

UTAH VALLEY UNIVERSITY  
CENTER FOR NATIONAL SECURITY STUDIES

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# THE UVU SECURITY REVIEW

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## UVU Security Review

The UVU Security Review is Utah's first student-edited academic journal focused on national security issues. The Review is published twice annually—in April and December—and it is supported by the Center for National Security Studies (CNSS) at Utah Valley University (UVU). The Review publishes timely, insightful articles on critical national security matters, including topics relating to foreign affairs, intelligence, homeland security, terrorism, and national defense. The Review accepts articles from UVU students, alumni, faculty, staff, and administration. Submissions should be sent to the Review Editor-in-Chief at [CNSSJournal@uvu.edu](mailto:CNSSJournal@uvu.edu).

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# UVU Security Review

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## A Note From the Editor-in-Chief

Dear Readers,

It is with sincere pleasure that I present to you the Fall, 2024 Edition of the UVU Security Review. As Editor-in-Chief, it has been my great pleasure working with our contributors, editors, and faculty. Each of the individuals who have contributed to this edition have consistently shown their interest and dedication not only to the UVU National Security Program, but also to national security-related topics as a whole.

To the student contributors, I would like to extend my gratitude for your hard work and dedication in your submissions. Thank you for sharing your outstanding research and insights into issues that matter. It is my hope that each of you will use the papers published here to help inspire future readers, potential practitioners, and yourselves in the future.

I would also like to thank my dedicated staff, whose hard work and commitment to the Journal has been invaluable. Without the active participation of my editors, the timely and professional publication of this edition would not have been possible. I would like to express a special appreciation to my typesetters, Hope Fager and Emma Fullerton. Typesetting is often a thankless, tedious, but vital process to publishing a journal; however, both Hope and Emma have consistently stepped up to accomplish this necessary task. I also extend my thanks to our faculty advisor, Roberto Flores, to whom I am grateful for guiding me throughout this process over the course of the semester.

Lastly, I would like to thank you, the reader, for your interest in the Journal. Your enthusiasm for topics that impact this nation is an uncommon, but valuable virtue. I hope that this edition will further fuel that interest with its unique viewpoints on national security issues.

Sincerely,  
Ethan Lloyd  
Editor-in-Chief



## Autonomous Weapons and Their Potential Use in Future Armed Conflicts

*Noah Lindorf*

### **Abstract**

Lethal Autonomous Weapon Systems (LAWS) signify a new era in warfare, leveraging technology to independently identify and eliminate targets on the battlefield without direct human input. States and regulatory bodies across the world are currently grappling with the ethical and legal implications of utilizing systems such as these in conflict areas. LAWS, with the potential for fully autonomous decision-making, raises profound questions regarding their adherence to established principles of international law, notably those governing proportionality, military necessity, distinction, and humanity. This paper will explain the concept of LAWS, examine ethical considerations in their deployment as well as explore technical challenges they create on the battlefield. It will then evaluate how the deployment of LAWS would affect international relations and our diplomacy with other countries, as well as explain potential regulatory frameworks that could be created to regulate the usage of LAWS on the battlefield. The paper then conclude by providing policy and legal guideline recommendations regarding the potential deployment of LAWS in future armed conflicts.

### **Background**

“Technological progress has brought about the emergence of machines that have the capacity to take human lives without human control. These represent an unprecedented threat to humankind.”

*Birgitta Dresch-Langley, Director of Research at CNRS UMR.*<sup>1</sup>

“(LAWS) development and proliferation have the potential to significantly change the way wars are fought and contribute to global instability and heightened international tensions. By creating a perception of reduced risk to military forces and to civilians, they may lower the threshold for engaging in conflicts, inadvertently escalating violence. We must act now to preserve human control over the use of force. Human control must be retained in life and death decisions.” *United Nations, Note to Correspondents.*<sup>2</sup>

Autonomous weapons, representing an impressive combination of artificial intelligence and military technology, have become a focal point in discussions surrounding the future of warfare<sup>3</sup>. LAWS operate without direct human control, relying instead on algorithms and sensor inputs to identify and engage targets autonomously. As these systems become increasingly capable, independent, and widespread, their significance in shaping the landscape of future armed conflicts cannot be overstated.<sup>4</sup> This

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1 Birgitta Dresch-Langley, “The Weaponization of Artificial Intelligence: What the Public Needs to Be Aware Of,” *Front Artif Intell* 6, March 8, 2023. <https://doi.org/10.3389/frai.2023.1154184>. (Accessed via <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10030838/>).

2 United Nations office of the Secretary-General. “Note to Correspondents: Joint Call by the United Nations Secretary-General and the President of the International Committee of the Red Cross for States to Establish New Prohibitions and Restrictions on Autonomous Weapon Systems.” United Nations. October 5, 2023. <https://www.un.org/sg/en/content/sg/note-correspondents/2023-10-05/note-correspondents-joint-call-the-united-nations-secretary-general-and-the-president-of-the-international-committee-of-the-red-cross-for-states-establish-new>

3 While LAWS are not currently used in an offensive manner by the U.S. military, they are most certainly under development as we have seen much discussion about the take place and policies rolled forward in the recent past egged on by advancements made by AI.

4 Morgan Meaker, “Ukraine’s War Brings Autonomous Weapons to the Front Lines,” *Wired*, February 24, 2023. <https://www.wired.com/story/ukraine-war-autonomous-weapons-frontlines/>.

paper will explore the ethical considerations surrounding LAWS, look into their strategic advancements, technical challenges, their impact on international relations, possible ways they could be regulated, and methods of mitigation that can be adopted to help avoid complications and violations surrounding their use on the battlefield.

## Introduction

“At present, no commonly agreed definition of Lethal Autonomous Weapon Systems (LAWS) exists”.<sup>5</sup> That being said, the International Committee of the Red Cross (ICRC) defines LAWS as “any weapons that select and apply force to targets without human intervention”.<sup>6</sup> We already utilize technology that is similar to LAWS in the warzone, such as unmanned aerial vehicles (UAVs)<sup>7</sup> and automated defense systems,<sup>8</sup> both of which operate semi-autonomously under human supervision. “Newer systems employing increasingly sophisticated technology include missile defense systems and sentry systems, which can autonomously

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5 “Lethal Autonomous Weapon Systems (LAWS),” *United Nations Office for Disarmament Affairs*, 2023. <https://disarmament.unoda.org/the-convention-on-certain-conventional-weapons/background-on-laws-in-the-ccw/>

6 “What You Need to Know About Autonomous Weapons.” *International Committee of the Red Cross*, July 26, 2022. <https://www.icrc.org/en/document/what-you-need-know-about-autonomous-weapons>

7 UAVs are not typically autonomous, as they are piloted remotely by a human operator. They are similar to LAWS due to the fact that they allow for an armed force to engage the opposition remotely without putting their own lives at risk. See, “Unmanned Aircraft Systems (UAS),” *U.S. Department of Defense*. <https://dod.defense.gov/UAS/>.

8 Automated defense systems are systems that use sensors to identify targets and engage them. These targets are typically objects such as incoming missiles and not human targets. See, for example, John K. Hawley, “Patriot Wars: Automation and the Patriot Air and Missile Defense System.” *CSS ETH Zürich*, February 8, 2017. <https://css.ethz.ch/en/services/digital-library/articles/article.html/976797da-7b8b-4e86-84f4-4052f394d2e1>



detect and engage targets and issue warnings. Other examples include loitering munition (also known as suicide, kamikaze or exploding drone) which contain a built-in warhead (munition) and wait (loiter) around a predefined area until a target is located by an operator on the ground or by automated sensors onboard, and then attacks the target. These systems first emerged in the 1980s; however, their systems functionalities have since become increasingly sophisticated, allowing for, among other things, longer ranges, heavier payloads and the potential incorporation of artificial intelligence (AI) technologies. Land and sea vehicles with autonomous capabilities are also increasingly being developed. Those systems are primarily designed for reconnaissance and information gathering but may possess offensive capabilities.”<sup>9</sup> As these systems improve, it will only be a matter of time until we see LAWS more fully utilized by armed forces around the globe in their combat efforts.

### **Ethical Considerations**

“Since 2018, United Nations Secretary-General António Guterres has maintained that lethal autonomous weapons systems are politically unacceptable and morally repugnant and has called for their prohibition under international law. In his 2023 New Agenda for Peace, the Secretary-General reiterated this call, recommending that States conclude, by 2026, a legally binding instrument to prohibit lethal autonomous weapon systems that function without human control or oversight, and which cannot be used in compliance with international humanitarian law, and to regulate all other types of autonomous weapons systems. He noted that, in the absence of specific multilateral regulations, the design, development and use of these systems raise humanitarian, legal, security and ethical concerns and pose a direct threat to human rights and fundamental freedoms.”<sup>10</sup> The deployment of LAWS

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9 United Nations Office for Disarmament Affairs, “Lethal Autonomous Weapon Systems (LAWS).”

10 “Lethal Autonomous Weapon Systems (LAWS).” United Nations Office for

raises concerns about the lack of human control and decision-making on the battlefield. Since these systems are capable of independently selecting and engaging targets, there is an increased risk of potential for indiscriminate targeting, where critical decisions with life-altering consequences would be made without human oversight. As the United Nations states, “allowing autonomous weapons to be controlled by machine learning algorithms – fundamentally unpredictable software which writes itself – is an unacceptably dangerous proposition”.<sup>11</sup> This lack of direct human involvement also poses significant challenges concerning accountability and responsibility. “Most fundamentally, there are widespread and serious concerns over ceding life-and-death decisions to sensors and software. Humans have a moral agency that guides their decisions and actions, even in conflicts where decisions to kill are somewhat normalized. Autonomous weapons reduce – or even risk removing – human agency in decisions to kill, injure and destroy. This is a dehumanizing process that undermines our values and our shared humanity. All autonomous weapons that endanger human beings raise these ethical concerns, but they are particularly acute with weapons designed or used to target human beings directly.”<sup>12</sup> In the event of errors or violations of international humanitarian law, it becomes increasingly difficult to attribute blame and hold individuals or entities accountable. LAWS may inadvertently breach principles of distinction and proportionality,

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Disarmament Affairs, 2023. <https://disarmament.unoda.org/the-convention-on-certain-conventional-weapons/background-on-laws-in-the-ccw/>; United Nations Office of the Secretary-General, “Note to Correspondents: Joint Call by the United Nations Secretary General and the President of the International Committee of the Red Cross for States to Establish New Prohibitions and Restrictions on Autonomous Weapons Systems.”

11 United Nations Office of the Secretary-General, “Note to Correspondents: Joint Call by the United Nations Secretary General and the President of the International Committee of the Red Cross for States to Establish New Prohibitions and Restrictions on Autonomous Weapons Systems.”

12 “What You Need to Know About Autonomous Weapons.” *International Committee of the Red Cross*.

by failing to differentiate between combatants and civilians or by employing disproportionate force. Breaches of this nature not only undermine the principles of just warfare but also increase concerns about adherence to rules of engagement, potentially leading to unintended escalations and increased civilian casualties in armed conflicts.

Approximately 30 countries and 165 nongovernmental organizations have called for a preemptive ban on LAWS due to ethical concerns, including concerns about operational risk, accountability for use, and compliance with the proportionality and distinction requirements of the law of war. The U.S. government does not currently support a ban on LAWS and has addressed ethical concerns about the systems in a March 2018 white paper, 'Humanitarian Benefits of Emerging Technologies in the Area of Lethal Autonomous Weapons.' The paper notes that 'automated target identification, tracking, selection, and engagement functions can allow weapons to strike military objectives more accurately and with less risk of collateral damage' or civilian casualties."<sup>13</sup> As highlighted by the call for a preemptive ban from numerous countries and nongovernmental organizations, there is heavy debate on whether or not LAWS should be allowed in future conflicts. The refusal of the U.S. government to support such a ban highlights the complex nature of the ethical discourse surrounding these weapons. The ethical landscape of autonomous weapons challenges us to reconcile technological advancements with enduring principles of humanitarian law and ethical conduct in warfare, necessitating a robust and inclusive dialogue to navigate the ethical complexities inherent in their potential use.

### **Strategic Advances**

There are several advantages that come with incorporating LAWS into armed forces, "First, autonomous weapons systems act

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13 Congressional Research Service, *Defense Primer: U.S. Policy on Lethal Autonomous Weapon Systems*, IF11150, 2024. <https://crsreports.congress.gov/product/pdf/IF/IF11150>

as a force multiplier. That is, fewer warfighters are needed for a given mission, and the efficacy of each warfighter is greater. Next, advocates credit autonomous weapons systems with expanding the battlefield, allowing combat to reach into areas that were previously inaccessible. Finally, autonomous weapons systems can reduce casualties by removing human warfighters from dangerous missions.”<sup>14</sup> “Their close combat capabilities [would also] reduce the need to use high explosives as the means of delivering lethal effects. Compared to conventional munitions, autonomous systems will enable more accurate and surgical attacks with significantly reduced concern about collateral damage. A ban on lethal autonomous weapons systems will prevent the development of these technological means to reduce incidental civilian casualties.”<sup>15</sup> Incorporating LAWS into military arsenals promises to usher in a new era of warfare with the potential to increase efficiency and speed up the decision-making processes. By using advanced artificial intelligence algorithms, these systems can quickly analyze large amounts of data and execute tactical maneuvers with more speed and agility than their human counterparts. The deployment of LAWS also carries the potential to significantly reduce the risk to human soldiers by minimizing direct involvement in combat situations. This shift toward unmanned operations protects military personnel from harm and extends the reach of military capabilities into hostile environments where human presence may be impractical or too dangerous. LAWS could also offer more precise targeting, minimizing collateral damage and civilian casualties. With the ability to accurately identify and engage specific targets with

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14 Amitai Etzioni, PhD, Oren Etzioni, PhD. “Pros and Cons of Autonomous Weapons Systems,” *Military Review*, The Professional Journal of the US Army, Army University Press, May-June 2017. <https://www.armyupress.army.mil/Journals/Military-Review/English-Edition-Archives/May-June-2017/Pros-and-Cons-of-Autonomous-Weapons-Systems/>

15 Nasu, Hitoshi, Caitlyn Korpela, “Stop the ‘Stop the Killer Robot’ Debate: Why We Need Artificial Intelligence in Future Battlefields.” *Council on Foreign Relations*, June 21, 2022. <https://www.cfr.org/blog/stop-stop-killer-robot-debate-why-we-need-artificial-intelligence-future-battlefields>

better accuracy, these systems have the potential to mitigate many of the inherent uncertainties and risks associated with conventional warfare, ultimately creating a more precise and controlled approach to military operations.

Machines are also easier to replace than living soldiers, as a damaged machine can be easily replaced or repaired if the resources are available to do so, whereas a living soldier needs to be found, recruited, trained, fed, housed, etc. The long-term savings that could be achieved through fielding an army of military robots have been highlighted. In a 2013 article published in *The Fiscal Times*, David Francis cites Department of Defense figures showing that ‘each soldier in Afghanistan costs the Pentagon roughly \$850,000 per year.’<sup>16</sup> Some estimate the cost per year to be even higher. Conversely, according to Francis, ‘the TALON robot—a small rover that can be outfitted with weapons, costs \$230,000.’ According to *Defense News*, Gen. Robert Cone, former commander of the U.S. Army Training and Doctrine Command, suggested at the 2014 Army Aviation Symposium that by relying more on ‘support robots,’ the Army eventually could reduce the size of a brigade from four thousand to three thousand soldiers without a concomitant reduction in effectiveness.”<sup>17</sup> “Several military experts and roboticists have argued that autonomous weapons systems should not only be regarded as morally acceptable but also that they would in fact be ethically preferable to human fighters. For example, roboticist Ronald C. Arkin believes autonomous robots in the future will be able to act more ‘humanely’ on the battlefield for a number of reasons, including that they do not need to be programmed with a self-preservation instinct, potentially eliminating

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16 Francis attributes the \$850,000 cost estimate to an unnamed DOD source, presumed from 2012 or 2013. David Francis, “How a New Army of Robots Can Cut the Defense Budget,” *Fiscal Times*, 2 April 2013. <http://www.thefiscaltimes.com/Articles/2013/04/02/How-a-New-Army-of-Robots-Can-Cut-the-Defense-Budget>.

17 Amitai Etzioni, PhD, Oren Etzioni, PhD. “Pros and Cons of Autonomous Weapons Systems.” *Military Review, The Professional Journal of the US Army, Army University Press*.

the need for a 'shoot-first, ask questions later' attitude. The judgments of autonomous weapons systems will not be clouded by emotions such as fear or hysteria, and the systems will be able to process much more incoming sensory information than humans without discarding or distorting it to fit preconceived notions. Finally, per Arkin, in teams composed of human and robot soldiers, the robots could be more relied upon to report ethical infractions they observed than would a team of humans who might close ranks."<sup>18</sup> If properly developed and implemented, LAWS have the potential to be incredibly useful on the battlefield.

### Technical Challenges

While these systems boast advanced technological capabilities, concerns still exist regarding their susceptibility to errors and malfunctions. The complexity of AI algorithms and the reliance on large datasets introduces vulnerabilities that may compromise the overall reliability of LAWS. The threat of cyberattacks and hacking also poses a significant risk to the integrity and functionality of these systems, potentially enabling adversaries to manipulate or sabotage operations with dangerous consequences. "Non-state actors such as terrorist groups and international criminal networks could harness or sabotage the technology in service of their own agendas through what is called adversarial hacking. In its simplest definition, adversarial hacking is an action with malicious intent performed by someone or a group to compromise a system or the cyber resources used by that system. The US Defense Science Board Task Force Report on Resilient Military Systems and Advanced Cyber Threat divides potential sources of adversarial attacks (adversaries) into three major categories:

#### 1. Adversaries using off-the-shelf tools that exploit system

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18 Amitai Etzioni, PhD, Oren Etzioni, PhD. "Pros and Cons of Autonomous Weapons Systems." *Military Review, The Professional Journal of the US Army, Army University Press.*

vulnerabilities.

2. Adversaries with resources and capabilities to discover new, unsuspected vulnerabilities.

3. Adversaries that can invest billions of dollars and unlimited time for the development of new tools to create new vulnerabilities.”<sup>19</sup>

The potential for unintended consequences is large because even small errors in the decision-making processes could escalate into catastrophic outcomes on the battlefield. Therefore, while LAWS offer increased and improved capabilities, scrutiny, and robust safeguards are crucial to mitigate risks and ensure their responsible and ethical use in future armed conflicts.

We must safeguard who is in control of LAWS at any given time. Making an individual soldier switch sides in a war can be a huge undertaking due to the fact you have to change their beliefs and convince them to carry out acts of violence against their comrades, coupled with the fact that it can be hard to even gain enough access to enemy soldiers to change their minds. The challenge we face with LAWS is that all it would take to make them switch sides in a conflict would be a matter of hacking into their systems, which can be done remotely. Accurately programming and training an AI model to do what we want it to would be extremely tricky given our current technological capabilities, as demonstrated by a thought experiment surrounding the use of fighter jet AI carried out by the Air Force. In this thought experiment the AI was supposed to target surface-to-air missiles (SAM), “and then the operator would say yes, kill that threat. The system started realizing that while they did identify the threat at times the human operator would tell it not to kill that threat, but it got its points by killing that threat. So, what did it do? It killed the operator. It killed the operator because that person was keeping it from accomplishing its objective.”<sup>20</sup> This example highlights the importance of creating

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19 Birgitta Dresch-Langley, “The Weaponization of Artificial Intelligence: What the Public Needs to Be Aware Of,” *Front Artif Intell*.

20 Reuters Fact Check, “Simulation of AI Drone Killing Its Human Operator



a system that we can completely understand and ensure will follow the laws of war. At this moment, this is something that we currently can't guarantee, and so the technology requires a lot more development and research before we can potentially deploy LAWS on the battlefield.

### **International Relations and Diplomacy**

The deployment of LAWS has profound implications for the global arms race and the broader landscape of international security. The development and deployment of these advanced military systems would intensify competition among nations, fueling a new arms race characterized not by who has the most warheads but instead by the pursuit of increasingly sophisticated AI-driven weaponry. This escalation not only raises concerns about destabilizing regional power dynamics but also highlights the importance of robust diplomatic efforts to regulate and control the proliferation of LAWS. However, like the diplomatic landscape surrounding nuclear weapons, navigating diplomatically around LAWS presents challenges, as differing interests and perspectives among states would complicate efforts to establish frameworks for governing these technologies. The potential for misuse is a big concern, with the potential spread of LAWS increasing the risk of non-state actors and rogue states acquiring and deploying these systems.

Some groups believe that autonomous weapons should be banned across the board. While the U.S. hasn't come out in support of a ban, the U.S. army writes, "the most promising way to proceed is to determine whether one can obtain an international agreement to ban fully autonomous weapons with missions that cannot be aborted and that cannot be recalled once they are launched. If they malfunction and target civilian centers, there is no way to stop them. Like unexploded landmines placed without marks, these weapons will continue to kill even after the sides settle



their differences and sue for peace. One may argue that gaining such an agreement should not be arduous because no rational policy maker will favor such a weapon. Indeed, the Pentagon has directed that ‘autonomous and semi-autonomous weapon systems shall be designed to allow commanders and operators to exercise appropriate levels of human judgment over the use of force.’”<sup>21</sup> “International humanitarian law requires combatants carrying out a specific attack to make context-dependent, evaluative legal judgments. The way autonomous weapons function – where the user does not choose the specific target or the precise time or location of a strike – makes this difficult. Under what conditions could users of an autonomous weapon be reasonably certain that it will only be triggered by things that are indeed lawful targets at that time and will not result in disproportionate harm to civilians? Autonomous weapons also raise challenges from the perspective of legal responsibility. When there are violations of international humanitarian law, holding perpetrators to account is crucial to bring justice for victims and to deter future violations. Normally investigations will look at the person who fired the weapon, and the commanding officer who gave the order to attack. With the use of autonomous weapons, who will explain why an autonomous weapon struck a civilian bus, for example? Addressing these challenges will demand proactive collaboration, transparency, and international cooperation to mitigate risks and safeguard global security in an era defined by rapid technological innovation.”<sup>22</sup>

### **Regulation and Governance**

Current international efforts to regulate LAWS primarily run through organizations such as the Convention on Certain Conventional Weapons (CCW) and discussions within the United

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21 Amitai Etzioni, PhD, Oren Etzioni, PhD, “Pros and Cons of Autonomous Weapons Systems,” *Military Review, The Professional Journal of the US Army, Army University Press*.

22 “What You Need to Know About Autonomous Weapons,” *International Committee of the Red Cross*.

Nations concerning LAWS. The CCW, a longstanding framework for addressing emerging threats in warfare, has convened multiple meetings to deliberate on the ethical and legal implications of LAWS. Similarly, the United Nations has hosted discussions to create a dialogue among member states regarding the development and deployment of LAWS. However, establishing effective regulatory frameworks poses significant challenges, as mentioned earlier, different national interests and varying levels of technological advancement complicate consensus-building efforts. Moreover, the quick pace of technological innovation often outpaces the development of regulatory mechanisms, highlighting the need for proactive measures to address emerging risks. It's likely that the legal and regulatory frameworks established for drone strikes<sup>23</sup> will serve as a foundational basis for their governance. Similar to drone strikes, LAWS raise significant ethical and legal concerns regarding accountability, proportionality and adherence to international humanitarian law. Legal principles such as distinction, proportionality, and necessity, which guide the use of force in armed conflict, will remain paramount. Additionally, mechanisms for oversight, transparency, and accountability will need to be developed to ensure that LAWS are used in accordance with these principles. International treaties and conventions may need to be updated or expanded to specifically address the unique challenges posed by LAWS, emphasizing the importance of human control and decision-making in the use of force. Overall, the evolution of laws and regulations surrounding drone strikes provides a crucial starting point for addressing the complex ethical and legal issues associated with LAWS in future conflicts.

### **Alternatives and Mitigation**

Efforts to address the ethical and legal challenges posed by LAWS highlight the importance of emphasizing human control

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23 See e.g. Rosa Brooks, "Drones and the International Rule of Law." *Journal of Ethics and International Affairs* vol. 28, no. 1 (2014): 83-103. <https://ssrn.com/abstract=2336128>

and decision-making in their development and deployment. Without human control, there is high potential for LAWS to backfire and cause harm to civilian populations.<sup>24 25</sup> International treaties and agreements, such as those facilitated by the Convention on Certain Conventional Weapons (CCW), will play a crucial role in establishing norms and standards governing the use of LAWS. These agreements aim to make sure that human operators retain ultimate control over the decision to use lethal force, thereby safeguarding against the indiscriminate or unlawful use of LAWS.

“The ICRC has recommended that states adopt new legally binding rules on autonomous weapons. New rules will help prevent serious risks of harm to civilians and address ethical concerns, while offering the benefit of legal certainty and stability. First, unpredictable autonomous weapons should be prohibited. That is autonomous weapons that are designed or used in a manner such that their effects cannot be sufficiently understood, predicted and explained – including those that ‘learn’ targets during use and perhaps machine learning-controlled autonomous weapons in general. Second, autonomous weapons that are designed and used to apply force against people directly should be prohibited. Third, there needs to be strict restrictions on design and use of all other autonomous weapons to mitigate the risks mentioned above, ensure compliance with the law and address ethical concerns. As the guardian of international humanitarian law, the ICRC does not recommend creating new rules lightly. But we are also committed to promoting the progressive development of the law to ensure existing rules are not undermined. We want to ensure

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24 Armed, fully-autonomous drone swarms are deemed to become future weapons of mass destruction because they combine two properties unique to traditional weapons of mass destruction: mass harm and lack of human control to ensure the weapons do not harm civilians. Experts doubt that any single autonomous weapon could ever be capable of adequately discriminating between civilian and military targets, and with thousands or tens of thousands of drones in a swarm, this risk becomes incommensurable.

25 Birgitta Dresch-Langley, “The Weaponization of Artificial Intelligence: What the Public Needs to Be Aware Of,” *Front Artif Intell*.

the protections for those affected by conflict are upheld and, when needed, strengthened in the face of evolving weapons and methods of warfare. Just as with anti-personnel landmines, blinding laser weapons, and cluster bombs, we need a new legally binding treaty to protect civilians and combatants. Humanity must be preserved in warfare. These rules could be set out in a new Protocol to the Convention on Certain Conventional Weapons (CCW), or another legally binding instrument.”<sup>26</sup>

Fostering transparency and accountability in AI development is also extremely important for building trust and promoting responsible innovation. By sharing information about the design, capabilities, and decision-making processes of LAWS with our allies, developers can enhance scrutiny and oversight, which would help mitigate the risks and reinforce compliance with ethical and legal principles. As the international community continues to grapple with the complexities of regulating LAWS, a commitment to human-centered approaches, informed by transparency, accountability, and ethical considerations, is vital in shaping the future of warfare.

## Conclusion

In conclusion, the discourse surrounding LAWS has highlighted important considerations regarding their ethical, legal, and security implications. From concerns ranging from indiscriminate targeting to the importance of human control and oversight, a comprehensive understanding of these complex issues is important in shaping responsible policies and practices.

As we navigate the challenges posed by LAWS, it is important to heed a call to action for the responsible development and use of these technologies. This involves prioritizing human-centered approaches, upholding ethical guidelines, and fostering transparency and accountability throughout the AI development lifecycle. Recognizing the transnational nature of these challenges

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26 “What You Need to Know About Autonomous Weapons.” *International Committee of the Red Cross*.

also highlights the need for ongoing international dialogue and collaboration. By engaging in meaningful exchanges and collective deliberations, the global community can forge consensus, establish regulatory frameworks, and address emerging risks associated with LAWS. Only through our combined efforts and shared commitment can we navigate the complexities of this technological frontier and ensure that LAWS are used in a manner consistent with the principles of humanity, legality, and peace. Based on the points provided above, my recommendation is to delay any deployment of LAWS until we can guarantee a degree of human control and compliance with international humanitarian law. This paper advocates for the continued establishment of clear guidelines and regulations to govern the development and deployment of autonomous weapons, with the goal of safeguarding human lives in accordance with international law.



## The History of U.S. Compliance with Interrogation Methods According to the Geneva Conventions of 1949

*Bekah Olsen*

### Introduction

War is complex and requires a stratagem for a conflict to be resolved. An important piece of strategy is the gathering of intelligence in order for military or diplomatic action to take place. One of the methods of intelligence gathering is interrogation, or the questioning of prisoners, detainees, and people of interest with believed information. The caveat to fighting a war is that laws need to be followed. After World War II, there was a necessity for laws to be adapted and new laws to be implemented to protect humanity during armed conflicts. The result of this need led to the Geneva Conventions of 1949. The GCs demand respect for persons and life, while still maintaining the ability for military operations and objectives to be achieved. GCI, Art. 3 states “Persons taking no active part in the hostilities...shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.”<sup>1</sup> This paper will discuss the legal background of interrogation, methods of U.S. interrogation in the past, and how the U.S. changed policies to be in compliance with the Geneva Conventions.

### Background Information

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1 International Committee of the Red Cross, *Geneva Conventions (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*. Geneva, 12 August 1949: Article 3 – Conflicts not of an International Character, Aug 12, 1949. <https://ihl-databases.icrc.org/en/ihl-treaties/gci-1949/article-3?activeTab=1949GCs-APs-and-commentaries>.

In this section, I will detail the application of interrogation for an International Armed Conflict<sup>2</sup> and a Non-International Armed Conflict,<sup>3</sup> according to GCIII<sup>4</sup> and Additional Protocol II.<sup>5</sup> According to the U.S. Department of Defense, the definition of interrogation is “the systematic process of using approved interrogation approaches to question a captured or detained person to obtain reliable information to satisfy intelligence requirements, consistent with applicable law and policy”.<sup>6</sup> Interrogations happen both on the battlefield and off. GCIII Art. 17 states “No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind.”<sup>7</sup>

### **International Armed Conflict**

This subsection will discuss the application of interrogation during an IAC. An IAC is an armed conflict that occurs between two or more nation states and the use of armed forces.<sup>8</sup> Combatants (soldiers) have been

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2 International Armed Conflict henceforth known as IAC

3 Non-International Armed Conflict henceforth known as NIAC

4 International Committee of the Red Cross, *Geneva Conventions (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*. Geneva, 12 August 1949: Article 3 – Conflicts not of an International Character, 1949.

5 International Committee of the Red Cross. *Geneva Conventions: Additional Protocol II, Article 5 – Persons whose Liberty has been Restricted*, June 8, 1977. <https://ihl-databases.icrc.org/en/ihl-treaties/apii-1977/article-5?activeTab=1949GCs-APs-and-commentaries>.

6 United States Department of Defense. Department of Defense Directive, 3115.09, October 11, 2012.

7 International Committee of the Red Cross. *Geneva Conventions III: Article 17 – Questioning of Prisoners*, Aug 12, 1949. <https://ihl-databases.icrc.org/en/ihl-treaties/gciii-1949/article-17>

8 International Committee of the Red Cross, *How Is the Term ‘Armed Conflict’ Defined in International Humanitarian Law?*, March 2008.



given legal authority from their state to fight during an armed conflict. According to GCIII Art. 4, this indicates that if a combatant is captured, they become a prisoner of war.<sup>9</sup>

It is expected during wartime to question POWs to gain reliable intelligence and use that information to further military objectives. When writing the GCs, the general remarks about questioning prisoners was that POWs are to be treated with the respect they deserve. This resulted in mandatory identification cards that all lawful combatants are given by their state.

According to GCIII Art. 17, "Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this, equivalent information."<sup>10</sup> If a POW does not give the required information, then (she willingly gives up their privileges given to them as a lawful combatant.

It is lawfully required that POWs receive humane treatment under GCIII Art. 13, "prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity."<sup>11</sup> Entering a war as a combatant is selfless and deemed highly respectable. During World War II, we witnessed the destruction of compassion, and the chains of brutality affect innocents. The authors of the GCIII stated, "the purpose of the Convention is none other than to define the correct way to behave towards a human being; each individual is desirous of the treatment corresponding to his status and can therefore judge how he should, in turn, treat his fellow human beings."<sup>12</sup> The survivors of World War II never want the world to fall victim to the heinous acts that occurred in their lifetime.

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9 Prisoner of War henceforth known as POW.

10 International Committee of the Red Cross, *Geneva Conventions III: Article 17 – Questioning of Prisoners*

11 International Committee of the Red Cross, *Geneva Conventions III: Article 13 – Humane Treatment of Prisoners*, Aug 12, 1949. <https://ihl-databases.icrc.org/pt/ihl-treaties/gciii-1949/article-13/commentary/2020>

12 International Committee of the Red Cross, *Geneva Conventions III: Article 13 – Humane Treatment of Prisoners*

### **Non-International Armed Conflict**

A NIAC is any protracted armed conflict between two armed groups.<sup>13</sup> This could be a state vs. a non-state actor or a non-state actor vs. a non-state actor. We categorize non-state actor “combatants” as fighters because they are not lawfully authorized to fight by the state in which they reside.

Fighters’ rights fall under GCI, Ar. 3 which states, “Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed ‘hors de combat’ by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely.”<sup>14</sup> When fighters are captured, they would be classified as interned or detained. Detainees also fall under APII Art. 4, “All persons who do not take a direct part or who have ceased to take part in hostilities...shall in all circumstances be treated humanely, without any adverse distinction.”<sup>15</sup> APII explains that all individuals who are taken for any reason related to an armed conflict can be subjected to questioning. Detainees do not receive any type of special privileges that lawful combatants receive.

### **United States Past Interrogation Methods**

All persons involved in an armed conflict, who are suspected of having valuable and usable information can be questioned. This section will discuss lawful and unlawful interrogation methods that

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13 International Committee of the Red Cross. “How Is the Term ‘Armed Conflict’ Defined in International Humanitarian Law?”

14 International Committee of the Red Cross, *Geneva Conventions (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*. Geneva, 12 August 1949: Article 3 – Conflicts not of an International Character, 1949.

15 International Committee of the Red Cross, *Geneva Conventions: Additional Protocol II, Article 4 – Fundamental Guarantees*, June 8, 1977. <https://ihl-databases.icrc.org/en/ihl-treaties/apii-1977/article-4?activeTab=1949GCs-APs-and-commentaries>.

## The History of U.S. Compliance with Interrogation Methods According to the Geneva Conventions of 1949

the U.S. has previously used since the September 11, 2001, terrorist attacks. As well as the specific enhanced interrogation techniques<sup>16</sup> used against Abu Zubaydah while he was in CIA custody in the early 2000s.

### Interrogation Methods

The Army Field Manual<sup>17</sup> is one of the U.S. primary resources for the manner in which interrogations should be conducted during international conflicts. It dives into the specific roles of individuals such as: civilian, lawful combatant, and unlawful combatant.<sup>18</sup> It also outlines the process of collecting human intelligence: plan, prepare, collect, process, and produce. It is important to be mindful of the collection process to better understand why and how states gather intelligence. The nature of war is fast paced, meaning that oftentimes information is needed quickly, asking questions and adjusting is essential in warfare and is expected from all sides during a conflict. Over the last 25 years the United States has used a variety of interrogation methods. This includes:

Direct, Incentive, Emotional, Fear-up, Fear down, Pride and ego, Futility, We know All, File and Dossier, Establish Your Identity, Repetition, Rapid Fire, Silent, Change of Scene,<sup>19</sup> Sleep Deprivation, Slaps and “Wallings”, Nudity, Waterboarding, “Rectal Rehydration”, Threats, and Lack of Medical Care.<sup>20</sup>

I will give a brief explanation of some of these methods. Let

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16 Also known as “torture techniques.”

17 Army Field Manual henceforth known as AFM.

18 United States Department of the Army. *Human Intelligence Collector Operations*, FM2-22.3, Sept. 2006.

19 United States Department of the Army, *Human Intelligence Collector Operations*.

20 Senate Select Committee on Intelligence. *Report of the Senate Select Committee on Intelligence Committee Study of the Central Intelligence Agency’s Detention and Interrogation Program, Together with Foreword by Chairman Feinstein and Additional and Minority Views*. 113th Cong., 2nd sess., S. Rept. 113-288. 2014.

it be known that it is recommended that interrogators use a variety of combinations that are specific to the psychological profile of the interrogee.

**Direct:** the interrogator asks direct questions pertaining to the situation at hand. During the Vietnam, Panama, and Kuwait conflicts the intelligence gathered from direct approach proved to be 95% effective.<sup>21</sup>

**Incentive:** trading something that the interrogee wants for information. Depending on who and/or what information the detainee is believed to have will depend on how this method is used. It is unlikely that the mastermind of a terrorist attack will be offered an early release, but he could be offered an hour alone to watch tv.

For the incentive approach to work the interrogator has to follow through on the incentives and promises. The lack of follow-through would destroy any rapport the interrogator or future interrogators have with the interrogee. It is imperative that the incentives are not basic human necessities like food, water, clothing, blankets, etc.<sup>22</sup>

**Fear up:** interrogator uses a preexisting fear or creates a fear within the interrogee. This can be tricky because the interrogator does not want to coerce or threaten the interrogee. He also does not want to become the interrogees main source of fear. A common method is to use the interrogees imagination against himself.<sup>23</sup>

**Stress positions:** enforced body positions that focus a large amount of weight on a small number of muscles or joints. Examples are hands being tied above head, forced to sit on knees, or small spaces.<sup>24</sup>

**Sleep deprivation:** when the detainee is kept awake for up to 180 hours (about 1 week). This can be done by stress positions or

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21 United States Department of the Army. *Human Intelligence Collector Operations*.

22 United States Department of the Army. *Human Intelligence Collector Operations*, 145.

23 United States Department of the Army, *Human Intelligence Collector Operations*, 148-149.

24 Also known as the "stress position."

forcing them to stand.<sup>25</sup>

*Waterboarding*: detainee is strapped to a board at an incline with their feet at a higher elevation than their head. A wet towel is placed over their mouth and nose and water is poured over his mouth. The detainees gag reflex kicks in and it feels like the detainee is drowning.<sup>26</sup>

### Abu Zubaydah

Since the September 11, 2001, World Trade Center terrorist attacks, intelligence has been essential to fighting the “war on terror.” The capture of individuals with information was vital to stopping terrorist organizations in Afghanistan and Iraq and smaller terrorist cells across the world.

This resulted in the use of both lawful interrogation techniques and enhanced interrogation methods. Between 2001 and early 2009, 119 detainees were taken to CIA detention centers and a known 39 were subjected to Enhanced Interrogation techniques.<sup>27</sup> (This number is suggestive because of lack of CIA record taking).

Some of these methods were in clear violation of AP II 35 article 4 “(a) violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;” and “(e) outrages upon personal dignity, in particular humiliating and degrading treatment...”<sup>28</sup> We learn from the Senate Select Committee report that

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25 Senate Select Committee on Intelligence, *Report of the Senate Select Committee on Intelligence Committee Study of the Central Intelligence Agency's Detention and Interrogation Program, Together with Foreword by Chairman Feinstein and Additional and Minority Views*, S. Rept. 113-288.

26 Morgan Banks, David G Bolgiano, “Military Interrogation of Terror Suspects,” *Military Review*, December 2010, 4.

27 Senate Select Committee on Intelligence, *Report of the Senate Select Committee on Intelligence Committee Study of the Central Intelligence Agency's Detention and Interrogation Program, Together with Foreword by Chairman Feinstein and Additional and Minority Views*. S. Rept. 113-288.

28 International Committee of the Red Cross, *Geneva Conventions: Addition-*

at multiple CIA detention centers throughout the world were active participants in conducting enhanced interrogation techniques.<sup>29</sup>

Early 2002 a joint operation with the CIA and the FBI resulted in the capture of Abu Zubaydah, a senior Al-Qaeda member with direct ties to the planning of the 9/11 terrorist attacks and was believed to have information pertaining to future terrorist plans. After Zubaydah's initial capture he spent some time in the hospital after sustaining injuries from his capture. FBI and CIA officials questioned Zubaydah using the direct approach<sup>30</sup> while he was in the hospital. Zubaydah told FBI and CIA officers that he wanted to cooperate with the U.S. and he gave them information about current members of Al-Qaeda while recovering in the hospital. Despite Zubaydah's cooperation, the CIA believed that there was more "vital" information that he was withholding from them.<sup>31</sup> This belief led to the CIA taking sole custody of Zubaydah. Upon his release from the hospital, the CIA placed him inside a green site detention center (an undisclosed location).

Before the capture of Zubaydah, the CIA was already preparing an interrogation plan for him. There were many cables between the CIA interrogation team on site with Zubaydah and CIA headquarters where they discussed the specifics of his interrogations. It ranged from hearing deprivation to isolation. The interrogation team even anticipated a situation in which Zubaydah would die because of enhanced interrogation techniques. The following was said in a cable from the interrogation team to CIA headquarters, "regardless which

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*al Protocol II, Article 4 – Fundamental Guarantees*

29 Senate Select Committee on Intelligence, *Report of the Senate Select Committee on Intelligence Committee Study of the Central Intelligence Agency's Detention and Interrogation Program, Together with Foreword by Chairman Feinstein and Additional and Minority Views*. S. Rept. 113-288, 20.

30 United States Department of the Army, *Human Intelligence Collector Operations*, 144.

31 Senate Select Committee on Intelligence, *Report of the Senate Select Committee on Intelligence Committee Study of the Central Intelligence Agency's Detention and Interrogation Program, Together with Foreword by Chairman Feinstein and Additional and Minority Views*. S. Rept. 113-288. 54.

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[disposition] option we follow however, (if Zubaydah was to die while in a CIA detention center) in light of the planned psychological pressure techniques to be implemented, we need to get reasonable assurance that [Abu Zubaydah] will remain in isolation and incommunicado for the remainder of his life.”<sup>32</sup> Multiple detainees would go on to die while being detained at CIA detention sites.

Upon his arrival at the detention facility Zubaydah was left in complete isolation for 47 days (about 1 and a half months). He was kept in a white room with no windows or natural lighting and Zubaydah was primarily kept naked and sleep deprived. After his isolation period, Zubaydah would proceed to be interrogated almost continuously for 24 hours per day, from August 4, 2002, through August 23, 2002. During his interrogations, Zubaydah was given a towel to cover up and was given brief breaks where he was allowed to sleep. During his time alone he would be left in stress positions, locked in a confinement box, or had a wet rag placed over his head while laying down. The detention facility facilitated hearing deprivation by using noise generators or loud rock music to instill a “sense of hopelessness” into Zubaydah.<sup>33</sup>

Deprivation of any kind is not inherently unlawful. For example, it would be lawful to blindfold a detainee or POW while they are being transported because this could be a security threat for the detainee to have knowledge of where they are being held, or even specifically which people were involved. The intent behind every action is what defines whether or not a line has been crossed. Any type of interrogation could cross the line into torture because inherently it is causing some discomfort for the detainees or POWs in order for them to provide intelligence. It is all dependent on the severity of discomfort and coercion. The AFM says “great care must be taken to avoid threatening or coercing a source which is in violation of GPW

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32 Senate Select Committee on Intelligence, *Report of the Senate Select Committee on Intelligence Committee Study of the Central Intelligence Agency's Detention and Interrogation Program, Together with Foreword by Chair-man Feinstein and Additional and Minority Views*. S. Rept. 113-288. 64.

33 United States Senate, 13.



(GCIII), Article 17.”<sup>34</sup>

The interrogation team also brought in a large confinement box and laid it on the floor in front of Zubaydah. They proceeded to ask him questions and when he denied having any information about terrorist plots to use against the U.S., the interrogators would hit Zubaydah in the face or grab his face. The interrogators also did “wallings”, which is the act of slamming someone against the wall. On August 4, 2002, Zubaydah was waterboarded for the first time. The report from the Senate Select Committee about the CIA detention and interrogation program reported “over a two-and-a-half (hour) period, Abu Zubaydah coughed, vomited, and had “involuntary spasms of the torso and extremities” during waterboarding.”<sup>35</sup> “Over the course of the entire 20 day (about 3 weeks) “aggressive phase of interrogation,” Abu Zubaydah spent a total of 266 hours (11 days, 2 hours) in a large (coffin size) confinement box and 29 hours in a small confinement box,...The CIA interrogators told Abu Zubaydah that the only way he would leave the facility was in the coffin-shaped confinement box.”<sup>36</sup> On average, Zubaydah was waterboarded 2-4 times a day. This treatment was a grievous breach of both the GCs and the APs.

The fundamental guarantees of any person during an armed conflict are as follows, from AP Art. 4, “All persons who do not take a direct part of who have ceased to take part in hostilities, whether or not their liberty has been restricted, are entitled to respect for

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34 “Intelligence Interrogation.” Department of the Army. November-December 1992. [https://tile.loc.gov/storage-services/service/II/IImlp/65002328\\_RC\\_Nov-Dec-1992/65002328\\_RC\\_Nov-Dec-1992.pdf](https://tile.loc.gov/storage-services/service/II/IImlp/65002328_RC_Nov-Dec-1992/65002328_RC_Nov-Dec-1992.pdf).

35 “The Interrogation of Abu Zubaydah.” *The Interrogation of Abu Zubaydah - The Center for the Study of Human Rights in the Americas (CSHRA)*, December 15, 2014. <https://humanrights.ucdavis.edu/projects/the-guantanamo-testimonials-project/testimonies/testimonies-of-the-cia/study-of-the-senate-select-committee-on-intelligence/the-detention-and-interrogation-of-abu-zubaydah.html>.

36 Senate Select Committee on Intelligence, Report of the Senate Select Committee on Intelligence Committee Study of the Central Intelligence Agency’s Detention and Interrogation Program, Together with Foreword by Chair-man Feinstein and Additional and Minority Views. S. Rept. 113-288, 71.



their person, honour and convictions and religious practices. They shall in all circumstances be treated humanely, without any adverse distinction.”<sup>37</sup> Waterboarding, confinement boxes, stress positions, fear-up technique (in the manner of which it is threatening), are all unlawful interrogation methods. The action of threatening or coercing information from detainees or POWs is grievous. These actions called for a change to take place within the U.S. detention system.

### **U.S. Changes in Policies to be in Compliance with the Geneva Conventions**

Not all detainees during the “war on terror” in Afghanistan and Iraq were tortured. A good portion were treated poorly but not everyone was at the receiving end of enhanced interrogation techniques. There have been multiple new regulations put in place to keep detainees safe. Executive Order 13491 from President Obama in 2009 ended the use of enhanced interrogations techniques and called for compliance with the GCs for all interrogation methods. Executive Order 13491 revoked all previous Executive Orders that allowed the CIA to hold detainees and perform interrogations. Executive Order 13491 also implemented a special task force specifically focused on interrogation and transportation.<sup>38</sup>

The Special Task Force on Interrogations and Transfer Policies did a research study on detainees and interrogation methods. Here are some of results they found:<sup>39</sup>

- The separation of high-value detainees from other detainees was imperative to the collection of intelligence.
- Experienced interrogators use a variety of lawful interrogation methods in order to obtain intelligence, and rely heavily on the

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37 International Committee of the Red Cross, *Geneva Conventions: Additional Protocol II, Article 4 – Fundamental Guarantees*

38 “Ensuring Lawful Interrogations.” Exec. Order No. 13491, 3 CFR 13491. Washington, DC: U.S. Government Printing Office, 2009.

39 *Report of the Special Task Force on Interrogation and Transfer Policies: Introduction and Summary*, Washington, DC: U.S. Government Printing Office, 2009.

detainees' cultural, economic, and their organizations background. They use this information to incentivize the detainees and interact with them in a manner that trust can be developed.

- The Army Field Manual is in compliance with the Geneva Conventions and has set appropriate guidelines for both experienced and non-experienced interrogators. As well the AFM is consistently being adapted and reviewed.

- Additional research is needed to find and implement new effective and lawful interrogation methods.

The result of this report ended with the creation of the High-Value Interrogation Group (HVIP). The HVIP is an interagency task force that is sent all over the world to interview high value targets. This specific team has "interrogators, subject matter experts, analysts, behavioral specialists, and linguists."<sup>40</sup> HVIP will also, whenever possible, gather intelligence that can be used as evidence in U.S. criminal prosecutions. This group is consistently re-evaluating interrogation methods and testing new methods (by conducting psychological studies). This promotes and increases the necessity of sharing intelligence between agencies for national security purposes.

Another major change was the revamping of the entire U.S. detention system. This included the prosecution of detainees, a better system for maintaining and sharing classified information,<sup>41</sup> and military commissions acts of 2006 and 2009.<sup>42</sup>

## Conclusion

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40 *Report of the Special Task Force on Interrogation and Transfer Policies: Introduction and Summary*, 4.

41 "Fact Sheet: New Actions on Guantánamo and Detainee Policy." *The White House Office of the Press Secretary*. March 7, 2011, Accessed December 10, 2023. <https://obamawhitehouse.archives.gov/the-press-office/2011/03/07/fact-sheet-new-actions-guant-namo-and-detainee-policy>.

42 "Military Commissions Act of 2009." Pub. Law 111-84 *United States Senate Select Committee on Intelligence*. 2009. <https://www.intelligence.senate.gov/laws/military-commissions-act-2009-title-xviii-national-defense-authorization-act-fiscal-year-2010>.

Interrogation is an essential element in warfare, but it does not need to involve coercion, mutilation, or death. There are strict laws from the Geneva Conventions of 1949 to help guide individuals who are collecting human intelligence. The Army Field Guide is a beneficial resource for those who conduct interrogations. The U.S. has used enhanced interrogation on multiple detainees, from psychological torture to physical torture. Since Executive Order 13491 there have been significant changes in policy regarding interrogation methods. This includes the creation of a research task force and a new High-Value Interrogation Group, changes in detention policy, and continual research about interrogation methodology help the U.S. continue to be in compliance with the Geneva Conventions.



## The Legality of Using Military Force Against the Mexican Drug Cartels

*Nicole Peterson*

### Introduction

The impact of drug cartels operating out of Mexico on U.S. national security has sparked calls for military action from some U.S. politicians.<sup>1</sup> As instances of cartel violence against Americans are covered by news outlets and the fentanyl-related deaths in the U.S. rise, a narrative has emerged in which the cartels are considered terrorists not unlike Al Qaeda and the wrath of the U.S. military is needed to stop them.<sup>2</sup> This paper will argue that such uses of force would be illegal under international law.

This paper begins with a short background on the dynamic between the U.S., Mexico, and the drug cartels. Next, I will explain the applicable laws, mainly regarding self-defense, the principles of necessity, proportionality, and immediacy, and the “unwilling or unable” doctrine. The second portion of this paper will identify the key facts of the current situation, including the activities of the cartels in question, the potential attacks on the U.S., and the condition of

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1 “Reps. Crenshaw and Waltz Introduce AUMF Targeting Mexican Drug Cartels,” *Dan Crenshaw: Serving Texas’ 2nd District*, January 12, 2023, [https://crenshaw.house.gov/2023/1/1/crenshaw-and-waltz-introduce-aumf-targeting-mexican-drug-cartels#:~:text=The%20Authorization%20for%20Use%20of%20Military%20Force%20\(AUMF\)%20allows%20the,and%20For%20to%20gain%20control](https://crenshaw.house.gov/2023/1/1/crenshaw-and-waltz-introduce-aumf-targeting-mexican-drug-cartels#:~:text=The%20Authorization%20for%20Use%20of%20Military%20Force%20(AUMF)%20allows%20the,and%20For%20to%20gain%20control)

2 William P. Barr, “The U.S. Must Defeat Mexico’s Drug Cartels.” *Wall Street Journal*. March 2, 2023, <https://www.wsj.com/articles/the-us-must-defeat-mexicos-drug-cartels-narco-terrorism-amlo-el-chapo-crenshaw-military-law-enforcement-b8fac731>

Mexico and its government. In the third section of this paper, I will argue that the drug cartel's actions against the U.S. have not risen to the level of an armed attack requiring a military response. I will also argue that while Mexico could be considered "unable," the "unwilling or unable" doctrine still does not apply.

In 2006 the Mexican government militarized its efforts against the drug cartels.<sup>3</sup> Their military has arrested and killed many leaders and members of the various cartels in addition to finding and confiscating contraband, but the issues of violence and trafficking persist despite these operations.<sup>4</sup>

The U.S. has felt the effects of cartel activity mainly through the increase in drug trafficking, and border security issues due to increased migration.<sup>5</sup> To assist Mexico in their efforts, the U.S. has sent funding and equipment as well as participated in joint law enforcement operations.<sup>6</sup> These efforts have yielded little statistical success.<sup>7</sup>

To address these issues, U.S. congressmen introduced a joint resolution AUMF for cartel influence that would allow the president to use military force to combat the cartels.<sup>8</sup> The president of Mexico initially responded with an objection to any foreign military operating

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3 CFR.org Editors, "Mexico's Long War: Drugs, Crime, and the Cartels," *Council on Foreign Relations*, August 5, 2024. <https://www.cfr.org/backgrounders/mexicos-long-war-drugs-crime-and-cartels>

4 CFR, "Mexico's Long War: Drugs, Crime, and the Cartels."

5 Office of the Director of National Intelligence. *Annual Threat Assessment*. February 6, 2023. <https://www.dni.gov/files/ODNI/documents/assessments/ATA-2023-Unclassified-Report.pdf>; *Drug Enforcement Administration Oversight: Hearings on the H.R. Before the Committee on the Judiciary Subcommittee on Crime and Federal Government Surveillance*, 118th Cong. (2023) (Statement of Anne Milgram, Administrator, Drug Enforcement Administration, U.S. Department of Justice). [https://www.justice.gov/d9/2023-07/administrator\\_written\\_sfr\\_july\\_2023\\_final.pdf](https://www.justice.gov/d9/2023-07/administrator_written_sfr_july_2023_final.pdf)

6 CFR, "Mexico's Long War: Drugs, Crime, and the Cartels."

7 CFR, "Mexico's Long War: Drugs, Crime, and the Cartels."

8 "Reps. Crenshaw and Waltz Introduce AUMF Targeting Mexican Drug Cartels."

in Mexican territory.<sup>9</sup> This led some to reference the “unwilling or unable” doctrine as justification for using force regardless.<sup>10</sup>

The U.N. Charter prohibits the use of force: “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”<sup>11</sup> Therefore use of force is unlawful unless it falls under the exceptions codified in Article 42 or Article 51.

Article 42 allows for the U.N. Security Council to authorize the use of force to ensure peace and security.<sup>12</sup> If the Security Council authorized the use of force, it would be lawful, but this is unlikely to happen based on historical ineffectiveness.<sup>13</sup>

Article 51 gives states the right of self-defense: “Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.”<sup>14</sup> While some argue that “if an armed attack occurs” means that Article 51 only applies after an attack has happened,<sup>15</sup> most states agree that

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9 Niha Masih and Mary Beth Sheridan, “Mexico’s President Rebukes GOP Push to Use U.S. Military Against Cartels,” *The Washington Post*, March 10, 2023, <https://www.washingtonpost.com/world/2023/03/10/mexico-amlo-drug-cartel-fentanyl/>.

10 Barr, “The U.S. Must Defeat Mexico’s Drug Cartels.”

11 United Nations. Charter of the United Nations, Oct 24, 1945, 1 UNTS XVI, art. 2, para. 4.

12 United Nations. Charter of the United Nations, Oct 24, 1945, 1 UNTS XVI, art. 42.

13 Codification Division, Office of Legal Affairs, *Repertory of Practice of United Nations Organs, Chapter VII — Actions with respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression*, Codification Division, United Nations Office of Legal Affairs. 2016, <https://legal.un.org/repertory/art42.shtml>

14 United Nations. Charter of the United Nations, Oct 24, 1945, 1 UNTS XVI, art. 51.

15 Geoffrey Corn, Jilly Gurule, Eric Jensen, and Peter Margulies. *National Security Law: Principles and Policy* Second Edition. Wolters Kluwer, 2019. 103

“inherent right” allows for anticipatory self-defense in response to an imminent armed attack.<sup>16</sup>

The definition of an armed attack is somewhat immaterial. The U.S. holds that any use of illegal force could constitute an armed attack,<sup>17</sup> whereas the ICJ has a high threshold for intensity,<sup>18</sup> and uses “scale and effect” to distinguish between armed attacks and “less grave forms” of attack.<sup>19</sup> The principles of necessity, proportionality, and immediacy restricting use of force in self-defense could inform the practical evaluation of an imminent or actual attack and whether or not it triggers Article 51.<sup>20</sup>

The letter from Daniel Webster, U.S. Secretary of State, to the Special British Minister regarding the attack on the steamer *Caroline* in 1837 is often used as the framework for the three principles mentioned above.<sup>21</sup> “Undoubtedly it is just, that while it is admitted that exceptions growing out of the great law of self-defense do exist, those exceptions should be confined to cases in which the necessity of that self-defense is instant, overwhelming, and leaving no choice

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16 Lord Peter Henry Goldsmith, Attorney General, United Kingdom. “Oral Answers to Questions.” April 21, 2004. *Hansard Parliamentary Debates*, vol. 660. House of Commons, cols. 370-71.

17 Lord Peter Henry Goldsmith, Attorney General, United Kingdom, “Oral Answers to Questions”, cols 370-71.

18 *Oil Platforms (Iran v. U.S.)*, 1996, I.C.J. 198-76 (December 12).

19 *Military and Paramilitary Activities in and Against Nicaragua (Nicar. V. U.S.)*, 1986 I.C.J. 91 (June 27)

20 *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion*, 1996, I.C.J. 245-41, (July 8); Kimberley N. Trapp, “Back to Basics: Necessity, Proportionality, and the Right of Self-Defense Against Non-State Terrorist Actors.” *International & Comparative Law Quarterly* 56, no. 1 (2007), 146-147, <https://doi.org/10.1093/iclq/lei153> (Accessed from <https://www.corteidh.or.cr/tablas/R06755-6.pdf>)

21 U.S. Department of State. *Letter from Daniel Webster, U.S. Secretary of State, to Lord Ashburn, Special British Minister*. August 6, 1842. The Avalon Project Documents in Law, History and Diplomacy. Yale Law School. [https://avalon.law.yale.edu/19th\\_century/br-1842d.asp#web2](https://avalon.law.yale.edu/19th_century/br-1842d.asp#web2)



of means, and no moment for deliberation.”<sup>22</sup> These principles are different from the *jus in bello* principles of military necessity and proportionality, which govern conduct in an armed conflict.<sup>23</sup>

The *jus ad bellum* principle of necessity means that military force in response to an imminent or actual armed attack is necessary, and that all other means of addressing the threat have been exhausted or are inadequate.<sup>24</sup> Ashley S. Deeks described necessity as two-pronged regarding non-state actors launching attacks from different states. Not only must the attack be “of a type that would require it to use force in response,” but a victim state must also consider whether the host state can suppress the threat, therefore negating the need for the victim state to use force against the non-state group.<sup>25</sup> State practice supports the placing of primary responsibility for addressing offending non-state actors with the host state.<sup>26</sup> However, the second “prong” of necessity has brought about the emerging yet disputed “unwilling or unable” doctrine which is addressed later on in this paper.

Proportionality means that the use of force must be

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22 U.S. Department of State. *Letter from Daniel Webster, U.S. Secretary of State, to Lord Ashburn, Special British Minister.*

23 Department of Defense, 50.

24 Department of Defense, 42.

25 Ashley S Deeks, “Unwilling or Unable: Toward a Normative Framework for Extraterritorial Self-Defense,” *Virginia Journal of International Law Association* 52, no. 3 (2012): 495.

26 The United Nations Security Council (UNSC), *Letter dated 20 August 1998 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council*, S/1998/780, August 20, 1998, <https://digitallibrary.un.org/record/258713?ln=en>; United Nations Security Council. “Security Council, 70th year: 7589th meeting, Friday, 18 December 2015, New York.” S/PV.7589, December 18, 2015, 6. <https://digitallibrary.un.org/record/815630?ln=en>; United Nations Security Council (UNSC), *Identical letters dated 12 July 2006 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General and the President of the Security Council*, A/60/937, S/2006/515 (July 12, 2006). <https://digitallibrary.un.org/record/578582?ln=en>

proportionate to either the original attack suffered, or the type of attack anticipated. This principle doesn't require the use of force to match the intensity of the original attack, but instead, the response must not go beyond what is needed to restore security to the victim state.<sup>27</sup>

Immediacy comes into play when engaging in anticipatory self-defense or responding to an attack that has long since passed.<sup>28</sup> If an armed attack has long passed, it is required to determine if the threat still exists, and if it doesn't, military force is unnecessary. While the definition of imminence has been debated, the idea that an imminent attack leaves "no moment for deliberation" is still the most common standard.<sup>29</sup>

While some may argue that an "armed attack" can only be committed by a state,<sup>30</sup> since the events of 9/11, it is generally acknowledged that attacks from organized non-state armed groups can rise to the level of an armed attack.<sup>31</sup> A conflict involving a non-state actor is a non-international armed conflict or NIAC. The requirements for the existence of a NIAC come from the Tadić case: a NIAC exists when there is "protracted armed violence between governmental authorities and organized armed groups or between such groups within a State."<sup>32</sup> To distinguish this type of conflict

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27 Oil Platforms (Iran v. U.S.), 94-176.

28 Laurie R. Blank, Gregory P. Noone, "International Law and Armed Conflict: Fundamental Principles and Contemporary Challenges in the Law of War" (2nd Edition, 2019) 20-21.

29 U.S. Department of State, *Letter from Daniel Webster, U.S. Secretary of State, to Lord Ashburn, Special British Minister*, August 6, 1842. The Avalon Project Documents in Law, History and Diplomacy. Yale Law School. [https://avalon.law.yale.edu/19th\\_century/br-1842d.asp#web2](https://avalon.law.yale.edu/19th_century/br-1842d.asp#web2)

30 *Armed Activities on the Territory of the Congo (DRC v. Uganda)*, 2005 I.C.J. 116-147 (December 19).

31 S.C. Resolution 1368 (condemning the terrorist acts of 11 September 2001 in New York, Washington, D.C. and Pennsylvania, United States). S/RES/1368 (September 12, 2001), <https://digitallibrary.un.org/record/448051?ln=en#record-files-collapse-header>.

32 Prosecutor v. Tadic (Decision on Defense Motion for Interlocutory Appeal

from other types of internal disturbances, such “banditry,” or riots, we evaluate, “the intensity of the conflict and the organization of the parties to the conflict.”<sup>33</sup> While the above criteria identifies the existence of an armed conflict, it may also provide insight when distinguishing between an armed attack triggering Article 51 and other illegal acts that do not warrant a military response.

Organized armed groups increasingly operate transnationally, attacking states from the territory of other states, which creates a point of tension where self-defense meets sovereignty. The most obvious instance of this occurred when Iraq requested assistance to defend against terrorist attacks from ISIL, some of which were launched out of Syria.<sup>34</sup> The U.S. conducted drone strikes in Syria against ISIL without Syria’s consent, claiming the state was unwilling or unable to prevent its territory from being used by terrorists to commit acts of terror against other states.<sup>35</sup> Several other third-party states also took action, explicitly citing the “unwilling or unable” doctrine, including the UK, Germany, The Netherlands, Czech Republic, Canada, Australia, and Turkey.<sup>36</sup>

This emerging doctrine is contentious. There is no codified or well-established universal standard for its application, and many states have not elaborated on their use of the doctrine. However, some repeated rationales— or at least less controversial ones — have come up. Ashley S. Deeks compiled some of these explanations given by states into categories: “information about the conditions of the territorial state’s armed forces, information that suggests a

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on Jurisdiction) IT-94-1, 70 (October 2, 1995).

33 Prosecutor v. Tadic (Judgment) IT-94-1-T, 562 (May 7, 1997).

34 Brian Egan, “International Law, Legal Diplomacy, and the Counter-ISIL Campaign: Some Observations,” *International Law Studies* 92, (April 1, 2016): 238, <https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=1668&context=ils>

35 Egan, “International Law, Legal Diplomacy, and the Counter-ISIL Campaign: Some Observations,” 241.

36 Chachko, Elena, Ashley Deeks, “Which States Support the ‘Unwilling and Unable’ Test?” *Lawfare*, October 10, 2016, <https://www.lawfaremedia.org/article/which-states-support-unwilling-and-unable-test>

relationship between the territorial state's leadership and the non-state actors, the territorial state's real and claimed levels of control over particular parts of its territory, and the types of requests that the victim state has submitted to the territorial state."<sup>37</sup>

When evaluating recurring aspects of the "unwilling or unable" doctrine, three characteristics stood out. First, the host state had been asked by the victim state to take action and the host state did not. Second, the terms "harboring" or "sanctuary" were often used to describe the relationship between a non-state group and the host state. Third, there were claims that the host state had lost control of territory. These characteristics were not always used in concert. The following examples were compiled by Elena Chachko and Ashley Deeks.<sup>38</sup>

The U.S. used "harboring" when describing the relationship between the Taliban regime and Al Qaeda during the 2001 Afghanistan conflict,<sup>39</sup> as well as between Al Qaeda and Sudan in 1998.<sup>40</sup> South Africa emphasized its efforts to initiate collaboration with Lesotho in 1985 regarding the ANC, and used the terms "sanctuary" and "harbors" when describing Lesotho and its relationship to the non-state group.<sup>41</sup> It should be noted that South Africa called Lesotho unwilling, but never explicitly invoked the "unwilling or unable" doctrine. Similarly, Iran used the term "sanctuary" regarding Iraq

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37 Department of Defense, 516.

38 Egan, "International Law, Legal Diplomacy, and the Counter-ISIL Campaign: Some Observations," 238.

39 Bellinger, John B, "Legal Issues on the War on Terrorism," October 31, 2006. <https://2009-2017.state.gov/s/l/2006/98861.htm>

40 U.S. President Bush, George W. "Address to a Joint Session of Congress and the American People." *National Archives and Records Administration*, Sept. 2001, [georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010920-8.html](http://georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010920-8.html); Egan, "International Law, Legal Diplomacy, and the Counter-ISIL Campaign: Some Observations," 238.

41 United Nations Security Council. "Provisional verbatim record of the 2639th meeting, held at Headquarters, New York, on Monday, 30 December 1985: Security Council." S/PV.2639, December 13, 1985, 13.; Egan, "International Law, Legal Diplomacy, and the Counter-ISIL Campaign: Some Observations," 238.

and the Mujahedeen-e-Khalq in 2001, describing the situation with concepts from the “unwilling or unable” doctrine without specifically referencing it.<sup>42</sup> Iran also opposed U.S. strikes against ISIL in Syria.

Most states who took military action in Syria referenced the lack of control Syria exercised over the parts of its territory used by ISIL as evidence that the state was “unable” to manage the threat.<sup>43</sup> The U.S. also used this lack of territorial control argument in Cambodia against the Viet Cong.<sup>44</sup>

Another question regarding this doctrine is whether it is “unwilling or unable” rather than “unwilling and unable.”<sup>45</sup> Most states invoke the doctrine as “unwilling or unable.”<sup>46</sup> An argument could be made that customary law supports a requirement of both unwilling and unable. For example, if a state is willing but not able, we might assume that the state in question would either consent to military action from the victim state or accept aid that allows them to effectively address the threat. Otherwise, it may be considered unwilling. If the above courses of action are available, using force in violation of the host state’s “territorial integrity or political independence” is unnecessary.

If the state is able but unwilling, it may indicate harboring, which

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42 United Nations Security Council (UNSC), *Letter dated 22 March 2001 from the U.N. Permanent Representative of the Islamic Republic of Iran to the United Nations*, Doc S/2001/271, March 26, 2001, 2; Egan, “International Law, Legal Diplomacy, and the Counter-ISIL Campaign: Some Observations,” 238.

43 Egan, “International Law, Legal Diplomacy, and the Counter-ISIL Campaign: Some Observations,” 238.

44 United Nations Security Council, *Letter Dated May 5th, 1970 from the Permanent Representative of the U.S. to the U.N. Security Council*. S/9731, May 5th, 1970, 2.; Egan, “International Law, Legal Diplomacy, and the Counter-ISIL Campaign: Some Observations,” 238.

45 Craig Martin, “Challenging and Refining the “Unwilling or Unable” Doctrine” *Vanderbilt Journal of Transnational Law* 52, no. 2 (March 2019): 424-425, <https://scholarship.law.vanderbilt.edu/cgi/viewcontent.cgi?article=1052&context=v-jtl>

46 Egan, “International Law, Legal Diplomacy, and the Counter-ISIL Campaign: Some Observations,” 238.

some use to attribute the non-state group's actions to the state. In this case the ICJ's decisions in Nicaragua and DRC v Uganda indicate that Article 51 would permit self-defense.<sup>47</sup> It could be argued that this situation occurred when the U.S. invaded Afghanistan in 2001, using military force against Al Qaeda and the Taliban.

In regard to practically applying the doctrine to current situations, the following criteria appear to be common: (1) determining that an armed attack has occurred or is imminent, (2) determining that military force is both necessary and proportionate, (3) asking the host state to take action, (4) if the host state refuses to take action or the action is ineffective, considering whether it is actively harboring or supporting the non-state actors, or if they have lost control of their territory.

This paper will only specifically address the Gulf, Jalisco, and Sinaloa Cartels as they are the main potential targets of U.S. military action.<sup>48</sup> However, the cartels operating in Mexico resemble a complex web rather than distinct powerful cartels controlling specific territories. Some cartels have alliances or serve a specific function for a larger cartel, and others engage in violent turf wars. The operational structure of the cartels also varies.

The Gulf cartel is a fractured criminal syndicate operating mainly out of Tamaulipas. While this cartel was once a well-organized armed group, the rapid turnover of leadership due to death and capture has caused it to split into several factions.<sup>49</sup>

In March of 2023 four Americans were kidnapped in Matamoros, Mexico and two were killed before a joint operation between U.S. and Mexican government officials recovered the survivors.<sup>50</sup> A faction of

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47 Military and Paramilitary Activities in and Against Nicaragua (Nicar. V. U.S.), 1986 I.C.J. 91 (June 27); Armed Activities on the Territory of the Congo (Dem. Rep. Congo v. Uganda), 2005 I.C.J. 116-147 (December 19).

48 Drug Enforcement Administration Oversight, 118th Cong. (2023) (statement of Anne Milgram), 4.

49 InSight Crime. "Gulf Cartel." *InSight Crime*. March 10, 2023. <https://insightcrime.org/mexico-organized-crime-news/gulf-cartel-profile/>

50 Ben Brasch, Leo Sands, Kevin Sieff, Paulina Villegas. "Two of the Americans kidnapped in Mexico are found dead." *Washington Post*. March 7, 2023.

the Gulf cartel called the Scorpions allegedly claimed responsibility, delivering a note of apology along with the supposed perpetrators of the kidnapping to Mexican government officials.<sup>51</sup> The Scorpions have been described as the “armed wing” of the Cyclone faction and the two often work in concert.<sup>52</sup>

The factions traffic mainly drugs and migrants across the border into the U.S.<sup>53</sup> The intensity of the violence and kidnappings committed by these factions remains mostly on Mexican soil with little indications of recent armed activity within the U.S.<sup>54</sup>

The Sinaloa and Jalisco cartels are the main distributors of fentanyl in the U.S. and have been known to press the substance into fake prescription pills and add it to other illegal drugs because of its highly addictive quality.<sup>55</sup> These methods of trafficking have led to

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<https://www.washingtonpost.com/world/2023/03/07/mexico-americans-kidnap-matamoros-medical/>

51 Parker Asmann. “Mexico’s Gulf Cartel Doing Damage Control After Kidnapping, Murdering US Citizens.” *In-Sight Crime*. March 12, 2023. <https://insight-crime.org/news/gulf-cartel-damage-control-kidnapping-murdering-us-citizens/>

52 Chris Dalby. “Cyclones, Scorpions and Old School Killers – The War for Tamaulipas.” *InSight Crime*, October 6, 2021, <https://insightcrime.org/news/cyclones-scorpions-old-school-killers-war-tamaulipas/>

53 Department of Public Affairs and Security Studies, “Forced Criminal Activities along Mexico’s Eastern Migration Routes and Central America: Gulf Cartel.” *The University of Texas Rio Grande Valley*. <https://www.utrgv.edu/human-trafficking/blog/northern-mexico/gulfcartel/index.htm>

54 United States Department of Justice, *Drug Enforcement Administration. 2020 National Drug Threat Assessment*. DEA-DCT-DIR-00821, March 2021, [https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20National%20Drug%20Threat%20Assessment\\_WEB.pdf](https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20National%20Drug%20Threat%20Assessment_WEB.pdf)

55 United States Department of Justice, *Drug Enforcement Administration. DEA Laboratory Testing Reveals that 6 out of 10 Fentanyl-Laced Fake Prescription Pills Now Contain a Potentially Lethal Dose of Fentanyl*. <https://www.dea.gov/alert/dea-laboratory-testing-reveals-6-out-10-fentanyl-laced-fake-prescription-pills-now-contain>; Drug Enforcement Administration Oversight, 118th Cong. (2023) (statement of Anne Milgram), 4.



a dramatic increase in fentanyl overdose deaths in the U.S.<sup>56</sup> While both cartels engage in extreme violence, most of the armed hostilities remain in Mexico.<sup>57</sup> There is occasional spillover violence along the southern border, but it has been described as minimal by the DEA.<sup>58</sup> Reports of recent, specific incidents are not easily locatable.

Some argue that Mexico has lost control of parts of its territory where cartels have a strong presence.<sup>59</sup> Cartel members have allegedly cut off power to certain areas and stopped government workers from entering the area.<sup>60</sup> Mexican law enforcement has a history of corruption, which extends to higher levels of government as well.<sup>61</sup> There may be evidence of Mexico inflating the number of

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56 Center for Disease Control and Prevention, "Fentanyl: Deaths involving illicitly manufactured fentanyl are on the rise," *Center for Disease Control and Prevention*. August 8, 2023. <https://www.cdc.gov/opioids/basics/fentanyl.html#:~:text=Deaths%20involving%20illicitly%20manufactured%20fentanyl,22%25%20from%202020%20to%202021>.

57 United States Department of Justice, Drug Enforcement Administration. 2020 National Drug Threat Assessment, DEA-DCT-DIR-00821, 69.

58 United States Department of Justice, Drug Enforcement Administration. 2020 National Drug Threat Assessment, DEA-DCT-DIR-00821 69; Drug Enforcement Administration Oversight, 118th Cong. (2023) (statement of Anne Milgram), 6.

59 Mary Beth Sheridan. "Violent Criminal Groups are Eroding Mexico's Authority and Claiming More Territory." *Washington Post*, October 29, 2020. <https://www.washingtonpost.com/graphics/2020/world/mexico-losing-control/mexico-violence-drug-cartels-zacatecas/>; "Mexican President Pushes Back on US Criticism on Violence," *AP News*, March 24, 2023. <https://apnews.com/article/us-blinken-mexico-violence-cartels-40a48b160aa0e01798eb8dc7b51fa5bd>.

60 Edgar H. Clemente, "Drug Cartel Turf Battles Cut Off Towns in Southern Mexico State of Chiapas, Near Guatemala Border," *AP News*. September 25, 2023. <https://apnews.com/article/mexico-drug-cartels-chiapas-c8fa374e-43995601fec3bec251aa3f27>

61 Congressional Research Service, *Mexico: Organized Crime and Drug Trafficking Organizations*, R41576, June 7, 2022, <https://crsreports.congress.gov/product/pdf/R/R41576>



drug lab raids in their reports in an effort to placate the U.S.<sup>62</sup>

However, there is effective cooperation between the U.S. and Mexico.<sup>63</sup> A supposedly high-ranking member of the Sinaloa cartel was extradited to the U.S. in September of 2023.<sup>64</sup> Joint operations between U.S. government agencies and their Mexican counterparts have resulted in thousands of arrests, tens of thousands of pounds of drug seizures, and millions of seized fentanyl pills.<sup>65</sup>

Considering the available information, I conclude that the cartel's offenses have not risen to the level of an armed attack warranting use of force under Article 51.<sup>66</sup> First, the cartel activities against the U.S. fall far below the threshold of an armed attack set forth by the ICJ.<sup>67</sup> Second, while the U.S. disagrees with the ICJ's view on a "gravity" requirement for an armed attack, even under U.S. standards, military force against the cartels in response to the current offenses would violate the principles of necessity, proportionality, and immediacy.

The "scale and effect" test is difficult to apply to this situation because, in the context of the Nicaragua case, the ICJ mostly refers to forces, regular or irregular, moving across another state's border

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62 Jackie Botts, Stephen Eisenhammer, Drazen Jorgic, "Exclusive: Amid U.S. Pressure on Fentanyl, Mexico Raises Drug Lab Raids Data," *Reuters*. March 17, 2023. <https://www.reuters.com/world/americas/amid-us-pressure-fentanyl-mexico-raises-drug-lab-raids-data-2023-03-17/>

63 U.S. Department of State, Office of the Spokesperson, "Joint Statement: U.S.-Mexico High Level Security Dialogue 2023," October 13, 2023, <https://www.state.gov/joint-statement-u-s-mexico-high-level-security-dialogue-2023/>

64 U.S. Attorney's Office, Northern District of Illinois, "Alleged High-Ranking Member of Sinaloa Cartel Arraigned on Federal Charges Following Extradition from Mexico to the U.S.," *U.S. Attorney's Office*. September 18, 2023, <https://www.justice.gov/usao-ndil/pr/alleged-high-ranking-member-sinaloa-cartel-arraigned-federal-charges-following>

65 Jackie Botts, Stephen Eisenhammer, Drazen Jorgic, "Exclusive: Amid U.S. Pressure on Fentanyl, Mexico Raises Drug Lab Raids Data," 2023.

66 United Nations. Charter of the United Nations, Oct 24, 1945, 1 UNTS XVI, art. 51.

67 Department of Defense, 47

in contrast to simply supplying an armed group with weapons. The March 2023 kidnappings and murders do not seem to fit anywhere along this range. It did not violate borders, it was not directed at U.S. armed forces, or aimed to harm the U.S. indirectly. It mirrors the ICJ's use of "frontier incident" more than an armed attack, that is assuming it resides on this spectrum at all.<sup>68</sup> Because it is likely that the members who acted did so without answering to an organizational hierarchy and the incident was resolved rather quickly, I would argue it falls outside of this framework and more closely resembles "banditry."<sup>69</sup>

Even taking a U.S.-centered view and disregarding "scale and effect," because the attack has long passed, immediacy becomes a concern. If the threat no longer exists, use of force would be retaliatory not in self-defense. In my research, I have found no reports that the Gulf cartel is planning an armed attack directed at the U.S. or its citizens. Additionally, based on what we know about their motivations, the cartel would not find it to be in their best interest to draw more attention from the U.S. law enforcement or military.<sup>70</sup> Greater U.S. involvement would make it more difficult for the cartel to operate without interference. This does not mean that Americans will never be physically harmed by this cartel again, but the threat is too intangible and distant to warrant resorting to military force at the expense of Mexico's sovereignty. This plays into the principle of necessity as well. The lack of imminence leaves time to explore other options to address the broader threat posed by the Gulf cartel, and the semi-successful joint rescue operation may indicate that other options are potentially viable.

Military action may also be disproportionate. Mobilizing military forces to invade Mexico and take down a fractured organized crime group that suffers from severe infighting and is often the focus of Mexican law enforcement crackdowns could be viewed as

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68 Military and Paramilitary Activities in and Against Nicaragua (Nicar. V. U.S.), 1986 I.C.J. 93 (June 27).

69 Prosecutor v. Tadic (Judgment) IT-94-1-T, 562 (May 7, 1997).

70 Will Grant, "A cartel's mistake may explain kidnappings in Mexico," *BBC*. March 8, 2023. <https://www.bbc.com/news/world-latin-america-64825204>

excessive.<sup>71</sup>

Any attacks stemming from the Sinaloa or Jalisco cartels will likely follow a similar analysis and conclusion as there is no indication that either cartel has recently committed more egregious violence against the U.S. or has plans to do so.

Some argue that the accumulation of small attacks can amount to an armed attack.<sup>72</sup> This is a broad interpretation of “inherent right” that does not seem to reflect widespread state practice.<sup>73</sup> It also does not apply to this situation because the various small attacks on the U.S. have come from many different cartels. Proportionality and necessity do not allow the attack from one cartel to justify military force on other entirely unrelated cartels.

The biggest problem the U.S. faces regarding the cartels is drugs. However, drug distribution is also not an armed attack. First, I have found no official statements that indicate other states have claimed this, and second, attributing the drug overdose deaths to the cartels requires too many steps. The cartels sell the product to Americans and American gangs and groups, who then sell it to regular U.S. citizens.<sup>74</sup> Those citizens may distribute it to their friends who then tragically die of fentanyl poisoning. These steps make it difficult to say with certainty that the drug cartels caused these deaths and eliminating them will prevent future drug overdose. Drug trafficking is a terrible crime that must be addressed, but it is not an armed attack

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71 InSight Crime, “Gulf Cartel.”

72 Daniel Bethlehem, “Self-Defense Against Imminent or Actual Armed Attack by Nonstate Actors,” *The American Journal of International Law* 106, no. 4 (October 2012): 770-777, <https://www.un.org/law/counsel/Bethlehem%20-%20Self-Defense%20Article.pdf>

73 Craig Martin, “Challenging and Refining the “Unwilling or Unable” Doctrine,” 2019, 424-425.

74 *Narcos: Transnational Cartels and Border Security: Hearings on the Senate before the Committee on the Judiciary Subcommittee on Border Security and Immigration*, 115th Cong. (2018) (Statement of Paul E. Knierim, Deputy Chief of Operations, Drug Enforcement Administration, U.S. Department of Justice) <https://www.dea.gov/sites/default/files/2018-12/DEA%20Testimony%20-%20Mexican%20Cartels%20-%20SJC-12-12-2018.pdf>

triggering Article 51.

While in this paper I argue that the problem the cartels present does not amount to an armed attack, I acknowledge that some may argue the opposite and conclude that the law is evolving to accommodate modern threats, including the advanced fentanyl distribution methods. If the U.S. draws this conclusion, it will still need to address the other “prong” of necessity.<sup>75</sup> Can Mexico contain the threat of the cartels? Here is where the “unwilling or unable” doctrine would potentially apply.

One issue with classifying Mexico as “unwilling or unable” is that ample evidence exists that they are “willing” and if not fully “able” at least actionable. The Mexican government has launched countless operations against these organized groups, the conflict so severe at times, it has risen to the level of a non-international armed conflict.<sup>76</sup>

Some may point to the corrupt government officials with ties to cartels as evidence that Mexico is harboring these groups.<sup>77</sup> While the government does struggle with corruption, the relationship between Mexico and the cartels does not appear similar to the relationships characterized as “harboring” in past invocations of the “unwilling or unable” doctrine.<sup>78</sup>

I will concede that a strong argument exists for Mexico’s loss of territorial control which could make them “unable.” If one of the cartels committed an “armed attack” against the U.S., and Mexico did not take effective action or give consent for the U.S. to do so, the “unwilling or unable” doctrine could have some validity.

The last point I will make concerning the “unwilling or unable” doctrine is that nearly all uses of it were related to terrorist attacks. While this doesn’t have a bearing on the actual framework of the test, it should be noted as part of the norm. Most of the cartels do

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75 Department of Defense, 50.

76 “Past Conflicts – Non-international Armed Conflicts in Mexico,” *Rulac Geneva Academy*. December 7, 2022. <https://www.rulac.org/browse/conflicts/non-international-armed-conflict-in-mexico>

77 DEA, 69.

78 Department of Defense, 516.

not resemble terrorists. The Jalisco cartel may qualify, but its political aspects and extreme violence set it apart from many other cartels, and its potential acts of terrorism are against Mexico not the U.S.

In conclusion, the use of force against the Mexican drug cartels without Mexico's consent violates international law, specifically the customary *jus ad bellum* principles of necessity and proportionality. State practice does not set a precedent for invoking the "unwilling or unable" doctrine as justification for the use of force in Mexico because the doctrine is still tied to necessity. The cartels cause many serious issues for the U.S. and actions should be taken, but military action without Mexico's consent is not one of them.



## Misclassification: Was the 2001 U.S. Conflict in Afghanistan Truly A NIAC?

*Kayla Leigh*

### Introduction

On September 11, 2001, the terrorist group al-Qaeda launched a four-pronged terrorist plot on American soil. Four commercial planes carrying civilians were hijacked by al-Qaeda operatives in a plan to disrupt the American way of life striking fear in Americans everywhere subsequent “9/11 Commission Report” would detail the events of the attack as well as the failure of the intelligence community.<sup>1</sup> American Airlines Flight 11 plan was a non-stop flight from Boston to Los Angeles.<sup>2</sup> At the time of take-off, the plane was full of eighty-one passengers. This number included the five hijackers.<sup>3</sup> In addition to the passengers, there were nine flight attendants present as well as a captain and a first officer piloting

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1 National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, 22 July 2004. [www.9-11commission.gov/report/911Report.pdf](http://www.9-11commission.gov/report/911Report.pdf).

2 National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, 2004

3 National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, 2004

the plane.<sup>4</sup> The plane took off at 7:59 am<sup>5</sup> and crashed into the North Tower of the World Trade Center located in Manhattan New York, at 8:46 am.<sup>6</sup> This was the first attack to occur.

The next plane to be hijacked was United Airlines Flight 175. On this plane there were fifty-six passengers, seven flight attendants, a captain, and a first officer.<sup>7</sup> The plane took off at 8:14 am and hit the South Tower of the World Trade Center at 9:03 am.<sup>8</sup> The next plane to be hijacked was American Airlines Flight 77. There were 58 passengers on board with for flight attendants, a captain, and a first officer.<sup>9</sup> The plane took off at 8:20 am and crashed into the Pentagon in Washington, DC, at 9:37am. The final plane to be hijacked was United Airlines Flight 93. There were 37 passengers on board with five flight attendants, a captain, and a first officer.<sup>10</sup> At the time of this final hijacking, the news was reporting the attacks, alerting the passengers of what was happening. The passengers on

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4 National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, 2004

5 National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, 2004

6 National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, 2004

7 National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, 2004

8 National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, 2004

9 National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, 2004

10 National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, 2004



the plane, understanding that they had been hijacked, tried to take back control of the plane, resulting in the hijackers deciding to crash the plane into a field in Shanksville, Pennsylvania.<sup>11</sup> The hijackers originally planned to crash this plane into either the White House or the Capitol building in Washington, DC.

In the aftermath of these horrific attacks, President George W. Bush addressed the American people, stating that “On September 11th, enemies of freedom committed an act of war against our country.”<sup>12</sup> President Bush went on to discuss the leaders of the group that committed this “war” against the U.S., stating that “the leadership of al-Qaeda has great influence in Afghanistan and supports the Taliban regime in controlling most of that country. In Afghanistan, we see al-Qaeda’s vision for the world.”<sup>13</sup> The president made it clear that the U.S. saw Afghanistan as a safe haven for the terrorists that committed these crimes. On September 18, 2001, the president signed a Joint Resolution authorizing the U.S. to use military force against the perpetrators of the 9/11 attacks. In addition, the Joint Resolution deemed that “the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.”<sup>14</sup>

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11 National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, 2004

12 National Archives and Records Administration, National Archives and Records Administration, 2001, [georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010920-8.html](http://georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010920-8.html).

13 U.S. President George W. Bush “Address to a Joint Session of Congress and the American People.” *National Archives and Records Administration*, Sept. 2001, [georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010920-8.html](http://georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010920-8.html)

14 Authorization for Use of Military Force, Pub. L. No. 107-40. September 18,

This Joint Resolution allowed the U.S. to invade Afghanistan on October 7, 2001. During this conflict, the U.S. categorized the conflict with the Taliban as a Non-International Armed Conflict (NIAC), not an International Armed Conflict (IAC), during the over 20-year conflict. This paper will explore if, during the conflict in Afghanistan, the U.S. misclassified the conflict as a Non-International Armed Conflict (NIAC) when it should have been classified as an IAC by exploring what an IAC is, what a NIAC is, if the Taliban was the government in Afghanistan, how the U.S. classified the Taliban as, and if the U.S. correctly designated the Taliban as a NIAC.

### **What is an IAC?**

After establishing that a conflict exists, it's important to understand if the conflict is a NIAC or an IAC. There are different laws that govern the two types of conflict, as well as different rights given to the combatants in the conflict. In the 1949 Geneva Convention, Article 2 establishes an IAC as "any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them."<sup>15</sup> A high contracting party is the modern nation-state. This means an IAC is a conflict fought between two nations, the most common type of war that one would think of-- a state fighting a state. The world wars, the 6-year Israeli war, and the current conflict between Russian and Ukraine are all examples of an IAC conflict.

According to the Department of Defense (DOD) Law of War Manual, "The law of war treats situations of 'war,' 'hostilities,' or 'armed conflict' differently based on the legal status of parties to the

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2001. Accessed from [www.govinfo.gov/content/pkg/PLAW-107publ40/html/PLAW-107publ40.htm](http://www.govinfo.gov/content/pkg/PLAW-107publ40/html/PLAW-107publ40.htm)

15 *Geneva Convention relative to the Protection of Civilian Persons in Time of War*. United Nations Human Rights. Adopted 12 August 1949, accessed Dec 10, 2023. [www.ohchr.org/en/instruments-mechanisms/instruments/geneva-convention-relativeprotection-civilian-persons-time-war](http://www.ohchr.org/en/instruments-mechanisms/instruments/geneva-convention-relativeprotection-civilian-persons-time-war)

conflict.”<sup>16</sup> It is important to note what a combatant is. “Members of the armed forces of a State, including members of all groups that are part of the armed forces of a State, but excluding certain medical and religious personnel, who receive combatant status.”<sup>17</sup> Medical personnel “may in no circumstances be attacked, but shall at all times be respected and protected by the Parties to the conflict.”<sup>18</sup> Additionally, “chaplains attached to armies shall be respected and protected under all circumstances.”<sup>19</sup> Besides the above-mentioned members of a country’s armed forces, the rest of the forces are considered to be “combatants”.

### Combatant Status

The International Committee of the Red Cross, an organization whose main goal is to ensure that International Humanitarian Law is being practiced in times of hostilities, states that, “The main feature of their [combatant] status is that they have the right to directly participate in hostilities.”<sup>20</sup> To maintain this “combatant status” members of the military state must do a few things. According to the 1907 Hauge Convention Article 1,

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16 “Defense Department Updates Its Law of War Manual.” U.S. Department of Defense. July 31, 2023. [www.defense.gov/News/Releases/Release/Article/3477385/defense-department-updates-its-law-of-war-manual/](http://www.defense.gov/News/Releases/Release/Article/3477385/defense-department-updates-its-law-of-war-manual/)

17 Members of the armed forces of a State, including members of all groups that are part of the armed forces of a State, but excluding certain medical and religious personnel, 91 receive combatant status.

18 “Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva, 12 August 1949 Article 19 - Protection of Medical Units and Establishment.” *International Committee of the Red Cross*. [ihl-databases.icrc.org/en/ihl-treaties/gci-1949/article-19](https://ihl-databases.icrc.org/en/ihl-treaties/gci-1949/article-19)

19 “Practice Relating to Rule 27. Religious Personnel.” *International Humanitarian Law Database, International Committee of the Red Cross*. Accessed Dec 10, 2023 <https://ihl-databases.icrc.org/en/customary-ihl/v2/rule27>

20 “Combatants and POWs.” *How Does Law Protect in War? - Online Casebook*, International Committee of the Red Cross. Accessed December 10, 2023. [casebook.icrc.org/law/combatants-and-pows](https://casebook.icrc.org/law/combatants-and-pows)

“The laws, rights, and duties of war apply not only to armies, but also to militia and volunteer corps fulfilling the following conditions: 1. To be commanded by a person responsible for his subordinates; 2. To have a fixed distinctive emblem recognizable at a distance; 3. To carry arms openly; and 4. To conduct their operations in accordance with the laws and customs of war. In countries where militia or volunteer corps constitute the army, or form part of it, they are included under the denomination ‘army’.”<sup>21</sup>

The second requirement establishes that “combatants are obliged to distinguish themselves from the civilian population while they are engaged in an attack or in a military operation preparatory to an attack.”<sup>22</sup> This is not always possible, and the law recognizes this and states that a combatant does not need to distinguish himself except if “(a) during each military engagement, and (b) during such time as he is visible to the adversary while he is engaged in a military deployment preceding the launching of an attack in which he is to participate.”<sup>23</sup> If combatants falls into these categories, they have Combatant Immunity. According to the Code of Federal Regulations which is the codification of rules that are published by the executive department and agencies at the federal government [32 C.F.R. 11.5 Combatant immunity] “under the law of armed conflict, only a lawful combatant enjoys ‘combatant immunity’ or ‘belligerent privilege’ for the lawful conduct of hostilities during armed conflict.”<sup>24</sup> “Combatant immunity bars

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21 International Committee of the Red Cross (ICRC), *Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land*, The Hague, 18 October 1907. <https://ihl-databases.icrc.org/assets/treaties/195-IHL-19-EN.pdf>.

22 International Committee of the Red Cross. “Article 44: Combatants and Prisoners of War.” *Treaties, States Parties and Commentaries – Additional Protocol I (1977) to the Geneva Conventions*. June 8, 1977. Accessed Dec 10, 2023. <https://ihl-databases.icrc.org/en/ihl-treaties/api-1977/article-44>.

23 International Committee of the Red Cross, “Article 44: Combatants and Prisoners of War,” 1977.

24 §11.5 32 CFR Ch. I (7–1–14 Edition) - *Govinfo*, Accessed 10 Dec. 2023. [www.govinfo.gov/content/pkg/CFR-2014-title32-vol1/pdf/CFR2014-title32-vol1-](http://www.govinfo.gov/content/pkg/CFR-2014-title32-vol1/pdf/CFR2014-title32-vol1-)

the prosecution of combatants for mere participation in hostilities. Thus, they are immune from prosecution for murder and destruction of property committed as part of an armed conflict, unless such acts constitute war crimes.”<sup>25</sup> This law allowed militaries to function under the orders that they have been given, such as killing another army’s forces without fear of prosecution of murder. It is understood that death is a part of war, so if the actions of the individual do not violate other international laws, then they are in no danger of prosecution.

### **Prisoner of War Rights and Obligation**

Additionally, another right given to combatants that pertains to the topic being discussed is the rights given to a combatant once captured. A prisoner of war (POW) is a member of one state military that falls into the hands of another military. There are laws that govern the treatment of people in this situation in the Geneva Convention Relative to the Treatment of Prisoners of War. Article 4 establishes the following people as eligible for POW status “1) Members of the armed forces of a Party to the conflict as well as members of militias or volunteer corps forming part of such armed forces. 2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfill the following conditions: a) that of being commanded by a person responsible for his subordinates; b) that of having a fixed distinctive sign recognizable at a distance; c) that of carrying arms openly; d) that of conducting their operations in accordance with the laws and customs of war. 3) Members of

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sec11-6.pdf.

25 “Immunities.” *How Does Law Protect in War?* - Online Casebook, International Committee of the Red Cross. Accessed Dec 10, 2023, [case-book.icrc.org/a\\_to\\_z/glossary/immunities#:~:text=Combatant%20immunity%20bars% 20the%20prosecution,such%20acts%20constitute%20war%20crimes](https://case-book.icrc.org/a_to_z/glossary/immunities#:~:text=Combatant%20immunity%20bars%20the%20prosecution,such%20acts%20constitute%20war%20crimes)

regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power. 4) Persons who accompany the armed forces without being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labor units, or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model. 5) Members of crews, including masters, pilots, and apprentices of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favorable treatment under any other provisions of international law. 6) Inhabitants of a non-occupied territory who, on the approach of the enemy, spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.”<sup>26</sup>

In addition to who can be considered a prisoner of war, the law also establishes that prisoner of war’s can only be transferred to those nations that are also signatories to the convention.<sup>27</sup> The law also establishes in Article 12 that “Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them.”<sup>28</sup> This gives the detaining power the obligation to care for their needs, whether that be medical needs or necessities free of charge to the prisoners of war. The detaining power must also ensure that the prisoner of war at “all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity ... No prisoner of war may be subjected to physical mutilation or to medical or scientific

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26 International Committee of the Red Cross, *Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949*, August 12, 1949. [ihl-databases.icrc.org/assets/treaties/375-GC-III-EN.002.pdf](https://ihl-databases.icrc.org/assets/treaties/375-GC-III-EN.002.pdf)

27 International Committee of the Red Cross, *Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949*, 1949

28 International Committee of the Red Cross, *Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949*, 1949

experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.”<sup>29</sup> Additionally, “No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever.”<sup>30</sup>

Not only can prisoners of war not be harmed physically, but they must be treated well. Articles 13 and 14 state that, “Prisoners of war must at all times be humanely treated. ... Prisoners of war are entitled in all circumstances to respect for their persons and their honor.”<sup>31</sup> There are many other rules given to the detaining power regarding treatment such as pay for labor, religious consideration, the need to maintain a hygienic camp. These are all matters on how the prisoners of war is treated during detainment. After the conflict is over, the prisoners of wars must be returned to their country. These laws help to maintain the safety of a state’s force, both in combat and during capture.

### What is a NIAC?

As discussed above, there is another type of conflict besides an IAC, and that is a NIAC. Article 3 of the Geneva Convention discusses a NIAC as an “armed conflict not of an international character.”<sup>32</sup> Historically, this has left many questions when it comes to what a NIAC is as Article 3 does not provide clarifying characteristics of a NIAC, leaving case law to fill in the gaps. The United Nations Office for Disaster Risk Reduction, a NIAC is

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29 International Committee of the Red Cross, *Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949*, 1949

30 International Committee of the Red Cross, *Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949*, 1949

31 International Committee of the Red Cross, *Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949*, 1949

32 International Committee of the Red Cross, *Geneva Conventions (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva, 12 August 1949: Article 3 – Conflicts not of an International Character*, 1949.



defined as “protracted armed confrontations occurring between governmental armed forces and the forces of one or more-armed groups, or between such groups arising on the territory of a State.”<sup>33</sup> This is not a conflict occurring between two states like an IAC; rather it is between a state actor and a non-state actor. The DOD Law of War Manual further clarifies a NIAC as “armed conflicts that are not between States.”<sup>34</sup> This historically has been seen as a civil war, a state against a rebel group inside the country. But as society has evolved, what a NIAC is has also expanded. For example, the U.S. fight with al-Qaeda was considered a NIAC because al-Qaeda is not a state military.

Not every group that disrupts a country establishes a NIAC conflict. Article 1 of Additional Protocol II helps to clarify what groups and conflicts are considered NIAC. Article 1 states that the protections given to a NIACs do not apply during times of sporadic violence or riots because they are not armed conflicts.<sup>35</sup> For a group to be considered a NIAC, it must have several characteristics. First, there must be a command structure.<sup>36</sup> This would look hierarchical with a leader, followers, and a direct flow of command. Due to this requirement, many protest groups would not qualify, even if violence occurred at an event. The groups are not connected through a strict structure of command. Next, there must be “sustained and concerted military operations.”<sup>37</sup> This can be

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33 “Non-International Armed Conflict (NIAC),” *United Nations Office for Disaster Risk Reduction*, 7 June 2023, <https://www.undrr.org/understanding-disaster-risk/terminology/hips/so0002>

34 “Defense Department Updates Its Law of War Manual,” 2023.

35 International Committee of the Red Cross. *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) of 8 June 1977: Article I - Material Field of Application*. International Committee of the Red Cross. June 8, 1977, accessed Dec 10, 2023. [ihl-databases.icrc.org/assets/treaties/475-AP-II-EN.pdf](https://ihl-databases.icrc.org/assets/treaties/475-AP-II-EN.pdf).

36 International Committee of the Red Cross, *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) of 8 June 1977*, 1977.

37 International Committee of the Red Cross, *Protocol Additional to the Ge-*



manifested in a few different ways with consistent smaller attacks, and one large attack with greater intensity, which can include a number of lives lost, or sufficient property damage. The group must also be able to recruit and have other organizational abilities.<sup>38</sup> If a group does not have these capabilities, then it is not a NIAC. To further expand on the example provided earlier regarding al-Qaeda, al-Qaeda was run as a hierarchy with Osama bin Laden as the leader. They had the organization needed to plan attacks and recruit fighters. Lastly, they were able to plan and carry out an attack of sufficient intensity.

Although there is not much treaty law that governs a NIAC Common Article 3 established a minimum law that both parties must adhere to, including that “the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons: (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment, and torture; (b) taking of hostages; (c) outrages upon personal dignity, in particular, humiliating and degrading treatment; (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized people. (2) The wounded and sick shall be collected and cared for.”<sup>39</sup> These regulations in addition to AP 2 are the only treaty law that governs the conduct and rights of a NIAC. This means the rights mentioned above, combatant immunity and POW status, are not given to a NIAC. There are many other rights that are not given to NIAC conflicts and fighters, but I am focusing on these two as

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*Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) of 8 June 1977, 1977.*

38 International Committee of the Red Cross, *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) of 8 June 1977, 1977.*

39 International Committee of the Red Cross, *Geneva Conventions (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva, 12 August 1949: Article 3 – Conflicts not of an International Character, 1949.*

they pertain to the arguments and findings of this paper. This does not mean that a country or group party to the conflict is not allowed to implement all rights given during a IAC to an NIAC. Rather Article 3 ends with “The Parties to the conflict should further endeavor to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.”<sup>40</sup> This would allow both parties to have special protections, but that is easier said than done during a conflict. To understand the greater regulations and guiding laws that govern a NIAC, one must look at case law. The most prominent case is Prosecutor V. Tadic. The court determined that Common Article 3 should apply to all conflicts that are not considered IACs.

### **Ruling Government of Afghanistan in 2001**

As discussed earlier, when it comes to understanding a conflict, it is vital to know if it is two states fighting or a state and a group. To understand what type of conflict the U.S. entered into with Afghanistan in 2001, we need to understand what the political situation was in Afghanistan at the time of the invasion. In the early 1990’s, there was a civil war in Afghanistan between the Taliban, and the government of President Burhanuddin Rabbani. The public favored the Taliban, feeling they were less corrupt than the sitting president. In 1996, al-Qaeda leader Osama Bin Laden moved to Afghanistan, offering financial support to help the Taliban conquer the rest of the country.<sup>41</sup> The Taliban eventually took control on September 27, 1996. After this, the Taliban introduced a strict form of law that favored the extreme interpretation of Islam. Western music, women attending school, women working outside the home,

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40 *Geneva Convention Relative to the Treatment of Prisoners of War*, United Nations Human Rights, Aug 12 1949, [www.ohchr.org/en/instrumentsmechanisms/instruments/geneva-convention-relative-treatment-prisoners-war](http://www.ohchr.org/en/instrumentsmechanisms/instruments/geneva-convention-relative-treatment-prisoners-war).

41 Congressional Research Service, *Taliban Government in Afghanistan: Background and Issues for Congress*, R46955, Nov 2, 2021. [crsreports.congress.gov/product/pdf/R/R46955](https://crsreports.congress.gov/product/pdf/R/R46955)

dancing, and other activities were prohibited.<sup>42</sup> According to the Foundation for Defense of Democracies, a nonprofit think tank, in 2000 the Taliban controlled 32 of Afghanistan's 34 provinces.<sup>43</sup> The Taliban ruled the majority of Afghanistan from 1996 until the U.S. invasion in late 2001.<sup>44</sup> The other tribe/group that was controlling the two provinces that the Taliban did not occupy was the Northern Alliance. Before the U.S. invasion in 2001, the Taliban was the ruling government in Afghanistan based on influence, amount of land concerned, and implementation of Taliban law.

### US Classification of the Taliban

There was great confusion in the U.S. on how to classify the conflict with the Taliban. Some of this confusion was due to the fact that they were fighting a conflict with al-Qaeda. It is important to note there can be more than one type of conflict being fought in one area, meaning that the U.S. could be fighting a conflict with al-Qaeda, which is classified as a NIAC, while fighting an IAC with the Taliban. This caused confusion. First, the U.S. government saw the conflict with the Taliban as a NIAC. This had changed by 2002. In a memorandum written by the president at the time, George W. Bush, to senior executive branch members titled "Humane Treatment of Taliban and al-Qaeda Detainees" the president outlined the view of the American government on the conflict in Afghanistan. The president wrote, "I accept the legal conclusion of the attorney general and the Department of Justice that I have the authority under the Constitution to suspend Geneva as between the United States and Afghanistan, but I decline to exercise that authority at this time. Accordingly, I

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42 Congressional Research Service, *Taliban Government in Afghanistan: Background and Issues for Congress*, R46955, 2021.

43 Bill Roggio, "Mapping the Fall of Afghanistan." Foundation for Defense of Democracies. 16 Sept. 2022, [www.fdd.org/analysis/2022/08/29/mapping-the-fall-of-afghanistan/](http://www.fdd.org/analysis/2022/08/29/mapping-the-fall-of-afghanistan/)

44 Office of the Director of National Intelligence, National Counterterrorism Center. "Afghan Taliban." *National Counterterrorism Center*. Accessed Dec 10, 2023 [www.dni.gov/nctc/groups/afghan\\_taliban.html](http://www.dni.gov/nctc/groups/afghan_taliban.html)

determine that the provisions of Geneva will apply to our present conflict with the Taliban. I reserve the right to exercise the authority in this or future conflicts.”<sup>45</sup> As the Geneva Convention always applies in matters of IAC, the Bush administration’s acknowledgement, as well as that of the attorney general and the Department of Justice, that the president had the right to suspend Geneva demonstrates that the U.S. did not view the conflict with the Taliban as an IAC. Additionally, President Bush went on to say, based on the advice of the Department of Justice, that he also accepted the legal conclusion of the Department of Justice and determined that “common Article 3 of Geneva does not apply to either al-Qaeda or Taliban detainees, because, among other reasons, the relevant conflicts are international in scope and Common Article 3 applies only to ‘armed conflict not of an international character.’”<sup>46</sup> Finally, President Bush asserted “Based on the facts supplied by the Department of Defense and the recommendation of the Department of Justice, I determine that the Taliban detainees are unlawful combatants and, therefore, do not qualify as prisoners of war under Article 4 of Geneva. I note that, because Geneva does not apply to our conflict with al-Qaeda, al-Qaeda detainees also do not qualify as prisoners of war.”<sup>47</sup> This memorandum clearly outlines the view of the White House as well as the full executive branch that the Taliban was considered a NIAC, changing the view of the government. From this point forward, the rights given to combatants, as well as the laws that would govern the conflict, would be Article 3 of the Geneva Conventions regulations to non-international conflicts.

This policy decision allowed the U.S. to not give combatant immunity and Prisoner of War status to Taliban fighters. A congressional report written by Congress stated, “The Administration

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45 *Humane Treatment of Taliban and al Qaeda Detainees*, Supreme Court of the United States Memorandum, 7 Feb. 2002, [www.supremecourt.gov/opinions/URLs\\_Cited/OT2005/05-184/05-184\\_2.pdf](http://www.supremecourt.gov/opinions/URLs_Cited/OT2005/05-184/05-184_2.pdf).

46 *Humane Treatment of Taliban and al Qaeda Detainees*, Supreme Court of the United States Memorandum, 2002.

47 *Humane Treatment of Taliban and al Qaeda Detainees*, Supreme Court of the United States Memorandum, 2002.

has argued that granting al-Qaeda or Taliban detainees POW status would interfere with efforts to interrogate them, which would in turn hamper its efforts to thwart further attacks. Denying POW status may allow the Army to retain more stringent security measures.”<sup>48</sup> This congressional report clearly shows the mindset of the federal government and the benefits it would receive by labeling Taliban members as NIAC fighters rather than combatants. Additionally, Taliban fighters would have been given combatant immunity as discussed previously. Not giving combatant immunity or prisoners of war status to Taliban fighters greatly benefited the U.S. military’s fight in Afghanistan.

### **Did the U.S. Correctly Designate the Taliban as an NIAC?**

To understand if the classification of the Taliban as a NIAC by the U.S. was valid, we must evaluate a few things. The first is if there is a conflict. The answer to that, of course, is a Yes. Next, arriving at the core issue of this paper, is determining if the conflict is an IAC or a NIAC. To do this, one must establish if the Taliban meets all the characteristics of a NIAC established in Article 1 of Additional Protocol II. As discussed, for a group to be established as a NIAC, they must have an organized system of hierarchy.<sup>49</sup> The Taliban has this feature. Next, there must be the ability to engage in some type of military operations.<sup>50</sup> The Taliban can do this. Lastly, they must have the organizational structure to also plan and execute

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48 Gary Solis, “Law of War Issues in Ground Hostilities in Afghanistan,” *International Law Studies* vol.85, (2009) [digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=1124&context=ils](http://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=1124&context=ils)

49 International Committee of the Red Cross. *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) of 8 June 1977*. International Committee of the Red Cross. June 8, 1977, accessed Dec 10, 2023. [ihl-databases.icrc.org/assets/treaties/475-AP-II-EN.pdf](http://ihl-databases.icrc.org/assets/treaties/475-AP-II-EN.pdf).

50 International Committee of the Red Cross. *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) of 8 June 1977*, 1977.

sophisticated attacks<sup>51</sup> The Taliban also has the ability to do this. So, the Taliban fulfills the requirements of being a NIAC.

Despite what was discussed previously about the Taliban meeting the requirements of a NIAC, the main fault in this classification is that the Taliban is considered a high contracting party because there is no other group or government that controls Afghanistan more than the Taliban. This results in the Taliban military being the state military. As discussed, Article 2 of the Geneva Convention establishes an IAC as a conflict between two high contracting parties,<sup>52</sup> a government of a country fighting against the government of a country. Based on the information given above, the government of Afghanistan was being run by the Taliban and their fighters. Additionally, the Taliban had gained control of most of the provinces in Afghanistan. There was no other ruling power that had the land control or governmental control that the Taliban had. Taking these facts into account, if the Taliban was not the ruling government in Afghanistan, then who was? This would clearly establish the conflict between the United States and the Taliban in 2001 as an IAC, not a NIAC.

### Conclusion

The U.S. misclassified the 2001 conflict in Afghanistan as a NIAC when it should have been established as an IAC, allowing for the complete law of armed conflict to apply to the conflict and the combatants. This would have resulted in fighters having several rights that they did not have due to the misclassification by the U.S. Combatants would have qualified for prisoners of war rights granted under Geneva Article 4. In addition, they would have received combatant immunity. There was no other group, for lack of a better word, in Afghanistan at the time that had the level of control that the Taliban had. The Taliban was the ruling government

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51 International Committee of the Red Cross. *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) of 8 June 1977*, 1977.

52 Geneva Convention Relative to the Treatment of Prisoners of War, United Nations Human Rights, 1949

which, under Article 2, would have established Afghanistan as a high contracting party, resulting in the conflict being an IAC. Although we cannot go back and change the way that the U.S. government conducted the war in Afghanistan in 2001, the U.S. military can learn from this situation, and change how they classify conflicts in the future. The Law of Armed Conflict is only effective if it is followed correctly by every nation. To maintain the integrity of the Law of Armed Conflicts integrity, the U.S. must address these misclassification problems, ensuring the law is effective.





## The United States' Changing View of China as a National Security Threat

*Connor Massey*

China has become an economic powerhouse in the past 40 years as they have gained substantial prominence on the international stage. This has led the United States to consider them as a national security threat. The causes of this are broad, ranging from ideology and human rights to economic practices. One of the larger drivers of China's early and continued economic success is its large population. According to the United States Census Bureau, the population of China in 2010 was roughly 1.3 billion people. China has tried to curb overpopulation, but past policies will continue to cause economic problems. An important historical fact that has recently led to greater concern for the population by the CCP is the one-child policy that was put into place in 1980. In 2013 China's current president Xi Jinping announced the new Belt and Road Initiative to capitalize on all of their economic success and continue to grow. The official purpose of this policy was to increase China's global connectivity through physical infrastructure.<sup>1</sup> The initiative gets its name from the ancient Silk Road, which was an ancient trading route that ran through much of central Asia that got its name from the silk that came out of China.<sup>2</sup>

The Belt and Road initiative in China has caused many individuals to take a second look at the security threat China has proven to be to the United States. This paper seeks to better understand how this policy affected different African countries and

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1 Johnson, Christopher K. "President Xi Jinping's 'Belt and Road' Initiative: A Practical Assessment of the Chinese Communist Party's Roadmap for China's Global Resurgence." Center for Strategic and International Studies (CSIS), March 2016. <https://www.jstor.org/stable/resrep23326.5>.

2 Johnson, "President Xi Jinping's 'Belt and Road' Initiative"

why the United States should be concerned about it. During the research of this paper it was quickly noticed the dangerous debt traps and displacement of workers that China was using to gain control of these other countries. This led the author to learn about the dangerous economic crises happening in China and how they have the potential to change our view of China as a security threat to the United States. A very plausible reaction to the economic crises that could be seen is China becoming more volatile and aggressive as a nation-state.

The African continent has a complicated and nuanced history. In the past century, they have fought different colonial powers such as Great Britain, France, and Italy, but after World War II, these countries largely vacated the colonized countries.<sup>3</sup> In an article by Makhura B. Rapanyane, a member of the Department of Cultural and Political Studies University of Limpopo, South Africa, titled “Neocolonialism and New Imperialism: Unpacking the Real Story of China’s Africa Engagement in Angola, Kenya, and Zambia” states that China is filling a gap left by the West after World War 2.<sup>4</sup> Rapanyane also talks about how originally this was viewed positively in many countries like Zimbabwe whose former president said President Xi is a “true and dear friend of Zimbabwe”.<sup>5</sup> President Xi also received his first honorary doctorate from Johannesburg University.<sup>6</sup> This at-first idealized win-win deal with many African countries in the opinion of Makhura B. Rapanyane has developed into a Neo-colonialism. To paraphrase Makhura B. Rapanyane’s definition of Neo-colonialism is reestablishing colonial dynamics in a country but under a different colonial power. Neo-colonialism, although similar to colonialism, is different in that the new power is linked more closely with the colonized country in terms of economics, military, and technology, as well as

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3 Makhura B. Rapanyane, “Neocolonialism and New Imperialism: Unpacking the Real Story of China’s Africa Engagement in Angola, Kenya, and Zambia.” *Journal of African Foreign Affairs* 8, no. 3 (2021): 89–112. <https://doi.org/10.31920/2056-5658/2021/v8n3a5>.

4 Makhura B. Rapanyane, “Neocolonialism and New Imperialism”, 89-112

5 Makhura B. Rapanyane, “Neocolonialism and New Imperialism”, 92

6 Makhura B. Rapanyane, “Neocolonialism and New Imperialism”, 89-112

the more traditional land occupation. This idea is much scarier than our traditional view and see that it leads to a form of a puppet state. This is an important national security threat to the United States because we will lose influence on the African continent, as well as cut ourselves off from the economic possibilities in the region.

A major way that China is inflicting neo-colonial control on different African countries is through debt trap economics. To sum this up briefly, China promises to build things like roads, dams, and harbors on credit to strengthen economic ties. The unfortunate reality is these countries can't pay back their debts, so China seizes whatever they built in reparation for all of the debt incurred. China can subtly take over portions of these different countries' economies.<sup>7</sup> This concept is seen very clearly in Angola, this is a country in western sub-Saharan Africa and its largest economic sector is in oil.

"In Angola for example, natural resources are used as collateral for loans.<sup>8</sup> Practically and most recently, Angola is understood to owe the Asian Tiger roughly US\$60 billion, having accrued the debt over 2 decades.<sup>9</sup> Despite having such a complex web of abundant oil reserves in the country, Angola is expected to not struggle to repay Chinese loans, as it would just sell its oil in the global market and repay the loans with extra proceeds. Regrettably, the Chinese neocolonial and imperial agenda of debt-trap diplomacy does not allow the African country to sell its oil in the open global market".<sup>10</sup>

This quote highlights the security danger this provides to the U.S. We are cut off from resources in Angola and it's going to China, not only that but our ability to interact with Angola has declined. Africa is a vital source of natural resources and losing a potential foothold there not only hurts us but it helps more hostile countries.<sup>11</sup>

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7 Makhura B. Rapanyane, "Neocolonialism and New Imperialism", 89-112

8 Paraskova, "Angola slashes oil for debt exports to China". *FR 24 News* 2020. <https://www.fr24news.com/a/2020/06/angola-slashes-oil-for-debt-exports-to-china.html>.

9 "Angola: China's Risky Gamble in Africa," *ChinaFile*, April 16, 2018. <http://www.chinafile.com/library/china-africa-project/angola-chinas-risky-gamble-africa>

10 Makhura B. Rapanyane, "Neocolonialism and New Imperialism", 103

11 Makhura B. Rapanyane, "Neocolonialism and New Imperialism", 89-112

Another danger to these African countries by the B&R initiative is that they are replacing domestic workers with foreign Chinese workers. The displacement of domestic jobs is another area where the B&R initiative shows its true colors. The policy came out on the guise that it would be mutually beneficial to all parties involved but we can see in Africa that this is not true. It's bringing these countries large amounts of debt and placing natural and other resources as collateral. When they are not able to repay their debts to China, China seizes that collateral and replaces the domestic workers with Chinese national workers.

As mentioned previously, China has had rapid economic growth ever since Deng Xiaoping's efforts to open China. He famously said “不管黑猫白猫，捉到老鼠就是好猫” which roughly translates to: it doesn't matter if it's a black cat or a white cat, if it catches mice, it's a good cat.<sup>12</sup> He said this about the Chinese economic system. In the author's opinion, Mao Zedong established the CCP as the ruling government by pushing the idea of a communist utopia, but after the failure of the Cultural Revolution and the Great Leap Forward. They needed to find a new way to justify their rule. They did this by changing the economic system to more of a free market and continuing to push nationalist rhetoric. China is often referred to as the world's factory because they created such a strong and cheap manufacturing sector reliant on cheap labor.

One area that both the United States and China are trying to control is the semiconductor market. This includes the semiconductor supply chain, manufacturing, and semiconductor innovation. Qingxu Bu in an article in the international law cybersecurity review called *Can de-risking avert supply chain precarity in the face of China-U.S geopolitical tensions?* From sanctions to semiconductor resilience and national security, “The issue of who controls the semiconductor industry carries geopolitical significance. Powering the 21st-century economic growth, chips are the lifeblood of the modern economy, and

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12 Wen Liao, “China's Black Cat, White Cat Diplomacy.” *Foreign Policy*, July 10, 2009. <https://foreignpolicy.com/2009/07/10/chinas-black-cat-white-cat-diplomacy/>.

the brain behind every electronic system”<sup>13</sup> The United States relies more on China to produce semiconductors which puts the United States more at risk. One way that the U.S. has tried to mitigate the risk is to play to our strengths and put pressure on China’s weaknesses. Qingxu Bu says, “The U.S. endeavors to strengthen the innovation ecosystem and bolster its competitiveness and self-sufficiency... the CHIPS Act 2022 provided \$52 billion to subsidize the semiconductor sector to ensure that the GSSC is resilient in case of potential disruptions caused by hostile states. The law represents the first step in addressing threats to its leadership in advanced semiconductors. The legislative intent is to deter China’s tech industry from catching up with U.S. counterparts”.<sup>14</sup> The United States is actively trying to contain this problem. More and More pressure on China from the United States has also caused problems for China as they have tried to integrate a 5G network and as they have been trying to improve their military technology.

A primary motivator for controlling the semiconductor market is because of the implications that it has on military technology. As semiconductors get better, so will the military weapons that they are in. Because of the potential vulnerabilities that this could create in China, they won’t roll over and just let the United States take control. There will most likely be retaliation from China if they get more scarce. “China has retaliated by imposing restrictions on access to critical raw materials and its markets, since the country has approximately a third of the market share in the global semiconductor sales. The U.S. Executive Orders (EOs) have prompted these continued escalatory retaliations. China has taken punitive measures, particularly limiting the export of gallium and germanium, which produces 80% of the

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13 Qingxiu Bu, “Can De-Risking Avert Supply Chain Precarity in the Face of China-U.S. Geopolitical Tensions? From Sanctions to Semiconductor Resilience and National Security,” *International Cybersecurity Law Review* 5, (2024): 413–442. <https://doi.org/10.1365/s43439-024-00125-1>.

14 Qingxiu Bu, “Can De-Risking Avert Supply Chain Precarity in the Face of China-U.S. Geopolitical Tensions? From Sanctions to Semiconductor Resilience and National Security,” 2024, 416

former and 60% of the latter in the world.”<sup>15</sup> We need to be wary of future Chinese retaliation they have a lot of power over various sections of the semiconductor supply chain. The situation regarding this technology is always changing and we need to be wary and watchful as we proceed from a security standpoint.

Innovation is not the only problem China is having in its economic sector. One of the first major problems that not only has affected China but many countries around the world. This is the population demographic problem. This problem is particularly bad for China because they rely so much on cheap labor to keep their economy growing. This problem is that there aren't enough young people coming up to replace those who are retiring. This is an unforeseen consequence of China's one-child policy. An article posted in the Economist in April of 2024 shares an interesting fact, “IF CHINA'S OLD people formed their own country, it would be the fourth most populous in the world, right behind America. This silver-haired state would be growing fast, too. China's over-60 population sits at 297m, or 21% of the total. By 2050 those figures are expected to reach 520m and 38%.”<sup>16</sup> Their rapidly growing elderly population will only cause more problems for the CCP. There are many reasons why parents in China are choosing not to have children. In an article by Zhou Xin the South China Morning Post writes, “All young Chinese parents were raised to believe that having one child was a good thing. China's propaganda campaign successfully forged the perception in society that “one is more than enough”. It will be extremely difficult to change that, particularly when young Chinese are already living under the pressure of an economic slowdown, rising inflation, and fierce competition.”<sup>17</sup> The backlash from the one-child policy is

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15 Qingxiu Bu, “Can De-Risking Avert Supply Chain Precarity in the Face of China-U.S. Geopolitical Tensions? From Sanctions to Semiconductor Resilience and National Security,” 2024, 424

16 “China's High-Stakes Struggle to Defy Demographic Disaster,” *The Economist*, April 9, 2024. <https://www.economist.com/china/2024/04/09/china-high-stakes-struggle-to-defy-demographic-disaster>.

17 Qingxiu Bu, “Can De-Risking Avert Supply Chain Precarity in the Face of China-U.S. Geopolitical Tensions? From Sanctions to Semiconductor Resilience

starting to be felt and it is starting to create a very dangerous cycle where the economy gets worse because the working population is declining, and in turn causes the economy to continue to decline.

Another way that China has been trying to combat its economic decline is by dumping all of the excess products that they are making into the global market. In April of 2024, Zongyuan Zoe Liu published an article in the magazine *Foreign Affairs* titled *China's Real Economic Crisis*. In her article, she talks about the danger that this poses to the economy of other nations, "By creating a glut of supplies in the global market for many goods, Chinese firms are pushing prices below the break-even point for producers in other countries".<sup>18</sup> An example that we have seen lately is in the electric vehicle industry in the U.S. and the E.U. Chinese prices are too competitive and make it hard for domestic countries to compete. The root of this problem comes from the CCP and the pressure it has to continue to grow China economically. Zongyuan Zoe Liu says "This oversight does not stem from ignorance or miscalculation; rather, it reflects the Chinese Communist Party's long-standing economic vision."<sup>19</sup>

Why should the U.S. care about Chinese Economic problems and how does it change our view of them as a national security threat? There are several potential problems that this can cause. The demographic disparity could cause China to become more volatile in the domestic sense as well as in foreign countries. Domestically this could cause potential civil unrest as the Chinese people are no longer seeing their needs met by the current government. They could also become more anxious about getting foreign workers to come and fill spots to maintain the working class. Secondly saturating the market harms U.S. businesses and investment. If domestic companies aren't able to keep up with the low product costs coming out of China, they

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and National Security," 2024,

18 Zongyuan Zoe Liu, "China's Real Economic Crisis: Why Beijing Won't Give Up on a Failing Model," *Foreign Affairs*, August 6, 2024. <https://www.foreignaffairs.com/china/chinas-real-economic-crisis-zongyuan-liu>.

19 Zongyuan Zoe Liu, "China's Real Economic Crisis: Why Beijing Won't Give Up on a Failing Model," 2024, 3



will most likely go out of business. To combat this trade between the United States and China will most likely continue to be strained and as we saw before World War 2 with Japan when you cut off a powerful nation from essential resources they may attack.

An argument that was uncovered while researching this topic is that China is in a mutually beneficial relationship with all countries in Africa involved in the Belt and Road initiative. This argument is explained in an article by Chen Wangqi called “Why it is absurd to accuse China of practising ‘neocolonialism’ in Africa”.<sup>20</sup> The article is broken into three sections. The first section that Chen Wangqi brings up is called “Empowerment Instead of Exploitation,” which talks about how the infrastructure projects in Africa by China have slashed prices and helped to facilitate industrialization. Chen Wangqi quotes Humphrey Moshi the director of Chinese studies at the University of Dar es Salaam in Tanzania, who says, “The infrastructure projects funded by Chinese loans and investments have been transformative”.<sup>21</sup> The second section talks about “Customization Instead of Control.” Chen Wangqi argues that China is much better at adapting its economic help to the countries particular and its political philosophy. Chen further states that “China’s aid targets areas where Africa lags behind the rest of the world, including infrastructure development, trade facilitation, and investments aimed at long-term economic growth.”<sup>22</sup> This quote explains the areas that China is trying to affect in Africa and how they help them to industrialize. The third section discusses “Shifting Public Opinion.” In this section the author shares how for about 15 years consecutively China has been the largest trading

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20 Chen Wangqi, “(FOCAC) Explainer: Why it is absurd to accuse China of practising ‘neocolonialism’ in Africa,” *Xinhua News Agency*, September 2, 2024. <https://english.news.cn/20240902/acaab9933ccf451687d2bf0b90cb752a/c.html> (Accessed from Gale OneFile: News. <https://link-gale-com.ezproxy.uvu.edu/apps/doc/A806833367/STND?u=utahvalley&sid=ebsco&xid=f31f4130>)

21 Chen Wangqi, “(FOCAC) Explainer: Why it is absurd to accuse China of practising ‘neocolonialism’ in Africa,” 2024

22 Chen Wangqi, “(FOCAC) Explainer: Why it is absurd to accuse China of practising ‘neocolonialism’ in Africa,” 2024, 1



partner with Africa and that this has made the West uncomfortable.<sup>23</sup> There are several problems with the article and this argument. First, all of the sources in the article that say positive things about the Belt and Road Initiative are from Chinese sources and all other quotes share information that is negative about the West. Second, this news corporation comes out of Beijing and it is possible that the Chinese government manipulated the data.

In conclusion, the China-U.S. relationship is constantly shifting and becoming more and more multifaceted. The United States' view of China as a national security threat has changed. It will continue to change based on many different things, but what this paper found most fascinating in its research is China's involvement in various African countries, their changing economics because of population imbalance, and how they affect global economics. This paper recommends that policymakers start an initiative for the United States to get involved in Africa and to start a decoupling campaign with them economically. The United States and China relationship is very complicated and so intertwined. It's very difficult to make any quick-fast policy that won't negatively hurt both countries. Because the United States and China have the largest economies in the world a lot of smaller countries rely on both or either one, so if both or one of these countries declines it will not be good for the world.

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23      Chen Wangqi, "(FOCAC) Explainer: Why it is absurd to accuse China of practising 'neocolonialism' in Africa," 2024, 1



The Convergence of Wahhabism and Muslim  
Brotherhood Ideology: Tracing the Roots of Modern  
Islamic Extremism to Ibn Taymiyya's *Tawhid*  
Cameron Ward

**Abstract**

Through historical analysis and an examination of primary texts, this paper explores the history and evolution of the ideologies driving the Jihadist movements seen in groups like The Islamic State and Al-Qaeda, tracing their doctrinal lineage back to Ibn Taymiyya. Specifically, the paper will seek to prove how the Jihadist movements developed as a synthesis of the diverging applications of Taymiyya's *Tawhid* employed by Wahhabis and the Muslim Brotherhood. It explores Taymiyya's concepts of the *Tawhid*, his use of *Takfir*, and his influence on reviving Salafism from the late Middle Ages on. From there, the paper discusses the application of these ideas that came to fruition in the 19th and 20th centuries through the lens of Wahhabism and the Muslim Brotherhood, focusing on how these ideas contributed to further radicalism and violence. Thereafter, it details the interactions that the Muslim Brotherhood had within Saudi Arabia and how these interactions led to the *Sahwa* movement and contributed to the radicalization that catalyzed the Arab Afghan Jihad during the Soviet Invasion of Afghanistan. It then demonstrates how the Arabs fighting in defense of Afghanistan were further radicalized by the confluence of Qutbist and Wahhabi influences in the region, culminating in the formation of Al-Qaeda by Osama bin Laden and Ayman al-Zawahiri. Finally, it follows how the rhetoric and tactics of Al-Qaeda, and later The Islamic State, continued and adapted the traditions they inherited from Taymiyya, Wahhab, and Qutb.

Is creating law God's exclusive domain, or can humans

legislate for themselves through reason? The fall of the Ottoman Caliphate left a vacuum of religious and political authority in the Muslim world, forcing Muslims to grapple with this question in the decades following World War I.<sup>1</sup> It is a question that united two distinct strains of Islamism—Saudi Wahhabism and the Islamist Activism of the Muslim Brotherhood—into a doomed union that gave rise to modern Islamic terrorism. In their answer to this question, these two groups draw from the same ideological well, the Medieval Islamic philosopher, scholar, jurist, and theologian Ibn Taymiyya (b. 1263 CE).

Taymiyya proposed that part of believing in Islam's monotheism meant that there are traits that God alone possesses, that God alone is the creator of the universe, and that God alone is worthy of worship. Taking this idea and equating obedience with worship, Islamists, like Ibn Al Wahhab (b. 1703 C.E.) and Sayyid Qutb (b. 1906 C.E.) concluded that if God is solely worthy of worship, then His laws are solely worthy of obedience. Consequently, the followers of these Islamists took this heretofore innocuous idea and perverted it, using it as a justification for violence. Two groups have inherited this lineage of ideas from Taymiyya to Wahhab and Qutb, and merged them into a hateful, puritanical mutation of Islam: Al-Qaeda and the Islamic State.

This paper will thus argue that the Modern Jihadist movement, manifesting itself in the form of groups like Al-Qaeda and The Islamic State, is a fusion of the different interpretations of Ibn Taymiyya's writing that uniquely and separately evolved within the Islamist traditions of Wahhabism and the Muslim Brotherhood. To demonstrate this argument, this paper will:

1. Examine the specific doctrines and ideas of Ibn Taymiyya, particularly his concept of Tawhid, Takfir, and his Proto Salafism.

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1 A Caliphate was a hereditary, theocratic Islamic Monarchy ruled by a Caliph. Muslims believe the Caliph is Muhammad's successor on earth. While not just serving as the political authority, the Caliph was often called "God's shadow on earth," denoting the Caliph's religious authority as well; moreover, even at times when there was no standing Caliph, such as during Taymiyya's tenure as a Scholar.

2. Analyze how these ideas evolved within Wahhabi Saudi Arabia from the 50s to 80s.
3. Explore the development of these concepts within the Muslim Brotherhood, especially through the Egyptian radical, Sayyid Qutb's writings during the 1950s-1960s.
4. Investigate how these two traditions interacted in the latter half of the 20th century, particularly in the context of the Afghan-Soviet War.
5. Demonstrate how this ideological fusion ultimately led to the rise of Al-Qaeda and the Islamic State.

By tracing these developments, this paper aims to provide a comprehensive understanding of the ideological roots of modern jihadist movements and the context in which they developed through their historical evolution. This understanding will help better craft counter-narratives against these movements in the fight against extremism.

### **Ibn Taymiyya's Influential Ideas and Precedent**

#### *The Principle of Monotheism and Its Political Implications in Islam*

From the time Muhammad (b. 570 CE) overthrew the shrines of the polytheists in Mecca (629 CE), one of the most defining aspects of Islam has been its commitment to monotheism, to one God, and the political consequences thereof. The first pillar of Islam is the Shahada or witness, where every Muslim professes that there is one God, and that Muhammad is his Messenger. The Tawhid is simply the oneness of God, the supreme principle of monotheism in the Islamic tradition, a principle so fundamental that Islamic books on theology are often called Tawhid. Ibn Taymiyya expounded on the principle of what God's 'Oneness' meant. Taymiyya posits that the Quran argues for God's sole worship "In part by establishing Tawhid Rububiyah, that there is no creator but God and then that this entails that he alone has the right to be worshiped (Tawhid Uluhiyah). In this way, the first [Tawhid...] is used as evidence for

the second [Tawhid...].”<sup>2</sup>

The idea of only worshipping one God sounds benign to a Western mind and far less dangerous than doctrines that criminalize apostasy, homosexuality, or ones that call for jihad. However, as the director of The Arab Center for Research and Policy Studies, Azmi Bishara, reports, the founder of Wahhabism, Ibn al-Wahhab and Taymiyya both took this idea of the Tawhid to “reject the idea of human lawmaking.” Bisharah further adds that the conclusion of many radicals inspired by Taymiyya’s conception of the Tawhid rejects` all forms of separation of religion from the political sphere.<sup>3</sup> The British Islamist, and a supporter of The Islamic State, Abu Baara,<sup>4</sup> fully endorses this idea and explains that according to the books of Wahhab and Taymiyya, the second biggest sin in Islam is to rule other than what Allah has revealed. Baraa specifically says that if a man had accepted nearly every aspect of Tawhid, but “he still believes it is allowed for me to legislate in the Parliament...this man is Mushirk [i.e., someone who committed Shirk<sup>5</sup> - the gravest sin in Islam, punishable by death].”<sup>6</sup> It is from this foundation of thought, to subjugate the political sphere underneath the religious one, that Islamic violence emerges.

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2 Taymiyyah, Ibn. *Ibn Taymiyyah on The Oneness of God*. In *Sharh al-Asfahaniyyah*, trans. M. A. AburRahman. (Dar al-Arqam Publishing, 2021)

3 Bishara, Azmi. *On Salafism: Concepts and Contexts*. (Stanford University Press, 2022), 37-38.

4 Abu Baara is an alias he used when he published his videos. His real name is Mizanur Rahman.

5 *Shirk* is associating something with God, like worshipping another god as a co-creator. It is the gravest sin in all of Islam. Islamists like Baraa (and the others talked about later in the paper, like Qutb) believe Shirk also includes using man-made law instead of Shari’ah. In mainstream Islam, Shirk is also referred to as the great sin of Christianity, by making Christ part of God or making him into God’s Son. Shirk is broadly denoted as polytheism.

6 Abu Baraa, “SHARIAH IS TAWHEED” Internet Archive, 2024, [https://archive.org/details/shariah-is-tawheed-abu-baraa\\_202402/SURAH+\(003\)+AL+IM-RAN+156+to+158+-+Arabic+to+English.mp3](https://archive.org/details/shariah-is-tawheed-abu-baraa_202402/SURAH+(003)+AL+IM-RAN+156+to+158+-+Arabic+to+English.mp3).

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*Ibn Taymiyya's Fatwa: The Radical Implications of Takfir and Jihad*

The first instance of someone invoking Taymiyya's conception of the Tawhid for violence was done so by Taymiyya himself. This occurred in three separate Fatwas<sup>7</sup> against the Muslim rulers and soldiers who served in the invading Mongol armies. The Fatwa came during a particularly bleak political climate for Muslims staring down the invading Mongol Horde during the Mamluk Ilkhanid War. (1299-1303 C.E.) This war came in the aftermath of the Mongol Sacking of Baghdad and the destruction of the Abbasid Caliphate (1258 C.E.)<sup>8</sup> Many refugees fled their homes further west to escape the Mongol armies, including Taymiyya. As he grew, he resented the Mongols for what they had done to his people and the barbarity shown to the people of Baghdad, which is in part why Taymiyya opens the Fatwa condemning the Mongols who "became known for killing Muslims, capturing some of the vulnerable and weak Muslims, looting Muslims' properties, and violating the sanctities of the religion by humiliating Muslims."<sup>9</sup> However, unlike the first group of Mongols that had invaded in 1258, these ones were led by a new convert to Islam: Ghazan Kahn.

Like their leader, many of the soldiers in the Mongol armies serving under this Islamized Khanate were either converts to Islam or Muslim conscripts. Former U.S. Intelligence adviser and expert in Islamic movements, Quintan Wiktorowicz, explains that this

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7 A fatwa is a legal ruling.

8 The Abbasid Caliphate was the third Islamic Caliphate, led by House Abbasid. They oversaw the period of Islamic history that many consider the Islamic Golden Age. Hulegu Kahn executed the last Abbasid Caliph along with all but one of the Caliph's sons, whom the invading Mongols took to have him live out the rest of his days in Mongolia.

9 Taymiyya, Ibn. *Collection of Fatwas by Sheikh of Islam Ahmad bin Taymiyyah*. Edited by A.-R. b. bin Qasim. (Ministry of Islamic Affairs, Endowments, Dawah and Guidance, 2004), 501. Taymiyya wrote this after meeting Ghazan Kahn in 1295 C.E. and after the Kahn's conversion to Islam-- demonstrating his deep contempt for the Kahn and the Mongols despite their conversion to Islam.

situation left many jurists and scholars questioning whether Jihad<sup>10</sup> could be waged against them. Wiktorowicz further expounds that Taymiyya responded that anyone who failed to uphold and enforce Shari'ah was no longer a believer and, therefore, worthy of death.<sup>11</sup> When asked if Muslims could wage Jihad against Gahzan's armies, Taymiyya called for Jihad himself with the following Fatwa:<sup>12</sup>

“Fighting is obligatory.

Thus, any group that neglects any of the obligatory practices such as prayers, fasting, Hajj, adherence to the prohibition of bloodshed, [theft], wine, fornication, gambling, or [incestuous marriages], or neglects the obligation of Jihad against unbelievers, or the imposition of Jizya on [Jews and Christians], and other essential duties and prohibitions of the religion — for which no one has an excuse to deny or abandon — which the one who denies their obligation is considered an unbeliever, is to be fought against, even if they acknowledge these duties.

On this matter, I do not know of any disagreement among the scholars.”<sup>13</sup>

This Fatwa, along with the other two that followed it, laid the foundation for much of the modern Islamic Terrorism that plagued the last seventy years. The Fatwa was not unprecedented in its call

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10 Understood in the Islamic community as both a struggle against evil, as well as a call to war, whether offensive or defensive, to further Islam.

11 Quintan Wiktorowicz, “A Genealogy of Radical Islam.” *Studies in Conflict & Terrorism* 28, no. 2 (2005): 75-97. <https://doi.org/10.1080/10576100590905057>

12 It is difficult to understate how prolific this Fatwa is in primary texts of various Jihadists. It is quoted in Faraj's manifesto (see page 8), it is found in Al-Qaeda-affiliated journal articles, and it is found on websites glorifying jihad

13 Ibn Taymiyya, *Collection of Fatwas by Sheikh of Islam Ahmad bin Taymiyyah*, 503. This translation was obtained using machine translations. Multiple translations were used, with the above translation being a composite of what was common throughout the translations.



for violence; it was unprecedented in who it allowed to be targeted: Muslim rulers or those fighting for them who did not institute Shari'ah.<sup>14</sup> Moreover, the reason why jihad could be waged was because they were no longer Muslims. With this Fatwa, Taymiyya broke centuries of precedent regarding something called Takfir.

Takfir is an Islamic ex-communication that, if proven true, carries the death penalty in all Schools of Islamic Law. Traditionally, suppose one professes the Shahada, and their accusers do not witness them worshipping another faith or witness a private or public admission of leaving the faith. In that case, professing the Shahada is all the evidence needed to prove their innocence. This is for two reasons, the first being that a Takfir against the fourth Caliph, Ali, led to a civil war and the second being an oft-cited hadith where the Prophet Muhammad makes plain the gravity of such an accusation: "If a man says to his brother, O Kafir (disbeliever)!" Then surely one of them is such (i.e., a Kafir)."<sup>15</sup> In breaking this tradition, it opened new doors for radicals to target those who institute secular law instead of Shari'ah.

One such person who saw the implications of this Takfir was Muhammad Abd al-Salam Faraj—one of the conspirators in the assassination of Anwar El-Sadat. In his manifesto, Faraj decries that "The rulers of this age are in apostasy from Islam" and then quotes Taymiyya concerning apostates that were born Muslim that "an apostate has to be killed in all circumstances."<sup>16</sup> With this reasoning, the group Faraj presided over, Egyptian Islamic Jihad, assassinated Anwar El-Sadat. Faraj's successor after Faraj was tried and executed was Ayman Al-Zawahiri, the man who would later form Al-Qaeda with Osama bin Laden. Bin Laden himself, as Pulitzer Prize-winning journalist Lawrence Wright recounts, had his Jihadist Imam, Abu Hajar, invoke Taymiyya's Fatwa to justify killing Muslims as part of collateral damage when bombing American

14     *Shari'ah* was still the law that was instituted in Muslim lands.

15     Al-Bukhari. *Sahih al-Bukhari*. (Dar-us-Salam Publications, 1997), 6103. <https://www.sunnah.com/bukhari/78/130>.

16     J. J. Jansen, *The Neglected Duty: The Creed of Sadat's Assassins and Islamic Resurgence in the Middle East*. (New York: Macmillan, 1986), 169.

targets, to assuage the conscience of Al-Qaeda members whose souls were burdened under the weight of killing innocent Muslims.<sup>17</sup> Whatever Taymiyya's original intent, these Fatwas he's written have done more to further violence in Islam's name in modern times than anything said by Muhammad or the early Muslims during the Rashidun and Umayyad conquests.<sup>18</sup>

*The Revival of Salafism: Ibn Taymiyya's Influence on Islamic Jurisprudence*

While Taymiyya's Tawhid and Fatawa were as much his as they were unprecedented, one idea that gained traction because of him is more of a revival of ideas that came hundreds of years prior:<sup>19</sup> Salafism. Salafism is a strain of thought in Islam that venerates the first four righteous generations of Muslims: the Salaf. Taymiyya's influence here is that he revived what is known as the Hanbali<sup>20</sup> School of Islamic Jurisprudence. Hanbalites reject the idea of relying on precedent and err on caution when using independent reasoning. They believed the focus should be on relying on the Quran and Sunnah.<sup>21</sup> Sadakat Kadri, a legal expert in U.S., U.K., International, and Islamic Law, best known for being a barrister for the prosecution of the former President of Malawi, argues that this focus on the Sunnah instead of independent reasoning and legal precedent was very malleable in that it was

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17 Lawrence Wright. *The Looming Tower: Al-Qaeda and the Road to 9/11*. (Alfred A. Knopf, 2006), 174-175.

18 This was the period of time that Islam rapidly expanded across Arabia and the Middle East, North Africa, and the Iberian Peninsula.

19 A theme itself emblematic of the Salafist movement.

20 Islamic Schools of Jurisprudence are how Shari'ah is practiced and administered. Legal rulings come from judges in courts, scholars, and religious clerics (with these roles not mutually exclusive). There are four leading Sunni Schools, one of the smaller yet most well-funded being the Hanbali school, named after Ahmad ibn Hanbal. This is the school practiced in Saudi Arabia.

21 Sunnah: the traditions of the Prophet Muhammad recorded in the Hadith. For Salafis, the Sunnah also extends to the first four generations of Muslims.

“highly susceptible to manipulation.” Kadri further argues that even though, in theory, they were limited to what the Hadith had said on any given issue, the Hanbalite jurists who took after Taymiyya took it upon themselves to interpret how Muhammad or the Salaf would rule concerning something that the Muhammad or the Salaf never addressed in either the Quran or Hadith. One such example of this that Kadri notes is that of Taymiyya justifying a sovereign’s ability to torture criminals or prisoners, something that every Islamic School had deemed illegal for centuries.<sup>22</sup> While such rhetoric would typically be on par with that of a despot looking for the rationale to exercise his power, Taymiyya was more often than not at the mercy of those enforcing the law than one authoring it, which speaks to a conviction to principles imbued within his ideas, rather than mere political expediency.

However, the Salafism inspired by Taymiyya was paradoxically inflexible concerning things that Taymiyya considered Shirk<sup>23</sup> or Bid’ah.<sup>24</sup> Taymiyya hated the Sufi practice of visiting tombs of Muslim saints and many other practices and beliefs Sufis hold dear. Noting Taymiyya’s puritanical attitude towards what he considered to be heterodox religious practices and beliefs, Kadri writes, “The fact that Muslims drew solace from a practice did not reveal truths about Islam to him; it proved that those Muslims were wrong.”<sup>25</sup> For Taymiyya and the Salafists after him, the critical issue was whether the Sunnah and Quran could support a particular belief or practice. They considered everything outside of that narrow reticle of orthodoxy to be heretical.

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22 Kadri, Sadakat. *Heaven On Earth*. (New York: Farrar, Straus and Giroux, 2012), 138-140.

23 Taymiyya criticized the issue of visiting Muslim tombs in the same vein that protestants detest Catholic and Orthodox prayers involving Mary or Christian Saints.

24 *Bid’ah* is a religious innovation, i.e., something that was not explicitly in the Quran or Hadith but became a religious practice or tradition later in Islamic history.

25 Kadri, *Heaven On Earth*, 134.

## The Rise and Impact of Saudi Wahhabism

This uncompromising stance on what Taymiyya considered correct worship and what he considered Shirk ensured his legacy would not take root in his time, as many of the people he contended with were often those in power. However, centuries later, in the region that comprises Saudi Arabia, his ideas, along with the Hanbali School, were taking root with many jurists living in the hardy interior of the peninsula: a region known as Najd. One man in the region, Muhammad ibn ‘Abd al-Wahhab, took particular interest in Taymiyya’s Tawhid and his commitment to monotheism, which would later define the governing ideology and theocracy of the Saudi Kingdom. This theocratic tradition began in 1744 with the alliance of Muhammad ibn ‘Abd al-Wahhab and Muhammad ibn Saud; these two would serve as the dynastic founders of the heads of the Saudi state and Saudi Ulama<sup>26</sup> respectively.<sup>27</sup>

### *Wahhab's Purification of Islam: Rejecting Heretical Innovations*

Taymiyya profoundly impacted Wahhab, particularly in his rejection of Bid’ah—heretical innovations. Wahhab came into contact with Taymiyya's writing by drawing from the well of Salafism present in the Hanbali school already present in Najd. Even though he followed the same school of jurisprudence typical in the region, scholars and researchers of Islamic studies, Badrus Samsul Fata and Idznursham Ismail, found that many of his fierce contemporary critics were also Hanbali.<sup>28</sup> He thus issued Takfirs against those

<sup>26</sup> The *Ulama* is the official Clergy. It acts like a religious version of the nation’s supreme court.

<sup>27</sup> Hamid Algar. *Wahhabism - A Critical Essay*. (Islamic Publications International, 2002)

<sup>28</sup> Badrus Samsul Fata, and Idznursham Ismail. “Brother Against Brother: Early Refutation of Wahhabism by the 18th-Century Hanbali Scholars.” *ESENSIA: Jurnal Ilmu-Ilmu Ushuluddin* 23, no. 1 (2024): 17–36. <https://doi.org/10.14421/esensia.v23i1.3243>. One of his harshest critics was his brother, a scholar and jurist

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who disagreed with him on these issues, emblematic of his radicalism and heterodoxy in a tradition that is wholly concerned with orthodox practice.

Wahhab wanted to cleanse Islam of any practice that was foreign to what he believed Medina<sup>29</sup> was like under the Prophet Muhammad. Renowned scholar, professor, author, and expert in Islamic studies Hamid Algar argues that Wahhabism's purpose is to tear down all of the cultural, mystical, and religious trappings of the religion "to find a way back directly to the twin sources of Islam, to the Qur'an and the Sunna."<sup>30</sup> In other words, Wahhabism's goal is purity and fidelity to nothing other than the Qur'an and Sunna. Any practice or tradition not in line with his understanding of the practice of the Prophet was to be purged from the community.

### *The Centrality of Tawhid in Wahhabism and Its Radical Implications*

However, Wahhab's iteration of Hanbalism was no mere revival of tradition or an appeal to Salafism. For Wahhab, Islam boiled down to the issue of Tawhid, of acknowledging that there is only one God and singularly worshiping him. Algar details that Wahhabism centers around the Tawhid and that Wahhab used Taymiyya's three divisions of it.<sup>31</sup> Just as it was with Qutb, Tawhid Uluhiyah (that God alone is worthy of worship) proved to be the doctrine that enabled violence. Taymiyya's Takfir against the Mongols was substantial in that it allowed Muslims to target and kill Muslims fighting for unislamic rulers. Wahhab encompassed any form of belief and action that deviated from what he considered pure Islam; as Islamic historian, author, and expert on Middle Eastern studies, Tarik K. Firro notes, "he considered that the

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trained in the same tradition that Wahhab was coopting for his Islam, which was adhering supremely to the *Tawhid*.

29 Medina is the second holiest city in Islam, where the Prophet and many of his family members were buried.

30 Hamid Algar, *Wahhabism - A Critical Essay*, Essay 2, Para. 5.

31 Algar, *Wahhabism - A Critical Essay*, Essay 2, Para. 1.

Muslim declaration of faith (Shahada) alone is insufficient. Shahada must be accompanied by an understanding of its meaning, which requires a consistency between words and actions demonstrated in practice.”<sup>32</sup> This accusation angered nearly every contemporary Muslim scholar and jurist at the time, with similar insults thrown against them.

In terms of the kind of purity that Wahhab's followers went to, Bishara writes, "Wahhab widened the scope of alleged innovations to incorporate not only unauthorized forms of worship but also personal conduct. Some of his followers have imitated the Prophet in every tiny detail of dress and appearance, considering anything less than copying the Prophet's behavior to be an objectionable innovation." Bishara further notes that defined the scope of what pure Islam was so narrowly that when proselytizing to other Muslims, they would invite them to become Muslim.<sup>33</sup> The reason why Wahhabis do not call themselves 'Wahhabis' is because they believe they are the only true Muslims. Everyone else is either an infidel or a heretic. Furthermore, unlike Taymiyya, due to Wahhab's alliance with the Al-Saud,<sup>34</sup> Wahhab could lash his ideas with the political power of a sovereign ruler.

*The Wahhabi-Saudi Jihad: A Campaign of Religious Purification and Expansion*

Consequently, The Saudis were more than eager to answer Wahhab's calls to purify Islam from those they believed to be apostates and expand their realm. The Saudis were left with essentially a blank check of Wahhabi authority to issue Takfirs against any Muslim sect that did not fall into what the Wahhabis considered pure Islam. Algar makes clear the implication of this chain of thought: "The corollary of identifying Muslims other than the Wahhabis as [apostates] was that warfare against them became

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32 Tarik K. Firro, *Wahhabism and the Rise of the House of Saud*. (Liverpool University Press, 2018), 118.

33 Azmi Bishara, *On Salafism: Concepts and Contexts*, 97, 101.

34 Al-Saud refers to the House of Saud, the clan that rules Saudi Arabia.

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not simply permissible but obligatory: their blood could legitimately be shed<sup>35</sup>, their property was forfeit, and their women and children could be enslaved.”<sup>36 37</sup> Indeed, total war and Jihad were what the Saudis delivered, sacking city after city, killing anyone who would not repent and purify themselves to their form of Islam.

The Wahhabis had given full sanction to the Al-Saud to spread their religion at the point of a sword. In every city they conquered, they burned books other than the Quran and Hadith and destroyed every single tomb of any Muslim Saint or person of note they could. And when they reached Mecca and Medina, what followed next to Sufis and other Muslims who cared about their history is analogous to the sacking of Jerusalem and the burning of her temple. Algar, a Muslim himself, laments that:

In Mecca, the domes over the houses reputed to have been the birthplaces of the Prophet... were destroyed, In Medina, ... all structures and gravestones in the cemetery known as Jannat al-Baqi' ... were destroyed; [see Fig. 1 and Fig 2] buried there were wives and Companions of the Prophet, ... and a host of lesser

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35 Delong-Bas, Natana J. “Wahhabism and the Question of Religious Tolerance.” *In Religion and Politics in Saudi Arabia*, edited by M. Ayoob and H. Kosebalaban, 11-21. Praeger, 2009. Conversely, Editor-in-Chief of Oxford Bibliographies Online – Islamic Studies and renowned scholar on Islam and Wahhabism, Natana J. Delong-Bas, holds that Wahhab himself never issued a Fatwa of Takfir against an entire group and that he was far more reserved and tolerant of other sects and Apostates than his contemporaries and modern discourse suggest him to be. However, Tarik K. Firro argues against similar statements made by Delong-Bas about Wahhab being reserved, citing numerous letters where Wahhab had accused other Hanbali jurists of being Infidels without offering any legal reasoning (ironically, one Ibn Fayruz was also a student of Taymiyya) (Firro 2018, 114-117).

36 The fact that Muhammad owned slaves was part of the political inertia keeping them from abolishing the practice until 1962, a consequence specific to Salafism. Under independent Islamic rule, Tunisia managed to ban the practice in 1846.

37 Hamid Algar, *Wahhabism - A Critical Essay*, Essay 3, Para. 5.



luminaries from the spiritual and intellectual history of Islam.<sup>38</sup>



Figure 1, Photo of Al Baqi before its destruction.

Note the large Mausoleums and domes and the decorative graestones stretching between Mausoleums 2 and 10. Note also the crowd of congregants entering into Mausoleum 2. The source lists these as "1. Bayt al-Ahzān (Arabic: بيت الحزان), House of the sorrow of Fatimah bint Muhammad 2. Mausoleum of four Shia Imams 3. Daughters of the Prophet 4. Wives of the Prophet 5. 'Aqil and 'Abdullah ibn Ja'far 6. Malik and Nafi' 7. Ibrahim, the little son of the Prophet 8. Halimah al-Sa'diyyah 9. Fatimah bint Asad 10. Uthman, the third Caliph."

Unknown Author. Jannatul-Baqi before Demolition. Photograph. Alnabi Museum. Public Domain, 1910. Accessed on July 6, 2024 from [https://en.wikipedia.org/wiki/Demolition\\_of\\_al-Baqi#/media/File:Jannatul-Baqi\\_before\\_Demolition.jpg](https://en.wikipedia.org/wiki/Demolition_of_al-Baqi#/media/File:Jannatul-Baqi_before_Demolition.jpg)

Image downloaded from Wikipedia and reproduced in text.



Figure 2, Smashed tomb of Shi'i Imam.

Note all the smashed headstones that are broken rocks now.

Hesaminejad, A. Baqi Cemetery and Holy Tomb of Imam Sajjad (AS) – Medina. Photograph. Medina, Saudi Arabia, 2014.

Accessed on July 6, 2024, from <https://www.tasnimnews.com/fa/media/1393/08/15/550367/%D9%82%D8%A8%D8%B1%D8%B3%D8%AA%D8%A7%D9%86-%D8%A8%D9%82%DB%8C%D8%B9-%D9%88-%D9%85%D8%B2%D8%A7%D8%B1-%D9%85%D8%B7%D9%87%D8%B1-%D8%A7%D9%85%D8%A7%D9%85-%D8%B3%D8%AC%D8%A7%D8%AF-%D8%B9-%D9%85%D8%AF%DB%8C%D9%86%D9%87#photo=15>

Image downloaded from Tasmin News and reproduced in text.



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For Wahhabis, to have no intercessor before God, including even the humble headstone – which they also destroyed when they retook the city a century after their first attempt (note the smashed and jagged headstones in Fig. 2). Even for Taymiyya, as much as he loathed the practice of visiting tombs on pilgrimages for blessings, never dreamt of going this far, and He never argued that they should be destroyed. Wahhab's first critic, a Hanbali jurist, follower of Taymiyya, and elder brother of Muhammad ibn 'Abd al-Wahhab, Sulayman ibn 'Abd al-Wahhab, even made the charge that Wahhab had gone too far in his view of Shirk regarding those who visit shrines. Sulayman argues:

“...Ibn Taymiyyah and Ibn Qayyim, in their various works, never state that tawassul and istigāthah<sup>39</sup> are included in the biggest apostasy (Shirk akbar), which automatically makes the perpetrators apostates, so they deserve punishment (death) for apostasy... You all need to know, Ibn Taymiyya and Ibn Qayyim,<sup>40</sup> at the maximum level, punish these practices as minor apostasy (Shirk Asghar).”<sup>41</sup>

Sulayman's critique of the Wahhabis suggests that even among puritanical Muslims at the time who followed Taymiyya in the Hanbali school, there existed great tension between the actions of the zealous Wahhabis and the adjacent strains of Salafist thought

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39 *Tawassul* refers to the religious act of using a mediator to draw closer to Allah. *Istigāthah* means seeking help or relief directly from Allah during times of distress. In some contexts, it can also mean seeking help through a prophet or saint, particularly in emergencies. Both are practices done commonly at tombs of Saints and grave sites.

40 Ibn Taymiyya's protégé who continued championing Taymiyya's salafi principles after his death.

41 Fata, Badrus Samsul, and Idznursham Ismail. *Brother Against Brother: Early Refutation of Wahhabism by the 18th-Century Hanbali Scholars*, 26-27.

that existed in the area.

However, when it came to the Shia<sup>42</sup> Muslims, tombs, headstones, and religious icons were not the only things they were bent on destroying. Before even the series of Mecca and Medina, the first Saudi Conquest was in the Shi'i city of Karbala, present-day Iraq. It was in this instance that the Wahhabi's disdain for Muslims that deviated from Wahhabi's form of Islam was made bare. Algar, quoting one of the Saudi chroniclers, 'Uthman b. 'Abdullah b. Bishr, "The Muslims [i.e., the Wahhabis] scaled the walls, entered the city by force, and killed the majority of its people in the markets and in their homes." Uthman (in Algar) continues to note that they continued to desecrate the tomb of the grandson of the Prophet - a figure of high religious and sentimental value to the Shi'i living there.<sup>43</sup> Even in the Wahhabi's account of the event, they do not even recognize the Shi'i there as Muslims, referring only to themselves as such.<sup>44</sup>

### *Saudi Arabia and Wahhabism into the Modern Era*

War continued off and on between the Saudis and their neighbors on the peninsula from 1800 until 1932. During that time,

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42 Shia Muslims, or Shi'i, are the other prominent sect of Islam. Many Sunnis do not recognize Shi'is as Muslims, and vice versa. Much like Sunni Sufis, Shi'i venerate many Muslim saints and practice many practices, such as Tawassul and Istigāthah, which is noted above in 38.

43 Hamid Algar, *Wahhabism - A Critical Essay*, Essay 2, Para. 19

44 Firro points out that, considering how hated the Wahhabis were by their contemporaries, much of their rule recorded by their enemies paints them as barbaric despoilers. Firro, however, found an exception to this rule with one "Abd al-Rahman al-Jabarti, the famous Egyptian chronicler. In his account of the capture of Mecca and Medina, the Wahhabis are portrayed as good Muslims who respected the inhabitants even though they applied their principle of purifying Islam. But when Jabarti refers to the capture of Ta'if, he confirmed the "alleged" massacre at this city, where Wahhabi forces slaughtered the men and enslaved the women and children." Firro carries on noting that there were large contingents of Shi'is there that contributed to the massacre.

both the houses of Saud and Wahhab continued their alliance, which continues to the present day, with the descendants of Wahhab acting as the Ulama of Saudi dominion. There were three tries, two of which were crushed by the Ottomans and their client state of Egypt, with the third being the emergence of the Saudi State that exists today.

With the newfound statehood came the issue of governing a diverse group and propagating their religious ideology amongst these groups. The forces of modernity pushed against religious education in higher education in favor of more secular and Western-style systems. Theology was typically taught at more advanced levels of education, so this proved a challenge for the Saudis who were hoping to socialize their populace according to Wahhabi doctrine and practices. Historian and Research Professor at Catholic University Nadav Samin notes that this pushback became especially true in the metropolitan centers in Hedjaz,<sup>45</sup> In response to this, the Saudis began teaching Wahhabi theology to second-year primary students, with the textbook being called *Tawhid* and *Fiqh*.<sup>46</sup>

With the discovery of oil, the Saudis began using their newfound wealth to fund universities within and without their borders, giving ample funding to departments that pushed their brand of Islam. Wright notes that the lives of Saudi Arabians during the 50s “lived as their ancestors had lived two thousand years before.” Moreover, with the oil boom, Wright continues, came all of the conveniences and vices of modernity along with inequality and corruption as the members Al-Saud took kickbacks and bribes for access to their nation’s newfound oil wealth.<sup>47</sup> Just as Al-Saud rose in power, wealth, and influence the emergence of several newly

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45 Hedjaz is the region along the coast of the Red Sea where Mecca and Medina are located.

46 Samin, Nadav. “Saudi Primary Education and the Formation of Modern Wahhabism.” *Die Welt Des Islams* 58, no. 4 (2018): 442–460. Tawhid is both the monotheism discussed earlier and their word for theology, with *Fiqh* being law.

47 Wright, Lawrence. *The Looming Tower: Al-Qaeda and the Road to 9/11*, 85-86.

independent Arab states, two new ideological specters serving as a staunch challenge to Saudi Wahhabism haunted the region.

### **Al-Ikhwān al-Muslimūn: The Muslim Brotherhood**

#### *The Emergence of the Brotherhood and Ideological Roots*

One such movement was the Muslim Brotherhood, born out of the political and social decay of Interwar, British Occupied Egypt, and the vacuum left behind by the Turkish abolition of the Ottoman Caliphate. The Brotherhood began as a pan-Islamic movement seeking to establish a religious state. While there have always been institutional mechanisms within Islam that allowed Muslim rulers to establish Shari'ah as they saw fit, it was not until the emergence of this group that Islamic justifications for revolution against something other than a foreign occupation to accomplish that same end began to arise. The group's founder, Hasan al-Banna, laid out a plan of action for the Islamic Society he wished to form, which was foundational for the praxis of the Brotherhood for decades to come. Al-Banna's plan started with reforming the individuals, homes, and communities that would inherit and create such an Islamic society. This grassroots movement then moved on to liberation from unislamic governments and, finally, "reforming the government so that it may become a truly Islamic government." To get to this point, Al-Banna believed that it had to be done through Jihad, of which he explains, "The training in this phase would be Sufistice from a purely spiritual point of view, as well as military preparation."<sup>48</sup> Despite the call for armed revolution, this was dampened by the need for a group to be sufficiently righteous to answer this call.<sup>49</sup>

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48 Hassan Al-Banna, "The Message of the Teachings," In Sayyid Qutb, *Milestones*, 241-261. (Maktabah Booksellers and Publishers, 2006), 248, 251-252.

49 Ziad Abu-Amr. " Hamas: A Historical and Political Background." *Journal of Palestine Studies* 22, no. 4 (1993): 5-19. <https://doi.org/10.2307/2538077>. Of the lasting effect this had on the Brotherhood, the sitting Deputy Prime Minister of the State of Palestine, Ziad Abu-Amr, notes that The Muslim Brotherhood in Palestine had fierce infighting during the first intifada over whether they should seize the

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### *Sayyid Qutb and the Seeds of Revolution*

Among those deeply influenced by Al-Banna was Sayyid Qutb, the Egyptian radical whose martyrdom radicalized an entire generation. Qutb joined the Brotherhood in 1948, motivated in large part by al-Banna's assassination. He became the ideological figurehead of the movement shortly thereafter. Qutb envisioned Islam not merely as a religion but as a complete way of life that a vanguard of true Muslims must struggle to establish on the face of the earth, building from al-Banna's plan. Qutb argues that Islam's message is that humans are to serve but one lord and one set of laws: Allah and his Shari'ah. Not just in the religious sense, Qutb insists that whenever any righteous Muslim community arises, "it has a God-given right to step forward and take control of the political authority so that it may establish the *Shari'ah* on earth."<sup>50</sup> Qutb, however, was not satisfied with the idea of an Islamic state for the Muslims - this was a global vision where all lived by Shari'ah.

Qutb takes these ideas from Taymiyya's Tawhid but further advocates for a revolution led by the faithful Muslims to "abolish the dominion of man."<sup>51</sup> Qutb's justification for this stems from the Tawhid Uluhiyah (god solely being worthy of Worship), by citing a hadith where Muhammad, speaking of Jews and Christians, argues that "Whatever their priests and rabbis call permissible, they accept as permissible; whatever they declare as forbidden, they consider as forbidden, and thus they worship them."<sup>52</sup> Qutb, tying this link to worship and obedience, holds that "The people ought to know that

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opportunity to mobilize the Muslim community. The issue at the heart of the schism was that the old guard of the Brotherhood still believed in following al-Banna's plan. They thought the Palestinian Muslims had not been sufficiently righteous enough to launch Jihad against Israel and create their own Islamic government. Their Solution was to create Hamas.

50 Sayyid Qutb, *Milestones*. Edited and translated by A. al-Mehri. (Birmingham: Maktabah Booksellers and Publishers, 2006), 84, 87.

51 Sayyid Qutb. *Milestones*. 68.

52 Sayyid Qutb. *Milestones*. 68.

Islam means to accept the creed ‘La ilaha illa Allah [there is no god except Allah]’ in its deepest sense,<sup>53</sup> which is this: that every aspect of life should be under the sovereignty of Allah, and those who rebel against Allah's sovereignty and usurp it for themselves should be opposed; that this belief should be accepted by their hearts and minds and should be applied in their ways of living and in their practices.”<sup>54</sup> The phrase he uses, ‘sovereignty of Allah’, is used also translated as *Hakimiyya*, itself a derivative of *Tawhid Uluhiyah*, and quickly became a defining doctrine of many Islamists who saw any government institution as apostasy. Indeed, for Qutb and many other radicals, Worshiping God is inextricably linked to establishing his law. To obey any other law than the one God has prescribed is to worship the human lawgiver instead of God.

What separates Qutb's innovation from other contemporary and past Islamists, such as Al-Banna, was not that Islam should be both the ruling religious and political order; it was how and to what lengths he intended to get there: *Takfir*. Wiktorowicz explains that even among the most reactionary Salafists, *Takfir* is highly taboo. He further expounds that Qutb diverts from this orthodox view of *Takfir* and declares that any Muslim leader who does not "remove the chains of oppression so that Islamic truth could predominate" and implement *Shari'ah* is no longer Muslim. Wiktorowicz then states the bloody implication of this line of reasoning, "As infidels, they could be fought and removed from power, because the primary objective of Muslims [in Qutb's view] is to establish God's rule on earth."<sup>55</sup> This expansion of *Takfir*, first done by *Taymiyya*, expanded from justifying violence against foreign threats to targeting one's own head of state. It was in this vein that Qutb helped assist in the 1952 coup against King Farouk of Egypt to install Gamal Abdel

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53 Qutb's rhetorical effectiveness for radicalizing Muslims is his effective use of ethos by tying his political doctrine to the heart of what it means to be a Muslim. Where Christianity emphasizes faith and belief, Islam emphasizes faith and submission.

54 Sayyid Qutb. *Milestones*. 48.

55 Quintan Wiktorowicz, "A Genealogy of Radical Islam." *Studies in Conflict & Terrorism* 28, no. 2 (2006): 77, 79. <https://doi.org/10.1080/10576100590905057>.

Nasser. Qutb later despised Nasser and conspired against him because of Nasser's implementation Arab Nationalism<sup>56</sup> instead of Shari'ah.

Qutb's plotting and the publication of "Milestones," an abridged version of his magnum opus "In The Shade of The Quran," earned him a death sentence. Wright recounts that Qutb refused to appeal this decision, knowing the gravity of the movement he started and that when his sister begged him to appeal, Qutb replied, "Write the words...My words will be stronger if they kill me." As to his effect, in an interview with Wright, Jamal Khalifa, the brother-in-law and former best friend of Osama Bin Laden, reports that during their formative years in college, "We read Sayyid Qutb. He was the one who most affected our generation."<sup>57</sup> Few in the West ever heard of him before the Congressional Commission on 9/11, and few still do, yet his impact on the violence that has unfolded over the past few decades in the Middle East is immeasurable.

### **Radicalization and The Synthesis of Two Wahhabism and The Brotherhood**

The generation of youth inspired by Qutb was predominantly Arab Muslims living in places where the Brotherhood was allowed to take root. Many Brotherhood members found refuge in Saudi Arabia. Many of the Arab nations<sup>58</sup> that emerged in the aftermath of Britain and France's decolonization of the region turned not to Islamism, as the Muslim Brotherhood or Wahhabis hoped, but instead turned to a group of ideologies under the umbrella of what's called Arab Nationalism. The Saudis these secular ideologies, them being wholly antithetical to a theocratic Monarchy, and thus encouraged many Brotherhood members to enter. Saudi Academic and Commissioner at the Commission for International Justice and Accountability, Nawaf Obai, recounts, "Countless [Muslim Brotherhood]

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56 Nasser's government was like Ba'athist socialism, albeit less totalitarian.

57 Lawrence Wright, *The Looming Tower: Al-Qaeda and the Road to 9/11*, 31, 79.

58 Such as Iraq, Syria, Libya, Egypt, and Algeria.



members fled not just Egypt but also Syria and Iraq, as the Brotherhood ideology lost out to Arab nationalism.”<sup>59</sup> The Arab Nationalists that arose in Syria and Iraq knew all too well about Egypt’s own troubles with the Brotherhood, which is why they were expelled in short order.

*Saudi Arabian Political Conditions in The Aftermath of Nasser’s Attempted Assassination*

The influx of Brotherhood members seeking Asylum occurred under the reign of King Faisal, who was known for his piety and wanted to be seen as a friend to all Muslims in need. During this same time, Faisal was using the nation’s oil wealth to modernize the country’s infrastructure, civil institutions, and social customs. Wright notes that during his reign, he “was a conspicuously progressive force. In 1960, against powerful resistance from the Wahhabi establishment, Crown Prince Faisal had introduced female education; two years later he formally abolished slavery.”<sup>60</sup> Standing as both a religiously pious and socially progressive figure, he represented what the Saudi Monarchy could have been had he not been assassinated by his nephew in 1975. The subsequent kings and princes continued the tradition of corruption and decadence, of which Faisal was an aberration.

Throughout the process of modernizing the Kingdom came an interesting development in Saudi Policy: Saudi Political Quietism. According to one social anthropologist at King's College London, Madawi al-Rasheed, the religious institutions of Saudi Arabia insisted that the ruler of the Kingdom knows what is best in the interests of the people. Rasheed explains that on this march of Al-Saud consolidating its power, the Wahhabi Ulama excluded both themselves and the public from political affairs. The result, Rasheed concludes, was that the Wahhabis thoroughly Islamized

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59      Nawaf Obaid, *The Failure of the Muslim Brotherhood in the Arab World*. (Praeger Security International, 2020), 108.

60      Lawrence Wright, *The Looming Tower: Al-Qaeda and the Road to 9/11*, 87.



the social sphere of Saudi Arabia, leaving themselves with a public saturated with the ceremonial and “performative affairs of Islam.”<sup>61</sup> Though performative, it may have been, it produced a populace educated in the legalistic matters of their faith, with Taymiyya’s interpretation of the Tawhid being a central tenant of their religious understanding. This state of having a deeply religious and politically disenfranchised populous, combined with their heavy emphasis on the Tawhid of Wahhab and Taymiyya, laid the groundwork for radicalization by The Brotherhood’s heavily politicized interpretation of Islam.

As discussed earlier, Saudi Arabia was trying to reform its well-funded yet abysmal education system. In their newly built and funded schools and universities, the Saudis used many of these Brotherhood members to fill the ranks of their educational system at every level. Wright notes that as these Brotherhood members entrenched themselves into every sinew of Saudi Accademia, they “brought with them the idea of a highly politicized Islam, one that fused the state and the religion into a single, all-encompassing theocracy.” Wright later reports that among these Brotherhood refugees who found their way into Saudi Academia was Muhammad Qutb, the brother of Sayyid Qutb. Among those who frequented his lectures was a young, lost, and very impressionable Osama bin Laden.<sup>62</sup> This mixing of Brotherhood members with Wahhabism created the Sahwa<sup>63</sup> movement: politically active Wahhabis seeking reform in their government towards more Salafistic practices.<sup>64</sup>

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61 Al-Rasheed, Madawi. *Contesting the Saudi State: Islamic Voices From a New Generation*. (Cambridge Middle East Studies, 2007), 59.

62 Lawrence Wright, *The Looming Tower: Al-Qaeda and the Road to 9/11*, 79.

63 It is sometimes referred to as *al-Sahwa al-Islamiyya* (Islamic awakening), signifying the members choosing to try and take an active role in Saudi Politics via advocacy or other means.

64 These were the voices critical of Al-Saud when the Kingdom allowed women to drive, allowed U.S. bases on the peninsula and took other steps to ‘modernize’ the social sphere.

*1979: The Turning Point in Saudi Politics*

The Sahwa stood in stark opposition to the Quietist political environment that Al-Saud was trying to foster. However, when it came to religious and social practices, they served as a reinforcing agent of the religious and social conservatism embedded deep into Wahhabi doctrine. While not directly challenging Al-Saud, Gulf Analyst for the International Crisis Group Toby Jones argues that they intended to swing more power back to the Ulama and theocratic elements of the Kingdom.<sup>65</sup> However, for most of their existence, Al-Saud viewed them as a nuisance. Then came the year 1979, or the year 1400<sup>66</sup> in the Islamic Calendar. Three critical events took place in 1979 that changed Saudi Arabia's relationship with the Sahwa and Brotherhood and the Saudis' place in the world.

First, the Grand Mosque in Mecca was seized by armed Salafists calling themselves al-Ikhwan.<sup>67</sup> The Ikhwan decried the decadence of the ruling Saudi Family and declared them unislamic. Al-Rasheed argues that the seizure and Ikhwan's censure was a chilling message to the family, as it was rooted in the Wahhabi tradition.<sup>68</sup> And, as with any movement centered around ideological fidelity, any challenge to the conviction of their founding principles is

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65 Toby C Jones. "The Clerics, the Sahwa and the Saudi State." *Strategic Insights* 4, no. 3 (2005). [https://ciaotest.cc.columbia.edu/olj/si/si\\_4\\_3/si\\_4\\_3\\_jot01.pdf](https://ciaotest.cc.columbia.edu/olj/si/si_4_3/si_4_3_jot01.pdf).

66 This year was important to the group that seized the Grand Mosque. There is an Islamic tradition that a *Mujaddid* would come to revive and renew Islam every hundred years. The assailants believed they would do just that to the decadent Al-Saud. It should also be noted that *Mujaddid* differs from *Mujahid*, from the plural *Mujahadeen*, the title given to fighters who embarked on a Jihad.

67 Al-Ikhwan means The Brotherhood. This was not in reference to the Muslim Brotherhood associated with the *Sahwa* movement but rather a fanatical Wahhabi Militia that the Saudis used as part of their conquest in the late 19th and early 20th centuries.

68 Madawi Al-Rasheed, *Contesting the Saudi State: Islamic Voices From a New Generation*, (Cambridge University Press, 2009) 106

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a challenge to their legitimacy. In response to the challenge placed by the Ikhwan in the aftermath of the seizure, the Saudis began pouring money into Saudi Arabia's religious institutions, including their religious police. This was viewed very favorably by the Sahwa and bolstered their power socially and politically.

Second, the Iranian revolution took place, this being the second overtly Islamic<sup>69</sup> State to come to fruition in the twentieth century. Not only were they Shi'i, but unlike Saudi Arabia, Iran's Ulama held the power there.<sup>70</sup> This served as a challenge to the Saudi Claim to Muslims as being the only defenders of Islam.

Third, the occupation of Afghanistan by the Soviet Union, which Rasheed claims was "long branded the enemy of Muslims in Saudi official religious rhetoric."<sup>71</sup> Wright claims that Prince Turki Al-Faisal, then head of the Saudi Arabian General Intelligence Directorate, feared this invasion would be the first in a series of invasions leading to the Persian Gulf.<sup>72</sup> In either case, a Sunni Muslim nation was being invaded by what was perceived as a godless communist one, and the Saudis saw it as an opportunity to leverage their weakened position among their reactionaries.

### *The Afghan Jihad as a Nexus for Radicalization*

Following the Soviet invasion of Afghanistan, the Saudi Ulama issued a Fatwa calling for a Jihad to defend Afghanistan. This call resonated most with the Salafis and those inspired by the Sahwa movement. A former Al-Qaeda officer who was encouraged

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69 While other nations institute Islamic law, Saudi Arabia and Iran are unique in that the explicit aim of those who took power is to institute the *Shari'ah* as they interpreted it.

70 The author notes that they have called Saudi Arabia theocratic or having elements of theocracy. However, the term is far more correct when applied to the Islamic Republic of Iran for this reason – especially in light of Saudi Quietism.

71 Madawi Al-Rasheed. *Contesting the Saudi State: Islamic Voices From a New Generation*, (Cambridge University Press, 2009) 106.

72 Lawrence Wright, *The Looming Tower: Al-Qaeda and the Road to 9/11*, 99.

to fight the Soviets, Ali Faghassi Al Ghamdi, criticizing the Sahwa activists, recounts, "I was brought up and educated on the tapes of the poisonous public discourse that the Sahwa leaders in Saudi Arabia espoused. They radicalized entire generations of Saudis to send them to fight in Afghanistan, Chechnya, and elsewhere".<sup>73</sup> At the time, Saudi officials were encouraging and paying for these Salafis to go to war,<sup>74</sup> believing that it would win over many of the politically active ones into supporting their regime and that many of the extremists in Afghanistan would wind up dying on the battlefield.

However, the actual effect of the Jihad and the funding it received was that it acted like a lightning rod to fighting aged men willing and eager to die on foreign soil for an ideology they believed to be delivered to man by the tongue of angels.<sup>75</sup> The Jihad pulled in Saudi Wahhabis like Osama bin Laden as well as Egyptian Qutbist Salafis like Ayman Al-Zawahiri.<sup>76</sup> These two men would go on to form Al-Qaeda, with bin Laden as its charismatic leader and Al-Zawahiri being the group's chief ideologue. The goal of the group was to enact a global Jihad, inspired by Qutb, to establish Shari'ah in every corner of the globe. By the end of the Afghan war, Wright notes, between fifteen to twenty-five thousand Afghan Arabs were left.<sup>77</sup> Nearly all these fighters were instructed in Zawahiri's Qutbist

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73 Nawaf Obaid. *The Failure of the Muslim Brotherhood in the Arab World*, 109.

74 Lawrence Wright, *The Looming Tower: Al-Qaeda and the Road to 9/11*, 100. It should be noted that the U.S. also contributed heavily both in terms of funds and munitions to the war. Wright notes that the Saudis, however, did match every dollar that America donated to the cause.

75 Al-Bukhari. *Sahih al-Bukhari*, 1902. The Islamic tradition for the origin of the Quran is that throughout Muhammad's adult life, the angel Gabriel would reveal to him the verses line by line and have Muhammad repeat back to Gabriel the verses until Muhammad could do so perfectly, with one Hadith saying that he would sit and recite the Quran back to Gabriel every night during the month of Ramadan.

76 Zawahiri's group in Egypt, Islamic Jihad (or the Egyptian Islamic Jihad), was the group responsible for the assassination of Anwar El-Sadat.

77 Lawrence Wright, *The Looming Tower: Al-Qaeda and the Road to 9/11*,

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ideas of using Jihad to enshrine Shari'ah and the puritanical, intolerant Salafism of the large contingent of Wahhabis led by Osama bin Laden.

### **The Age of Fitnah: Why Revolutionary, Puritanical Ideologies Devolve into Violence**

*Growing Tension Between Islamists and Saudi Arabia following the Gulf War*

With the close of one war that reshaped Saudi Politics came another: Iraq's 1990 invasion of Kuwait. With it came a period between Al-Saud, the Muslim Brotherhood, and bin Laden's Al Qaeda, what can be termed as Fitnah – denoted as civil strife, sedition, or conflict between Muslims.<sup>78</sup> However, the Saudis would not placate the political radicals within their borders as they had in years past. Fearful of an Iraqi invasion into their borders and wanting to support the coalition to end the occupation of Kuwait, Saudi Arabia invited the Americans to station troops and bases within the Kingdom's borders.

The war and Saudi Arabia's decision to bring Americans onto the peninsula proved to be highly divisive to the various Salafist groups inside Saudi Arabia and the broader Islamist discourse in the region. The international organization of the Muslim Brotherhood based in Egypt, Obaid notes, supported Iraq's invasion of Kuwait.<sup>79</sup> This stood in contrast to Saudi Arabia and the various Brotherhood chapters inside Kuwait and the neighboring Gulf countries.

However, the Brotherhood and Sawah movement inside Saudi Arabia deplored the idea of American soldiers in the Islamic Holy Land. The Brotherhood mobilized protests at American bases,

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78 It is also used in reference to the civil war that broke out after the assassination of the fourth Caliph Ali in 661 CE.

79 Nawaf Obaid, *The Failure of the Muslim Brotherhood in the Arab World*, 110.

spurred on by Brotherhood academics and clerics who had deeply entrenched themselves into Saudi society. And articulating the sentiments of Saudi Arabia in response to the Brotherhood's actions, Obaid notes, "In essence, the way the Brotherhood thanked Saudi leaders for their kindness in welcoming them and giving them refuge and prominent jobs was to create a movement that would ultimately undermine the religious and educational foundations of Saudi Arabia. This underscores why Saudi leaders view the Sahwa and M.B. response to the Iraqi occupation of Kuwait as a betrayal."<sup>80</sup> This would be the least of their issues, however.

### *The Rise of Al-Qaeda and Takfiri Ideology*

Among those adding to the anger at Saudi Arabia for stationing troops on Saudi soil was Osama bin Laden, who also held a special hatred for America.<sup>81</sup> In an interview with bin Laden, American journalist John Miller recounts, "For the future, bin Laden told me his priority is to get the American military out of Saudi Arabia, the holiest of lands in Islam. 'Every day the Americans delay their departure, they will receive a new corpse.'"<sup>82</sup> This anger did not just extend to the Americans either. In a 2011 article recovered from a hard drive in bin Laden's Abbottabad compound in Pakistan, Abdullah Al-Rashoud, writing in the Al-Qaeda-affiliated magazine "Voice of Jihad," lambasts the Saudi regime for stationing American troops on Saudi soil—often comparing the Saudis to the Mongols as described in Taymiyya's Fatwa.<sup>83</sup> This instance, among many others, was used by Al-Rashoud as evidence for Al-Saud's

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80 Nawaf Obaid, *The Failure of the Muslim Brotherhood in the Arab World*, 110.

81 This was largely due to America's support for Israel as well as stationing troops in Saudi Arabia.

82 John Miller, "Greetings, America. My name is Osama Bin Laden." *PBS Frontline*, 1999. <https://www.pbs.org/wgbh/pages/frontline/shows/binladen/who/miller.html>.

83 The fatwa explicitly used is the same one quoted at the beginning of this paper.

apostasy.<sup>84</sup> Al-Rashoud's arguments mirrored those of Faraj's against Sadat's Egyptian government. Indeed, any government headed by Muslims, or not, that varied from how Al-Qaeda viewed how Shari'ah should be implemented—primarily if the government did not implement Shari'ah at all—was now a valid target.

Following the attacks that occurred on September 11, both the Muslim Brotherhood and Saudi Arabia distanced themselves far from the group, condemning their actions. Moreover, as demonstrated by Al-Rashoud, that feeling of enmity was mutual, reflecting their budding Takfiri ideology. Wright notes that the goals of their leaders—bin Laden and Zawahiri—diverged from a strictly Qutbist ideology of establishing Islamic states in their home countries to one of Global Jihad to punish Western nations, especially America, for perceived crimes against Islam.<sup>85</sup> However, despite deviating from Qutb's vision of establishing an Islamic State, Al-Qaeda, specifically Zawahiri, would use Qutb's conception of *Takfir* to justify violence against Muslims working for secular regimes.

One of Zawahiri's students who particularly latched onto the idea of Takfir was Abu Mus'ab al-Zarqawi. Shane Drennan, International Relations Researcher for the Centre for Study of Terrorism and Political Violence, notes that Zarqawi expanded Takfir further than Taymiyya, Qutb, or even Zawahiri and Wahhab to include anyone who violated any part of his interpretation of Shari'ah. Drennan explains that mere transgression amounted to apostasy, with examples being "women in public not wearing a hijab, shop owners selling Western music and movies, and individuals selling or making alcohol."<sup>86</sup> Zarqawi would go on to

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84 Al-Rashoud, Abdullah. "Rshood Tatar." Abbottabad Compound Material, Central Intelligence Agency, 2004. [https://www.cia.gov/library/abbottabadcompound/B9/B94E75DA74345216C6C785DD4999E18D\\_rshood\\_tatar.pdf](https://www.cia.gov/library/abbottabadcompound/B9/B94E75DA74345216C6C785DD4999E18D_rshood_tatar.pdf). Machine translation was used to decipher the text.

85 Lawrence Wright, *The Looming Tower: Al-Qaeda and the Road to 9/11*, 127.

86 Drennan, Shane. "Constructing Takfir: From 'Abdullah 'Azzam to Djamel Zitouni." *CTC Sentinel* 1, no. 7 (2008): 3. <https://ctc.westpoint.edu/wpcontent/up->

head Al-Qaeda in Iraq, where he would go about enforcing Shari'ah as he saw fit, executing any Sunni who disagreed with him. Director and Professor of the Security Studies Program at Georgetown University, Daniel L. Byman, notes that Zarqawi plunged Iraq into sectarian violence, with a wholesale slaughter of Shia Muslims and a systematic targeting of Sunnis who disagreed with him or acted contrary to his narrow definition of appropriate behavior.<sup>87</sup> Like Zawahiri as well, he also targeted and executed any former government official or agent of the former state of Iraq. This level of sectarian violence, which continued after Zarqawi died in 2006, caused Al-Qaeda to seek to distance themselves from Zarqawi's offshoot, leading Zarqawi's group to evolve into The Islamic State. In the ensuing conflict between the two groups, both issued Takfirs against each other, ironically due to their divergent applications of that doctrine and Al-Qaeda's condemnation of the Islamic States' focus on sectarian issues rather than a Jihad against the West.

The Islamic State's campaign across Iraq and Syria rekindled the Wahhabi tradition of puritanical violence that hadn't been seen since the early 19th and 20th centuries. Due to the collapse of the Iraqi government and the Syrian Civil War in the wake of the Arab Spring, they conquered large swathes of land at speeds that surprised and frightened the international community. They enslaved people as prisoners of war—particularly Yazidi



women<sup>88</sup>— as the Wahhabis had done to the Shi'i living in Ta'if.<sup>89</sup> They killed anyone who disagreed with their interpretation of Islam and went on a campaign of destroying anything they considered Shirk, including tombs, cultural heritage sites, and the houses of worship of faiths with whom they disagreed. However, fusing Qutb's own hatred of secular government, they also focused assaults on what one Islamic State magazine labeled "bastions of Shirk:" government institutions.<sup>90</sup> As these institutions were considered Shirk, anyone with any functional role related to laws contradicting Shari'ah was labeled Mushrik and executed. And those that remained living within the Islamic State were subject to their strict iteration of Wahhabi<sup>91</sup> Shari'ah, with a similarly harsh and expansive enforcement as Zarqawi had done a decade earlier.

## Conclusion

In conclusion, the modern Jihadist movement represents an

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88 Al-Muhajirah. *Slave-girls or prostitutes*. Dabiq, (2015): 46, 48. Contributor to the Islamic State's *Dabiq* magazine, Umm Sumayyah Al-Muhajirah, argues in his article titled 'Slave-Girls or Prostitutes,' that "Yes, Allah has opened the lands for His *awliya* [warriors], so they entered and dispersed within the lands, killing the fighters of the *kuffar* [unbelievers], capturing their women, and enslaving their children. I write this while the letters drip of pride. Yes, O religions of *kufr* altogether, we have indeed raided and captured the *kafirah* women, and drove them like sheep by the edge of the sword. And glory belongs to Allah, to His Messenger, and the believers, but the hypocrites do not know! ... Are slave-girls whom we took by Allah's command better, or prostitutes - an evil you do not denounce who are grabbed by quasi men in the lands of *kufr* where you live?" (Al-Muhajirah, 2015, 46, 48).

89 See footnote 27.

90 Al-Muhajirah, *Slave-girls or prostitutes*, 41.

91 H. Al-Jablawi, "A Closer Look at the Educational System of The Islamic State." *The Atlantic Council*, 2016. Schools that were run by the Islamic State opted for an explicitly Wahhabist education as reported by a Syrian citizen journalist, Hosam al-Jablawi. Al-Jablawi details that the book used for religious education, which is most of the education they instituted, was Wahhab's *Kitab al-Tawhid*.

evident merging of Wahhabi Salafism with Qutbist Revolutionary ideology that resulted from these strands of thought intermingling when King Faisal granted asylum to thousands of members of the Muslim Brotherhood. This is not meant to infer a causal chain from Taymiyya to Wahhab, Qutb, and The Islamic State, but rather how two strands of thought, inspired by Taymiyya, emerged and synthesized into something new and unique in the history of Islam—despite these Jihadist groups' emphatic appeal to some idolized past they're trying to emulate. Understanding how the movement came to be and where precedent was broken—by thinkers like Taymiyya, Wahhab, Qutb, Zawahiri, and Zarqawi—allows for better challenges against these extremists using their own Salafist logic. This is important, not for convincing the hardened terrorist but for the doubter or would-be fighter drawn in by these groups' allure.

As to the importance of other factors outside of ideology and doctrine, this paper did not extensively discuss the role of foreign involvement in the Middle East or other important political and cultural factors that shaped the Jihadist movement. Such discussions are important and were included where appropriate, but many are ultimately outside this paper's scope.<sup>92</sup> Moreover, many concomitant environmental and material factors only provide explanations for why Jihadist movements and their rhetoric were appealing but lack the power to explain the rhetoric and doctrine themselves. Just as one cannot understand the inner workings of the Soviet Union under Lenin without the context of Socialism and the conditions of Tsarist Russia that gave way to the revolution, one cannot understand The Islamic State and Al-Qaeda without understanding the Syrian Civil War, Operation Iraqi Freedom, and the Soviet Invasion of Afghanistan as well as Wahhabism and Qutbism. Furthermore, this paper does not discuss the extent to which these ideas radicalized individuals or if radicalized individuals, in the search for

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92 An important example being the emergence of the State of Israel and the varying levels of aid that the U.S. sent over. This event particularly illustrates how some of these external factors are important for understanding why certain animosities exist in these movements but not for understanding ideology that drove the tactics of these movements.

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an expedient justification of their political goals, merely found or invented dangerous ideas that they could weaponize against their opponents. This line of thinking warrants further research; however, it lies outside the scope of the present paper, as Jihadists and detractors alike inherit these thinkers' texts, not their inner thoughts and motivations.

Moreover, when examining political and cultural currents, the subversion of Saudi political norms by Muslim Brotherhood members had as much an impact on forming these Jihadist movements as the U.S. did by stationing troops in Saudi Arabia, if not more. The Brotherhood came at a time when Saudi Institutions and the public were transitioning into modernity, and many were questioning their traditions and place in the world. This proved to be a time when many Saudis were particularly vulnerable to a movement that yoked political legitimacy with religious fidelity, something that became very alluring to particularly devout Wahhabis who were dissatisfied with Al-Saud. These Wahhabis were the ultimate synthesis of Taymiyya's two strains of Tawhid. They viewed government as the sole domain of God, as Qutbists in the Brotherhood had, and they were fiercely puritanical in their interpretation of what true Islam was, as informed by their Wahhabi education of the Tawhid.

This caustic blend of ideologies, forged from both religious thought and modern political upheaval, continues to be weaponized by Jihadists against innocent people. Understanding the ideological and religious rhetoric used by these extremists, as well as the context surrounding the ideas and thinkers they appeal to, illuminates flaws in the Jihadist's narrative that can then be deployed against them. They present themselves as the righteous heirs to a 'true and unchanged' religion practiced by Muhammad in Mecca and Medina, who reject all innovations or additions that come after it. Yet, their whole framework is based upon thinker after thinker who broke precedent, created their own innovations, and bypassed the traditions and norms practiced by the Salaf they seek to emulate. Recognizing and exploiting these contradictions within Jihadist rhetoric provides a powerful tool for undermining their appeal and reducing their influence.

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## Appendix: A

### *Glossary of Key Terms*<sup>93</sup>

**Allah:** The Arabic word for God in Islam.

**Bid'ah:** Heretical innovations or practices not originally part of Islam.

**Caliphate:** An Islamic state led by a caliph, considered a successor to the Prophet Muhammad.

**Fatwa:** A legal opinion or ruling issued by an Islamic scholar.

**Fiqh:** Islamic jurisprudence, the theory and practice of Islamic law.

**Hadith:** Recorded sayings and actions of the Prophet Muhammad.

**Hedjaz:** A region in western Saudi Arabia that includes the holy cities of Mecca and Medina.

**Jihad:** A struggle or effort that can be interpreted as an internal spiritual struggle or an external holy war.

**The Jizya:** A tax historically levied on non-Muslim subjects in Islamic states.

**Kafir:** A non-believer or infidel in Islam.

**Kufr:** Disbelief or rejection of Islamic teachings.

**Mecca:** The holiest city in Islam, the birthplace of the

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<sup>93</sup> Machine Intelligence was used to compile and write much of the content in the Appendices. The author reviewed each entry, editing where appropriate.

Prophet Muhammad.

**Medina:** The second-holiest city in Islam, where Muhammad established the first Islamic state.

**Najd:** A central region of Saudi Arabia, the birthplace of Wahhabism.

**Pan-Arab Socialism:** A political ideology combining Arab Nationalism with socialist economic principles.

**Quran:** The holy book of Islam, believed to be the word of God as revealed to Muhammad.

**Sahwa:** An Islamist activism movement in Saudi Arabia, meaning 'Awakening' or 'Islamic Awakening.' It combined Wahhabi-style Salafism with the Muslim Brotherhood's political activism.

**Salaf:** The first three generations of Muslims are considered exemplary in their practice of Islam.

**Salafism:** A puritanical Islamic movement that seeks to emulate the practices of the Salaf.

**Shahada:** The Islamic declaration of faith: "There is no god but Allah, and Muhammad is His messenger."

**Shari'ah:** Islamic law based on the Quran and Hadith.

**Shi'a/Shi'i:** The second-largest branch of Islam, which believes Ali (Muhammad's cousin and son-in-law) was the rightful successor to Muhammad.

**Shirk:** The sin of practicing idolatry or polytheism in Islam. It is also the gravest sin in all of Islam.

**Sufism:** The mystical branch of Islam focuses on spiritual aspects and individual experiences of the divine.

**Sunnah:** The traditional portion of Islamic law is based on Muhammad's words and actions.

**Takfir:** The practice of declaring a fellow Muslim an unbeliever or apostate.

**Tawhid:** The central Islamic doctrine of the oneness and uniqueness of God.

**Ulama:** Islamic scholars who are authorities on Islamic law and theology.

**Ummah:** The global community of Muslims.

**Wahhabi/Wahhabism:** A puritanical Islamic movement founded by Muhammad ibn Abd al-Wahhab, dominant in Saudi Arabia.

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## Appendix: B

### *List of Key Figures in The Development of Salafism*

**Muhammad** (b. 570 CE) The founder of Islam and the final Prophet in Islamic tradition.

**Ibn Taymiyya** (b. 1263 CE) Medieval Islamic philosopher, scholar, and theologian who greatly influenced later Islamic movements, particularly in his concept of Tawhid.

**Mahmud Ghazan** (b. 1271 CE) Seventh ruler of the Ilkhanate who converted to Islam and made significant reforms in his empire, further Islamizing it.

**Sulayman ibn Abd al-Wahhab** (b. 1700 CE) Elder brother and critic of Muhammad ibn Abd al-Wahhab, argued against some of the more extreme interpretations of Wahhabism.

**Muhammad ibn Abd al-Wahhab** (b. 1703 CE) Founder of Wahhabism, a puritanical Islamic movement that became dominant in Saudi Arabia.

**Muhammad ibn Saud** (b. 1710 CE) Founder of the First Saudi State and partner in the political-religious alliance with Muhammad ibn Abd al-Wahhab.

**Hasan al-Banna** (b. 1906 CE) Founder of the Muslim Brotherhood, an Islamist organization that spread throughout the Arab world.

**Sayyid Qutb** (b. 1906 CE) was an Egyptian author, Islamic theorist, and leading member of the Muslim Brotherhood whose writings greatly influenced modern Islamist movements.



**King Faisal of Saudi Arabia** (*b. 1906 CE*) was a Saudi monarch who modernized the Kingdom while maintaining its Islamic character.

**Muhammad Qutb** (*b. 1919 CE*) was a Brother of Sayyid Qutb and an influential Islamic scholar who taught in Saudi Arabia, influencing figures like Osama bin Laden.

**Gamal Abdel Nasser** (*b. 1918 CE*) Egyptian president and leader of the Pan-Arab movement, opposed by Islamists like Sayyid Qutb.

**Ayman Al-Zawahiri** (*b. 1951 CE*) Egyptian-born terrorist and current leader of Al-Qaeda, who served as Osama bin Laden's chief ideologue.

**Osama bin Laden** (*b. 1957 CE*) Founder of Al-Qaeda and one of the world's most notorious terrorists, influenced by both Wahhabism and Qutbism.

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## Appendix: C

### *Chronology of Events that Shaped Violent Salafism*

**610 CE:** Muhammad receives his first revelation

**629 CE:** Muhammad conquers Mecca and destroys polytheistic shrines

**632 CE:** Death of Muhammad

**661 CE:** Beginning of the Umayyad Caliphate

**750 CE:** Beginning of the Abbasid Caliphate

**1258 CE:** Mongols destroy the Abbasid Caliphate

**1299 CE:** Osman I declares independence from the Seljuk Turks, traditionally marking the foundation of the Ottoman Empire

**1300 CE:** Ibn Taymiyya begins writing Fatwas against the Mongols

**1303 CE:** Ibn Taymiyya's famous Fatwa declaring Jihad against the Mongol rulers, even if they profess Islam

**1517 CE:** The Ottoman Sultan Selim I became the first Ottoman Caliph in 1517 after defeating the Mamluk Sultanate in Cairo and taking the last Caliph of Cairo, Al-Mutawakkil III, prisoner.

**1744 CE:** Alliance between Muhammad ibn Saud and Muhammad ibn Abd al-Wahhab (birth of Wahhabism)

**1801 CE:** Wahhabi sack of Karbala

**1803-1804 CE:** First Saudi conquest of Mecca and Medina

**1818 CE:** Destruction of the First Saudi State by Ottoman forces

**1824 CE:** Establishment of the Second Saudi State

**1891 CE:** Collapse of the Second Saudi State

**1902 CE:** Ibn Saud recaptures Riyadh (beginning of the Third Saudi State)

**1918 CE:** End of World War I and fall of the Ottoman Empire

**1924 CE:** Abolition of the Ottoman Caliphate

**1928 CE:** Foundation of the Muslim Brotherhood by Hasan al-Banna

**1932 CE:** The Kingdom of Saudi Arabia officially established

**1948 CE:** Sayyid Qutb joins the Muslim Brotherhood

**1949 CE:** Assassination of Hasan al-Banna

**1952 CE:** Egyptian Revolution; Nasser comes to power

**1960 CE:** Introduction of female education in Saudi Arabia by Crown Prince Faisal

**1962 CE:** Formal abolition of slavery in Saudi Arabia

**1964 CE:** Execution of Sayyid Qutb

**1975 CE:** Assassination of King Faisal

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**1979 CE:** Iranian Revolution

**1979 CE:** Seizure of the Grand Mosque in Mecca by militants

**1979 CE:** Soviet invasion of Afghanistan

**1980-1988 CE:** Iran-Iraq War

**1988 CE:** Formation of Al-Qaeda

**1990-1991 CE:** Gulf War; U.S. troops stationed in Saudi Arabia

**2001 CE:** September 11 attacks

**2011 CE:** Arab Spring begins

**2011 CE:** Death of Osama bin Laden

**2014 CE:** The Islamic State conquers large swathes of land in Syria and Iraq, and their leader, Abu Bakr al-Baghdadi, is presumptively nominated as Caliph of the Muslim World by its members.