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"Shades of jihad: Variation of military ethics between ISIS and al-Qaeda"

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Shades of *jihad*: Variation of military ethics between ISIS and al-Qaeda

In 2004, Abu Mus'ab al-Suri, a prominent jihadi theorist and ideologist gave a lecture to his Uzbek and Afghan mujahidin-students. It was entitled "*On morality and the origins of soldiery and leadership in jihad*"[1]. It would be wrong to assume from this reference to morality that al-Suri was a soft jihadi. His main book, The global Islamic resistance call, praised the use of violence against civilians through acts of *irhab mahmud* (praiseworthy terrorism), committed for a just cause and the removal of an injustice[2]. Al-Suri was a radical: he also praised the use of "dirty bombs" against civilians. Still, his thought is frequently stained with moral justifications for violence. He is far from being the sole jihadi to express such moral considerations.

This assessment might appear to be paradoxical, due to the well-known violence of so-called jihadi groups. Moreover, it is common to quote the Latin aphorism "*inter arma, silent leges*" to move aside even the idea of morality in war. History and philosophy show this would be wrong: war has always been limited[3] and framed, more or less successfully, through moral and legal obligations[4]. As with every human activity, according to Reinhold Niehbur, "*men (…) cannot follow their interests without pretending to do it according to a system of values*[5]". Jihadis do not make an exception. We will, here, broadly define jihadi groups as "*a subset of particularly violent, conservative, and uncompromising Sunni groups, such as Islamic State and al-Qaida*". A jihadi group should be considered as a militarized group claiming to fight a war in the name of *jihad*[6].

War, according to M. Walzer, is a specific moral world, obeying to a moral convention that changes through time and space, defined as "*the set of articulated norms, customs, professional codes, legal precepts, religious and philosophical principles and reciprocal arrangements that shape the judgments of military conduct*[7]". In modern humanitarian and military law, this convention is deeply influenced by the just war tradition, a philosophical tradition dating back to European antiquity and rooted in Christian and Western ethics[8]. As shown by Ann Mayer, the Islamic world had a different view on war: Muhammad al-Shaybani's work from the 8th century demonstrates the existence of a specific but nonetheless extremely developed philosophical tradition on the waging of war in a Muslim world[9], based on Islamic tradition. Hilmi Zâwati's book of comparison between just war and jihad theory seems to

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[1] Brynjar Lia, *Architect of global jihad: the life of al-Qaida strategist Abu Mus'ab al-Suri*, New York, Columbia University Press, 2008, 510 p., p264

[2] Abu Mus'ab al-Suri, *The global islamic resistance call*, 2004, quoted in Brynjar Lia, *Architect of global jihad*, ibid, p383

[3] John Keegan, *Histoire de la guerre : du néolithique à la guerre du Golfe*, Paris, Dagorno, 1996, 497 p., p107

[4] Alexander Gillespie, *A history of the laws of war - Volume 1 – Combatants and captives*, Oxford, Hart Publishing Ltd, 2011, vol. 3/1, 264 p.

[5] Nicolas Guilhot (ed.), *The invention of international relations theory: realism, the Rockefeller Foundation, and the 1954 Conference on Theory*, New York, Columbia University Press, 2011, 312 p., p269

[6] *Jihad* means much more than that and can be understood as a totally different notion. However, the point here is to borrow the actors point of view and not the path of theological discussions.

[7] Michael Walzer, *Just and unjust wars: a moral argument with historical illustrations*, 5e édition., New York, Basic Books, 2015, 381 p., p44

[8] James Turner Johnson, *Just war tradition and the restraint of war: a moral and historical inquiry*, Princeton, Princeton University Press, 1981, 380 p.

[9] Ann Elizabeth Mayer, « War and peace in the islamic tradition and international law » dans John Kelsay et James Turner Johnson (eds.), *Just war and Jihad. Historical and theoretical perspectives on war and peace in western and islamic traditions*, New York, Greenwood Press, 1991, p. 194-220.

indicate few moral variations and a real similarity between those two moral worlds[10]: Islam cannot be defined as a jingoist religion.

Obviously, neither Al-Qaeda nor Daesh are respectful of either of those traditions. Their jihad cannot be defined as a just war[11], nor as respectful of the Islamic tradition on war[12]. Nevertheless, Bin Laden never ceased to present his project of jihad as "profoundly moral"[13]. This paradox must be investigated in the following sense: is there a morality in the acts of jihadi groups? If so, is there a uniformity of thought on how to use violence and wage war? The purpose of this research is to show the existence of moral frameworks through which jihadis groups think and represent their own violence: it is neither a purely strategic or totally irrational project. As conventional armies developed ethics permitting a better understanding of their actions and strategies, the same thing could be developed to understand contemporary jihadism. This could be linked to Thomas Hegghammer's quest for a "jihadi culture", "*products and practices that do something other than fill the basic military needs of jihadi groups*[14]".

Indeed, jihadi culture is saturated with moral references. Faisaj Devji considers it as an "*ethical project*", based on moral ideals[15]. The rare testimonies of jihadis fighters or "revenants" echo with his conclusion: foreign and local fighters seem animated by a sincere will for a better world, and cannot be deemed as hypocritical, irrational or crazy[16]. The morality of their actions is embedded, for sure, in the "salafi-jihadism" ideology, a broad term revendicated by the actors, which "*refers to the combination of Salafi theology with jihadist ideology, a hybridization that solidified in the 1990s*[17]". In truth, "salafi-jihadism" is a poorly defined term[18].

Our paper will focus on certain groups who claim this ideology, namely Al-Qaeda and its affiliates and the Islamic State, studied through the prism of their definition of *jus ad bellum* and *jus in bello*. We will attempt to demonstrate the systematic existence of moral justifications highlighted by the actors, regarding every aspect of war. Interestingly those moral justifications usually vary and each group seem to have their own war convention. Drawing from P. Mandaville's conclusion, jihad seems like an ideological project doomed to be embedded into a geopolitical and social context[19]: *Salafi-jihadism* then appears as an essentially contested notion with few explanatory aspects.

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[10] Ḥilmī Zawātī, *Is Jihād a just war? war, peace, and human rights under Islamic and public international law*, Lewiston, N.Y, E. Mellen Press, 2001, 218 p.

[11] John Kelsay, *Arguing the just war in Islam*, Cambridge, Mass.; London, Harvard University Press, 2009, 263 p.

[12] Alia Brahimi, *Jihad and just war in the war on terror*, New York, NY, Oxford University Press, 2010, 318 p.

[13] Jeevan Deol et Zaheer Kazmi (eds.), *Contextualising Jihadi thought*, London, Hurst, 2012, 413 p., p51

[14] Thomas Hegghammer (ed.), *Jihadi culture: the art and social practices of militant Islamists*, Cambridge, United Kingdom, Cambridge University Press, 2017, 287 p., p5

[15] Faisal Devji, *Landscapes of the Jihad: militancy, morality, modernity*, Ithaca, N.Y, Cornell University Press, 2005, 184 p.

[16] See David Thomson, *Les Français jihadistes*, Paris, Les Arènes, 2014, 227 p ; David Thomson, *Les revenants: ils étaient partis faire le jihad, ils sont de retour en France*, Paris, Seuil : Les Jours.fr, 2016, 294 p ; Peter R. Neuman, *Radicalized. New jihadists and the threat to the west*, London, I.B. Tauris, 2016, 256 p.

[17] Alexander Thurston, *Boko Haram: the history of an African jihadist movement*, Princeton University Press, 2017, 352 p., p20

[18] Shiraz Maher, *Salafi-Jihadism: the history of an idea*, London, Hurst & Company, 2016, 292 p., p15

[19] Jeevan Deol et Zaheer Kazmi (eds.), *Contextualising Jihadi thought*, *op. cit.*, p34

I) Fighting for a greater cause: *jihad* as just war

The proliferation and successes of jihadi groups in Iraq and Syria can be considered as a backlash of the violent repression of the Syrian revolution[20]. At its beginning, experts were noticing the weak role of those groups in the leading of the uprising[21]. The landscape of the insurgency slowly changed due to different political evolutions. In 2014, the Islamic State became strong enough to declare its own caliphate, led by Umar al-Baghdadi, a long-run jihadi, already present when al-Zarqawi created the Islamic State in Iraq in 2006. Then, he swore allegiance to Al-Qaeda, as did Julani, the leader of Jabhat al-Nusra, the Syrian branch of the Islamic State. When the former proclaimed its own caliphate, and ordered al-Nusra to join his side, a conflict broke out, known by the jihadis as the *fitna*[22]. This conflict illustrates the difference of views between jihadi groups and especially concerning what and who they are fighting for.

Al-Qaeda is the oldest of those organisations and can better be designated as a network rather than as a group. Willing to embody the vanguard of the jihad, Al-Qaeda, and especially its charismatic leader Bin Laden always took care of depicting their fight as a deeply moral one, a defensive jihad against western civilization: "*This is a defensive jihad to protect our land and people*[23]". He chose to define the aggression as a symbolic one against the *ummah*, and framed some symbolic acts as acts of aggression. Jihadis from Al-Qaeda believe in an ideology of redemption, designed to protect the Islamic world from its own destruction, not to establish a caliphate at any cost[24]. This abstract eschatological vision is at the core of the cause of Bin Laden's defensive jihad, now embodied by al-Zawahiri. This idea is widespread throughout Islamic literature. The originality of this vision is that it is deployed as a defense against foreign invasion as much as a defense abroad. ISIS borrows much from this rhetoric.

ISIS's cause is also a defensive jihad, in the continuation of Bin Laden and 'Azzam views. However, it is not entirely clear who they are fighting against: according to Simon Staffell and Akil Awan, philosophically speaking, Al-Qaeda's enemy is a distant one, while ISIS focuses on local enemies. The difference is not only a strategic one, because it also changes the definition of who they are defending themselves against: corrupted Arab regimes on the one hand, and western ones on the other. The cause also varies in its length: al-Qaeda's goal is essentially a utopian, abstract and eschatological one, while ISIS care more about the founding of a state[25]. Plus, al-Qaeda thought is filled with historical references, especially to the Mongolian invasion, while ISIS justifications are vaguer on this topic. An example: al-Suri's theories of jihad, deeply imbued with historical references, is known to have influenced al-Qaeda's strategy. Hosham Dawod, who studied ISIS libraries and references in places taken back by the Kurds "*has never found the slightest mention of al-Suri*" in ISIS's references[26].

Alongside these groups with a "global" vision of jihad, coexist groups such as Jabhat al-Nusra or Ahrar al-Sham: both are fighting with the Syrian insurgency and the defense is seemingly

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[20] Charles R. Lister, *The Syrian Jihad: Al-Qaeda, the Islamic State and the Evolution of an Insurgency*, Oxford, Oxford University Press, 2015, 500 p.

[21] Thomas Pierret, « Syrie : l'islam dans la révolution », *Politique étrangère*, 2011, Hiver, n° 4, p. 879.

[22] Michael Weiss et Hassan Hassan, *EI, Etat islamique : au coeur de l'armée de la terreur*, New York, Editions Hudo & Cie, 2015, 331 p., p266-267

[23] Interview with Hamid Mir (Ausaf), 12 November 2001, p. 141

[24] Jeevan Deol et Zaheer Kazmi (eds.), *Contextualising Jihadi thought*, *op. cit.*, p54

[25] Simon Staffell et Akil N. Awan (eds.), *Jihadism transformed: Al-Qaeda and Islamic state's global battle of ideas*, London, Hurst & Company, 2016, 273 p.

[26] Olivier Roy, *Jihad and death: the global appeal of Islamic State*, traduit par Cynthia Schoch, English language edition., London, Hurst & Company, 2017, 130 p., p80

limited to a defense against the regime of Bachar al-Assad. If Jabhat al-Nusra made no mystery of its will to establish shari'a law[27], its first objective was to bring down the Assad regime. It offers support (*nusra*) to the Syrian insurgency. Ahrar al-Sham joined the various councils of the Syrian revolution and they express a form of "deradicalized armed Islamism"[28].

Besides, another important moral consideration is the right to wage such a war, to have the right authority. According to Alia Brahimi, "*proper authority in waging jihad was designed as the decisive test of a conflict's legitimacy[29]*". Here, again, claims to legitimacy differ between these groups. Al-Qaeda jihad started with Bin-Laden's discourse in which he stated his legitimacy by default as justified by the corruption and the abandoning of the duty of jihad by the religious establishment. He insisted that leaders' virility[30] in the region has been stolen and, consequently, AQ must represent a new vanguard. This quest for legitimacy is visible through the constant invocation of sacred texts, an attempt to appear as a scholar capable of interpreting Islamic laws. He also emphasizes he is not an armchair jihadist, drawing parallels with Muhammad[31]. On the other hand, al-Baghdadi's legitimacy is based on the figure of the Mahdi, a historical and spiritual figure dating back from the Abbasid revolution of whom the ISIS leader made many references, defining himself as the right guided one. Al-Qaeda never dared to suggest that the Mahdi was around the corner[32].

Those differences on the moral justification of war show an important point: all these groups are not fighting the same war. Moreover, they all are convinced that they are fighting a just war and invoke moral and theological justification for that. Those justifications may be ill-interpreted, as Alia Brahimi shows, but they nevertheless fuel the groups' struggles and define their vision of the fight of which they are a part. But fighting a just war also implies fighting in a just way. This will be the subject of our next part.

II) Balancing strategy and theology: Jihadis' definitions of *jus in bello*

In <u>The terrorist in search of humanity</u>, Faisaj Devji interprets the jihadis' use of violence as a means of conversation and persuasion[33]. Jihadi violence, even if we see it as barbaric, is not an act of blind and cowardly violence. It is common to see jihadists taking full responsibility for their acts. It asks questions of the legitimate use of violence. This legitimacy is acquired through the moral justification of violent acts.

This need of justification appears quite early in jihadi thought, as shown by al-Suri's views on terrorism. However, according to Shiraz Maher, it developed mainly during the Second Gulf War when fighters "*felt compelled to explain their brutality – not just against Western coalition*

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[27] Thomas Pierret, "Salafis at war in Syria: Logics of fragmentation and realignment", in Francesco Cavatorta et Fabio Merone (eds.), *Salafism after the Arab awakening: contending with people's power*, First published., London, Hurst & Company, 2016, 354 p.

[28] Thomas Pierret, « Crise et déradicalisation : les rebelles syriens d'Ahrar al-Sham », *Confluences Méditerranée*, 2015, vol. 94, n° 3, p. 43.

[29] A. Brahimi, *Jihad and just war in the war on terror*, *op. cit.*, p126

[30] It highlights the importance of the gendered dimension of jihad, rarely mentioned (as in Maleeha Aslam, *Gender-based explosions: the nexus between Muslim masculinities, jihadist Islamism and terrorism*, Tokyo, United Nations University Press, 2012, 316 p.

[31] Jeevan Deol et Zaheer Kazmi (eds.), *Contextualising Jihadi thought*, *op. cit.*, p57-61

[32] William Faizi McCants, *The ISIS apocalypse: the history, strategy, and doomsday vision of the Islamic State*, First edition., New York, St. Martin's Press, 2015, 242 p., p27-28

[33] Faisal Devji, *The terrorist in search of humanity: militant Islam and global politics*, New York, Columbia University Press, 2008, 229 p., p52

forces, but against fellow Muslins too". This justification has been achieved through the expansive interpretation of the laws of fighting, holding private individuals responsible for the crimes of their governments[34]. Indeed, the killing of civilians is considered as an evil in war because their innocence should protect them from the scourge of war: therefore, terrorism in itself is morally unjustified[35]. Obviously, reducing the action of jihadi groups to acts of terrorism would be misleading. Nevertheless, it highlights the essential question of discrimination, which is especially important in guerrilla wars. Its definition changes among the authors but it can be summed up as the differentiation between what represents a threat to a soldier's life and what does not[36]. From this principle results the necessity to protect those who do not represent a threat: groups uninvolved in the conflict, civilians and prisoner of wars.

The first point is the status of civilians, especially non-Muslim ones. In 2004, a book issued by Al-Tibyân argues that they are not protected from assault, because of the principle of *mafhûm al-mukhâlafa* (understanding of the opposite). This means that because Muslims are specially protected, it follows non-Muslims are not. However, some Salafi-jihadi authors recognize some exceptions to this rule. They include exemptions for children, women and elders. Al-Suri, for example, considers that killing women and children, when they are separate from other civilians, is unacceptable[37].

Al-Qaeda justifies the indiscriminate targeting of civilians in different ways: the first is the deliberate and intentional targeting when necessary. The second is based on reciprocity or *qisas*, equal retaliation[38]. An often-cited reference to explain al-Qaeda's strategy toward civilians is the <u>Management of savagery</u>, written by Abu Bakr al-Naji[39], where the author justifies the violence against civilians as an acceptable means of warfare. However, Al-Qaeda used to justify each of their violent acts with theological justifications, making violence only a part of their ideology. ISIS, according to Staffell and Awan, celebrate savagery and execution. This voluntary transgression of the norm is not neutral, and can be considered a voluntary rejection of a norm to fit with the stigma connected to salafi-jihadism[40]. The rise of ISIS pushed al-Zawahiri to advocate for moderation in the conduct of jihad, as a mean of distinction: they denounced the assassination of Ahrar al-Sham leaders, the use of violence against prisoners… Al-Zawahiri even published an edited version of his book about suicide-missions, <u>The bitter harvest</u>, forbidding their use against Muslims[41].

Before that, al-Zawahiri used to be critical of al-Zarqawi's treatment of prisoners and of the Shia population. Al-Qaeda even developed a doctrine concerning the treatment of prisoners of war: "*Yusuf al-Ayyiri, the prolific al-Qaeda ideologist killed by Saudi security forces in 2003, insisted that the choice was to be made between execution, amnesty, ransom, or enslavement, depending on which course would bring the greatest benefit to Muslims*"[42]. ISIS views are far

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[34] S. Maher, *Salafi-Jihadism*, *op. cit.*, p41

[35] Stephen Nathanson, *Terrorism and the ethics of war*, Cambridge ; New York, Cambridge University Press, 2010, 317 p.

[36] Larry May, *War crimes and just war*, Washington, Cambridge University Press, 2007, 333 p., p180

[37] B. Lia, *Architect of global jihad*, *op. cit.*

[38] S. Maher, *Salafi-Jihadism*, *op. cit.*, p51

[39] Michael W. S. Ryan, *Decoding Al-Qaeda's strategy: the deep battle against America*, New York, Columbia University Press, 2013, 352 p., p147-

[40] A similar analogy is developed by R. Price to explain Iraq's use of chemical weapon during the Gulf war in Richard M. Price, *The chemical weapons taboo*, Ithaca, Cornell University Press, 1997, 233 p.

[41] Simon Staffell et Akil N. Awan (eds.), *Jihadism transformed*, *op. cit.*

[42] A. Brahimi, *Jihad and just war in the war on terror*, *op. cit.*, p163

more radical and less structured. This could be explained because of their apocalyptic vision of their fight[43].

The principle of discrimination also concerns combatants or "virtual combatants" that are not part of the current struggle, such as tribes, for instance. Bin Laden had a complex relationship with tribal identities, starting with his own[44]. Abu Bakr Naji considered tribal relations as essential and advocated for the establishment of a "new transnational tribalism", loyal to al-Qaeda's leader[45]. These relationships explain how al-Qaeda interact with different tribes, especially in Yemen, where AQPA showed a great capacity to adapt to local culture, using poetry and other local elements to mobilize local populations. The celebration of death, honor and martyrdom resonates with a tribal ethos[46]. The Islamic State is unable to develop such relations, as it is too much focused on local rivalries. When Bin Laden asked his men to "*avoid killing anyone from the tribes*[47]", ISIS is known to have executed members of Iraqi tribes[48] who refused to cooperate: "*tribes that did not cooperate had their children kidnapped and their members dumped in mass graves*[49]". This inability to adapt to local audiences proves its limits in some contexts when jihadi violence is deeply embedded in the social and political context, and "*cannot necessarily be isolated within the Islamist continuum*". In Yemen especially, jihadis are active part of insurgencies which they have not started, and which they do not politically support[50]. In order to mobilize in such an inhospitable context, the moral framework of groups' actions is also essential.

This brief presentation of certain ethical questions shows the depth of reflection and efforts to persuade that these groups have undertaken to fit their struggle in a moral frame, a "jihadi war convention", shaping the judgment about what is acceptable to do and why it is so. What those moral frameworks tells us is also that all the groups do not claim the same definition of morality. "Salafi-jihadism", as a religious ideology, seems to separate into different shades as ideals are confronted with local realities and local power relations. The analysis of ethical considerations supports this view, charting a middle way between textual interpretations and political realities, and highlights how the agency of key actors and the confrontation with local realities also play a role. It shows how the broad term of "jihadi groups" reveals a variety of groups with different ideologies, agendas and interpretations of the world. Eventually, it also demonstrates that the frequent labeling of jihadi behavior as opportunists and hypocritical is then false: there seem to be, in those men and women, a sincere belief in the righteousness of their fight, a fight for which they are ready to die. These moral frameworks may explain the incentives which drive them, "radicalize" them and transform ordinary human beings into war criminals, just as Nazi

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[43] W.F. McCants, *The ISIS apocalypse*, *op. cit.* : an interpretation could be that when people are driven by an apocalyptic vision of their future, they tend to consider gruesome acts as morally acceptable in face of the incoming danger. A similar explanation is developed for Nazi Germany in Nicholas Stargardt, *The German war: a nation under arms, 1939-1945: citizens and soldiers*, New York, Basic Books, a member of the Perseus Books Group, 2015, 704 p.

[44] Akbar S. Ahmed, *The thistle and the drone: how America's War on Terror became a global war on tribal Islam*, Washington, D.C, Brookings Institution Press, 2013, 424 p., especially Chapter 3: Bin Laden's dilemma. Balancing tribal and Islamic identities

[45] M.W.S. Ryan, *Decoding Al-Qaeda's strategy*, *op. cit.*, p186

[46] Elisabeth Kendall, "Al-Qa'ida And Islamic State In Yemen: A Battle For Local Audiences" in Simon Staffell et Akil N. Awan (eds.), *Jihadism transformed*, *op. cit.*

[47] M.W.S. Ryan, *Decoding Al-Qaeda's strategy*, *op. cit.*, p54

[48] Daveed Gartenstein-Ross et Sterling Jensen, « The Role of Iraqi Tribes after the Islamic State's Ascendance », *Military review*, août 2015, p. 102-110.

[49] W.F. McCants, *The ISIS apocalypse*, *op. cit.*, p136

[50] Laurent Bonnefoy, "Jihadi violence in Yemen: Dealing with Local, Regional and international contingencies" in Jeevan Deol et Zaheer Kazmi (eds.), *Contextualising Jihadi thought*, *op. cit.*, p252

ethics explain, in many ways, the behavior of "ordinary men"[51]. Hell may well be paved with good intentions.

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[51] Christopher Browning, *Des hommes ordinaires : le 101e bataillon de réserve de la police allemande et la solution finale en Pologne*, Paris, Belles Lettres, 1994, 284 p., p248

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