

Website Posts Abu-Yahya al-Libi's Research on Human Shields in Jihad

May 1, 2008

[Please note: Images may have been removed from this document. Page numbers have been added.]

Terrorism: Website Posts Abu-Yahya al-Libi's Research on Human Shields in Jihad On 10 April, a jihadist website posted a research paper by Abu-Yahya al-Libi on the issue of civilian casualties in war, entitled "Al-Tatarrus in Modern Jihad." The doctrine of al-Tatarrus, or the use of human shields, deals with the issue of Muslims, and non-Muslim civilians, being killed when caught in the middle of a war or used as human shields by the enemy. In this 36-page document, Abu-Yahya al-Libi discusses the doctrine of al-Tatarrus in Islam, a widely-researched topic covered in a number of thorough religious publications. Abu-Yahya al-Libi first provides an overview and summary of al-Tatarrus studies presented by various prominent Islamic clerics, with a focus on the fact that it is permissible to harm Muslims being used as a shield by the enemy if it prevents the greater harm the enemy may do to the Muslim ummah. He says mujahidin should use great scrutiny when choosing their targets to avoid casualties among civilians and Muslims. He urges the mujahidin to do their utmost to spare Muslim lives and advises them to find other ways to attack their target if there is a possibility of Muslim casualties. He states that each operation should be carefully studied and independently viewed so that attention is devoted to minimizing Muslim and innocent casualties. Weapons and explosives should be carefully chosen, large concentrations of people should be avoided, and a reconnaissance mission should be conducted to weigh up the damage that would be done to the enemy against the damage that would be done to Muslims, he says. He looks at the issues relating to the doctrine of al-Tatarrus in modern warfare, especially regarding the use of what he calls "weapons of mass destruction." He states that "modern shielding becomes more effective in achieving its objectives than did ancient shielding." This study by Abu-Yahya al-Libi compiles past and present studies conducted by Muslim scholars into a single research paper, rather than adding much new material to the much-debated Islamic jurisprudence issue of al-Tatarrus.

A translation of the research paper follows:

"In the name of God, the Compassionate, the Merciful. "Human Shields (Al-Tatarrus) in Modern Jihad

"Praise be to God alone, and peace and blessings be upon the one after whom there is no other prophet and upon his family and companions, and may they be extremely blessed.

"Of utmost importance, the issue at hand is one that mujahidin confront nowadays. Also, as it is a landmark of the era and one of the important issues connected with jihad, it is mentioned whenever jihad is. It is clear that the amount of treatment (it has received), and the frequency of its being mentioned in speaking or writing, indicates how important it is, and shows how important it is to raise it and how necessary it is to discuss it. This is true about the issue, and from the point of view of religion or reason it cannot be allowed to overlook what is of general interest and what has proved to be persistent. Rather, it becomes incumbent (upon us) to scrutinize it and assess all the ideas/standpoints and seek the source of truth and enlightenment to get guidance.

"This issue, while its investigation nowadays is most of the time more of an obligation than a need, has not, as far as I have checked, been given due scrutiny and consideration; nor has it received thorough research and clarification, and it certainly needs both. I am not claiming that I will do that; rather, I will just join in with those who have written about it before. Its status

being ambiguous, the issue will be raised once more and the fact will be stressed that it is important to research it and have the details of its regulations clarified by those who can. First, on the basis of generalities, generalizations, reports and general rules that qualify as detailed religious proof, it is largely one of established permission. Second, others deny it, prohibit it or are embarrassed about it, without their getting to the heart of the matter, the problems of work, the requirements of the field and the details of the issues. Maybe the first (opinion) will lead to taking lightly the sanctified blood, weakening the religious impetus, and stopping the emotional fear that every true Muslim feels about (spilling) forbidden blood. Likewise, the complete reticence of others and their absolute embarrassment may lead to the complete inhibition of jihad or the fulfilling of partial, overwhelmed acts that do not satisfy the needs. We ask God to provide us with reason, guide our words and our pens, guide us to the path of righteousness until we reach it, and enlighten us to the dangers of injustice, so that we stay away from it, He is the All-Hearing, the Respondent. "The first issue:

"Here we mention some proof from the Koran and the Sunna to the effect that it is a serious matter to spill the blood of a Muslim unlawfully. God said: 'If a man kills a believer intentionally, his recompense is hell, to abide therein (forever). And the wrath and the curse of Allah are upon him, and a dreadful penalty is prepared for him.' (Koranic verse; Al-Nisa, 4:93). He, to Whom be ascribed all perfection and majesty, also said: 'And do not kill (or destroy) yourselves. For verily Allah hath been to you Most Merciful! If any do that in rancor and injustice, soon shall we cast them into the fire and easy it is for Allah.' (Koranic verses; Al-Nisa, 4:29-30) He, the Great and the Almighty, also said: 'Those who invoke not, with Allah, any other god, nor slay such life as Allah has made sacred, except for just cause, nor commit fornication, and any that does this (not only) meets punishment. (But) the penalty on the Day of Judgment will be doubled to him, and he will dwell therein in ignominy.' (Koranic verses; Al-Furqan, 25:68-69). He, the Great and the Almighty, also said: 'Never should a believer kill a believer, but (if it so happens) by mistake.' (Koranic verse; Al-Nisa, 4:92).

"An example from the Sunnah is what Abu Hurayrah, may God be satisfied with him, narrated of the prophet, peace and blessings be upon him, when he said: 'Avoid the seven mubiqat (great destructive sins). Then, it was asked: What are they? He said: Worshipping other gods along with God, sorcery, killing the soul that God has forbidden except when (done) lawfully... the Hadith.' Narrated by Al-Bukhari, Muslim, Abu Dawud and Nasa'i. (In the Hadith), mubiqat means deadly sins. Bin Umar, may God be satisfied with both, said: 'The prophet, peace and blessings be upon him, said: The believer will be in spaciousness in his religion as long as he has not spilled forbidden blood.' Bin Umar, may God be satisfied with both, also said: 'A plight with no way out that anyone may put himself in is the spilling of forbidden blood without a licit (reason).' Narrated by Al-Bukhari and Al-Hakim. And he said it was true to their condition. And the plight means a deadly act, and anything resulting from it which is difficult to come out of safely. And Abdallah Bin Amr, may God be satisfied with both, narrated that the prophet, peace and blessings be upon him, said: 'As far as God is concerned, the end of the world is much better than killing a Muslim man.' Narrated by Muslim, Al-Nasa'i, and Al-Tirmidhi, elevated (marfu) (as a Prophetic saying: Isnad goes to the Prophet) and halted (mawquf) (as a companion saying: isnad stops at the level of the companions), and the halted (mawquf) was more accepted. And Mu'awiya, may God be satisfied with him, said: 'All sins are liable to be pardoned by God, except a man who dies a disbeliever, or who kills a believer on purpose.' Narrated by Al-Nasa'i and Al-Hakim, and he said its attribution is strong. And Ubadah Bin al-Samit, may God be satisfied with him, reported that the prophet, peace and blessings be upon him, said: 'Whosoever kills a believer and is happy with his deed, God does not accept sarfan (optional religious practice) nor adlan (obligatory religious practice) from him.' Narrated by Abu Dawud. He also narrated after Khalid Bin Dahqan: 'I asked Yahya Bin Yahya al-Ghassani about (what) the (prophet is) saying

'and is happy with his deed (the killing)', and he replied: Those that fight in a situation of turmoil and one of them gets killed, and the other thinks he is right and does not ask for forgiveness.' And Al-Sarf is Nafilah (optional religious practice) and Al-Adl is Faridah (obligatory religious practice). And other things were also said.

"There are numerous hadiths to this effect; they are strict about the sacredness of Muslim blood, and they warn ardently against breaching it and not respecting it. What we have mentioned should be enough and enriching for those with a heart or those that listen and are martyrs. This matter is known from Islam by necessity. Making this great in the hearts and stressing it in the souls is the way of every true Muslim who watches God in what he does and what he abstains from. For additional (information), refer to the book of Al-Targhib wa al-Tarhib by Al-Hafidh al-Mundhiri, may God have mercy on his soul. In the part entitled 'Terror of killing the soul that God has forbidden, except lawfully,' he mentioned as many strong inhibiting hadiths as would fill the heart of the believer with fear of doing this (killing), unless there is crystal clear proof (giving permission to do it). It is thus incumbent upon any believer who fears for his soul and who cares for his religion to earnestly seek the truth and to investigate it thoroughly, chasing any whims from his soul and heart and avoiding the ways of destruction. Also, in what he says and does, he should have recourse to a strong pillar and a right path of truth and proof that will be sufficient for him when he stands before God, Who knows whatever goes on inside him, to answer the question: 'Why did you kill so and so?' "The second issue:

"Abdallah Bin Mas'ud, may God be satisfied with him, said: 'The prophet, peace and blessings be upon him, said: '(Spilling) the blood of a Muslim only becomes lawful in three (situations): adultery of widows or divorcees, justice for a killing, and apostasy.' Narrated by Al-Bukhari, Muslim and Abu Dawud, Al-Tirmidhi and Al-Nasa'i. What is mentioned in this hadith as cases in which spilling the blood of a Muslim becomes lawful are some of the exceptions to what is in different repeated verses that prohibit killing, except by way of justice and law, as God's saying: 'Take not life, which Allah hath made sacred, except by way of justice and law,' (Koranic verse; Al-An'am, 6:151) and in other verses.

"However, the religiously allowed killing is not limited to the three cases in the above-mentioned hadith. This is why scholars differ tremendously and have varied opinions as to reconciling the meaning of this hadith, which mentions only three cases where it is possible to kill (a Muslim), with that of other hadiths and verses that state or allude to the taking of Muslim blood being lawful in cases other than the three (mentioned above). An example is regarding the fighting (and killing) of a group of troublemakers where the saying of God, the Exalted, states: 'If two parties among the believers fall into a quarrel, make ye peace between them. But if one of them transgresses beyond bounds against the other, then fight ye (all) against the one that transgresses until it complies with the command of Allah; but if it complies, then make peace between them with justice and be fair. For Allah loves those who are fair (and just).'

(Koranic verse; Al-Hujurat, 49:9). Another example is regarding fighting and killing Muslim highway robbers, the sanction of which is mentioned in His saying, the Great and the Almighty: 'The punishment of those who wage war against Allah and His Messenger, and strive with might and main for mischief through the land is: execution, crucifixion, or the cutting off of hands and feet from the opposite sides, or exile from the land. That is their disgrace in this world, and a heavy punishment is theirs in the hereafter.' (Koranic verse; Al-Maidah, 5:33). And also according to the prophet's saying: 'If two caliphs are recognized, kill the other.' Narrated Muslim after Abu Sa'id. And he also narrated after Ijrifah: 'Whosoever comes to you while your matters are in the hand of one person and wants to disperse you, kill him.' There are many examples of hadiths like these that allow (spilling) the blood of a Muslim in cases other than the three that are mentioned in the hadith narrated by Bin Mas'ud above, even if adopting their content is not a

consensus among scholars. For the sake of being succinct, we do not intend here to pursue the ways of imams and investigate their methods in putting together these hadiths. The point is rather to show that Bin Mas'ud's hadith does not list exhaustively the cases in which (the spilling of the blood of a Muslim) is permitted that are mentioned in other verses and hadiths, examples of which I have mentioned. "The third issue:

"There is another matter that scholars have raised and discussed a lot; they give details of the cases it involves, diversifying its examples, and grasping its regulations in books of fiqh (jurisprudence) and tafsir (explanation of the Koran), as these happened in their eras and their far reaching arms. They have also addressed the fact that it is becoming compulsory among them. This issue is the one known as al-tatarrus (shielding). As the early established scholars did not neglect or overlook this issue, which was a gift from God to following scholars so that they follow their (predecessors') path to verify their proof and understand their arguments and clarifications. 'That (comes) of the grace of Allah to us and to mankind. Yet most men are not grateful.' (Koranic verse; Yusuf, 12:38). The name of this subject is taken from 'shield', the armor that a fighter uses to protect himself from the blows, throws, and stabs of his enemy. It is one of the garments of war, as in the strong hadith narrated by Anas, may God be satisfied with him: 'Abu Talhah and the prophet, peace and blessings be upon him, used to protect themselves using one shield.'

"The unbelievers may use Muslims and protected prisoners as shields to counter Muslim attacks and protect themselves. They put them in places that make it impossible for the Muslim army to reach them and hit them without killing or injuring the prisoners. This serves as an obstacle in front of the Muslim army to stop them from attempting an attack and as a deterrent to attacking and striking. The fact that Muslims shun killing their brothers and hesitate in doing so is inculcated in their hearts, and in addition it is the practice of everyone with respect to his people as has been witnessed. This is also true when it comes to the non-Muslim people under their protection. Therefore this situation can undoubtedly be envisaged, and scholars have raised it mostly because of its occurrence or the strong likelihood of its occurrence. Accordingly, there is hardly any book on fiqh (jurisprudence) that does not mention it or does not append it to the precepts of jihad. I have never seen it mentioned in hadiths of the prophet or in the biographies of the fighting companions in this same particular way that scholars have expressed it, which consolidates the idea that it is something that happened later, after the expansion of the territory of the Islamic state. Anyway, in describing the ways in which the issue of shielding is mentioned by scholars, it appears there are two situations:

"The first situation is one which is compulsory, one in which prisoners who are Muslim or non-Muslim under protection are used as a shield, in such a way that these prisoners are compelled to do this and have no choice but to stay amongst the unbelievers. They cannot protect themselves from the raids of their Muslim brothers either. In fact, those who make them prisoners are using them (as shields), by deliberately putting them in such places as to push back and avoid the raids of the Muslims.

"The second situation is one in which Muslim merchants, people who have become Muslims, or other people, happen to be in the fortresses of the unbelievers and do not leave. Their being there and their continuing to stay there is their choice, and the unbelievers do not mean to use the Muslims among them as shields to protect themselves from the raids and strikes of Muslim armies. The presence of Muslim merchants or the like is due to an agreement. However, if big enough, a raid on the unbelievers leads inevitably or most likely to injuring or killing the Muslims who are among them. This situation happens mostly in jihad talab (offensive jihad).

"The relationship between the first situation and the use of the name shield is closer, stronger and clearer than the second, since the war garment that is a shield is in the hands of the one protecting himself. It is he who moves it and points it wherever he sees danger suddenly overtaking him, so he can push it back. In the second situation, on the contrary, the analogy is based on the fact that the mujahidin stop their raids when they learn of the presence of Muslims in the fortresses of the unbelievers, which results in both unbelievers and other people being spared. In this case, the resident Muslims saved the unbelievers from the raids of the mujahidin even if they did not intend to. They are judged to be like a shield for them because a shield is used to protect against hitting, stabbing and arrows. Their presence led to that (protection). Later, God willing, we will cite the sayings of some scholars, most of whom mention the two situations, but we will mention some of them here briefly so that we can elucidate the issue.

"Imam Al-Jassas, may God have mercy on his soul, said: 'Abu Hanifa, Abu Yusuf, Zafr, Muhammad and Al-Thawri said: There is no harm in raiding the fortresses of the unbelievers, even if there are Muslim prisoners or children (inside). And there is no harm in burning the fortresses with the intention of (harming) the unbelievers. Likewise, if unbelievers used children as shields, the unbelievers are hit' (Ahkam al-Quran, 5:273). He also said: 'If the permissibility of what we have mentioned is confirmed, i.e. raiding the unbelievers while aware of the fact that Muslims are amongst them, something similar is permitted subsequently if they use Muslims as shields, as the aim in either case is to raid the unbelievers and spare other people' (Ahkam al-Quran, 5:273). And Imam Al-Kasani al-Hanafi, may God have mercy on his soul, said regarding both cases: 'There is no harm in throwing arrows at them, even if it is known that there are Muslim prisoners or merchants among them... as the fortresses of the unbelievers are hardly free of a Muslim prisoner or merchant... Likewise, if they use Muslim children as shields, there is no harm in raiding them' (Bada'i al-Sani, 7:101).

"Mentioning the two cases, Imam Shafi'i, may God have mercy on his soul, said: 'If there are Muslim prisoners or entrusted merchants and you fear their being afflicted by the burning and sinking, or the like, that might befall (the unbelievers), I suggest sparing the people used as shields, except when Muslims are in a war clash...' (Al-Umm, 4:257-259). And Imam Al-Mawardi said: 'If there is among them a Muslim and they are not using him as a shield, it is permitted to attack them; on the contrary, if they use him as a shield, it is volitional; if they do not use him as a shield, it is involuntary.' (Al-Hawi, 4:188) "The fourth issue:

"At this point, we will clarify the set of arguments that scholars have relied on to state that it is permitted to raid the Muslim or protected non-Muslims used as shields, or to raid the fortresses and forts that host both unbelievers and Muslims. We will not deal with their preferences as far as this is concerned, nor with the details of their methods of deduction:

"The first piece of evidence: Ijma (consensus of Muslim scholars). Some imams reported the permissibility of raiding the shield, if abstinence from raiding it would put Muslims in danger. The shaykh of Islam (Ibn Taymiyyah), may God have mercy on his soul, said: 'Imams agree on the fact that it is permitted to raid unbelievers, and we mean unbelievers, if Muslims put themselves in jeopardy by not fighting' (28:537). He also said: 'The scholars agreed that if Muslims fear to be harmed, they should fight the troops of unbelievers when they use their Muslim prisoners as shields, even if this results in killing the Muslims used as shields.' (Majmu al-Fatawi, 28:546). He also said: 'For this reason, religious scholars agreed on the fact that when the harm cannot be pushed back from the Muslims without killing those used as shields, it is permitted (to kill the shields).' (20:52)

"The possibility of agreement mentioned by the shaykh of Islam (Ibn Taymiyyah), may God have mercy on his soul, is limited and restricted to the situation in which Muslims are in jeopardy if the unbelievers are not raided, even if that leads, as a consequence, to the shield being killed. In what I have consulted, I have not come across anyone reporting the agreement in this fashion except the shaykh of Islam (Ibn Taymiyyah), may God have mercy on his soul, being who he is in terms of inquiry, investigation, and precision. However this agreement is, God knows, based on the situation in which the harm is real for the community of Muslims. This way, it was mentioned in the Fiqh (jurisprudence) Encyclopaedia: 'Scholars agree on the fact that if not attacking constitutes a real jeopardy to the Muslim community, it is permitted to attack, even when there are shields, because by attacking, general harm is prevented and Islam is protected, while killing a prisoner is a specific harm. The target of the attack should be the unbelievers and not the shield.' Some of the dear brothers brought to my attention the fact that what Al-Qurtubi, may God have mercy on his soul, said, which we will cite fully later, may be concordant with what was reported by the shaykh of Islam (Ibn Taymiyyah) concerning consensus, even if he was not direct in that when he said, after mentioning some rules and constraints that should be satisfied in the case of shielding: 'I said: Maybe it is permitted to kill the shield, and there will be no disagreement, God willing. And that happens when the benefit is necessary, inclusive, and categorical.'

"Notwithstanding this agreement reported by the shaykh of Islam (Ibn Taymiyyah), may God have mercy on his soul, which he became well-known for and which scholars discussed later, there is another opinion with the Shafi'ites who state that attacking a shield is not allowed even in cases of coercion. This opinion, perhaps because of its weakness and its being overwhelmed, was not relied on by those who reported the consensus, nor was it considered to break the consensus. Also, this can be attributed to the fact that the fear was not for a group of Muslims and the majority of them, but rather for some of them, which still spared the unbelievers. In the Fiqh Encyclopaedia the following is inferred in this regard: In case there is fear of harm afflicting the majority of Muslims, then (the unbelievers and the shields) should be raided as consented by the community of scholars, because it is also a case of necessity, one in which the sanctity of the shield is done away with.

"Al-Sawi al-Maliki said: 'Even if the Muslims used as shields outnumber the mujahidin.' In the case of the Shafi'ites it is not permitted, and they justify this with the fact that mere fear does not make the spilling of safeguarded blood lawful. Imam Al-Nawawi, may God have mercy on his soul, said to explain the standpoint of the Shafi'ites: 'If it is necessary to raid them while they are using shields at the time of the clash, and the situation is one in which if we do not attack, we will be defeated and crushed greatly, there are two possibilities. First, it is not permitted to attack if raiding the unbelievers cannot be achieved without hitting a Muslim, because the goal is to spare our lives, and the blood of a Muslim is not spilled out of fear on the basis of the evidence of likeness. The second one, which is correctly dictated and which was used clearly by the Iraqis, consists of declaring permitted raiding with the intention of fighting the unbelievers and sparing the Muslims as far as possible.' (Rawdat al-Talibin, 10:246).

"In conformity with regulations, it is known that even if consensus serves as legal proof, it cannot be made conclusive without being based on evidence taken from the book (Koran), the Sunnah, or Qiyas (juristic reasoning by analogy or inference). Evidence may be readily available to some scholars, while others may miss it, but it cannot be missed by all of them, because the religion is complete and the Shari'ah is also complete; and positing a legal judgment independently and without basing it on one of the two sources is considered legislating and consenting on going astray. The ummah as a whole is safeguarded from that. Even with this, if

the consensus is established, the mufti or the scholar should look for its source just in order to consolidate the proof and support the argument.

"Al-Shirazi al-Shafi'i said: 'Note that consensus happens only when there is proof. So if they (the scholars) agree on a judgment, we know there is some proof unifying them, whether we know that proof or not. And it should also be concluded on the basis of a proof that establishes the judgment, like proof or reason in judgments, the text of the book (Koran) and the Sunnah and their essence, the deeds of the prophet, peace and blessings be upon him, and his decisions, and Qiyas.' (Al-Lama, 51). The reason why I am recalling this rule of conforming to regulations is that we will use it in mentioning some proof below, which the scholars used to establish this judgment. These (proofs) can be in themselves, or together, the basis of consensus and its reliability.

"The second proof is that the prophet, peace and blessings be upon him, used the catapult against the residents of Al-Ta'if, although there were women and children there. Similar situations lead to mass killing much of the time. In a similar fashion, the leaders of the Muslims and their troops of companions, may God be satisfied with them, would use catapults to raid fortresses, even when they knew that those whose killing was banned lived there, like women, children and so on.

"Imam Abu Yusuf, the companion of Abu Hanifah, peace on them, said about his discussion of Al-Awza'i: 'If raiding and fighting the unbelievers is forbidden while Muslim children and women are amongst them, then it would also be forbidden when their women and children are amongst them. The prophet, peace and blessings be upon him, did not allow for the killing of women, children and babies. The prophet encircled the residents of Al-Ta'if, Khaybar, Quraydha and Al-Nadir. From what has reached us, the Muslims defeated them as severely as they could, and we have also learnt that the catapult was used against the residents of Al-Ta'if. So, if Muslims should abstain from attacking the unbelievers if there are children in their battlefields because the prophet, peace and blessings be upon him, forbade that, they would not have been raided, because their cities and fortresses are replete with children, the very elderly, the young, prisoners and merchants. And the event in Al-Ta'if is well known in the Sunnah and practices of the prophet, peace and blessings be upon him. Also, the Muslims and the pious ancestors from the companions of Muhammad, peace and blessings be upon him, followed the same path before us with respect to the fortresses of the non-Arabs. It was not reported to us that any one of them abstained from raiding or using any other means of force in a place where there were women or children or a place where there appeared to be those whose killing is not allowed.' (Reply to Sirat al-Awza'i, 66). Narrated by Imam Al-Shafi'i, may God have mercy on his soul in (Al-Umm, 7:350).

"As to the encircling of Al-Ta'if by the prophet, peace and blessings be upon him, it is in the Sahihayn (the two most accepted books of Hadith). As to raiding them using the catapult, it was narrated by Abu Dawud in Marasil after Thawr after Makhul: 'The prophet, peace and blessings be upon him, used a catapult against the residents of Al-Ta'if.' Al-Hafidh Bin Hijr said: 'It was narrated by Al-Tirmidhi, but did not mention Makhul; rather, he mentioned it as being problematic after Thawr. And Abu Dawud narrated after Mursil Yahya Bin Abu Kathir and said: 'The prophet encircled them for a month, said Al-Awza'i and I told Yahya: Was it reported to you that he raided them using a catapult? He denied that and said: We do not know what that is! And Abu Dawud narrated in Al-Sunan from two sources that he encircled them for more than 10 days. Al-Suhayli said it was reported by Al-Waqidi as mentioned by Makhul.' (Talkhis al-Habir, 4:104). Imam Al-Jassas al-Hanafi, may God have mercy on his soul, said, using the tradition mentioned by Makhul as proof: 'The people dealing with the practices of the prophet reported

that the prophet, peace and blessings be upon him, encircled the residents of Al-Ta'if and raided them using a catapult, while he, peace and blessings be upon him, forbade killing women and children. And he knew, peace and blessings be upon him, that he might hit them, but he did not allow targeting them by the killing. This served as evidence that the presence of Muslims amongst unbelievers should not prohibit the unbelievers from being attacked if what is meant is attacking the unbelievers and sparing the others.' (Ahkam al-Quran, 5:273).

"As is apparent from the sayings of the two imams, Abu Yusuf and Al-Jassas, using the Al-Ta'if story as evidence is in two parts and organized into two introductions. First, the happening should be ascertained, and thereof, it will be possible to use it as evidence for the permissibility of raiding fortresses that host the women and children of the unbelievers, even if it is known that they are amongst them. Second is the correctness of Qiyas and adding Muslims to the children and women of the unbelievers in this judgment on the basis that the shared (characteristic) is that it is legally forbidden to kill any one of them, even if the degree of sanctity differs, since as is known and resolved, the sanctity of Muslims is greater.

"As we have seen, the tradition is incomplete. As it is well-known and much used by scholars as proof, and they have discussed it and relied on it in some of the judgments, it is not unlikely that it has a source. There is especially some proof that shares with it the origin of the judgment, like those that are cited for the permissibility of al-bayat (raiding the enemy at night while there are women and children amongst them). As we have mentioned after Imam Abu Yusuf, the practices of the companions (of the prophet) and after them the leaders of the conquests followed suit. It is necessary that they had a clue from (religious) science, and they left various examples of using catapults to raid the fortresses of the unbelievers even if their women and children were also present. Some scholars even reported the consensus of scholars in the generality of the permissibility of raiding the fortresses of the unbelievers, even if there are women and children amongst them, using as proof the story of raiding Al-Ta'if already mentioned above. As Bin Rushd, may God have mercy on his soul, said: 'On the basis of what was reported about the prophet, peace and blessings be upon him, when he set the catapult on the residents of Al-Ta'if, the majority of scholars agreed on the permissibility of raiding the fortresses by catapult, irrespective of their hosting women and offspring.' (Bidayat al-Mujtahid, 1:282). Anyway, if this consensus is valid, it helps do without using Makhul's tradition as a source and relying on it independently. The question remains open as to the validity of Qiyas between a fortress with Muslim prisoners, children and merchants and one with the women and children of unbelievers and whether it is permitted to raid all of them using catapults, or any other (weapon). Some imams accepted this Qiyas and used it as proof, while others did not. The intention here is just to mention the proof that scholars relied on in the issue of shielding without looking at any preferences or corrections."The third proof: There are hadiths that made al-bayat (raiding by night) permissible. Al-Sa'b Bin Juthama narrated that the prophet, peace and blessings be upon him, was asked about the people of the house that would be raided at night, and the women and children that would get injured, and he said: 'They are one of them' (hadith) agreed upon. And Usamah Bin Zayd, may God be satisfied with him, said that the prophet, peace and blessings be upon him, confided to him and said: 'Attack Abna in the morning and burn.' Narrated by Abu Dawud and Bin Majah. Salamah Bin al-Akwa, may God be satisfied with him, said: 'The prophet, peace and blessings be upon him, ordered us through Abu Bakr so we conquered some people from the unbelievers and we attacked them by night and killed them. Our motto that night was kill, kill.' Salamah said: 'That night, I killed with my own hands seven households of unbelievers.' Narrated by Ahmad and Abu Dawud. Imam Abu Bakr al-Jassas said after mentioning these hadiths: 'And he, the prophet, peace and blessings be upon him, ordered the brigades to give time to those they were going to attack. If they called for prayer, they abstained from (attacking) them; if they did not, they attacked. The orthodox caliphs followed suit, and it

is known that whoever attacked these people would inevitably hit their children and their women whom it is forbidden to kill. Likewise, if there are Muslims amongst them, that should not prevent attacking and throwing arrows at them and the like, even if there is a risk of hitting a Muslim.' (Ahkam al-Quran, 5:274)

"The fourth proof: Making permissible the raiding of unbelievers who use Muslims as shields by way of Qiyas by raiding them in their fortresses using catapults even if there are Muslims, such as merchants, prisoners and so on, amongst them. In this respect, Imam Abu Bakr al-Jassas, may God have mercy on his soul, said: 'If it is established that it is permissible to attack unbelievers while conscious that there are Muslims amongst them, then something similar becomes permitted if they use Muslims as shields, because the intention in either case is attacking the unbelievers and not others.' (Ahkam al-Quran, 5:275)

"The fifth proof: Preventing the worse of the two evils by doing the lesser of the two, or preventing general harm by doing specific harm. This is a rule that is agreed on amongst scholars, even if there is divergence as to its deduction from its specifics. The worse evil prevented here is the tumult, harm and great evil that ensues from abstaining from jihad for the sake of God because of the prisoners, merchants, and so on, that are held captive by the unbelievers. The issue is one that is around necessity and need. In either case, what is at stake is preventing the worse of the evils by committing the lesser one. The first one occurs when jihad is needed when the unbelievers attack the houses of Islam, as major harm is afflicted on Muslims if jihad is given up. This leads to the hegemony of the unbelievers and their destroying religion and existence, as (God) the Exalted, said: 'Tumult and oppression are worse than slaughter.' (Koranic verse; Al-Baqarah, 2:191.) He, the Great and the Almighty, said: 'Tumult and oppression are worse than slaughter.' (Koranic verse; Al-Baqarah, 2:217.) The second one does not rise to the status of necessity, when jihad is one of talab (jihad of offense). Giving it up because of women, children and merchants dwelling amongst (the unbelievers) will lead to a dysfunction in jihad, which was ordained by religion, especially if the unbelievers are aware of the fact that it will make the Muslims abstain from (attacking) them. And maybe they would use it on purpose to avoid Muslim attacks on them. The shaykh of Islam (Ibn Taymiyyah), may God have mercy on his soul, said: 'And equally in the rubric of jihad, even if it is forbidden to kill women and children who are not involved in fighting, whenever there is a need for an attack that might include them, like using a catapult or attacking by night, that is permitted as happened in the Sunnah when Al-Ta'if was encircled and attacked by a catapult, and there were family members (children and women) staying there the night. This is preventing the evil of tumult through killing those whom it is forbidden to kill. Likewise, in the issue of shielding that was mentioned by scholars, jihad is preventing the tumult of disbelief that results in harm other than the tumult itself. For this reason, the scholars agreed that whenever it is not possible to prevent harm to Muslims without killing those used as shields, it becomes permitted (to kill those used as shields). Even if the harm is quite clear, it will not be possible to carry out jihad without resulting in killing them. There are two cases: The one which allows/accepts that their death is for the sake of jihad and is analogous with the death of Muslims when fighting (for Islam), in which case they are martyrs.' (Majmu al-Fatawi, 20:52-53) He also said, may God have mercy on his soul: 'It is undeniable that the requirement is that the punishment, if possible, does not go beyond the culprit. Nevertheless, if the evil in not punishing the culprit is worse than the evil in punishing the non-guilty, the worse of the two evils is prevented by doing the lesser of the two. It is like the case in which the prophet, peace and blessings be upon him, attacked the residents of Al-Ta'if with the catapult, even if the catapult might hit women and children. In the Sahihayn, Al-Sa'b Bin Juthama asked the prophet, peace and blessings be upon him, about the unbeliever households that were attacked by night and their children got hurt, and he said: 'They are one of them.' And if a pregnant woman assailed safeguarded lives and money (possessions), and her

attack is prevented only by killing her, she is to be killed even if her foetus dies, too. (Minhaj al-Sunnah al-Nabawiyah, 6:43). He also said: 'Muslim narrated in his Sahih about the prophet, peace and blessings be upon him, the story of the people of the furrow, and in it a youngster ordered his own death for the sake of religion. For this reason, the four Imams permitted that a Muslim pierce the lines of the unbelievers even if he is almost sure that they will kill him if there is a benefit for the Muslims in his deed. So if a man does something that he believes will result in his death for the sake of jihad, while it is known that killing himself is much more serious than killing someone else, the deed has primacy that leads to killing the other for the benefit of religion, which would not take place otherwise; likewise, preventing the harm of the enemy that spoils religion and the world that would not happen without that has primacy.' (Majmu al-Fatawi, 28:540). He also said: 'The imams agree that it is permitted to attack unbelievers who are using Muslims as shields, when there is fear for the Muslims if they do not fight. And we mean the unbelievers. If, however, we did not fear for the Muslims it is permitted to hit those Muslims according to a saying of the scholars. And whoever gets inherently unjustly killed for the sake of the jihad that God and his prophet ordained is a martyr and is resurrected according to his intention. His death is not a more serious evil than killing those believer mujahidin that get killed. And if jihad is a must, it is not more serious than this if Muslims get killed as much as God wills and those Muslims who get killed in their ranks (of the unbelievers) for the requirements of jihad.' (Majmu al-Fatawi, 28:537)

"Imam Al-Sarkhasi said: 'And so is the case when they use Muslim children as shields; there is no harm in raiding them even if the raider knows that he may hit Muslims... We say: Fighting them is a must, and if we give that up because of what they do (using shields), this results in closing the door of fighting them. And since Muslims get harmed because of this (when used as shields), they abstain from attacking because the unbelievers have used children as shields. As such, the unbelievers get bolder towards the Muslims, and may be they will injure some of them if they manage to get close to the Muslims. This harm can be prevented.' (Al-Mabsut, 10:53). And in Al-Hidaya (2:173): 'There is no harm in raiding them even if there is a Muslim prisoner or merchant amongst them, because a general benefit ensues from attacking them, defending Islam; while killing the prisoner or the merchant is a particular benefit. And since there are hardly any fortresses that do not host Muslims, abstinence (from attacking) because of them is a dead end (for jihad). If they (unbelievers) use Muslim children or prisoners as shields, raiding them is not abstained from on the basis of what we have clarified.' And Al-Abadi al-Hanafi said: His words 'There is no harm in raiding them even if there is a Muslim prisoner or merchant amongst them' mean attacking them by throwing arrows, stones or using the catapult, since doing so would prevent the general harm by defending the community of Muslims, while killing the merchant and the prisoner engenders particular harm.' (Al-Jawhara al-Nayira, 2:258).

"Imam Al-Nawawi said, when enumerating the sayings of the Shafi'ites concerning the issue at hand: 'The second one is the correct and the dictated one, and it is the one that the Iraqis decided clearly on - the permissibility of hitting with the purpose of fighting the unbelievers and avoiding the Muslims as far as possible, because the evil that results from abstaining (from attacking the unbelievers) is much worse than that of venturing (an attack on them). And it is not unlikely to bear a group to defend Islam and respect the comprehensive matters.' (Rawdat al-Talibin, 10:246). And Ibn Hijr al-Haitami al-Shafi'i said: 'And if there is among them one Muslim or more, be they a prisoner or a merchant, it is permitted, in other words encircling them and killing them with something that might be massive, and taking them by surprise at night, even if it is known that a Muslim might get killed in the process. It (killing shields) should be avoided as far as possible, so that they do not prevent us from jihad by imprisoning a Muslim' (Tuhfat al-Muhtaj, 9:242). Imam Ibn Qudamah, may God have mercy on his soul, said: 'And if they use Muslim prisoners or people protected by Muslims as shields, it is not permitted to

attack them except when there is a war or in case there is fear for the Muslims. Since they are safeguarded in themselves, it is not allowed to ruin them by necessity. In case there is necessity, it is allowed to attack them for the sake of saving the army, which is more important (Al-Kafi, 4:268). "The fifth issue:

"In explaining the reality of the harm - on the basis of preventing which the scholars made permissible striking the Muslim used as a shield or raiding a fort that hosts Muslims - and in meditating their sayings about the reasons for which they made striking the unbelievers possible while they are using Muslim shields in such a way that they get killed, we notice that the axis around which the matter revolves is the prevention of the harm expected if the mujahidin abstained from doing so. The shaykh of Islam (Ibn Taymiyyah) even stated, as we have seen earlier, that attacking in this very case is consented to by imams even if it results in killing the Muslims used as shields. So the harm that is mentioned and that is used to justify the judgment should have a clear and specific meaning that these imams associate with it, even if they have expressed it in numerous ways, as we will see. That is what we will try to infer from their words in this section.

"Among those (reasons) is the usurping of Muslim homes by unbelievers and their control over them. There is no doubt that this is the most serious of all evils and the source of their mischievous deeds. From this branches other subsidiary evils and misfortunes that are mentioned by the scholars, but these presumably could not spread if the unbelievers did not have primacy and control over all the country, which enabled them to do whatever they pleased. Here are some of the sayings and texts of scholars. In this connection, Imam Al-Qurtubi, may God have mercy on his soul, said: 'I said: It may be permitted to kill the shield, and there is no divergence on this, God willing, if the benefit is necessary, comprehensive and absolute. By 'necessary' is meant the fact that unbelievers can be reached only by killing the shield. The meaning of comprehensive is that it is categorical for all the ummah, so that in killing the shield, there is benefit for all Muslims. Otherwise, the unbelievers kill the shield and control all the ummah. And the meaning of absolute is that the killing of the shield is decisive in making the benefit take place. Our scholars said: Constrained this way, this benefit should not be subject to divergence while being considered, because, in principle, a shield is dead anyway. So if the matter is in the hands of the unbelievers, the major evil takes place, in other words the unbelievers have control over all Muslims. If it is in the hands of the Muslims, the enemy perishes and the Muslims are all safe. It is inconceivable that any wise person would say: The shield should in no way be killed, because what will ensue from it is the vanishing of the shield, Islam and the Muslims. But as this benefit is not without an evil side to it, it is shunned and not scrutinized. That evil is nothing, or next to nothing, with respect to what can result from it. And God knows best.' (Tafsir al-Qurtubi, 16:287). And from the words of Imam Al-Qurtubi, may God have mercy on his soul, the major evil for which killing a shield is made permissible is clearly stated, and that is the unbelievers taking control and having superiority over the ummah. And this is the source of all evils, as we have pointed out before, with the result being the shield, Islam and the Muslims all perishing. By having control and superiority over the ummah, all matters are in the hands of unbelievers, and everyone knows the extent to which they hate Islam and Muslims, and they are awaiting misfortunes that might befall them. They will not be satisfied will less than (seeing) the ummah completely give up and reject the religion of God. In order to achieve this they will use everything possible: incitement, terror, deceit, cunning, covering and fraud. God, the Exalted, said: 'If they were to get the better of you, they would behave to you as enemies, and stretch forth their hands and their tongues against you for evil, and they desire that ye should reject the Truth.' (Koranic verse; Al-Mumtahinah, 60:2). He, to whom be ascribed perfection, said: 'Never will the Jews or the Christians be satisfied with thee unless thou follow their forms of religion. Say: The guidance of Allah, that is the (only) guidance,

wert thou to follow their desires after the knowledge which hath reached thee, then wouldst thou find neither protector nor helper against Allah.' (Koranic verse; Al-Baqarah, 2:120). And He, to whom be ascribed perfection and majesty, said: 'Nor will they cease fighting you until they turn you back from your faith if they can. And if any of you turn back from their faith and die in unbelief, their works will bear no fruit in this life and in the hereafter; they will be companions of the fire and will abide therein.' (Koranic verse; Al-Baqarah, 2:217). Verses like these are known and are numerous. Imam Al-Nawawi said: 'If there is necessity to raid them and they were using them as shields in case there was a clash and the situation was such that if we abstained (from attacking) they would win and crush us, there are two possibilities... and the second one is the correct one and the one dictated and it is the one that the Iraqis clearly decided on - the permissibility of attacking with the purpose of fighting the unbelievers and avoiding the Muslims as far as possible, because the evil that results from abstaining (from attacking) is much worse than that of venturing (an attack). And it is not unlikely to tolerate a group to defend Islam and respect the comprehensive matters.' (Rawdat al-Talibin, 10:246). Al-Ghazali, may God have mercy on his soul, said: 'The reality in terms of the ranking of the necessities is not difficult to reach with ijthihad (working out religiously licit solutions to new situations), even if no specific source for it has been witnessed. For example, if the unbelievers used a group of Muslim prisoners as a shield, and we abstain from attacking them, they would hit us, prevail over the home of Islam, and kill all the Muslims. And if we hit a shield, we would kill a safeguarded Muslim who did not do anything wrong, and this has never been the case in (Islamic) law. If we abstained, we would embolden the unbelievers over all the Muslims so that they kill them and kill the prisoners as well. So it is possible to think: this prisoner is dead anyway, and safeguarding all the Muslims is closer to what is intended in religion, because we definitely know that what is intended in religion is minimizing the killing, as well as preventing it altogether as far as possible. If that is not possible, we could at least minimize it.' (Al-Mustafa, 1:176) And he has in this respect elaborate and valuable sayings, which we do not cite entirely for the sake of brevity. These should be reviewed because of their importance in explaining the issue.

"Some expressions were also mentioned that contained fear for the Muslims, preventing the harm, and stopping the unbelievers from spoiling religion and existence without going into the details of what this fear, harm and evil really are. However, it is undoubted that the first thing that would happen is the unbelievers' superiority, their subduing Muslims, their changing the laws of Islam, their making spilling their blood permissible, and their dishonoring (the Muslims), and their usurping their money. These are the worst evils and the greatest harms that it is feared Muslims could be afflicted by. This is why the shaykh of Islam (Ibn Taymiyyah), may God have mercy on his soul, said: 'So if a man does what he believes will result in his death for the sake of jihad, while it is known that killing himself is much more serious than killing someone else, the deed has primacy that leads to killing the other for the benefit of religion, which would not take place otherwise; likewise, preventing the harm of the enemy that spoils religion and the world, that could not happen otherwise, has primacy.' (Majmu al-Fatawi, 28:540). He also said, in what we have cited earlier: 'The scholars agreed that if Muslims fear to be harmed, they should fight the troops of unbelievers when they use their Muslim prisoners as shields, even if this results in killing the Muslims used as shields.' (Majmu al-Fatawi, 28:546). He also said: 'Likewise, in the issue of shielding that was mentioned by scholars, jihad is preventing the tumult of disbelief, and that results in harm other than tumult itself. For this reason, scholars agreed that when the harm cannot be kept from the Muslims without killing those used as shields, it is permitted (to kill the shields)' (20:52). Ibn Muflih al-Hanbali said: 'And if they use Muslims as a shield, there is a text for the fact that we raided them targeting the unbelievers only if we are feared for; it was also said (that it was possible) in case there was war; otherwise, it is forbidden.' (Al-Furu, 6:197). Some scholars, most of whom are Hanifis, even

mentioned that raiding the fortresses of the unbelievers using catapults and the like, with the intention of mass killing, is allowed even if there are Muslims amongst them. This is due to the fact that abstaining from it for that reason does not lead to a dysfunction in jihad, which is ordained by religion, and in order that the unbelievers do not use it as an excuse to prevent Muslims from conquering them. What is clear from their sayings here is that this aspect is more likely in jihad talab (jihad of offense). Imam Al-Kasani, may God have mercy on his soul, said: 'There is no harm in throwing arrows at them even if they know there are Muslim prisoners and merchants amongst them as there is necessity for this. In all events, the fortresses of the unbelievers are hardly free of a Muslim prisoner or merchant, and considering him will lead to closing the door of jihad' (Badai al-Sani, 7:100). And Imam Al-Sarkhasi said: 'But we say: Fighting them is a must, and if we give that up because of what they do (shielding), this results in the inhibition of fighting them. And since Muslims get harmed because of this, they abstain from attacking because they have used children as shields; accordingly, they get emboldened over Muslims, and may be if they manage to get close to the Muslims, they can injure some of them, and the harm can be pushed away' (Al-Mabsut, 10:65). The sayings of the scholars in this respect are numerous, and most of them revolve around what we have reported. Anyway, generally speaking, we can summarize in the following points what they mentioned about the feared harm on the basis of which they decided it was permissible to raid the shields:

"First is fear of the unbelievers taking control over the homes of Muslims and tyrannizing them.

"Second, their superiority over the home of Islam leads to spoiling religion and existence, and this encompasses unlimited examples and manifestations of evils.

"Third is the fact that abstaining from raiding them because of any Muslims amongst them leads to a dysfunction in the duty of jihad.

"Fourth, if the unbelievers know that Muslims avoid raiding them for the sake of those Muslims among them, they use that as a means of protecting themselves and preventing Muslims from fighting them.

"As we see, some of these aspects are specific to jihad al-daf (jihad of defense), which is greater and more serious, while others can be aspects of jihad al-daf and talab (jihad of defense and offense) alike. For this reason, the shaykh of Islam (Ibn Taymiyyah), may God have mercy on his soul, distinguished between the two types of jihad and showed that jihad al-daf is of greater importance and more certainty than that of talab: 'As to the fighting for the sake of pushing back, it is the strongest type of pushing the assailant back from what is forbidden and from religion. It is compulsory by consensus, as there is nothing, after belief, that it is more compulsory to push back than an assaulting enemy. So there are no conditions attached, but he should be pushed back as far as possible. The scholars who are our friends, and others, have established this on the basis of texts, and a distinction should be made between pushing back an assailant and having him wanted in his country.' (Al-Fatawi al-Kubra, 4:608). And the words of the shaykh of Islam (Ibn Taymiyyah) in describing the assaulting enemy as spoiling religion and existence is but a revealing description, and not a restraining one, in the sense that any assaulting enemy is considered to be spoiling religion and existence and this description cannot be dissociated from him (the enemy) even for a moment. What applies to him accordingly, by consensus, is the necessity of pushing him back. And this is the reality/status of all enemies who have assailed the homes of Muslims in the past or the present, which means that denying this matter and arguing it is shunning the tangible and irrefutable matters. "The sixth issue:

"To what extent do some or all the harms that the scholars dictated apply to our current reality and fields of jihad?

"What is not in doubt is that the harms that the unbelievers afflict on the countries of Muslims in the West or the East are so clear that even the blind can see them. Also, their widespread evil has affected all rubrics of shari'ah and distorted, destroyed and inhibited its bases and aspects. There is also their killing, eviction, looting and usurping. So many of the countries of Islam that were castles of righteousness, lighthouses of science, and fortresses of justice have become -- after the unbelievers overtook them and had superiority over their residents -- homes of disbelief and sources of wickedness and evil. There are only mourning remnants that show that these homes were once under the rule and reign of Islam, as is the case nowadays with the forgotten Andalusia (Spain), the weakened Palestine, many of the Soviet republics, eastern Turkestan, and many others. This is in addition to the countries that are ruled by apostate leaders and were made to overwhelm their people. Accordingly, they uprooted religion in them and set instead rules and legislatures, the conflict and contradiction to Islamic rules and its details of which only a stupid ignorant or a hypocrite that has gone astray would dispute. If the Islamic identity of those countries has been alienated, it is only because of the supremacy of the unbelievers and their subduing their inhabitants, so that they apply their judgments, beliefs, conceptions, ideas, approaches, and their habits to the inhabitants, so much so that their new generations know of Islam only by its name. Worse, things are upside down in those countries so that their inhabitants are more hostile to Islam and Muslims than are the Christians and the Jews. They have also become harsher and more tyrannical towards Muslims than their original enemies, who attacked these homes with their huge numbers of troops, were. The Muslim does not have to go far or think hard back in time to find this reality and look for it painstakingly. Just have a glimpse at Afghanistan, and compare the state of its cities and inhabitants - especially Kabul - when they were under Islamic rule and how they have come to look now, in their suffering under the power of the forces of the crusaders and their enslaved assistants. The whole matter did not take more than four years. And do not think that the matter is limited to ruining the morality and spreading pornography, immorality, and adultery only, major and serious as this danger might be. The worse thing is the raising of entire generations on excessive admiration and utter dependence on the unbeliever occupants and captivation to their beliefs, ideas, and manners, while detaching, renouncing and shunning all that is related to Islam, and even declaring animosity to it. There are many of these nowadays, may God limit their number. Thus, we notice that the agents of the crusade and their delegates, who take care to protect them with iron and fire and spread their ideas through the different mass media, are much more hostile and detrimental to Islam and Muslims than are their masters who supply them, direct them, and back them up. How could these generations have risen and these criminals have been educated if the unbelievers were not dominant and did not have the government in their hands, running the matters (of these countries) as they wished. What could be expected from those people who God revealed what was inside their hearts and souls, those who: '...will not fail to corrupt you. They only desire your ruin. Rank hatred has already appeared from their mouths. What their hearts conceal is far worse. We have made plain to you the signs, if ye have wisdom. Ah ye are those who love them, but they love you not, though ye believe in the whole of the Book. When they meet you, they say: 'We believe,' but when they are alone, they bite off the very tips of their fingers at you in their rage. Say: 'Perish in your rage; Allah knoweth all the secrets of the heart.' (Koranic verses; Al-Imran, 3:118-119) 'The wish of those who follow their lust is that ye should turn away (from Him), far, far away.' (Koranic verse; Al-Nisa, 4:27)

"So the truthful and enlightened Muslim should not be in any doubt about the emergence of the worst of evils and harms and greatest defeats as a result of the dominance that unbelievers have on the homes of Muslims. This dominance is direct, as is the case with the countries that have

been attacked by the troops of the unbelievers. It can also be indirect through their agents and delegates that follow well laid out plans and well traced steps to alienate the ummah from its religion and deprive it of its rules, in paving the ground for its offspring to be ready to fight its God and its religion. All the mishaps feared to befall Muslims, or those that religion has warned against and urged to avoid, are now deeply rooted in the Muslim countries. The biggest lesson that God set the Muslims, one that has been there for centuries as a reminder, is the loss of Andalusia, a country that was the most beautiful and richest of their homes and the strongest of their fortresses. Now Muslims have forgotten it. It went away from their memories as though it had never radiated with the light of science, nor swarmed with the soldiers of conquest. An analogous situation is in Palestine, so much so that it has almost been robbed of its name, just the same way its land and its rule were robbed, and much of it is known as Israel. This is what will happen in Afghanistan, Iraq and other Muslim countries if no initiative is taken. Taking time to state these facts and proving they are true is just stating the obvious. But we are in an era of sophistry, disputing the conclusive facts, and denying the clear-cut testimonies. These colonizing armies and their apostate agents, undoubtedly an assailing enemy, are spoiling religion and existence intrinsically and extrinsically and are ruining women and descendants.

"As far as raising the generation is concerned, there are ones who raise generations that are enemies of God and His prophet, even though (members of) them speak our languages and go by our names. Their hearts are impregnated and their minds inculcated with apostate thoughts and unbeliever satanic approaches in the name of civilization and development. So where did (Iyad) Allawi, (Ibrahim) al-Ja'fari, (Hamid) Karzai, (Mahmud) Abbas, (Husni) Mubarak, (Mu'ammarr) al-Qadhafi, and others from the scum of apostate leaders and their tyrannical soldiers come from? Similarly, where did their like among the so-called enlightened thinkers come from that went deep into religion to shake its foundations, spread their poison and their thoughts that cast doubt over its beliefs and foundations, and make people confused about their true religion and make it the permitted place of every apostate, with no accounting or guarding.

"And at the level of beliefs, it is they who support all the practices of disbelief, be they in terms of worshipping, jurisdiction or judgments, and spread them in various ways, endlessly and generously devoting to them millions and mobilizing their troops, power and facilities. On the other hand, they bolt the doors of science that reveals to people the truth and teaches them their religion, at the same time as opening the doors wide for the heretic, those who have gone astray and the apostates. These they strengthen, back up and encourage to develop their ideas. India is but one example, where the English created and raised groups like these, and from whose evils the ummah is still suffering and whose ideas it is still fighting, and these ideas only get more persistent, stronger and more developed.

"And at the level of government, at the hands of these colonizing countries and their followers and their slaves, Islam is eliminated totally from government and its methods are changed and its rules replaced. The laws imported are imposed on people to govern them in terms of their blood (lives), money and honor. The psyche of the Muslim is moulded on not feeling the seriousness of the matter, and people get used to this kind of life. They also get accustomed to contradictions. It is not strange to find the first sentences in the constitutions of these countries that believe they are Muslim countries read as follows: 'Islamic shari'ah is the primary source of jurisdiction,' and the remaining points and contents are not even put at the end of the list in terms of practising them, carrying them out and respecting them. It is in fact a war on its judgments, destroying its principles and stripping its people of all values and morals." At the level of morals; disintegration, pornography, immorality, drinking and effeminacy are the creed and signs of development. On the contrary, anything other than that is considered stagnation, underdevelopment and extremism. This is what the media is based on. It is their backbone, their

common circle, and their primary nourishing source. That did what it did to the minds and hearts of the young Muslim people in an unprecedented way. The Muslim girls and women have become easy prey for the most abominable, dirtiest and most despicable creations. And lying, cheating and manipulating have become traits of the people and their manners.

"As far as respecting the law is concerned, whatever one can expect and whatever crosses their mind in ways of disbelief and despising rules and ridiculing them is widespread or may be well known and habitual. The worst and most serious of these are: blaspheming God, to Whom be ascribed all perfection and majesty, His great religion, and His great noble prophet; ridiculing the people who perform their prayers as well as their looks and their guidance; and ridiculing the veiled women and even all aspects of commitment and clean practices. All of this is done openly in the mass media in different ways and using various means.

"As to the damage done to Muslims for the sake of oppression and power, the pursuit of the righteous, and the blatant breaching of the honor of the free in the dungeons of prisons, this context is not sufficient to talk about that, and even collections will not be enough, as the cases are countless, and circumscribing the details impossible. The eyes of the person, if he is not blind, are his guide, and the pages of reality bear witness for those who just want a cursory read. So who is responsible for all that? And who sustains these evil and stray sources, nourishes them and strengthens them? And who seals the mouths of the pious, pursues them, puts them in the dungeons of prisons and denotes them using the meanest and most despicable descriptions so that they drive people away from them and get in between them and the people? And who pursues and evicts those who want to change immorality using their hands and inflicts on them serious harm? And who fills the hearts of people with a terror of trying to support those taking in charge righteousness and the mujahidin for the sake of God?

"This and other proof is definite evidence of the evil and harm that scholars have alluded to in the issue of shielding, and for which they permitted attacking the shields even if that would lead to killing any one among the Muslims. All of this proof is there, widespread and growing every day, with their kinds (of proof) getting different every now and then. The fire of one defeat is not yet extinguished when another one bursts out, and the enemies provide fuel for it with their cunning and their deceit, back it up with their power and protect it with their agents. The scholars made that permitted (out of fear of harm), in other words to avoid it and push it back before it occurs. Today, however, that harm is there, established and witnessed. The matter changed from pushing back (the harm) to getting rid of (it), and from fear of harm changing to repairing the harm and uprooting it. The reason that the scholars settled unanimously on the permissibility of hitting a shield is undoubtedly present and is even more certain, stronger and clearer. This matter should be taken into consideration and accepted by the various agents.

"However, taking the judgment from the sayings of these scholars does not stop here, nor should it be deduced from this introduction alone. Rather, there should be consideration of what they have mentioned as constraints, clarified as limits and respected as influencing cases and shapes, so that the judgment is put in its right place. Also, this way, these scholars are not made to say what they have not said, nor is what was not their belief and adoption attributed to them. We seek God's help.

"It seems to me, and God the Great knows, that the case of necessity or fear from harm that the judgment was based on, and which consisted of hitting a shield, can be divided into two parts:

"The first one deals with general, comprehensive harm related to the hegemony of the unbelievers over the homes of Muslims. This is related to the root of starting jihad against them

and is one of the most important reasons for its necessity in this era. It is a necessary consequence of the supremacy of the unbelievers in Muslim countries, which some scholars express as ruining religion and existence. This general matter supports the necessity of continuing jihad and not accepting any replacement as it is a legal matter that is compulsory in the first place. Whatever the other means and ways are, they just extend time for the evil and are an opportunity for unbelievers so that they can become established and spread their poisons, turning Muslim life upside down and modelling it according to their will and whimsical inclinations.

"The second part: One type of harm that afflicts Muslims is related to each military operation in isolation and that is part of the overall general jihad work and is considered one of its components and main parts. This requires many issues in assessing the harm and the extent to which it may be realized in hitting this purpose specifically. It also requires the possibility of getting rid of it in this specific way and its being limited to it, since the goal will not be reached except when this specific method is adopted. In this, there are various viewpoints and ijthad differs. Accordingly, it is not enough, as it seems and God knows, to use as justification the fear of the general harm that occurs when unbelievers occupy the countries of Muslims, nor considering all cases of the presence of the individuals of occupation amongst Muslims analogous to the shielding issue that was mentioned by the scholars. It is imperative to examine each case in isolation, delimit the expected benefits, and know the extent of the harm that will be eliminated by hitting the intended military target in that operation. All of this has to be undertaken while watching the rules and constraints that the scholars have mentioned and that we will discuss in the following point.

"Dr. Muhammad Khayr Haykal said: 'The meaning of the necessity of fighting: in the legal (fiqh) literature, the necessity is described in different manifestations among which can be stated the fact that the enemy attacks the Muslims and that the Muslims are in a state of war with the enemy in the battle; if the Muslims do not fight back (so as not to hurt the shield), then they will be seriously harmed, defeated, exterminated or hurt in some other way. What I see here is that the necessity that pushes the Muslim army to engage in a war with the enemy, in spite of their using human shields, depends on the authority in charge's evaluation of the situation and of the circumstances. In particular circumstances, the war might be necessary even if the shield used as protection by the enemy is composed of numerous Muslims who will perish because of the war. In other situations, the war might not be that necessary to be engaged in, so the authority in charge decides that the good lies in stopping the war with the enemy or stopping it just because the enemy has taken a very light human shield to protect him, even if this shield is a non-Muslim person under Muslim protection, or even if this shield contains women or children belonging to the enemy.' (Al-jihad wa al-qital fi al-Siyasa al-Shar'iyah, 2:1330) "The seventh issue:

The cases and conditions in which the scholars of Islam permit attacking the shield.

"Maybe some people might not notice the difference between this issue and the previous one and confuse them, thinking they are the same. The first issue is concerned only with clarifying the reason why it is permitted to hit the shield, in particular the point of agreement mentioned by the shaykh of Islam (Ibn Taymiyyah), in other words when there is fear of Muslims getting injured by the unbelievers if the shield is not hit. This issue, on the other hand, is concerned with the conditions and the constraints that have to be met - according the scholars of Islam - so as to permit hitting the shield. Then, it cannot be said that if there is fear of the Muslims being harmed, it is permitted to hit the shield unconditionally. There has to be a conjunction of existing and established constraints and rules that make fear of the harm influence the

judgment. These conditions and constraints were mentioned by scholars sporadically, each according to his doctrine, and are not a matter of consensus among them, nor are they supported by texts or put together in one context; rather, they are inferred from their varied sayings on this matter. However, it is possible to include them roughly under the name 'necessity or need', which means that fear of harm, which is considered a reason for proving the permissibility of hitting, should be constrained by a case of necessity or need. And in delimiting the reality of necessity or need, the expressions of the scholars differ, as we have already pointed out. Among these are:

"First, hitting the shield at the time of (war) clash, and this is an example of necessity as mentioned by the scholars. If they have mentioned it, it is because of its being a common situation. In this context, it is more closely related to a case and clarification of a situation than being a restraining condition. Nonetheless, there is no harm in mentioning it because it is clear that it is likely there is conditionality in their following expressions, so their using 'war clash', or 'fighting clash' is more general than the limited rank clash, because fighting may consist of throwing from far away, as in the case of a catapult in their era, and (heavy artillery) guns in our era. For this purpose, an example of a clash is exchanging heavy artillery fire between the mujahidin and the unbelievers, which might push the unbelievers to gather a number of Muslim or other prisoners in their bases and put them in between so that the mujahidin cease fire. Imam Al-Nawawi, may God have mercy on his soul, said: 'The branch dealing with the case in which unbelievers use Muslim or other prisoners as shields has been covered... If need calls for raiding them in case there is a clash, and the situation is one in which if we abstain from (attacking) them they defeat and crush us, there are two possibilities...' (Rawdat al-Talibin, 10:246). And Imam Al-Shafi'i, may God have mercy on his soul, said: 'If they use a Muslim as a shield, I suggest that the shield should be spared, except when the Muslims are in a clash, in which case the shield is not spared and the unbeliever is attacked and the Muslim is spared as far as possible.' (Al-Umm, 4:244). And Ibn Qudama, may God have mercy on his soul, said: 'If they use as shields Muslims or non-Muslims under protection, it is not permitted to raid them except in the case of clash or fear for the Muslims because they are safeguarded for their own sake. Accordingly, it is in no way allowed to destroy them. In case there is a necessity, it is permitted to raid them because safeguarding the army is more important.' (Al-Kafi, 4:268).

"Second: In a situation where it is not possible to get to the unbelievers unless the shield is hit; perhaps because there is no way to fight the unbelievers and stop them except through the Muslim prisoners used as a shield; or where it is not possible to capture a fortress unless using some means of mass destruction such as the catapult or the like. All the (attacking) should be precise so as to avoid the shield as much as possible. We have already seen what Imam Al-Qutbi, may God have mercy on his soul, said: 'I said: it is permissible to kill the shield - and there is no divergence on this point - if the benefit is necessary and unavoidable. 'Necessary' means there is no way of getting to the unbelievers except by killing the shield.' Ibn Muflih, may God have mercy on his soul, said: 'If they (the unbelievers) use Muslims as shield, it is not permitted to kill the shield if there is no war going on, or if there is a possibility of getting to them without touching the shield, or if they are harmless. If the war is going on and it is impossible to get to them and there is fear of Muslims being hurt, then it is permitted to attack in spite of the shield. It has to be done out of necessity.' (Al-Mubdi, 3:323)

"The shaykh of Islam (Ibn Taymiyyah), may God have mercy on his soul, said, as we have already mentioned: 'That's the reason why the scholars of Islam agreed on the fact that whenever it is impossible to keep harm from Muslims except by killing those used as a shield, then it is permitted to do so even if it does not make the harm or damage completely disappear. In this case, when jihad cannot be done otherwise, there are two possibilities.' He also said: 'So if

a man does what he believes will result in his death for the sake of jihad, while it is known that killing himself is much more serious than killing someone else, the deed has primacy that leads to killing the other for the benefit of religion, which would not take place otherwise; likewise, preventing the harm of the enemy that spoils religion and the world that would otherwise not happen has primacy.' (Majmu al-Fatawi, 28:540).

"Third: The hitman should do his best to avoid hitting the shield as far as possible, as Imam Al-Shafi'i, may God have mercy on his soul, said: 'If they use a Muslim as a shield, I suggest that the shield should be spared, except when the Muslims are in a clash, in which case the shield is not spared and the unbeliever is attacked and the Muslim is spared as far as possible.' And Imam Al-Nawawi, may God have mercy on his soul, said: 'The second one, which is correctly dictated and which was used clearly by the Iraqis, consists of declaring permitted raiding with the intention of fighting the unbelievers and sparing the Muslims as far as possible.' And Al-Sharbini al-Shafi'i, may God have mercy on his soul, said: 'Except when there is a need that calls for raiding them even if they use them as shields when there is a fighting clash, because if we abstain from raiding them, they defeat and crush us. In this case, it is permitted to raid them according to what is correctly dictated, and what is meant by that is fighting the unbelievers and sparing the Muslims and non-Muslims under Muslim protection as far as possible.' (Mughni al-Muhtaj, 4:244).

"Fourth: For example, the attacker intends to hit the unbelievers, which means that his intention is to hit the unbelievers and spare the Muslims. Because if it is not possible to avoid hitting the shield practically, it is possible to do that by having the intention. And what is easy to do should not be inhibited by what is difficult. Imam Al-Sarkhasi, may God have mercy on his soul, said: 'But the Muslim hitman has to target the unbeliever, because if he can actually distinguish between him and the Muslim, that becomes his duty; if he is unable to do it, he has to distinguish by his intention because something similar is involved.' (Al-Mabsut, 10:65). And in (Al-Bahr al-Raiq, 5:82): 'But we mean by raiding the unbelievers and not the Muslims, because if distinguishing (between them) is not possible in practice, it could be done by intention, and obedience is bound by ability.' And Imam Ibn Qudama, may God have mercy on his soul, said: 'If there is a need to raid them because of fear for the Muslims, it is permitted to do so because this is a case of necessity, and the intended (target) is the unbelievers.' (Al-Mughni, 9:321). And Al-Bahuti, may God have mercy on his soul, said: 'Except when it was feared for us from not raiding them, so they were raided because of need. And it is the unbelievers that are meant (to be hit) by the raiding, because they are the ones targeted in themselves.' (Kashaf al-Qina, 3:51). And the shaykh of Islam (Ibn Taymiyyah), may God have mercy on his soul, said: 'The imams agree on the fact that if unbelievers use Muslims as shields, and it is feared for the (general) Muslims if they do not attack, then it is permitted to attack them, and we mean the unbelievers.' (Majmu al-Fatawi, 28:537).

"Fifth: An example of this is when doubt is done away with or is overridden by the expected benefit to be gained from raiding the unbelievers, such as pushing back their evil and sparing Muslims from their harm and inhibiting their colonization of the country, even if this leads to killing the shield. This means that fighting the unbelievers and its leading to killing the Muslim shields leads to benefit, as Imam Al-Qurtubi said: 'The meaning of its being categorical is that that benefit is categorically dependent on killing the shield.' And we said it is by the overriding of any doubt because assessment of that should be based on ijihad, scrutiny and investigation, and all of these are reasons for the overriding of doubt to take place. And all other ijihad matters take place in this fashion.

"Sixth: Among these is that the expected benefit is current. And this matter is additional to the occurring benefit, which means that the matter of raiding them should not be delayed, nor should they take time in hitting, as the intention might be fleeting. In case it is possible to delay and take time but still achieve the goal, they should be spared to save spilling the blood of Muslims. And putting the two matters together, in other words pushing the unbelievers back and getting rid of their harm and safeguarding whatever prisoners are in their hands or whatever merchants are amongst them, Imam Al-Nawawi, may God have mercy on his soul, said: 'If the unbelievers have used prisoner or other Muslims, raiding them is not permitted if there is no need for raiding them, and if the situation makes it possible to spare them.' (Rawdat al-Talibin, 10:246).

"Seventh: If it is not possible to subdue a fortress or to weaken the shielded unbelievers except by using heavy methods such as burning, sinking and using catapults and the like, which might also involve the Muslims amongst them. Ibn Qudama, may God have mercy on his soul, said: 'If there are Muslims among them, and conquering them is possible without that, it is not permitted to raid them because raiding them would unnecessarily jeopardize their lives. Otherwise, it is permitted, because stopping it will lead to the dysfunction of jihad.' (Al-Kafi, 4:193).

"Having said this, what brings together all these conditions and rules that the scholars mentioned sporadically is God's word: 'Fear Allah as far as you can.' Even if ordained as a must either in case of necessity or need, jihad should not imply non-respect for the sanctity of blood as far as possible. It does not dispense with the correct legal weighing between the situation of real actual necessity and the spilling of blood that the mujahid has the choice to venture. Jihad does not hinder investigation, caution and choosing the time and place and situations that help achieve the goal while safeguarding the sacred blood. And the case of shielding mentioned by the scholars is an exceptional situation that does not conform to the foundations. In this case, it should be restrained in terms of time, place and description as far as possible. It should be done, as far as possible, strictly in conformity with the base. This is what is inferred from the sayings of the scholars, and this is a matter about which there should not be divergence, basically and generally, even if there is divergence as to the ways of implementation and the extent to which the conditions are met or absent in the specific case that is being judged. And this is the point about which evaluations and opinions differ. And the basis of all of this is the fear (of God) and doing the best in terms of investigation, caution and precision in considering each case on its own, meditating its details, and not relying on generalized judgments to be applied to every operation.

"We can sum up this thorny issue with the following points:

"First: it is difficult to define the modern ways of shielding and separate them in distinct cases such as the ones cited by the scholars of Islam in the distant past. More specifically, the enemies live among the Muslims, settle their military camps and bases in Muslim quarters and move in their streets. They deal with them and mix with them completely so that the cities, villages and markets full of people have become one of their most important battlefields against the mujahidin. They use raids, clashes and ambushes, and they hardly ever stop chasing the mujahidin everywhere and all the time, imprisoning them, their families and their supporters. The mujahidin thus generally use the kinds of weapons that cause large numbers of deaths because they cannot find better and more efficient ones in such cases. On the contrary, fighting face to face, although it happens from time to time in sudden raids and in traps prepared by the mujahidin when possible, has lost its strong impact because the occupying enemy and its supporters are very well protected inside their bases and headquarters. These different

situations yield a new perception of different ways of modern shielding which were probably not provided for by the scholars of Islam who knew only of the weapons used during their era, the fiercest of which was the catapult, burning and complete drowning. In addition, the weapons their enemies used were more or less the same as the ones used by them. In the fierce battles that the camps of jihad are living today, especially in Iraq and Afghanistan, the situation is completely different. That is why the mujahidin are obliged to cope with the nature of the battle, its fields and choosing the right time for some operations with the help of God. Dr. Muhammad Khayr Haykal said: 'One of the modern actions that can be considered to be shielding is when the enemy fills its headquarters or its strategic military buildings with prisoners so as to stop them from being raided by the other party. Thus, modern weapons have widened the concept of shielding; they have even made the concept in its modern expression more powerful than the old one. In the past the fighting enemy shielded himself behind a person belonging to the other party, keeping him in front of him to protect himself from the strikes of his enemy. The same was done by the fighting army when it put enemy prisoners in the front row as a shield to protect themselves from being stabbed by swords or hit by arrows, etc... In this situation, the party who does not want the human shield used by the enemy to get hurt can fight while trying to avoid the shield as far as possible...

"Nowadays, with the very modern and developed weapons which burn targets into ashes, shielding in the modern ways described before might oblige one either to stop fighting the enemy out of fear for the lives of the human shield, or accept the idea of sacrificing the shield and engage in a fierce war using weapons of mass destruction; or choose to engage in a long-term war against the enemy using traditional weapons. This kind of war is not advantageous because it prevents one from benefiting from the use of weapons of mass destruction because of caring for the lives of the enemy's prisoners, who would be the first victims of weapons of mass destruction if they were used. In such a situation it is hard to conceive discussing such an action... In this sense, modern shielding becomes more effective in achieving its objectives than did ancient shielding.' (Al-Jihad wa al-qital fi al-Siyasa al-Shar'iyah 2:1328)

"Moreover, some modern actions have taken place whose impact on the battles is not less important or less relevant than shielding. After observing them for a long time, I did not see an important distinction that might change the judgment. One of these actions is vengeful haphazard attacks (by the enemy) on houses full of civilians and on their markets after every operation perpetrated by the mujahidin on one of their bases. The situation is that we are living together with all our mujahidin brothers. There is no doubt that if we stop fighting the enemy and if we completely stop attacking it just to protect the human shield, that will result in its (the enemy's) empowerment and its capacity to penetrate the country. We, accordingly, make it easier for the enemy to chase and track the mujahidin. So what is said about the question of shielding is exactly reiterated in this situation.

"Second: the harm mentioned by the scholars when they permitted the killing of unbelievers together with the Muslims used as a shield is clearer nowadays on the huge fields of jihad. It is clearer on all levels to the point that it includes all the five necessities in all their aspects. The enemy brought its huge armies for the purpose of completely stripping the Muslims of their religion. This damage is generally considered the first objective for which the unbelievers came to Muslim countries. That's why the situation has moved from a 'fear of harm' to a situation of making every effort and all sacrifices to remove the harm and reduce it. It has changed from resisting it to removing it and from protecting oneself from it to eliminating it. What is being said here is not just mental hypotheses and logical analyses; they are all crystal clear things which no one would deny unless they were blind, nor anyone could refute unless they were ignorant or obstinate. That is why the Muslims have to deploy the maximum of their forces and

energy to remove this damage that is growing day by day. And then it becomes clear that the reason that pushes the scholars to permit killing the shield is clearly present; all that is needed then is respecting the norms and the rules they have defined so that the situation is complete and the motive (that permits killing the shield) is directly effective for finding the judgment. That will be tackled in the following point.

"Third: The mujahidin have to look closely and separately at every military operation they intend to undertake that may touch some Muslims. They have to study it taking into consideration many points, such as:

"- Weighing up the military, political, moral or economic importance of the target they intend to hit.

"- Choosing, as far as possible, the right place and the right time for the operation and making every endeavor to choose a place far from the homes and thoroughfares used by the public; and trying to avoid rush hour.

"- Using a quantity of weapons or ammunition that will do the job without causing - or at least causing the least possible - damage to Muslims. This is an essential point.

"- Making a very precise and very realistic evaluation of the damage intended to result from striking a given target, and of the damage that might be caused to the Muslims who are affected by the operation, be it in the number of people killed or in their understanding and support of the operation once it is perpetrated.

"- Getting to a particular target using other means (than killing the shield) is impossible or very difficult without some Muslims being killed.

"- Making sure there is no inherent intention to kill Muslims: the intention of the heart and the mind are directed towards killing unbelievers and they (heart and mind) are free of any intention to kill any Muslim in the operation. Indeed, when it is effectively impossible not to kill Muslims, it is definitely possible to free your heart and mind from the intention of wanting to kill them.

"All these things can be summarized in God's words: 'Fear Allah as far as you can.'

"So it becomes clear that there is a great need for research and prudence before carrying out any single operation so as to prevent or lessen the possibility of hurting Muslims. This is what is claimed and requested by shari'ah; as Al-Ghazali, may God have mercy on his soul, said: 'We know for sure that the objective of shari'ah is to reduce killing, as well as to stop it when it is possible; if we cannot stop it at least we can minimize it.' (Al-Mustasfa, 1:176)

"It is not enough to consider the operation as 'pushing back general harm' caused by the occupation in order to consider it a case of shielding, unless it has very particular characteristics that make it so. And this is evaluated and defined by the field leaders who live and know the reality of field (battles) and who are constantly in contact with the enemy in different situations. So, whenever it is possible to keep jihad going in efficient ways without shedding Muslim blood, then it is forbidden to shed it. And here, I repeat again and reiterate what I have already said before, and that is the question of shielding mentioned by scholars is an exceptional case, rather than being one of the fundamentals. That is why it has its own circumstances, situations and

norms. And what is not one of the fundamentals has to keep to its limitations and to its norms without increasing, so that it does not change and become a basis (and no longer an exception). Whenever the situation of exceptionality is over, it is a duty to go back to the fundamentals and stick to them. Generally the question (of killing Muslim shields) is a part of the known legal rule that necessity is evaluated according to its importance. So unless the norms and the like that protect Muslim blood and lessen harm to them are respected, and unless there is no exaggerating (in permitting killing the shield), there is no harm in perpetrating military operations even if some Muslims get killed in them accidentally and unintentionally. And we hope that the Muslims killed are martyrs because they are killed for jihad and for keeping general harm from the ummah. And the shaykh of Islam (Ibn Taymiyyah), may God have mercy on his soul, said: 'It was agreed by the Muslim scholars that if the army of the unbelievers use the Muslim prisoners as a shield, and there is a big threat against Muslims if they do not fight, then the Muslims have to fight even if the Muslim shield gets killed. In case there is no threat against the Muslims, the scholars proposed two known possibilities concerning the fighting that might lead to killing the Muslim shield: if these Muslims (in the shield) are killed, they are martyrs and jihad cannot be stopped because someone is killed as a martyr. When the Muslims fight the unbelievers, whoever gets killed among the Muslims is a martyr and whoever is killed for the good of Islam without deserving to be killed is a martyr.' This has been said many times. See where it has already been mentioned.

"Nine years ago, I contacted the learned Abdullah Ibn Qa'ud, may God have mercy on his soul, asking him about some manifestations and whether or not they could be considered as cases of shielding mentioned by the scholars of Islam. I state here my question and the answer I received for the benefit of all: 'If the enemy places its bases where people live, and the mujahidin are obliged to destroy these bases in a way that will necessarily harm or kill some of the residents near these bases, may this be considered a case of shielding mentioned by the scholars of Islam, taking into consideration that most of the time these bases are placed in residential neighborhoods to keep away the attacks of the mujahidin?'

"He answered, saying: 'It seems to me - and God knows better - that it is a case of shielding even if the Muslims are not obliged to stay. And maybe it is better to give up raiding so as not to hurt Muslims and find a way of making the enemy leave its bases. But it is permitted (to raid) with the intention to kill just the unbelievers and be cautious not to kill the Muslims. God knows best'. This fatwa was published in the magazine Al-Fajr and on the web site of the Fighting Islamic Group. At that time, the shaykh asked to keep his name anonymous fearing for his life from the Al Sa'ud hangmen."We ask God the Greatest to protect the mujahidin from going astray and to protect them from the mistakes of tumult and to make them a means of safeguarding the blood of Muslims, their religion, their honor and their money. We also ask Him to make crushing the enemies easy for them and spare them the need for troublesome matters and distressing suspicions. We also ask Him, the Hearer, the Nigh and the Responsive, to fill their hearts with fear (of God), openly and in secret, correct their goals, clear their intentions, and guide their deeds. And God's peace and blessings be upon our lord Muhammad and all his companions.

"Written by one hoping for the pardon of His God: Abu Yahya (Hassan Qa'id), 6 Dhu al-Hijjah 1426 (corresponding to 6 January 2006)."