judaic
- Christian (or Catholic)
- Realist
- Islamic
- Others

Strategic Themes and Drivers in Islamic Law

Just War Principles

- *Jus ad bellum* (the justice of resorting to war)
 - Just Cause
 - Legitimate Authority
 - Just Intentions
 - Public Declarations
 - Proportionality
 - Last Resort
 - Reasonable Hope of Success

Strategic Themes and Drivers in Islamic Law

Just War Principles (Islam)

- Just Cause
 - Expansion of the faith
 - Collection of the jizya
 - Any war against non-believers is justified
 - War is a permanent condition against non-believers

Strategic Themes and Drivers in Islamic Law

Just War Principles (Islam)

- Just Cause
 - “The Muslim jurists agreed that the purpose of fighting the People of the Book, excluding the (Qurayshite) People of the Book and the Christian Arabs, is one of two things: it is either for their conversion to Islam or the payment of the *jizya*.”

• Ibn Rushd, *The Distinguished Jurists Primer* (Vol I and II), Garnet Publishing, Reading, UK: (1994), 464.

Strategic Themes and Drivers in Islamic Law

Just War Principles (Islam)

- Legitimate Authority
 - Koran
 - Uttered by Mohammad
 - Regarded as the unalterable Word of Allah
 - Multiple Verses

Strategic Themes and Drivers in Islamic Law

Just War Principles (Islam)

- **Just Intentions**
 - Dissemination of Islam throughout the world
 - Collection of the jizya



Strategic Themes and Drivers in Islamic Law

Just War Principles (Islam)

- **Public declarations**
 - Invitation of Islam
 - “We do not punish until we send a messenger.” Koran 17:15



Strategic Themes and Drivers in Islamic Law

Just War Principles (Islam)

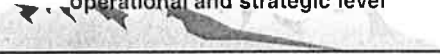
- **Proportionality**
 - Willing to absorb physical losses for psychological gain
 - Awarding martyrdom to bystanders mitigates proportionality concerns



Strategic Themes and Drivers in Islamic Law

Just War Principles (Islam)

- **Last Resort**
 - Necessity over rides the forbidden allowing moral constraints to be overridden in emergencies.
 - Issuing, and being refused, the invitation to Islam is the prelude to attack at the individual, tactical, level and war at operational and strategic level



Strategic Themes and Drivers in Islamic Law

Just War Principles (Islam)

- **Reasonable Hope of Success**
 - War is the rule and peace is only temporary
 - Allah knows best (fatalism)
 - Imam may propose a temporary truce (Treaty of Hudabiyya) for the purposes of reconstitution.



Strategic Themes and Drivers in Islamic Law

Islam's Just War Traditions

- “Legitimate domination has one true foundation – Islam - and the recognition of non-Islamic states on anything other than a temporary and pragmatic basis is impermissible.”
- “This fundamentalist approach yields a starkly adversarial and conflictual view of the present state of humanity.”
- “The use of force to bring about the triumph of Islam is unambiguously and enthusiastically proclaimed.”

A. J. Coates, *The Ethics of War*, Manchester University Press, New York (1997), 46

Strategic Themes and Drivers in Islamic Law

Islam's Just War Traditions

- "War is not a necessary evil, but a fundamental obligation or neglected duty"
- "Far from war posing a threat to religious observance, 'religion without war is a crippled religion' (Ayatollah Khomeini), and jihad or holy war is the essence of Islam, as the fundamentalists understands it."

Source: A. J. Coates, *The Ethics of War*, Manchester University Press, New York (1997), 46.

Strategic Themes and Drivers in Islamic Law

Comparison of Just War Traditions

- Judaic – Passive Defensive
- Catholic - Passive Defensive
- Realist – Passive Defensive
- Islamic – Offensive Aggressive

Strategic Themes and Drivers in Islamic Law

- "Change will not be attempted or pursued at the expense of tradition embedded in the Quran, the Sunna and the Sharia."

Emil A. Makhleh, "Regime Stability and Change in the Gulf: The Case of Saudi Arabia" in *The Politics of Change in the Middle East*, edited by Robert B. Satloff (Washington Institute for Near East Policy: Westview Press, Boulder: 1993) p. 140

Strategic Themes and Drivers in Islamic Law

• Summary

- The key themes and drivers animating Islam are:
 - Islamic Law
 - Koran
 - Sunna (Sira and Haddiths)
 - Pillars of Faith
 - Jihad
 - World View (Two Houses)
 - Just War Traditions

Strategic Themes and Drivers in Islamic Law

• Summary

- Within these themes and drivers are unalterable mandates for action for which we have no strategy to counter.

Strategic Themes and Drivers in Islamic Law

• Implications

- There may not be a "radical" threat as much as it is simply a normal assertion of the orthodox ideology.
- The strategic themes animating these Islamic values are not fringe; they are main stream.
- The individual applying these values and practices may likely be pious and devout adherents: i.e. a true believer as opposed to "radical."